

Criminal Investigation Manual

(Revised)

Published by:

Directorate for Investigation and Detective Management

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Revised PNP Criminal Investigation Manual 2010
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Printed by:
PNP Directorate for Investigation and Detective Management
2010

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<p><i>“A good law without execution is like an unperformed promise.” (V. Taylor)</i></p>
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Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
(Kagawaran ng Interyor at Pamahalaang Lokal)
Kamuning, Quezon City

Message



The publication of the revised PNP Criminal Investigation Manual comes at an opportune time in response to His Excellency President Benigno 'Noy' Aquino III's call to join him to transform our government from one that is self-serving to one that works for the welfare of our people. With this call, the PNP is mandated to resolve crimes of violence and give justice to the victims and their families.

This Manual is one of the PNP's most important tool to raise the competency of our police investigators, and serves as a ready references and guide in the conduct of investigation, which is part of the Integrated Transformation Program of the PNP. Indeed, this will be indispensable in addressing media and militant killings, disappearances and other crimes in the country.

It is my pleasure to assure you that the Department of Interior and Local Government will continue to support your undertakings, particularly on your investigative capability enhancement.

More power. Mabuhay kayong lahat!


JESSE M. ROBREDO
DILG Secretary



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Message



It is with a deep sense of pride and pleasure that I extend my warmest greetings and congratulations to the officers and personnel of the Directorate for Investigation and Detective Management for spearheading the revision of the Criminal Investigation Manual which is part of the “PNP Transformation 2016 Roadmap,” which serves as the blueprint for the PNP Integrated Transformation Program-Performance Governance System (ITP-PGS), a long-term moral recovery plan for the police force. This improved criminal investigation manual which is anchored on the full implementation of the capability enhancement program of the PNP will guide all police officers in comprehending and in carrying out the appropriate mechanics and procedures in the discharge of their functions. This improvement aims to lay down all fundamental duties, functions, and basic procedures in a manner easily understood by every police officer. The publication of this Manual is very timely in line with the need to ensure that all investigation procedures are in place and strictly followed by our investigators.

Hence, this Manual should be viewed as a “living document” because criminal investigation supplements may be developed in the future due to the advancement of technology and, as the country turns another page in its illustrious history, I have high hopes and optimism that the realization of achieving the PNP ITG-PGS’s goal such as this publication of equally important manuals will be implemented with renewed vigor and enthusiasm. On this note, the PNP expresses its deepest commitment of providing speedy investigation of any particular crime or incident for the full resolution of a case, giving justice both to the victims and their family.


JESUS JAIME VERZOSA
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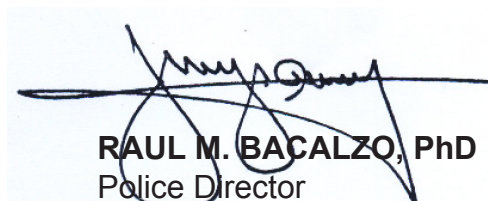
Message



For the past years, the Directorate for Investigation and Detective Management (DIDM) has been at the forefront of providing services to the people and community not only because it managed to produce policies, guidelines and procedures in both operational and administrative aspects in the field of investigation but emerged as one of the PNP's core players in the solution and investigation of major cases, giving justice both to the victims and their family. As we all know, actions taken at the outset of an investigation of any particular crime or incident can play a pivotal role in the full resolution of a case. The realization of bringing justice to the victims and their family is only part and parcel of the DIDM's main goal; it is putting criminals behind bars and insuring transparent investigation of all cases being handled by the PNP that defines the existence of DIDM.

In further support of the goals and objectives of the PNP Transformation Program, this Directorate convened a Technical Working Group (TWG) to review and revise the PNP Manual on Investigation. This improvement aims to lay down all fundamental duties, functions, and basic procedures in a manner that will be easily understood by every police officer.

Thus the publication of the Revised PNP Criminal Investigation Manual is a product of painstaking collaboration of dedicated police officers in ensuring that proper procedures and mechanisms are in place. It seeks to present the police officers a comprehensive guide in carrying out the appropriate mechanics and procedures in the discharge of their functions and responsibilities.


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ACKNOWLEDGEMENTS

The revision of the existing criminal investigation manual requires patience and collective efforts to make it more responsive to the needs of the field investigators and demands of the ever-changing nature of the crime situation in the country.

This Revised PNP Criminal Investigation Manual would not have been made possible without the leadership of my Command Group and staff headed by PCSUPT ALAN LM PURISIMA, the Deputy Director and PSSUPT ALEX PAUL I MONTEAGUDO, the Executive Officer of this Directorate, who provided the much needed direction and guidance in the consolidation of all the necessary materials and the final crafting of this Manual.

Also, the revision of this manual would not be made possible without the assistance of PSUPT (ATTY) MA LEONORA C CAMARAO and PSUPT (ATTY) ISAGANI S AGUAS of this Directorate, and MS. PATRICIA CANTERO for painstakingly taking their time to proofread this Manual.

It is also noteworthy to mention the assistance and support extended by the members of the Technical Working Group composed of PNP Officers and their respective staff in the crafting of this Manual as well as the support provided by our working partner, the European Union-Philippine Justice Support Program (EPJUST), particularly Mr Detlev Mehlis, Team Leader, EPJUST and Mr. Bo Astrom, Senior Police Key Expert.

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*“He who exercises no forethoughts but makes light of his opponents
is sure to be captured by them.”
(Sun Tzu)*

INTRODUCTION

The Directorate for Investigation and Detective Management headed by **POLICE DIRECTOR RAUL M BACALZO** relentlessly pursued the revision of the existing investigation manual in order to provide the PNP field investigators a ready reference, and to keep the field investigators abreast with current laws, procedures and jurisprudence. Further, crime prevention is now the call of the times, thus, an increase in the number of crimes that have been prevented from occurring with the use of proactive investigative techniques would make for a more impressive record for the PNP. The timely revision of this Manual therefore manifests the PNP's commitment of providing the investigators the much-needed guidance in the conduct of their investigation which is primarily anchored on the current program thrust of the PNP, the "Transformation 2016 Roadmap".

This Manual is a comprehensive but simplified compilation of all penal laws being enforced by the PNP as well as the procedures in the conduct of investigation. The highlights of this Manual are featured in the eight chapters and its sub-sections, covering the rules and policies to be followed by the investigators beginning with Chapter I which provides an overview of the General Principles of the Investigation while the General Investigative Procedures are discussed in Chapter II.

On the other hand, Chapter III presents Crimes Punishable under the Revised Penal Code; Chapter IV covers the Basic Criminal Procedure; Chapter V acquaints the investigators with Crimes Punishable under Special Laws; Chapter VI provides an overview of Terrorism and Organized Crimes; Chapter VII presents selected Court Rulings and Jurisprudence; and lastly, Chapter VIII provides guidance to the investigators on Report Formats and other forms of investigative reporting.

Additionally, this Manual contains supplemental sections such as the Definition of terms as operationally defined in the discussion, a Glossary Index, and the basic evidence requirements in filing of criminal formats, legal charges in court.

DEFINITION OF TERMS

ABDUCTION – The elements constituting the crime of abduction are: (1) the person kidnapped must be a woman. It is immaterial if she is a widow, a married woman, or virgin, as all three classes are comprised within the generic term of “woman.” (2) The crime must be committed against her will. (3) It must be committed with unchaste designs, that is, with the intention of lying with the woman.

ABDUCTION WITH CONSENT – Elements. The essential elements of abduction with consent are (1) The taking away of a maiden over 12 and below 18 years of age; (2) the girl shall have consented to being taken away; and (3) the act shall have been committed with lewd designs.

ABORTION PRACTICED BY WOMAN HERSELF OR BY HER PARENTS – Any woman herself and parents who shall commit this offense to conceal her dishonor.

ABORTION PRACTICE BY PHYSICIAN OR MIDWIFE AND DISPENSING OF ABORTIVE – Any physician, midwife who, taking advantage of their scientific or skill, shall cause an abortion. (Under Art 259, RPC)

ABSOLUTE CLAIM – A claim which is subject to no contingency and may be proved and allowed as a debt by a tribunal, or committee on claims.

ABUSE OF CONFIDENCE – Only the abuse of confidence that facilitates the lustful purpose of rape is the kind of abuse of confidence that aggravates the responsibility of the offender.

ABUSE OF RIGHTS – A principle in Civil Law, which holds that indemnity for damages, may be granted in cases where there is an abuse of rights. A person should be protected only when he acts in the legitimate exercise of his right, that is, when he acts with prudence and in good faith; but not when he acts with negligence or abuse. Such principle is found in the Chapter on Human Relations in the Civil Code.

Through the principle in Art.19, Civil Code, he incurs in liability who, acting under the aegis of a legal right and an apparently valid exercise of the same, oversteps the bounds or, limitations imposed on the right by equity and good faith thereby causing damage to another or to society.

The abusive act is simply that which, performed in accordance with a subjective right whose limits have been respected, is nevertheless contrary to the right considered in general and as the sum total of all obligatory laws.

There is abuse of right when the right is exercised with the end of damaging another as well as when damage results when the legitimate motive and normal end of the right is violated as in the case of an abnormal exercise of the right.

If the purpose is evil or not serious or legitimate, or the manner of exercise of the right is abnormal and damage is caused to another, then there is an abuse of right for which damages are recoverable.

ACCESSORY – The accessory of an automobile is any article designed to be used in connection with such vehicle to add to its utility or ornamentation and which is primarily adapted for such use whether or not essential to the operation of the vehicle.

ACCESSORY AFTER FACT – Elements. Under Art.19 (1), Rev. Penal code, they are: 1) the accused must not have participated in the criminal design nor cooperated in the commission of the felony; 2) He must have knowledge of the commission of the crime; and 3) he must have profited from the effects of the crime.

ACCOMPLICE – One who is concerned in the commission of a crime. In its fullness, the term “accomplice” includes in its meaning all persons who have been concerned in the commission of a crime, all *participes criminis*, whether they are considered in strict legal propriety as principals in the first or second degree or merely as accessories before or after the fact. In general, the word “accomplice” should be rendered into Spanish by the use of some such as “participante en el delito.”

ACCOUNTABLE PUBLIC OFFICER – A public officer who has been duly entrusted with government funds or property.

ACQUITTAL – One is acquitted if, after he has been arraigned and trial has been begun, upon a valid indictment or information, he is discharged by a competent court.

ACT – Certiorari. The act contemplated in the law on certiorari is one which creates some sort of status, i.e., determinative of a certain legal right. A merely threatened act, or an act which is preliminary and does not determine a legal right, cannot be reviewed in a certiorari proceeding.

ACT OF LASCIVIOUSNESS – All acts of lewdness committed upon a person of either sex, short of lying with a woman and anything leading up to it.

What constitutes lewd or lascivious conduct must be determined from the circumstances of each case.

ADMISSION – The term “admission” embraces any statement of fact made by a party which is against his interest or unfavorable to the conclusion for which he contends or inconsistent with the facts alleged by him.

ADULTERY – A crime committed by a married woman who has sexual intercourse with a man not her husband and by the man who has carnal knowledge of her, knowing her to be married, even if the marriage be subsequently declared void.

AFFIDAVIT - Summary judgment. The kind of affidavit necessary to support a summary judgment is that affidavit from which it may be clearly drawn that certain facts pleaded by either party are certain, undisputed and indubitable which dispense with the hearing or trial of the case.

AFTER OPERATION REPORT – It is a report that may be rendered after any successful police operation that leads to the arrest of any member or some members of syndicated crime group.

AFTER SOCO REPORT – It is a report rendered by the Team Leader of the SOCO that conducted the scene of the crime operations, processing or investigation.

AGENT – A person who binds himself to render some service or to do something in representation or on behalf of another, with the consent or authority of the latter.

AGENT OF PERSON IN AUTHORITY – Any person who by direct provision of law or by election or by appointment by competent authority, is charged with the maintenance of public order and the protection and security of life and property. Any person who comes to the aid of persons in authority.

AGENT’S REPORT – It is a report rendered by a documented agent who answers an intelligence requirement.

AGREEMENT – Proposal. A proposal remains an offer even if not answered and irrespective of the length of time that has passed. It only becomes an agreement when accepted by the other party. The only exception is where there is a duty on the part of the other party to answer, and hence silence is implied assent.

AIRCRAFT ACCIDENT – It refers to an occurrence associated with the operation of an aircraft which takes place between the times any person boards

the aircraft with the intention of flight until such time as all such persons have disembarked, in which:

- (1) Any person suffers death or serious injury as a result of being in or upon the aircraft or by direct contact with the aircraft of anything attached thereto; or
- (2) The aircraft receives substantial damage.

ALIBI – To establish alibi, a defendant must not only show that he was present at some other place at about the time of the alleged crime, but also that he was at such other place for so long a time that it was impossible for him to have been at the place where the crime was committed, either before, during, or after the time he was at such other place.

ALLEGED – The word “alleged” or “allegedly” connotes something “claimed”. It leaves the truth of the averment an open question.

ALTER – To add, change, substitute or omit something from a pleading or instrument.

AMBASSADOR – A person who have been appointed as chief of mission and have served as Ambassador Extraordinary and Plenipotentiary.

AMEND – To add, change, substitute or omit something from a pleading or instrument.

ANSWER – The word “answer” in Sec. 1 Rule 19, Rules of Court, envisions or includes the affirmative and/or special defenses and counterclaim contained therein.

ANTE MORTEM – Before death.

APPEARANCE – Voluntary submission to a court’s jurisdiction.

ARBITRARY – Willful and unreasoning action, without consideration of and in disregard of the facts and circumstances of the case. Action is not arbitrary when exercised honestly and upon due consideration where there is room for two opinions, however much it may be believed that an erroneous conclusion was reached.

ARBITRARY DETENTION – Arbitrary detention begins not merely from the moment a person is locked up in prison cell but from the moment such person is

deprived of his liberty without legal grounds. And it ends only when such person is absolutely freed from any restraint on his person.

ARREST – It is the taking of a person into custody in order that he may be bound to answer for the commission of an offense.

ARSON - Is defined as the intentional or malicious destruction of a property by fire. It is also defined as the criminal burning of property.

ASSAULT – The term “assault” in Sec. 87 (b) (2), Judiciary Act, on the original jurisdiction of Municipal Courts, means physical injuries. It does not refer to the crime of direct assault in Art. 148 of the Revised Penal Code.

ATTEMPTED BOMBING - Incidents in which a device designed or purposely made to detonate/ignite fails to function. Intent of activity is criminal in nature; this also pertains to malfunctioning, recovered, and/or disarmed devices.

ATTEMPT – Intent is a quality of the mind and implies a purpose only, while attempt implies an effort to carry that purpose into execution.

AUTHORITY – A person or persons, or a body, exercising power or command; for those upon whom the people have conferred authority.

BAIL – The word “bail” as used in the prohibition against excessive bail is inadequately translated by the word “fianza”, as bail implies a particular kind of bond that is to say, a bond given to secure the personal liberty of one held in restraint upon a criminal or quasi criminal charge.

BAND – A group of more than three armed malefactors who act together in the commission of an offense.

BEAT PATROL – The deployment of officers in a given community, area or locality to prevent and deter criminal activity and to provide day-to-day services to the community.

BEST EVIDENCE – Evidence which suffices for the proof of particular fact. That evidence which, under every possible circumstance, affords the greatest certainty of the fact in question and in itself, does not indicate the existence of other and better proof.

BEST EVIDENCE RULE – A well-known rule of law that a witness cannot be permitted to give oral testimony as to the contents of a paper writing which can be produced in court.

BIASED WITNESS – A witness who tends to exaggerate. Although he may be honest, he cannot, while human nature remains uncharged, overcome the tendency to distort, magnify or even minimize as his interest persuades, the incidents which he relates.

BIGAMY – A crime committed by a person who contracts a second or subsequent marriage before the former marriage has been legally dissolved, or before the absent spouse has been declared presumptively dead by means of a judgment rendered in the proper proceedings.

BOMBING - Any incident which uses a device constructed with criminal intent and using high explosives, low explosives, or blasting agents explodes. This term also refers to incidents where premature detonation occurs during preparation, transportation, or placement of a constructed device.

BOMB THREAT – An information or warning, written or oral, claiming knowledge that a dangerous device, such as a bomb or similar type of explosives, has been or will be placed in a building, aircraft, sea craft or other facilities with the intent to harm people and destroy properties.

BOOK OF ACCOUNT – A book containing charges and showing a continuous dealing with persons generally. To be admissible as evidence, it must be kept as an account book and the charges made in the usual course of business.

BRIBERY – Bribery and robbery have little in common as regards their essential elements. In the former, the transaction is mutual and voluntary. In the latter case, the transaction is neither mutual nor voluntary but is consummated by the use of force or intimidation.

BURDEN OF PROOF – is employed to signify the duty of proving the facts in dispute on an issue raised between the parties in a cause. The burden of proof always lies on the party who takes the affirmative in pleading. In criminal cases, as every man is presumed to be innocent until the contrary is proved, the burden of proof rests on the prosecutor, unless a different provision is expressly made by statute.

CADAVER - A corpse or a dead body.

CADAVER TAG - An identification tag attached to the cadaver containing tag number, name (if identified), date/time & place of recovery, date/time/type/place of incident, gender, other pertinent information, and name of investigator. The tag shall be made using suitable materials which can be used of in all types of weather.

CALAMITY - An event that brings terrible loss, lasting distress, or severe affliction.

CALL SLIP – A debt and credit ticker authorizing the Central Bank to pay a certain bank chargeable against the account of another bank

CARNAPPING - The taking, with intent to gain, of a motor vehicle belonging to another without the latter's consent, or by means of violence against or intimidation of persons, or by using force upon things.

CASE OFFICER – The person responsible for and in charge of the investigation of a case.

CASE OPERATIONAL PLAN (COPLAN) – A definite target-specific activity conducted in relation to an intelligence project under which it is affected. Several case operations may fall under one intelligence project.

Refers to a preparatory plan on how to carry out a case operation which is the last resort to pursue intelligence objectives when normal police operations fail.

CASHIER'S CHECK - Form of check where the bank is the payer of the funds (sometimes called as teller's check, treasure checks, official check and manager's check).

CAUSE OF ACTION – A cause of action is the act or omission by which a party violates a right of another (Sec 2, Rule 2 of the Rules of Court). The term "cause of action" has two elements: 1) the right of plaintiff, and 2) the violation of such right by the defendant.

CAUSE OF DEATH – A declaration of by what means and by whom the declarant was injured is within the purview of the term "the cause of the declarant's death" in a dying declaration.

CERTAINTY OF GUILT – Absolute certainty of guilt is not demanded by the law to convict one of any criminal charge but moral certainty is required, and this certainty is required as to every proposition of proof requisite to constitute the offense.

CERTIORARI – The extra-ordinary remedy to correct an actuation of a judge who has acted without jurisdiction, in excess of jurisdiction or clearly in grave abuse of discretion, and not to correct errors of procedures and/or mistakes in the judge's findings or conclusions.

CHILD – Shall refer to a person below eighteen (18) years of age or one over said age and who, upon evaluation of a qualified physician, psychologist or

psychiatrist, is found to be incapable of taking care of himself fully because of a physical or mental disability or condition or of protecting himself from abuse.

CHILD ABUSE – Refers to the infliction of physical or psychological injury, cruelty to or neglect, sexual abuse or exploitation of a child.

CHILD TRAFFICKING – The recruitment, transportation, transfer, harboring or receipt of a child purpose of exploitation.

CIRCUMSTANTIAL EVIDENCE – Evidence of circumstances which are strong enough to cast suspicion upon the defendant and which are sufficiently strong to overcome the presumption of innocence, and to exclude every hypothesis except that of the guilt of the defendant.

CLERK OF COURT – An officer of a court of justice who has charge of the clerical part of its business, who keeps its record and seal, issues process, enters judgment and orders, gives certified copies from the records and the like. While the clerk of court belongs to the judicial as distinguished from the executive or legislative branch of government, his office is essentially a ministerial one.

COMMAND POST/HOLDING AREA - Area where case conferences, briefings and debriefings are being conducted by the responding agencies.

COMMISSION AGENT – One specially employed to receive goods from a principal and to sell them for a compensation called “factorage” or “commission”.

COMPETENT EVIDENCE – One that is not excluded by law in a particular case.

COMPLAINT – A concise statement of the ultimate facts constituting the plaintiff’s cause or causes of action.

COMPLAINANT – A party or person who makes a complaint or file a formal charge in the court of law.

COMPLEX CRIME – A single act which constitutes two or more grave or less grave felonies, or an offense which is a necessary means for committing the order.

CONDUCTION - Heat transfer to another body or within a body by direct contact.

CONFESSION – It is an express acknowledgment by the accused in a criminal prosecution of the truth of his guilt as to the offense charged, while

admission refers to statements of fact not directly constituting an acknowledgment of guilt.

CONJUGAL PARTNERSHIP – A relationship established during the marriage of man and woman by virtue of which they place the fruits of their separate property and their earnings and divide, share and share alike, upon the dissolution of the union, the benefits indiscriminately obtained by either of them during the marriage.

CONJUGAL PARTNERSHIP OF GAINS – That by means of which the husband and wife place in a common fund the fruits of their separate property and the income from their work or industry, and divide equally, upon the dissolution of the marriage or of the partnership, the net gains or benefits obtained indiscriminately by either spouse during the marriage.

CONSPIRACY – It exists when two or more persons come to an agreement concerning the commission of a felony and decide to commit it.

CONSTRUCTIVE DELIVERY – A general term comprehending all those acts which, although not conferring physical possession of the thing, have been held by construction of law equivalent to acts of real delivery, as for example, the giving of the key to the house, as constructive delivery of the house from the vendor to the vendee.

CONSTRUCTIVE POSSESSION – The possession and cultivation of a portion of a tract under claim of ownership of all is a constructive possession of all, if the remainder is not in the adverse possession of another.

CONTEMPT – In its broad sense, contempt constitutes a disobedience to the court by acting in opposition to its authority, justice and dignity. In its restricted and more usual sense, contempt comprehends a despising of the authority, justice or dignity of a court.

CONTEMPT OF COURT – Contempt of court in general must be some act or conduct which tends to interfere with the business of the court, by a refusal to obey some lawful order of the court, or some act of disrespect to the dignity of the court which in some way tends to interfere with or hamper the orderly proceedings of the court and thus to lessen the general efficiency of the same. In re: Jones, 9 Phil. 355.

CONTINUING OFFENSE – A crime in which some acts material and essential thereto occur in one province and some in another. For example: the crimes of estafa or malversation, and of abduction. In such a case the court of

either province where any of the essential ingredients of the offense took place has jurisdiction to try the case.

CONTRABAND – A generic term covering all goods exported from or imported into the country contrary to applicable statutes.

CONSOLIDATION AREA - An area designated by higher authorities as processing area for recovered cadavers from the disaster scene. It is usually a centralized morgue, manned by Disaster Identification Teams (DITs) composed of experts in forensic identifications e.g. DNAs, dental, medical and fingerprint identification.

CONVECTION - Heat transfer by circulation within a medium, such as gas or liquid.

COORDINATION REPORT – A report which is used as a means of formal coordination to be made by the investigating agency with the police unit or military unit having operational jurisdiction over the place where a police case operation shall be conducted.

COPYRIGHT- An exclusive right granted or conferred by the government on the creator of a work to exclude others from reproducing it, adapting it, distributing it to the public, performing it in public, or displaying it in public. Copyright does not protect an abstract idea; it protects only the concrete form of expression in a work. To be valid, a copyrighted work must have originality and possess a modicum of creativity.

CORPUS DELICTI – Latin for the “body of the crime” It is the legal term used to describe/physical/or material evidence that a crime has been committed such as the corpse of a murder victim or the cleaned of a torched building. It is used to refer to the underlying principle that, without evidence of a crime having been committed, it would be unjust to convict someone.

CORROBORATIVE EVIDENCE – Additional evidence of a different kind and character tending to prove the same point.

CORRUPTION OF PUBLIC OFFICIALS – Elements. The elements of the crime of corruption of a public official by means of bribery are; 1) the person receiving the bribe is a public officer, as defined in Art. 203, RPC; 2) Said officer shall have actually received, either personally or through another, gifts or presents, or accepted offers or promises; 3) Such reception or acceptance shall have been for the purpose of executing an act, which may or may not be accomplished, but not constituting a crime; and 4) the person offering the gift or making the promises shall be a private individual.

COUNTERFEITING - The act of producing or selling a product containing a sham mark that is an intentional and calculated reproduction of the genuine mark, a “counterfeit mark” is identical to or substantially indistinguishable from the genuine mark. Often, counterfeit goods are made to imitate a popular product in all details of construction and appearance, so as to deceive customers into thinking that they are purchasing the genuine merchandise.

COURIER – The person delivering any ransom or other item demanded by the offender;

CRIME SCENE – A venue or place where the alleged crime/incident/event has been committed.

CRIMINAL INVESTIGATION – It is the collection of facts in order to accomplish the three-fold aims – to identify the guilty party; to locate the guilty party; and to provide evidence of his (suspect) guilt.

CRIMINAL INVESTIGATOR – A public safety officer who is tasked to conduct the investigation of all criminal cases as provided for and embodied under the Revised Penal Code/Criminal Laws and Special Laws which are criminal in nature. A well-trained, disciplined and experienced professional in the field of criminal investigation duties and responsibilities.

CRIMINAL JURISDICTION – The authority to hear and try a particular offense and impose the punishment for it.

CRIMINAL LAW – One that defines crime, treats of their nature and provides for their punishment. Punishment, in this sense, refers strictly to the penalty imposed.

CRIMINAL LIABILITY – Requisites. Under Art.4 par. 1 RPC, a person may be held criminally liable even if the injurious result be greater than that intended, provided these requisites concur: 1) an intentional felony has been committed; and 2) the wrong done to the victim be the direct, natural, and logical consequence of the felony committed.

CRIMINAL NEGLIGENCE – It consists in the failure to take such precautions or advance measures in the performance of an act as the most common prudence would suggest, whereby injury is caused to persons or to property.

CROSS-EXAMINATION – It is the most potent weapon known to law for separating falsehood from truth, hearsay from actual knowledge, things imaginary

from things real, opinion from fact, and inference from recollection, and for testing the intelligence, fairness, memory, truthfulness, accuracy, honesty and power of observation of the witness.

CRUELTY – Refers to any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being. Discipline administered by a parent or legal guardian to a child does not constitute physical or psychological injury as defined herein.

CUSTODIAL INVESTIGATION – Investigation conducted by law enforcement officers after a person has been arrested or deprived of his freedom of action. It includes invitation to a person who is being investigated in connection with an offense.

CUSTODIA LEGIS – A thing is in “custodia legis” when it is shown that it has been and is subjected to the official custody of a judicial executive officer in pursuance of his execution of a legal writ.

DEATH CAUSED IN A TUMULTUOUS AFFRAY - When several persons, not composing groups organized for the common purposes of assaulting and attacking each other reciprocally, quarrel and assault each other in a confused and tumultuous manner and in the course of the affray someone is killed and it can not ascertain who actually killed the deceased but the persons who inflicted serious physical injuries can be identified, such person shall be punished.

DEATH OR PHYSICAL INJURIES INFLICTED UNDER EXCEPTIONAL CIRCUMSTANCES - Any legally married person who having caught his spouse in the act of committing sexual intercourse with another, shall kill any of them or both of them in the act or immediately thereafter, or shall inflict upon them any serious injuries, shall suffer the penalty of destierro.

DECEDENT – The general term applied to the person whose property is transmitted through succession, whether or not he left a will.

DEMAND DRAFT – A bank transaction wherein a client of a bank will buy or purchase a demand draft to be presented to its branch.

DILIGENCE OF A GOOD FATHER OF A FAMILY – Used in reference to person of ordinary or average diligence. To determine that diligence, we must use as a basis the abstract average standard corresponding to a normal orderly person. Anyone who uses diligence below this standard is guilty of negligence.

DIRECT/ SUPPORT SERVICE PROVIDER – Any person, whether from the public or private sector, who provides or assists in the delivery of services that directly benefit the child victim/ survivor of trafficking.

DISASTER - An exceptional, damaging or destructive event which causes serious loss, destruction, hardship, unhappiness, injuries or deaths.

DISASTER SCENE/AREA - A region or a locale heavily damaged by either natural hazards, such as tornadoes, hurricanes, tsunamis, floods, earthquakes, technological hazards including nuclear and radiation accidents, or sociological hazards like riots, terrorism or war. The populations living there often experience a loss of energy supply, food, services, and an increasing risk of disease. Declarations of disaster areas open up the affected areas for national and or international aid.

DIVERSION – An alternative, child-appropriate process of determining the responsibility and treatment of a child in conflict with the law on the basis of his/her social, cultural, economic, psychological or educational background, without resorting to formal court proceedings.

DIVERSION PROGRAM – A program that the child in conflict with the law is required to undergo after he/she is found responsible for an offense without resorting to formal court proceedings.

DOUBLE JEOPARDY – The rule of double jeopardy means that when a person is charged with an offense and the case is terminated either by acquittal or conviction or in any other manner without the consent of the accused, the latter cannot again be charged with the same or identical offense. This principle is founded upon the law of reason, justice and conscience. It is embodied in the maxim of the civil law “*nom bis in idem*”, in the common law of England, and undoubtedly in every system of jurisprudence, and instead of having specific origin it simply always existed. It found expression in the Spanish law and in the Constitution of the United States, and is now embodied in our own Constitution as one of the fundamental rights of the citizens.

DRAGNET OPERATION – Is a police operation purposely to seal off the probable exit points of fleeing suspects from the crime scene to prevent their escape.

DRAFT – A promissory note signed by the client of the bank.

DUE PROCESS OF LAW – The requirement that no person shall be held to answer for a criminal offense without “due process of law” simply requires that the procedures fully protect the life, liberty, and property of the citizens in the State.

DYING DECLARATION – Requisites. In order that a dying declaration may be admissible, the following requisites must concur; 1) it must concern the crime

involved in and the circumstances surrounding the declarant's death; 2) at the time of the declaration, the declarant must be conscious of impending death; 3) the declarant must be competent as a witness; and 4) the declaration must be offered in a criminal case for homicide, murder, or parricide in which the declarant was the victim.

ELECTRONIC DATA MESSAGE – Refers to information generated, sent, received or stored by electronic, optical or similar means, but not limited to, electronic data interchange (EDI), electronic mail, telegram, telex, or telecopy. Throughout these Rules, the term “electronic data message” shall be equivalent to and be used interchangeably with “electronic document.”

ELECTRONIC DOCUMENT – Refers to information or the representation of information, data, figures, symbols or other modes of written expression, described or however represented, by which a right is established or an obligation extinguished, or by which a fact be proved and affirmed, which is received, recorded, transmitted, stored, processed, retrieved or produced electronically. Throughout these Rules, the term “electronic document” shall be equivalent to and be used interchangeably with “electronic data message.”

ELECTRONIC SIGNATURE – Refers to any distinctive mark, characteristic and/or sound in electronic form, representing the identity of a person and attached to or logically associated with the electronic data message or electronic document or any methodology or procedures employed or adopted by a person and executed or adopted by such person with the intention of authenticating or approving an electronic data message or electronic document.

EMBEZZLEMENT – Embezzlement is a purely statutory offense and may be defined as the fraudulent appropriation to one's own use of money or goods entrusted to one's care by another; the fraudulent appropriation of property by a person to whom it has been entrusted or into whose hands it has lawfully come.

EMINENT DOMAIN – The right of a government to take and appropriate private property to public use, whenever the public exigency requires it; which can be done only on condition of providing a reasonable compensation therefore.

ENTRAPMENT – While instigation exempts, entrapment does not; the difference between the two being that in entrapment the crime had already been committed while in instigation the crime was not yet and would not have been committed were it not for the instigation by the peace officer.

EVIDENCE – The means sanctioned by the Rules of Court, of ascertaining in a judicial proceeding the truth respecting a matter of fact. These include but are

not limited to documentary, testimonial, electronic and object evidence, gathered in the course of the investigation.

EVIDENT PREMEDITATION – Evident premeditation involves, in its legal sense, not only a determination to commit the crime prior to the moment of its execution, but that resolve to carry out the criminal intent must have been the result of deliberation, calculation or reflection through a period of time sufficient to dispassionately consider and accept the final consequences thereof, thus indicating a greater perversity.

EX PARTE – Of or from one party; without notice to the other party.

EXPLOITATION – Shall include, at the minimum, child prostitution, child pornography and other forms of sexual exploitation, child labor, force labor or services, slavery or practices similar to slavery, servitude, removal and sale of organs, use in illicit/illegal activities, and participation in armed conflict. The hiring, employment, persuasion, inducement, or coercion of a child to perform in obscene exhibitions and indecent shows, whether live or in video or film or to pose or act as a model in obscene publications or pornographic materials, or to sell or distribute said materials.

EXPLOSIVES – Any chemical compound, mixture or device, the primary or common purpose of which is to function by explosion. The term includes, but is not limited to, high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniter.

EXPLOSIVE INCIDENTS – Any explosives-involved situation that encompasses bombings, incendiary bombings, attempted bombings, stolen and recovered explosives, threats to government facilities involving explosives, hoax devices and bomb threats.

EXPLOSIVE ORDNANCE DISPOSAL (EOD) PERSONNEL – Refers to personnel of the Armed Forces of the Philippines (AFP), Philippine Coast Guard (PCG) and the National Bureau of Investigation (NBI).

FAIT ACCOMPLI – A thing done or accomplished.

FEE SIMPLE – Absolute ownership or full right or proprietorship.

FENCING –Is the act of any person who, with intent to gain for himself or for another, shall buy, receive, posses, keep, acquire, conceal, sell or dispose of, or shall buy and sell, or in any other manner deal in any article, item, object or anything of value which he knows, or should be known to him, to have been derived from the proceeds of the crime of robbery or theft.

FIRE ANALYSIS - The process of determining the origin, cause, and responsibility as well as the failure analysis of fire or explosion.

FIRE CAUSE - The circumstances or agencies that bring a fuel and an ignition source together with proper air or oxygen.

FIRE SPREAD - The movement of fire from one place to another.

FIRE SCENE RECONSTRUCTION – It is the process of recreating the physical scene during the fire scene analysis through the removal of debris and the replacement of contents or structural elements in their pre-fire position.

FLASH FIRE - A fire that spreads with extreme rapidity, such as one that races over dust, over the surface of flammable liquids, or through gases.

FIRST RESPONDERS – Are members of the police, military, fire, medical teams, and other volunteer organizations who are expected to be the first to respond to calls for assistance in cases of incidents involving explosives.

FORCIBLE ABDUCTION – Under Art 342, RPC, they are 1) the person abducted has to be a woman, regardless of her age, morality and reputation; 2) against her will; and 3) with lewd designs.

FORUM SHOPPING – The act of filing the same suit in different courts. It is an act of malpractice that is proscribed and condemned as trifling with the courts and abusing their processes. It is improper conduct that tends to degrade the administration of justice.

FUEL LOAD - The total quantity of combustible contents of the building, spaces, or fire area, including interior finish and trim, expressed in heat units or the equivalent weight in wood.

FUNCTUS OFFICIO – Legally defunct. Something which once has had life and power, but which has become of no virtue whatsoever.

GOVERNMENT – Includes the national government, the local governments, the government-owned and government-controlled corporations, all other instrumentalities or agencies of the Republic of the Philippines and their branches.

GRAVEMEN – In civil law and as used and understood in ordinary legal parlance, a lien and /or encumbrance is synonymous with “gravemen”.

GRAVE ABUSE OF CONFIDENCE – The term “grave abuse of confidence” in Art 310 of RPC, on qualified theft, refers to a breach of the high degree of confidence reposed by the offended party upon the offender by reason of dependence, guardianship, or vigilance.

GRAVE ABUSE OF DISCRETION – Error of judgment. Both differ in that grave abuse of discretion means capricious and arbitrary exercise of judgment while error of judgment means the mistakes actually committed in adjudication.

HABEAS CORPUS – The writ of habeas corpus is the means by which judicial inquiry is made into the alleged encroachments upon the political and natural rights of individuals, such as restraint of liberty.

HIJACKING – A term which immediately conjures the images of a group of heavily armed and determined men and women holding up an airplane, ship, bus, van, or other vehicle in order to achieve their nefarious objectives.

HIGHWAY ROBBERY –The seizure of any person for ransom, extortion or other unlawful purposes, or the taking away of the property of another by means of violence against or intimidation of person or force upon thing or other unlawful means, committed by any person on any Philippine Highway.

HOMICIDE - Any person who shall kill another without the attendance of any of the circumstances enumerated in the crime of murder. (Under Art 249 RPC)

ILLEGAL RECRUITMENT - It is any act of canvassing, enlisting, contracting, transporting, utilizing, hiring or procuring of workers which includes referring, contract services, promising or advertising for employment abroad, whether for profit or not, when undertaken by a nonlicense or nonholder of authority contemplated under this provision.

ILLICIT CONSIDERATION – One which is contrary to law and morals.

IN ARTICULO MORTIS – At the point of death.

IN FLAGRANTE DELICTO – In the very act of committing a crime.

IN PARI DELICTO – The principle of “in pari delicto” does not apply to a simulated or fictitious contract nor to an inexistent contract which is devoid of consideration, and an illegal purpose cannot supply the want of consideration.

INFANTICIDE –The killing of an infant less than 3 days old. (Under Art 255 RPC)

INFRINGEMENT – An invasion of one of the exclusive rights of intellectual property. Infringement of a utility patent involves the making, using, selling, offering to sell, or importing of a patented product or process without permission. Infringement of a design patent involves fabrication of a design that, to the ordinary person, is substantially the same as an existing design, where the resemblance is intended to induce an individual to purchase one thing supposing it to be another. Infringement of a trademark consists of the unauthorized use or imitation of a mark that is the property of another in order to deceive, confuse, or mislead others. Infringement of a copyright involves reproducing, adapting, distributing, performing in public, or displaying in public the copyrighted work of someone else.

INITIAL CONTACT WITH THE CHILD – Refers to the apprehension or taking into custody of a child in conflict with the law, by law enforcement officers or private citizens. It includes the time when the child alleged to be in conflict with the law receives a subpoena under Section 3(b) of Rule 112 of the Revised Rules of Criminal Procedure or summons under Section 6(a) or Section 9(b) of the same Rule in cases that do not require preliminary investigation or where there is no necessity to place the child alleged to be in conflict with the law under immediate custody.

INTELLECTUAL PROPERTY- It is the creation of the human mind that has commercial value and is given the legal aspects of a property right. Intellectual property is an all-encompassing term now widely used to designate as a group all of the following fields of law: patent, trademark secret, moral rights, and the right of publicity.

INTENTIONAL ABORTION – Any person who shall intentionally cause abortion upon a pregnant woman, or if done without violence but acted with the consent of the woman.

INTER-AGENCY COUNCIL AGAINST TRAFFICKING OR IACAT - Shall refer to the inter-agency body created by Sec. 20 of Republic Act 9208.

INTERVENTION – Refers to a series of activities designed to address issues that cause the child to commit an offense. It may take the form of an individualized treatment program, which may include counseling, skills training, education, and other activities that will enhance his/her psychological, emotional and psycho-social well-being.

INVESTIGATION – While instigation exempts, entrapment does not; the difference between the two beings that in entrapment the crime had already been committed while in instigation the crime was not yet, and would not have been, committed were it not for the instigation by the peace officer.

- An inquiry, judicial or otherwise, for the discovery and collection of facts concerning the matter or matters involved.
- It is the process of inquiring, eliciting, soliciting and getting vital information/facts/circumstances in order to establish the truth.

INVESTIGATOR/OFFICER – Shall refer to any law enforcement personnel belonging to the duly mandated law enforcement agencies (LEA) tasked to enforce Republic Act 9208 such as officers, investigators and agents of the Philippine National Police, National Bureau of Investigation, Bureau of Immigration.

IMPROVISED EXPLOSIVE DEVICE – A homemade device consisting of explosives/incendiary and firing components necessary to initiate explosion.

INTERIM – Temporary, provisional, of passing and temporary duration, as opposed to permanent and regular.

IPSO FACTO – By the fact or act itself.

JUDICIAL NOTICE – Requisites. Three prerequisites to judicial notice of any suggested fact have been stated, namely, 1) that it must be a matter of common and general knowledge, 2) that it must be will and authoritatively settled, and not doubtful or uncertain, and 3) that it must be known to be within the limits of the jurisdiction of the court.

JURISDICTION – The word “jurisdiction” as used in the Constitution and statutes means jurisdiction over the subject matter only, unless an exception arises by reasons of its employment in a broader sense.

JURISPRUDENCE – The groundwork of the written law. The science of law; the particular science of giving a wise interpretation to the laws and making a just application of them to all cases as they arise. In an untechnical sense, the term sometimes means Cases Law.

LAND TRANSPORTATION DISASTER - Is a land transportation sector accident, e.g. rail road and motor vehicle accidents causing serious loss of lives, injuries and damage to properties.

LASCIVIOUSNESS – The term “lasciviousness” in Art 336, RPC comprises all acts of lasciviousness performed upon a person of either sex, short of lying with a woman and anything leading up to it, independently of the intention of the wrongdoer.

LASCIVIOUS CONDUCT – The intentional touching, either directly or through clothing, of the genitalia, anus, groin, breast, inner thigh or buttocks or the introduction of any object into the genitalia, anus or mouth, of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person, whether of the same or opposite sex, with an intent to abuse, humiliate, harass, degrade or arouse or gratify the sexual desire of any person, bestiality, masturbation, lascivious exhibition of the genitals or pubic area of a person;

LAST CLEAR CHANCE – A doctrine that a person who has the last clear chance to void the impending harm and fails to do so is chargeable with the consequences, without reference to the prior negligence of the other party.

LAW ENFORCEMENT – It involves PNP - initiated projects and activities geared towards improving the peace and order situation and professionalizing the people.

LEWD – The unlawful indulgence of lust.

LICENSE – A permission to use an intellectual property right, under defined conditions as to time, context, market line, or territory. In intellectual property law, important distinctions exist between “exclusive licenses” and “nonexclusive licenses”. An exclusive license does not necessarily mean that this is the one and only license granted by the licensor. In giving an exclusive license, the licensor promises that he or she will not grant other licenses of the same rights within the same scope of field covered by the exclusive license. However, the owner of rights may grant any number of nonexclusive licenses of the same rights. In a non-exclusive license, title remains with the licensor. A patent license is a transfer of rights that does not amount to an assignment of the patent. A trademark or service mark can be validly licensed only if the licensor controls the nature and quality of the goods or services sold by the licensee under the licensed mark. Under copyright law, an exclusive licensee is the owner of a particular right of copyright, and he or she may sue for infringement of the licensed right. There is never more than a single copyright in a work regardless of the owner’s exclusive license of various rights to different persons.

LOCAL INTER-AGENCY COUNCIL AGAINST TRAFFICKING – Shall refer to the local institutional structure created at the regional, provincial, city and or/ municipal level to coordinate and monitor the implementation of Republic Act 9208 within their jurisdiction.

MACRO-ETCHING - The examination of the serial number of engine and chassis of a motor vehicle by a Crime Laboratory Technician by means of applying

chemicals solution on the said serial numbers to determine whether there is tampering and for possible restoration of the tampered serial numbers.

MALA INSE – A wrong act by its nature punished as felonies under the RPC. Example: murder, rape, etc.

MALA PROHIBITA – A wrong act arising out of doing an act prohibited by special laws. Example is illegal possession of firearms.

MALFEASANCE or MISCONDUCT– Any wrongful, improper or unlawful conduct motivated by premeditated, obstinate or intentional purpose. It usually refers to transgression of some established, obstinate or intentional purpose. It usually refers to transgression of some established and definite rule of action, where no discretion is left except where necessity may demand; it does not necessarily imply corruption or criminal intention.

MISFEASANCE or IRREGULARITIES IN THE PERFORMANCE OF DUTY – The improper performance of some act which might lawfully be done.

MAN-MADE DISASTER- A disaster caused by human activity, e.g. fires (initiated by man), transportation accidents (air, sea and land), nuclear attacks, chemical spills, and bombings.

MIRANDA DOCTRINE – A principle on the rights of a suspect from forced self-incrimination during police interrogation as enshrined in the 1987 Philippine Constitution's Bill of Rights (Article III, Sec. 12).

MONEY MARKET – A bank transaction wherein a particular bank will issue a promissory note in favor of another bank.

MOOT CASE – A case is considered as presenting a moot question when a judgment thereon cannot have any practical legal effect or, in the nature of things, cannot be enforced.

MORAL RIGHTS - It has three categories: the right of an author to receive credit as the author of a work, to prevent others from falsely being named author, and to prevent use of the author's name in connection with works the author did not create; the right of an author to prevent mutilation of a work; and the right to withdraw a work from distribution if it no longer represents the views of the author.

MORAL CERTAINTY – A certainty that convinces and satisfies the reasons and conscience of those who are to act upon a given matter.

MORTGAGOR – The word “mortgagor”, as used in the charter of the Philippine National Bank in connection with the right of redemption, includes both the estate of a deceased mortgagor and his heirs.

MOTION – Motions are various kinds and may be classified as litigated, expert, special, or a motion of course.

MOTOR VEHICLE - Any vehicle propelled by means other than muscular power using the public highways, but excepting rollers, trolley cars, street sweepers, sprinklers, lawnmowers, bulldozers, graders, forklifts, amphibian trucks and cranes if not used on public highways; also, vehicles which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended to be propelled by attachments to any motor vehicles shall be classified as separate motor vehicles with no power rating. (Sec 2, RA 4136)

MOTU PROPIO – On its own motion or initiative.

MURDER – Any person who shall kill another person with evident premeditation, treachery, superior strength, aid of armed men, consideration of prize and reward of promise and by means of fire, poison, explosion and other means involving great waste and ruin. (Under Art 248, RPC)

NATURAL DISASTER - A disaster caused by natural forces rather than by human action, e.g. floods, storms, typhoons/tornados, drought, earthquakes, volcanic eruptions.

NEGATIVE EVIDENCE – Evidence is negative when the witness states that he did not see or know the occurrence of a fact.

NEGATIVE PREGNANT – A denial in the answer which, although in the form of a traverse, really admits a material part of the averment. A denial in the form of a negative pregnant does not raise a material issue, and operates as an admission of the substance of the allegations to which it is directed.

NEGLECT – Failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic education or medical care so as to seriously endanger the physical, mental, social and emotional growth and development of the child.

NEGLECT OF DUTY – The omission or refusal, without sufficient excuse, to perform an act or duty, which it was the officer’s legal obligation to perform.

NEIGHBORHOOD INVESTIGATION – One of the most crucial steps in Kidnap for Ransom cases which is often overlooked or underemphasized. The

objective is to identify and interview in person all individuals in the area where the victim was kidnapped and/or last known sighting area during the window of opportunity (last time seen until the time discovered missing).

NOMINAL PARTY – One who is joined as plaintiff or defendant, not because he has any real interest in the subject matter or because any relief is demanded as against him, but merely because the technical rules of pleading require his presence on the record.

NONFEASANCE or NEGLECT OF DUTY – The omission or refusal, without sufficient excuse, to perform an act or duty, which it was the peace officer's legal obligation to perform; implies a duty as well as its breach and the fact can never be found in the absence of duty.

OBITER DICTUM – A statement made in passing; a rule issued on a point not necessarily involved in the case.

OBLIGATION – A judicial necessity to give, to do or not to do.

OCCULAR INSPECTION – An auxiliary remedy which the law affords the parties or the court to reach an enlightened determination of the case, either to clear a doubt, to reach a conclusion, or to find the truth, by viewing the object related to the fact in issue.

OFFENDED PARTY – In oral defamation or libel, the “offended party” referred to in par. 4 Art 360, RPC, and in Sec 4, Rule 110, Rules of Court, is the person appearing to have been defamed, discredited, damaged and prejudiced by the imputation made.

The “offender party” who intervenes in a criminal action, under Sec 15 Rule 110, Rules of Court, is the person who is entitled to civil indemnity in the civil action arising out of the criminal act for which the accused is charged.

ONUS PROBANDI – The obligation imposed upon a party who alleges the existence of a fact or thing necessary in the prosecution of defense of an action, to establish its proof. The obligation imposed by law on a party to the litigation to persuade the court that he is entitled to relief. If no evidence is presented on a particular issue, the party having the burden of proof as to issue will lose, and if that issue is terminative of the cause of action, he will lose the litigation.

OPINION – The opinion of the Court is that portion of the judgment containing the findings of facts and the conclusions of law.

ORGANIZED CRIMINAL GROUP – A structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offenses as defined in the United Nations Convention against Transnational Organized Crime, in order to obtain, directly or indirectly, financial or other material benefit.

ORGANIZED CRIME – A combination of two or more persons who are engaged in a criminal or virtual criminal activity on a continuing basis for the purpose of profit or power using gangland style to attain their purpose.

OUT-OF-TOWN CHECK – A check being presented for encashment before any bank not within the territory where the issuing bank is located

PARENTS PATRIAE – Parent or guardian of the country. The states as a sovereign, as parent patriae, has the right to enforce all charities of a public nature, by virtue of its general superintending authority over the public interest, where no other person is entrusted with it. A prerogative inherent in the supreme power of every State, to be exercised in the interest of humanity, and for the prevention of injury to those who cannot protect themselves.

PARRICIDE - Any person who kills his father, mother or child whether legitimate or illegitimate or any of his ascendants or descendants or his spouse shall be guilty of parricide.

PAROLE EVIDENCE – Requisites. For the admissibility of parole evidence of the ground of mistake or imperfection of the writing, the following requisites must concur; 1) the mistake should be of fact; 2) the mistake should be mutual or common to both parties to the instrument; and 3) the mistake should be alleged and proved by clear and convincing evidence.

PASSPORT – A document issued by the Philippine government to its citizens and requesting other governments to allow its citizens to pass safely and freely, and in case of need to give him/her all lawful aid and protection.

PATENT – A grant by the federal government to an inventor of the right to exclude others from making, using, or selling the invention. There are three very different kinds of patents: a utility patent on the functional aspects of products and processes; a design patent on the functional aspects of products and processes; a design patent on the ornamental design of useful objects; and a plant patent on a new variety of living plant. Patents do not protect “ideas”, only structures and methods that apply technological concepts. In return for receiving the right to exclude others from a precisely defined scope of technology, industrial design, or plant variety, which is the gist of a patent, the inventor must fully disclose the details of the invention to the public. This will enable others to understand the

invention and be able to use it as a stepping-stone to further develop the technology. Once the patent expires, the public is entitled to make and use the invention and is entitled to a full and complete disclosure of how to do so.

PERSON – Includes natural and juridical persons, unless the context indicates otherwise.

PERSON IN AUTHORITY – Person in authority refers to all those persons who by direct provision of law or by appointment of competent authority are charged with the maintenance of public order and the protection and security of life and property, as well as all persons who come to the aid of agents of authority; it being public functionaries are entitled to be considered as agents of authority, it being understood, nevertheless, that in order that the persons who come to the aid of an agent of authority may be considered as agents of authority, it is an essential condition that they lend such assistance, by virtue of an order or request of such agent of authority.

PHYSICAL EXAMINATION - The conduct of examining the engine and chassis number of a motor vehicle by a Crime Laboratory Technician and/or Police Officer through the used of the naked eyes to determine whether there is a sign of tampering/alteration.

PHYSICAL EVIDENCE - Evidence addressed to the senses of the court that are capable of being exhibited, examined, or viewed by the court. This includes but not limited to fingerprints, body fluids, explosives, hazardous chemicals, soil/burned debris, bombs, electronic parts used in the commission of the crime.

PHYSICAL INJURY- Harm done to a child's psychological or intellectual functioning which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of said behaviors which may be demonstrated by a change in behavior, emotional response or cognition;

PIRACY – The act of exact, unauthorized, and illegal reproduction on a commercial scale of a copyrighted work or of a trademarked product.

PNP CRISIS MANAGEMENT COMMITTEE (PNP CMC) - A Committee created by the PNP that specifically handles cases of kidnapping.

POINT OF ORIGIN - The exact physical location where a heat source and fuel comes in contact with each other and a fire begins.

POLICE BLOTTER – A record or log where all types of operational and undercover dispatches shall be recorded containing the five "W"s (*WHO, WHAT, WHERE, WHEN AND WHY*) and one "H" (*HOW*) of an information.

POLICE CHECKPOINT – A location where the search is conducted which is duly authorized by the PNP to deter/prevent the commission of crimes, enforce the law, and for other legitimate purposes.

POST – A Philippine diplomatic and consular position such as an Embassy or Consulate.

POST-BLAST INVESTIGATION (PBI) - Comprehensive forensic inquiry specifically on a bombing incident through conduct of various investigative techniques which involves recovery of physical evidence mainly for reconstruction of explosive fragments recovered to determine the device components, the modus operandi and subsequently to identify the perpetrator(s).

POST BLAST INVESTIGATION TEAM – Composed of the criminal investigator(s) assisted by the bomb technicians/EOD personnel and SOCO personnel.

PROJECT PROPOSAL – The recommended format or documentary vehicle to be used in the presentation of the operational concepts and administrative necessities in the conduct of intelligence special projects for the processing and approval of designated authority.

PROXIMATE CAUSE – The proximate cause of an injury is the one which produces the injury either directly or thru other causes which it sets in motion and thru which it acts in a natural line of causation. It is the cause that directly produces the effects without the intervention of any other cause.

PUBLIC OFFICER – Elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exemption service receiving compensation, even nominal, from the government.

QUANTUM MERIT – Elements. In fixing the reasonable compensation of lawyers for services rendered on quantum merit, the elements to be considered generally are: 1) the importance of the subject matter of the controversy; 2) the extent of the services rendered; and 3) the professional standing of the lawyer.

QUESTION OF FACT – There is a question of fact when the doubt of difference arises as to the truth or falsehood of alleged facts, or when it involves an examination of the probative value of the evidence presented by the litigants or any of them.

QUESTION OF LAW – There is a question of law in a given case when the doubt or difference arises as to what the law is on a certain state of facts.

RADIATION - Heat transfer by way of electromagnetic energy.

REASONABLE DOUBT – A reasonable doubt is not a mere guess that defendant may or may not guilty; it is such a doubt as a reasonable man might entertain after a fair review and consideration of the evidence.

RECEIVING ANY GIFT – Includes the act of accepting directly or indirectly a gift from a person other than a member of the public officer's immediate family, in behalf of himself or of any member of his family or relative within the fourth civil degree, either by consanguinity or affinity, even on the occasion of a family celebration or national festivity like Christmas, if the value of the gift is under the circumstances manifestly excessive.

RECLUSION PERPETUA – The penalty of life imprisonment. However, the offender is eligible for pardon after serving the penalty for thirty years.

RECOVERY/DISCOVERY/SEIZURE - Refers to any seized, abandoned, or purchased (undercover) explosives/military ordnance materials taken into custody by PNP or other law enforcement agencies.

REKINDLE - A return to flaming combustion after incomplete extinguishment, such as fire reigniting at some time after being put out.

RES GESTAE – Statement accompanying and explaining the facts in issue. Statements, otherwise inadmissible in evidence because they are hearsay, which are sufficiently contemporaneous with the act they accompany and explain, admissible in evidences as part of the “res gestae”.

RES IPSA LOQUITUR – The thing speaks for itself.

RIGHT OF PUBLICITY – The inherent right of every human being to control the commercial use of his or her identity.

ROBBERY – The taking of personal property belonging to another with intent to gain, by means of violence against or intimidation of any person, or using force upon anything.

SEPARATION OF POWERS – A basic concept under our Constitution, embodying the principle of a tripartite division of government authority entrusted to Congress, the President, and the Supreme Court as well as such inferior courts as may be created by law. Three independent departments of government are thus

provided for, the legislative vested with the lawmaking function, the executive with the enforcement of what has been thus enacted, and the judiciary with the administration of justice, deciding cases according to law. The reason for such a doctrine is to assure liberty, no one branch being enabled to arrogate unto itself the whole power to govern and thus in a position to impose its unfettered will.

SERVICE OF SUMMONS – A notice to the defendant informing him that an action has been commenced against him which he must answer within a specified time, or else judgment with is taken against him. It is the means by which the defendant is afforded an opportunity, and rights, and thereby has them safe in the defense of his person, property, and rights, and thereby have those safeguarded. The principal object of this process is to give the party to whom it is addressed a notice of proceedings against him.

SEXUAL ABUSE – Includes the employment, use, persuasion, inducement, enticement or coercion of a child to engage in, or assist another person to engage in, sexual intercourse or lascivious conduct or the molestation, prostitution, or incest with children.

SPALLING - Chipping or pitting of concrete or masonry surfaces.

SPIRIT OF THE LAW – The intent and purpose of the lawmaker, or framer of the Constitution, as determined by a consideration for the whole context thereof and, hence, of the letter of the law, in its entirety and the circumstances surrounding its enactment.

SOCIAL SERVICE PROVIDER – Licensed social workers of the DSWD, local social welfare and development office, and NGOs workers who provide and assist in the delivery of basic social welfare services such as but not limited to providing food, clothing temporary shelter, psychosocial intervention, etc.

SPOT REPORT – Refers to an immediate initial investigative or incident report addressed to Higher Headquarters pertaining to the commission of the crime, occurrence of natural or man-made disaster or unusual incidents involving loss of lives and damage of properties.

STATE OF CALAMITY – A governmental declaration over an area or areas affected by or during a time of a disastrous event or catastrophe. It is a formal proclamation by the President or by the concerned local chief executive over a disaster area upon recommendation of the disaster coordinating councils.

STATE WITNESS – Requisites – The requisites for the discharge of an accused in order that he may be made for the prosecution are: 1) Two or more persons are charged with the commission of the certain offense; 2) the petition for

discharge is filed before the defense has offered its evidence; 3) there is absolute necessity for the testimony of the defendant whose discharge is requested 4) there is no other direct evidence available for the proper prosecution of the offense committed except the testimony of said defendant; 5) the testimony of said defendant can be substantially corroborated in its material points; 6) said defendant does not appear to be the most guilty; and 7) said defendant had not at any time been convicted of any offense involving moral turpitude.

SUBSTANTIAL EVIDENCE – “Substantial Evidence” means more than a mere scintilla; it is of a more substantial and relevant consequence and excludes vague, uncertain and irrelevant matter, implying a quality of proof which induces conviction and makes an impression on reason. It means that the one weighing the evidence takes into consideration all the facts presented to him and all reasonable inferences, deductions and conclusions to be drawn there from, and, considering them in their entirety and relation to each other, arrives at a fixed conviction.

SUBSTANTIVE DUE PROCESS – The constitutional guaranty that no person shall be deprived of his life, liberty, or property for arbitrary reasons, such as a deprivation being constitutionally supportable only if the conduct from which the deprivation flows is prescribed by reasonable legislation (that is, the enactment is within the scope of legislative authority) reasonably applied (that is, for a purpose consonant with the purpose of the legislation itself).

SUICIDE – Taking one’s own life voluntarily and intentionally.

SUFFICIENT PROVOCATION – As a mitigating circumstance, provocation that is adequate to excite the person to commit the wrong and proportionate to its gravity, and which must also immediately precede the act.

SUMMARY OF INFORMATION (SOI) – An intelligence report rendered regarding any illegal activity or violation of laws being observed by intelligence operatives within a given area of responsibility. This is the usual basis of case operations hence information received should be cared, validated, counter-checked, analyzed and evaluated.

SUPERVENING EVENT – A doctrine in criminal procedure which holds that where a new fact (such as a deformity) for which the defendant is responsible has supervened and this new fact charges the character of the crime first imputed to him, so that, together with the facts previously existing, it constitutes a new and distinct offense, no double jeopardy exists.

SUPPORTING DOCUMENTS – Any paper or document which is required to be submitted with the passport application supporting claims to Filipino citizenship

to complete the application for a passport without which such application would be deemed incomplete or otherwise become subject to denial by the issuing authority.

SUSPECT OR SUSPECTS – Individual(s) who is/are pointed to be by the victim(s) and witness(es) to have had committed the crime in issue. Subject person is not considered as a criminal unless otherwise his/her conviction is pronounced in the court.

TACTICAL INTERROGATION REPORT – The report rendered by an interrogator/ investigator which contains the following information of subjects: a) Personal and family background; b) Educational background; c) Professional background; d) Criminal activities/ associates, armaments; e) Plans.

TERRORISM - Any person who commits an act punishable under the Revised Penal Code hereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand shall be guilty of the crime of terrorism

THEFT - Theft is committed by any person who, with intent to gain but without violence against or intimidation of neither persons nor force upon things, shall take personal property of another without the latter's consent.

THE STATE – Shall refer to the Philippine government and its relevant government agencies, organizations and entities.

TRADEMARK - A word, slogan, design, picture, or any other symbol used to identify and distinguish goods. Any identifying symbol, including a word, design, or shape of a product or container, that qualifies for legal status as a trademark, service mark, collective mark, certification mark, trade name, or trade dress. Trademarks identify one seller's goods and distinguish them from goods sold by others. They signify that all goods bearing the mark come from or are controlled by a single source and are of an equal level of quality. A trademark is infringed by another if the second use causes of confusion of source, affiliation, connection, or sponsorship.

TRADE NAME – A symbol used to identify and distinguish companies, partnerships, and businesses, as opposed to marks used to identify and distinguish goods or services.

TRADE SECRET – Business information that is the subject of reasonable efforts to preserve confidentiality and that has value because it is not generally known in the trade. Such confidential information will be protected against those

who obtain access through improper methods or by a breach of confidence. Infringement of a trade secret is a type of unfair competition.

TRAFFICKING IN PERSONS –The recruitment, transport, transfer or harboring, or receipt of persons with or without consent or knowledge, within or across national borders, by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or, the giving or receiving of payments or benefits to achieve the consent of the person having control over another person for the purpose of exploitation or the prostitution of others or others forms of sexual exploitation, forced labor, or services, slavery, servitude or the removal or sale of organs.

TRAVEL DOCUMENT – A certification or identifying document containing the description and other personal circumstances of its bearer, issued for direct travel to and from the Philippines valid for short periods or a particular trip. It is issued only to persons whose claim to Philippine citizenship is doubtful or who fall under the category enumerated in Section 13 of this Act.

UNINTENTIONAL ABORTION – Any person who shall cause an abortion by violence, but not intentionally.

UNSCRUPULOUS – Unprincipled, or not scrupulous. So, a person who is without scruple would be one who is lacking in moral integrity, or in principles; not adhering to ethical standards; careless; imprudent.

VENUE – Venues deals with the locality, the place where the suit may be had, while jurisdiction treats of the power of the court to decide the case on the merits.

VICTIM – The aggrieved party.

VICTIM COMMUNICATOR – The person to whom any demand has been or is likely to be made by the kidnapper and who is expected by the offender to respond.

VICTIMOLOGY/VICTIM PROFILING – A detailed account of the victim's lifestyle and personality assists in determining the nature of the disappearance, the risk level of the victim and the type of person who could have committed the crime. Complete information regarding the victim's physical description, normal behavioral patterns, the family dynamics, and known friends and acquaintances should be obtained as soon as possible.

VISA – An endorsement made on a travel document by consular officer at a Philippine Embassy or Consulate abroad denoting that the visa application has been properly examined and that the bearer is permitted to proceed to the Philippines and request permission from the Philippine Immigration authorities at the ports of entries to enter the country. The visa thus issued is not a guarantee that the holder will be automatically admitted into the country, because the admission of foreign nationals into the Philippines is a function of the immigration authorities at the port of entry.

VOLUNTARY SURRENDER – A surrender to be voluntary, as mitigating circumstances in criminal law, must be spontaneous, showing the intent of the accused to submit him unconditionally to the authorities.

WAIVER – The doctrine of waiver, from its nature, applies ordinarily to all rights of privileges to which a person is legally entitled, provided such rights or privileges belong to the individual and are intended solely for his benefit.

WATERBORNE DISASTER- A disaster occurring in water areas as a result of both natural and man-made causes, e.g. ship collision; ships sank by typhoon, overloading resulting in mass drowning, dam collapse, flash floods and marine pollution.

*“Curiosity is one of the most permanent and
certain characteristics of a vigorous mind.”
(Samuel Johnson)*

CHAPTER I

GENERAL PRINCIPLES OF INVESTIGATION

1.1 DEFINITION OF INVESTIGATION

Investigation is the collection of facts to accomplish a three-fold aim:

- a. to identify the suspect;
- b. to locate the suspect; and
- c. to provide evidence of his guilt.

In the performance of his duties, the investigator must seek to establish the six (6) cardinal points of investigation, namely: what specific offense has been committed; how the offense was committed; who committed it; where the offense was committed; when it was committed; and why it was committed.

1.2 PROTOCOLS IN INVESTIGATION

Protocol 1: Jurisdictional Investigation by the Territorial Unit Concerned

The Police Station, which has territorial jurisdiction of the area where the crime incident was committed, shall immediately undertake the necessary investigation and processing of the crime scene, unless otherwise directed by higher authorities for a certain case to be investigated by other units/agency.

Protocol 2: Official Police Blotter

a. A Police Blotter is an 18" x 12" logbook with hard-bound cover that contains the daily register of all crime incident reports, official summary of arrests, and other significant events reported in a police station.

b. As a general rule, all crime incidents must be recorded in the official police blotter.

c. A separate Police Blotter, however, shall be maintained for offenses requiring confidentiality like violence against women and children and those cases involving a child in conflict with the law to protect their privacy pursuant to R.A. 9262 (Anti-Violence Against Women and Children Act of 2004) and R.A. 9344 (Juvenile Justice and Welfare Act of 2006).

d. The duty police officer shall record the nature of the incident in the police blotter containing the five “W”s (who, what, where, when and why) and one “H” (how) of the information and inform his superior officer or the duty officer regarding the occurrence of such incident.

e. In answering the above 5 Ws and 1 H and the Case Disposition, all such material details about the incident, including the nature of the action or offense; the Date, Time, and Place of Occurrence; the names of the suspect/s, the victim/s, the witness/es, if any; facts of the case; significant circumstances that aggravate or mitigate the event or the crime should be entered along with the identity of the officer to whom the case is assigned (Officer-on-case); and, the status of the case.

Protocol 3: Investigation Team: Organization and Equipment

a. All investigators in any police unit must be a graduate of prescribed investigation course with a rank of at least PO2 (pre-requisite to assignment).

b. Composition:

1. Team Leader;
2. Investigator/recorder;
3. Photographer;
4. Evidence custodian; and
5. Composite Illustrator/Artist

c. Equipment of the investigator:

1. Police line;
2. Video camera;
3. Voice recorder;
4. Camera;
5. Measuring device;
6. Gloves;
7. Flashlight;
8. Fingerprint kit;
9. Evidence bag;
10. Evidence tag;
11. Evidence bottles/vials; and
12. Investigator's tickler (contains the following)
 - a) Investigator's checklist
 - b) Anatomical diagram form
 - c) Evidence checklist

d) Turn-over receipt

Protocol 4: Duties of the First Responder

- a. Proceed to the crime scene to validate the information received;
- b. Record the exact time of arrival and all pertinent data regarding the incident in his issued pocket notebook and notify the TOC;
- c. Cordon off the area and secure the crime scene with a police line or whatever available material like ropes, straws or human as barricade to preserve its integrity;
- d. Check whether the situation still poses imminent danger and call for back up if necessary;
- e. Identify possible witnesses and conduct preliminary interview and ensure their availability for the incoming investigator-on-case;
- f. Arrest the suspect/s if around or in instances wherein the suspect/s is fleeing, make appropriate notification for dragnet operations;
- g. Prepare to take the “Dying Declaration” of severely injured persons with the following requisites:
 1. That death is imminent and the declarant is conscious of that fact;
 2. That the declaration refers to the cause and surrounding circumstances of such death;
 3. That the declaration relates to facts which the victim is competent to testify to; and
 4. That the declaration is offered in a case wherein the declarant's death is the subject of the inquiry. (Section 37, Rule 130 of the Rules of Court).
- h. Evacuate the wounded to the nearest hospital using emergency services;
- i. Account for the killed, wounded and arrested persons for proper disposition;

- j. Conduct initial investigation; and
- k. Brief the investigator-on-case upon arrival and turn over the crime scene.
- l. Conduct inventory on the evidence taken at the crime scene; Inventory receipt should be properly signed by the first responder, SOCO and the investigator.

Protocol 5: Duties and responsibilities of the Investigating Team

- a. Take full control of the crime scene to include the conduct of crime scene search; taking of photographs; making sketches; lifting of fingerprints; markings of physical evidence; (Chain of custody) the transmittal of evidence to crime laboratory; interview of witnesses; gathering and evaluation of evidence; follow-up of the case and the documentation and filing of appropriate charges in court.
- b. Establish a command post in the immediate vicinity of the crime scene;
- c. Designate a holding area in the immediate vicinity of the crime scene (for the media, VIP's and other personalities present);
- d. Conduct case conference with the first responder, SOCO, other law enforcers and rescue personnel;
- e. Note any secondary crime scene (if situation requires); and
- f. Release the crime scene after investigation.

Protocol 6: Investigation of Suspects

- a. Procedures when arrest is made
 - 1. Secure the person arrested (handcuff at the back);
 - 2. Inform the arrested person on the cause of his arrest and his rights as provided for in the Constitution;
 - 3. Conduct thorough search for weapons and other illegal materials against the suspect/s;
 - 4. Use reasonable force in making arrest;

5. Confiscated evidence shall be properly documented and marked;
 6. Bring the arrested person to the Police Station for investigation.
- b. Booking procedures of the Arrested Person/Suspect
1. The arrested suspect shall be fingerprinted, photographed and subjected to medical examination to include liquor and drug tests.
 2. Conduct record check.

Protocol 7: Taking of Sworn Statements of Suspects

The execution of a suspect's "WAIVER" as stipulated in Art 125 of the RPC shall always be done in the presence of his chosen counsel or any independent counsel.

Protocol 8: Taking of Sworn Statement/s of the Witnesses

- a. Sworn Statement or Affidavit of complainant/s and witness/es must be taken immediately by the investigator-on-case.
- b. Affidavit of Arrest of arresting officers must be taken immediately not later than 24 hours.
- c. In Inquest cases, the investigator-on-case and the arresting officer/s shall observe Art. 125 of the RPC.

Protocol 9: Preparation of Reports and Filing of Charges

The Investigator-On-Case shall submit the following:

- a. Spot Report within 24 hrs to HHQ;
- b. Progress Report;
- c. After Operation Report;
- d. Final Report after the case is filed before the prosecutor's office/court; and
- e. Accomplishment Report.

Protocol 10: Procedure in the Release of Crime Scene

- a. Ensure that appropriate inventory has been made;
- b. Release is accomplished only after completion of the final survey and proper documentation of evidence, witness/es, victim/s and suspect/s; and
- c. If the crime scene is within a private property, the same must be released to the lawful owner witnessed by any barangay official. In case of government facility, it should be released to the administrator.

Protocol 11: Follow-up of Case

The investigator shall conduct police operation to identify and apprehend suspect/s based on the results of the initial investigation conducted.

Protocol 12: Preparation of Case Investigation Plan (CIPLAN)

The conduct of police operation involving sensational cases, high profile and heinous crimes must be covered by Case Investigation Plan.

Protocol 13: Attendance to Court Duties

The investigator-on-case and arresting officers shall endeavor to ensure their attendance during court hearings while COPs/Heads of Units shall supervise and ensure the attendance of witness/es.

Protocol 14: Uniform of the Investigator

Prescribed uniform should be worn by investigators when conducting investigation so as to identify them as PNP personnel.

1.3 TOOLS OF AN INVESTIGATOR IN GATHERING FACTS

- a. Information – Data gathered by an investigator from other persons including the victim himself and from:
 1. Public records;
 2. Private records; and
 3. Modus Operandi file.
- b. Interview – Skillful questioning of witnesses and suspects.

c. Instrumentation – Scientific examination of real evidence, application of instrument and methods of the physical sciences in detecting crime.

1.4 PHASES OF INVESTIGATIONS

The main objective of a police investigator is to gather all facts in order to:

- | | |
|-----------|---|
| Phase I | Identify the suspect/s through (1) confession; (2) eyewitness testimony, (3) circumstantial evidence; and (4) associate evidence; |
| Phase II | Locate and apprehend suspect/s; and |
| Phase III | Gather and provide evidence to establish the guilt of the accused. |

In proving the guilt of the accused in court, the fact of the existence of the crime must be established; the accused must be identified and associated with the crime scene; competent and credible witnesses must be available; and the physical evidence must be appropriately identified. The investigator must know by heart the elements of a specific crime.

1.5 STANDARD METHODS OF RECORDING INVESTIGATIVE DATA

- a. Photographs;
- b. Sketching crime scenes;
- c. Written notes (what you have seen or observed);
- d. Developing and lifting fingerprints found at the crime scene;
- e. Gathering physical evidence;
- f. Plaster cast;
- g. Tape recording of sounds;
- h. Video tape recording of objects; and
- i. Written statements of subject(s) and witnesses.

1.6 CRIME SCENE PROCESSING

a. The Crime Scene Search

1. Processing and Securing a Crime Scene – Processing a crime scene includes the application of diligent and careful methods by an investigator/policemen to recognize, identify, preserve and collect fact and items of evidentiary value that may assist in reconstructing that which actually occurred. The crime scene is the area surrounding the place where the crime occurred. The processing of the area at the scene includes all direct traces of the crime. And this is determined by the type of crime committed and the place where the act occurred.

2. Protecting the Crime Scene and the Evidence – Successful crimes scene processing depends upon the policeman's or investigator's skill in recognizing and collecting facts and items of value as evidence, and upon his ability to protect, preserve, and later, to present these in a logical manner. This requires making careful and detailed notes and sketches; written statements and transcribing verbal statements of witnesses, suspects and marking and preservation of collected physical objects of evidentiary nature.

3. Laboratory examination of objects and substances located usually at the crime scene. Objects and substances needing examination in some cases are carried, intentionally or unintentionally, by suspects from the crime scene.

1.7 INVESTIGATOR'S NOTEBOOK

a. Purpose: Considering the mass of details and the number of cases which in some instances an investigator is handling, it is very possible that he might forget some details. Many of the details associated with the investigation, while not essential to the report, might become points of interest to the court when the case is brought to trial. Experienced investigators employ a notebook to record the relevant details of the case. During trial, the court allows investigators to consult their notes to refresh their memory.

b. Recording Note: The data of the investigation should be recorded in a complete, accurate and legible fashion so that in the event another investigator is required to assume responsibility for the investigation, he can make intelligent use of the notebook.

1.8 COMMON INVESTIGATION OVERSIGHTS

a. **Incomplete Case Folder** – lack of material documentation of the case under investigation.

Recommended Remedies – include the police reports in chronological order such as police blotter, spot, progress and final investigation report. Also, append the scene of crime operation reports, forensic reports and photographs. Further, if possible, attach the profile of victim/s and suspect/s, as well as the status of the party involved and the case.

b. **No template for the conduct of investigation** – police personnel are not knowledgeable about crime scene preservation and basic investigation.

Recommended Remedies – every police personnel should mandatorily undergo investigation training giving priority to those in the field units.

c. **Inadequacy of coordination** – the SOCO, investigators, prosecutors and other concerned agencies work separately and independently in the conduct of their investigation.

Recommended Remedies - case conferences should be encouraged at the start of the investigation. The conferences should be attended by the SOCO, investigators, prosecutors, IBP lawyers and other concerned agencies in order to ensure the coordinated actions in the preparation of an air-tight case folder.

d. **Failure to prosecute** – pertains to absence of police investigator during trial to act as prosecutor's witness due to retirement and transfer of concerned investigator.

Recommended Remedies – proper turn-over of case folders handled by investigators who shall retire or be transferred, as requisite before the issuance of office clearance.

e. **Chain of Custody** – non-observance of proper documentation in the turn-over of evidence from one officer to another or one office to another.

Recommended Remedies – documentation on the turn-over of evidence with actual receipt should be observed and non-observance should be the basis for administrative sanctions.

f. **Less appreciation of electronic evidence** – police investigators take for granted the electronic devices such as cellphones, computers and other electronic devices can be processed to give investigative leads.

Recommended Remedies – proper training on the preservation and processing of electronic devices should be prioritized for all investigators in the field.

*“Be doers of the word and not hearers only,
deceiving yourselves.”
(James 1:22)*

CHAPTER II

GENERAL INVESTIGATIVE PROCEDURES

2.1 PURPOSE

This investigative procedure is designed to adapt to the current trends in modern investigation, in line with the PNP Integrated Transformation Program which seeks to improve and integrate the different manuals used by the PNP to serve as guide in all aspects of police investigation.

It also aims to come up with a definite investigative procedure on specific cases from the time the incident happened, until the case is filed, which will be adopted by the PNP investigators in pursuing their mandated tasks.

2.2 PROCEDURES

2.2.1 Upon receipt of call/walk-in complainants

Duty Desk Officer shall:

- a. Record the time it was reported;
- b. Get the identity of the caller/complainant;
- c. Get the place of the incident;
- d. Get the nature of the incident;
- e. Get the number of victim/s;
- f. Record a brief synopsis of the incident;
- g. Direct the nearest mobile car/beat patrollers or the nearest police precinct to act as first responder equipped with “police line” to secure the place of incident a camera; and
- h. Inform the duty investigator (preferably one team of investigators).

2.2.2 At the crime scene

The First Responder shall perform his/her duty as stated in Chapter I Protocol 4.

In addition, check the condition of the victim while the other members of the first responders shall simultaneously secure the area by putting a police line or any material (like rope, straw and etc).

a. If in serious condition

1. Bring the victim immediately to the nearest hospital using emergency services;
2. Photograph and make a sketch of the victim (if the victim is dead);
3. Get the dying declaration; if necessary (ask 3 questions)
 - a) Ano ang pangalan at address mo?
 - b) Kilala mo ba ang gumawa nito sa iyo?
 - c) Sa pakiramdam mo ba ay ikamamatay mo ang tinamo mong sugat?

However, if there is still a chance to ask more questions, then follow-up should be done. The statement, once reduced into writing, shall be duly signed by or with thumb mark of the victim.

b. If not in serious condition

1. Bring the victim immediately to the nearest hospital using emergency services;
2. Get the identity and other data of the victim;
3. Get initial interview from the victim

Note: The other member/s of the first responders shall remain at the crime scene to secure the premises.

c. If the suspect is arrested at the scene

1. Get the names of the persons who turned-over or arrested the suspect.
2. Isolate the arrested suspect/s and separate them from any probable witness of the incident.
3. Record what time the suspect was arrested.

4. Wait for the investigator to interview the suspect.
5. If the suspect volunteers any statement, take note of the time, location and circumstances of the statements.

2.2.3 Investigation Procedure at the Crime Scene

- a. Upon arrival at the crime scene
 1. Receive the crime scene from the first responder.
 2. Record time/date of arrival at the crime scene, location of the scene, condition of the weather, condition and type of lighting, direction of wind and visibility.
 3. Photograph and/or video the entire crime scene.
 4. Before entering the crime scene, all investigators must put on surgical gloves.
 5. Before touching or moving any object at the crime scene in a homicide or murder case, determine first the status of the victim, whether he is still alive or already dead. If the victim is alive, the investigator should exert effort to gather information from the victim himself regarding the circumstances of the crime, while a member of the team or someone must call an ambulance from the nearest hospital. Before removing the victim, mark, sketch and photograph his/her relative position. Only a coroner or a medical examiner shall remove the dead body unless unusual circumstances justify its immediate removal.
 6. Designate a member of the team or ask other policemen or responsible persons to stand watch and secure the scene, and permit only authorized persons to enter the same.
 7. Identify and retain for questioning the person who first notified the police, and other possible witnesses.
 8. Determine the assailant through inquiry or observe him if his identity is immediately apparent. Arrest him if he is still in the vicinity.
 9. Separate witnesses in order to get independent statements.

b. Recording

The investigator begins the process of recording pertinent facts and details of the investigation the moment he arrives at the crime scene. (He should record the time when he was initially notified prior to his arrival). He also writes down the identification of persons involved and what he initially saw. He also draws a basic sketch of the crime scene and takes the initial photograph (if a photographer is available, avail his services). This is to ensure that an image of the crime scene is recorded before any occurrence that disturbs the scene. As a rule, do not touch, alter or remove anything at the crime scene until the evidence has been processed through notes, sketches and photograph, with proper measurements.

c. Searching for evidence

1. Each crime is different, according to the physical nature of the scene and the crime or offense involved. Consequently, the scene is processed in accordance with the prevailing physical characteristics of the scene and with the need to develop essential evidentiary facts peculiar to the offense. A general survey of the scene is always made, however, to note the locations of obvious traces of action, the probable entry and exit points used by the offender(s) and the size and shape of the area involved.
2. In rooms, buildings, and small outdoor areas, a systematic search of evidence is initiated (In the interest of uniformity, it is recommended that the clockwise movement be used.) The investigator examines each item encountered on the floor, walls, and ceiling to locate anything that may be of evidentiary value.
3. You should give particular attention to fragile evidence that may be destroyed or contaminated if it is not collected when discovered.
4. If any doubt exists as to the value of an item, treat it as evidence until proven otherwise.
5. Ensure that the item or area where latent fingerprints may be present is closely examined and that action is taken to develop the prints.

6. Carefully protect any impression of evidentiary value in surfaces conducive to making casts or molds. If possible, photograph the impression and make a cast or mold.
7. Note stains, spots and pools of liquid within the scene and treat them as evidence.
8. Treat as evidence all other items, such as hairs, fibers, and earth particles foreign to the area in which they are found; for example, matter found under the victim's fingerprints.
9. Proceed systematically and uninterruptedly to the conclusion of the processing of the scene. The search for evidence is initially completed when, after a thorough examination of the scene, the rough sketch, necessary photograph and investigative notes have been completed and the investigator has returned to the point from which the search began.
10. Further search may be necessary after the evidence and the statements obtained have been evaluated.
11. In large outdoor areas, it is advisable to divide the area into strips about four (4) feet wide. The policeman may first search the strip on his left as he faces the scene and then the adjoining strips.
12. It may be advisable to make a search beyond the area considered to be the immediate scene of the incident or crime. For example, evidence may indicate that a weapon or tool used in the crime was discarded or hidden by the offender somewhere within a square-mile area near the scene.
13. After completing the search of the scene, the investigator examines the object or person actually attacked by the offender. For example, a ripped safe, a desk drawer that has been pried open or a room from which items has been stolen, would be processed after the remainder of the scene has been examined for traces of the offender.
14. In a homicide case, the position of the victim should be outlined with a chalk or any other suitable material before the body is removed from the scene. If the victim has been pronounced dead by a doctor or is obviously dead, it is usually advisable to examine the body, the clothing and the area

under the body after the remainder of the scene has been searched. This is to enable the policeman/investigator to evaluate all objects of special interest in the light of all other evidence found at the scene.

d. Collection of Evidence

This is accomplished after the search is completed, the rough sketch finished and photographs taken. Fragile evidence should be collected as they are found. All firearms (FAs) found to have tampered serial numbers (SNs) shall be automatically subjected to macro etching at the Philippine National Police Crime Laboratory (PNP-CL). A corresponding request to the Firearms and Explosive Office (FEO) must be made for verification purposes.

The investigator places his initials, the date and time of discovery on each item of evidence for proper identification. Items that could not be marked should be placed in a suitable container and sealed.

e. Markings of Evidence

Any physical evidence obtained must be marked or tagged before its submission to the evidence custodian.

These are information to ensure that the items can be identified by the collector at any time in the future. This precaution will help immeasurably to establish the credibility of the collector's report or testimony and will effectively avoid any suggestions that the item has been misidentified.

Markings on the specimen must at least contain the following:

1. Exhibit Case Number
2. Initials and or signature of the collecting officer.
3. Time and date of collection.

NOTE: It is also important to note the place or location where the evidence was collected.

f. Evaluation of Evidence

Each item of evidence must be evaluated in relation to all the evidence, individually and collectively. If necessary, these pieces of evidence must be subjected to crime laboratory examination. Example: firearms for ballistic examination, hair strands etc.

g. Preservation of Evidence

It is the investigator's responsibility to ensure that every precaution is exercised to preserve physical evidence in the state in which it was recovered/obtained until it is released to the evidence custodian.

h. Releasing of Evidence

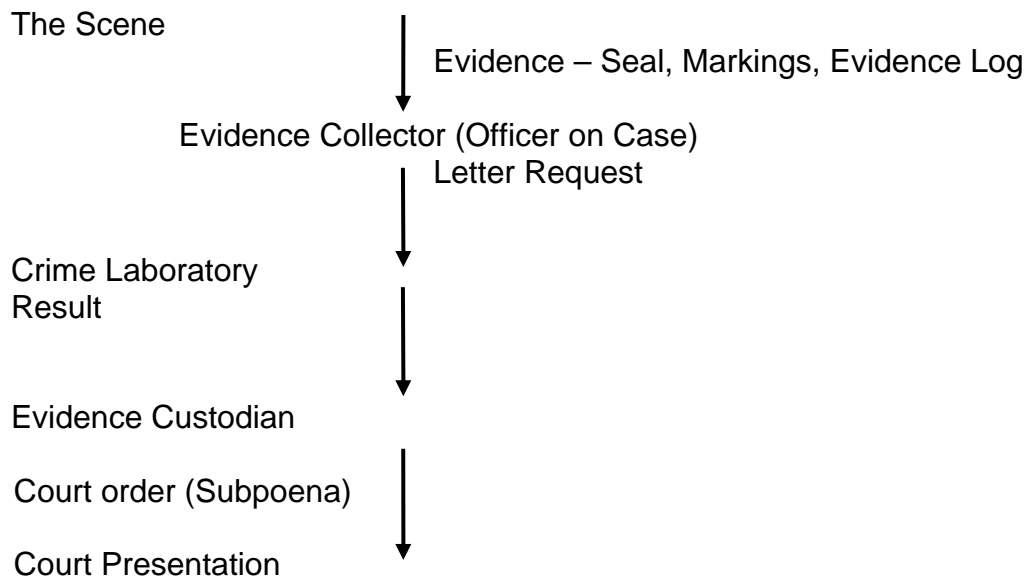
All collected evidence can only be released upon order of the court or prosecutor, as the case maybe.

i. Chain of Custody

A list of all persons who came into possession of an item of evidence, continuity of possession, or the chain of custody, must be established whenever evidence is presented in court as an exhibit. Adherence to standard procedures in recording the location of evidence, marking it for identification, and properly completing evidence submission forms for laboratory analysis is critical to chain of custody. Every person who handled or examined the evidence and where it is at all times must be accounted for.

As a rule, all seized evidence must be in the custody of the evidence custodian and deposited in the evidence room or designated place for safekeeping.

CHAIN OF CUSTODY (Change of Possession)



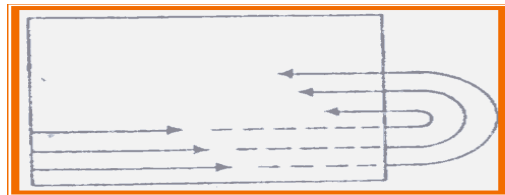
j. Transmittal of Evidence to Crime Laboratory

Proper handling of physical evidence is necessary to obtain the maximum possible information upon which scientific examination shall be based, and to prevent exclusion as evidence in court. Specimens which truly represent the material found at the scene, unaltered, unspoiled or otherwise unchanged in handling will provide more and better information upon examination. Legal requirements make it necessary to account for all physical pieces of evidence from the time it is collected until it is presented in court. With these in mind, the following principles should be observed in handling all types of evidence:

1. The evidence should reach the laboratory in same condition as when it was found, as much as possible.
2. The quantity of specimen should be adequate. Even with the best equipment available, good results cannot be obtained from insufficient specimens.
3. Submit a known or standard specimen for comparison purposes.
4. Keep each specimen separate from others so there will be no intermingling or mixing of known and unknown material. Wrap and seal in individual packages when necessary.
5. Mark or label each of evidence for positive identification as the evidence taken from a particular location in connection with the crime under investigation.
6. The chain of custody of evidence must be maintained. Account for evidence from the time it is collected until it is produced in court. Any break in this chain of custody may make the material inadmissible as evidence in court.

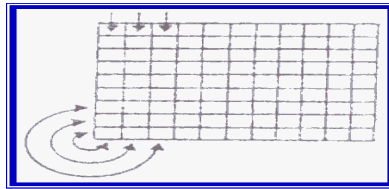
2.2.4 Methods of Crime Scene Search

a. Strip Search Method



In this method, the area is blocked out in the form of a rectangle. The three (3) Searchers A, B, and C, proceed slowly at the same pace along paths parallel to one side of the rectangle. When a piece of evidence is found, the finder announces his discovery and the search must stop until the evidence has been cared for. A photographer is called, if necessary. The evidence is collected and tagged and the search proceeds at a given signal. At the end of the rectangle, the searchers turn and proceed along new lanes as shown in the above illustration.

b. Double Strip Search Method



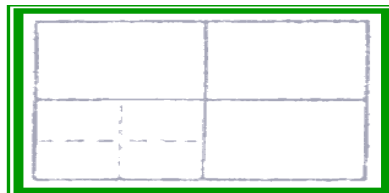
The double strip or grid method of search is a modification of the Strip Search Method. Here, the rectangle is traversed first parallel to the base then parallel to a side.

c. Spiral Search Method



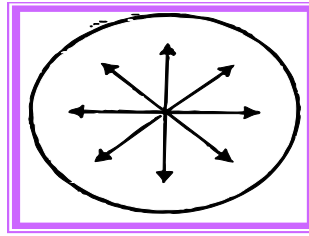
In this method, the three searchers follow each other along the path of a spiral, beginning on the outside and spiraling in toward the center.

d. Zone Search Method



In this method, one searcher is assigned to each subdivision of a quadrant, and then each quadrant is cut into another set of quadrants.

e. Wheel Search Method



In this method of search, the area is considered to be approximately circular. The searchers gather at the center and proceed outward along radii or spokes. The procedure should be repeated several times depending on the size of the circle and the number of searchers. One shortcoming of this method is the great increase in the area to be observed as the searcher departs from the center.

2.2.5 Procedures on taking photographs

a. Overall photos of the scene are taken to show the approach to the area, street signs, and street light locations in relation to the actual scene, street addresses and identifying objects at the scene. Pictures should also be taken of every room in the house, even if their relationship to the crime scene is not readily apparent.

b. Photograph the scene in a clockwise pattern before altering the body's position or any other evidence within the scene. Photograph the scene from at least 2 opposite corners, but from all four corners is even better. This way, nothing is missed or hidden from view by intervening objects.

c. Photograph the body and the immediate vicinity around the body. If you have a camera boom, take pictures from ceiling height down of the victim and any other evidence. This perspective often shows things missed when viewed from ground or eye level.

d. Keep a photo log.

2.2.6 Procedures on making a sketch

a. To establish admissibility, the investigator must have personal observation of the data in question. In other words, the sketch must be sponsored or verified.

b. REMINDER: Sketches are not a substitute for notes or photos; they are but a supplement to them.

c. Types of sketches:

1. Floor plan or “bird’s-eye view”;
2. Elevation drawing;
3. Exploded view; and
4. Respective drawings.

d. Write down all measurements.

e. Fill in all the details on your rough sketch at the scene. Final sketch may be prepared at the office.

f. Keep the rough sketch even when you have completed the final sketch.

g. Indicate the North direction with an arrow.

h. Draw the final sketch to scale.

i. Indicate the PLACE in the sketch as well as the person who drew it. Use KEY-capital letters of the alphabet for listing down more or less normal parts or accessories of the place, and numbers for items of evidence.

j. Indicate the position, location and relationship of objects.

k. Methods or systems of locating points (objects) on sketch:

1. Rectangular coordinates. (Measurements at right angles from each of two walls).
2. Coordinates constructed on transecting base line. Choose relatively fixed points for your base line.
3. Triangulation. (Measurements made from each of two fixed objects to the point you want to plot or locate so as to form an imaginary triangle. Sketch will show as many imaginary triangles as there are objects plotted).

l. Critical measurements, such as skid marks, should be checked by two (2) investigators.

m. Measurements should be harmony or in centimeters, inches, yards, meters, mixed in one sketch.

- n. Use standard symbols in the sketch.
- o. Show which way the doors swing.
- p. Show with arrow the direction of stairways.
- q. Recheck the sketch for clarity, accuracy, scale, and title, key.

2.2.7 Procedures on lifting fingerprints

- a. Dusting for Latent Fingerprints
 - 1. Pour a small amount of powder into a piece of paper or a shallow bowl.
 - 2. Touch the tip of the brush to the powder being careful not to pick up too much.
 - 3. Apply the powder to the surface gently, using short strokes.
 - 4. When a print begins to appear, begin making the brush strokes to conform to the pattern of the ridges.
- b. Lifting of Latent Fingerprints
 - 1. Pull off approximately 3 inches of tape from the roll.
 - 2. Begin pressing the tape from the leading edge with a back and forth motion of a finger.
 - 3. Continue pressing the tape an inch or more past the latent.
 - 4. To make the lift, use a steady, even pull.
 - 5. Once the tape is pulled beyond the latent print and the print is lifted, stop so that the leading edge is still in contact with the surface.
 - 6. The print should be mounted on some form of backing material.

c. Taking Plain Impressions

1. DO NOT ROLL the fingers when inking or taking the impression.
2. Use the same position as when rolling the fingers.
3. Ink the right thumb by pressing it straight down onto the ink surface (do not roll).
4. Ink the remaining four fingers simultaneously by pressing them onto the ink surface.
5. Repeat the same procedure with the left hand.

2.2.8 SOCO Assistance

a. In cases where the crime scene needs special processing due to its significance or because of its sensational nature, the Scene of the Crime Operation (SOCO) specialists of the Crime Laboratory shall be requested.

b. If the situation involves a clandestine drug laboratory, biological weapons, radiological or chemical threats, the appropriate agency should be contacted prior to entering the scene.

1. Significant Cases:
 - a) Bombing Incident
 - b) Initiated terrorist activities
 - c) Raids, ambushade, liquidation
 - d) KFR case
 - e) Armed Robbery of Banks and other
 - f) Financial institution
 - g) Calamity/Disaster
 - h) Massacre

- i) Heinous crimes (as defined by law)
- j) Murder, Homicide, Arson, Rape with Homicide

2. Sensational Cases:

- a) Elected Public Officials (Brgy Captain up to President of the RP)
- b) Appointed public officials with the rank of commissioner, secretary and undersecretary
- c) Foreign diplomat
- d) Any foreigner
- e) PNP/AFP personnel
- f) Former high-ranking government officials
- g) Other prominent figures such as movie stars, sports stars, tri-media practitioners, prominent businessmen, professionals, and prominent leaders of religious organizations.

2.2.9 Release of Crime Scene

Ensure that appropriate inventory has been provided.

- a. Release the scene with the notion that there is only one chance to perform job correctly and completely.
- b. Release is accomplished only after completion of the final survey and proper documentation.

*“Give the pupils something to do,
not something to learn;
and the doing is of such a nature as to
demand thinking;
learning naturally results.”*
(John Dewey)

CHAPTER III

INVESTIGATION OF CRIMES PUNISHABLE UNDER THE REVISED PENAL CODE

3.1 CRIMES AGAINST THE FUNDAMENTAL LAWS OF THE STATE

3.1.1 ARBITRARY DETENTION

- a. What law punishes the crime of Arbitrary Detention?
 - Revised Penal Code Article 124
- b. What are the elements of the Crime of Arbitrary Detention?
 1. The offender is a public officer or any private persons conspiring with a public officer.
 2. The person arrested is without warrant of arrest and/or without legal cause or justified cause.
 3. The detention of arrested person exceeds the reglamentary period for filing the charges in court, depending on its gravity.
 4. Other analogous acts

NOTE:

Warrantless arrest by Police Officer is justified under these circumstances:

1. When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
2. When an offense has just been committed and he has probable cause to believe based on personal knowledge of acts or circumstances that the person to be arrested has committed it; and
3. When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or is temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

- c. What is the evidence needed to file a crime of Arbitrary Detention?
 - 1. Testimonial evidence – Affidavit of complainant and witnesses.
 - 2. Documentary evidence - Medical Records of the detained person if physically abused, police blotter and other pertinent documents.
 - 3. Other relevant evidence

3.1.2 RA 7438 – RIGHTS OF THE PERSON UNDER CUSTODIAL INVESTIGATION

Violations under RA 7438:

- a. Any arresting public officer or employee or any investigating officer, who fails to inform any person arrested, detained or under custodial investigation of his rights to remain and to have competent and independent counsel preferably of his own choice; and
- b. Any person who obstructs, prevents or prohibits any lawyer, any member of the immediate family of a person arrested, detained or under custodial investigation, or any medical doctor or priest or religious minister or by his counsel, from visiting and conferring privately chosen by him or by any member of his immediate family with him, or from examining and treating him or from ministering to his spiritual needs.

3.1.3 DELAYING RELEASE

- a. What law punishes the crime of Delaying Release?
 - Revised Penal Code Article 126
- b. What are the elements of Delaying Release?
 - 1. The offenders are wardens and jailers.
 - 2. There is an order from the court or prosecutor releasing the detained person.
 - 3. The wardens refused or delayed the lawful release of the detained person.
 - 4. Other analogous acts

- c. What is the evidence needed to file a crime of Delaying Release?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 - 2. Documentary Evidence - Order of Release, Record of release and other pertinent documents.
 - 3. Other relevant evidence

3.1.4 EXPULSION

- a. What law punishes the crime of Expulsion?
 - Revised Penal Code Article 127
- b. What are the elements of Expulsion?
 - 1. Any person expelled from the Philippines or compelled to change his residence.
 - 2. The expulsion is without authority from the President of the Philippines or appropriate authority.
 - 3. There is no legal cause to expel the person.
 - 4. Other analogous acts
- c. What is the evidence needed to file a crime of Expulsion?
 - 1. Testimonial Evidence – Affidavit of complainants and witnesses.
 - 2. Documentary Evidence - Certification of non-issuance order of expulsion and Document issued in relation with expulsion.
 - 3. Other relevant evidence

3.1.5 VIOLATION OF DOMICILE

- a. What law punishes the crime of Violation of Domicile?

- Revised Penal Code Article 128

b. What are the elements of Violation of Domicile?

1. The offender is a public officer who entered a dwelling.
2. The act of entering is against the will of the owner thereof or the offender refused to leave the premises, after having surreptitiously entered said dwelling and been told to leave the same.
3. The purpose of entering the dwelling is to conduct search for papers and other effects found therein.
4. The offender is not armed with search warrant or the search is against the will of the owner.
5. Other analogous acts

c. What is the evidence needed to file a crime of Violation of Domicile?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence - Inventory of papers and other effects taken from the owner, pictures of any physical damage in the dwelling as evidence of resistance on the part of the owner, if there is any.
3. Object Evidence – confiscated papers and effects
4. Other relevant evidence

3.1.6 SEARCH WARRANT MALICIOUSLY OBTAINED AND ABUSE IN THE SERVICE OF THOSE LEGALLY OBTAINED

a. What law punishes the crime of Search Warrant Maliciously Obtained and Abuse in the Service of Those Legally Obtained?

- Revised Penal Code Article 129

b. What are the elements of Search Warrant Maliciously Obtained and Abuse in the Service of Those Legally Obtained?

1. There is a search warrant whether valid or maliciously obtained.
2. The acts of procuring a search warrant without cause or serving a search warrant is with abuse of authority.
3. The evidence obtained is not in accordance with description stated in the search warrant.
4. Other analogous acts

NOTES:

Requisites for a valid search warrant:

1. There must be probable cause.
2. Probable cause must be determined personally by the judge.
3. The determination must be based on the examination, under oath or affirmation of the complainant and witness he may produce.
4. It must particularly describe the place to be searched and the person or thing to be seized.

The warrant may have been lawfully procured but if rules on its implementation are not observed, any object seized in connection therewith is inadmissible for being "poisonous fruit of a poisonous tree."

c. When can search be made without search warrant.

1. There is valid waiver.
2. Stop and search
3. Customs searches
4. Plain view
5. Moving vehicles
6. Search incident to lawful arrest

d. What is the evidence needed to file a crime of Search Warrant Maliciously Obtained and Abuse in the Service of Those Legally Obtained?

1. Testimonial evidence – Affidavit of complainant and witnesses
2. Documentary Evidence - Search Warrant obtained, inventory of items seized in the service of such search warrant
3. Object Evidence – items seized
4. Other relevant evidence

3.1.7 SEARCHING DOMICILE WITHOUT WITNESS

a. What law punishes the crime of Searching Domicile without Witness?

- Revised Penal Code Article 130

b. What are the elements of Searching Domicile without Witness?

1. The offender is a public officer who conducted a search without a witness required by law.
2. There is an act of “planting evidence” that would later be used against the dwelling owner.
3. The offender is a public officer authorized/deputized to conduct search.
4. Other analogous acts

c. What is the evidence needed to file a crime of Searching Domicile without Witness?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence - Search Warrant obtained
3. Object Evidence - Items seized
4. Other relevant evidence

3.1.8 PROHIBITION, INTERRUPTION AND DISSOLUTION OF PEACEFUL MEETINGS

a. What law punishes the crime of Prohibition, Interruption and Dissolution of Peaceful Meetings?

- Revised Penal Code Article 131

b. What are the elements of Prohibition, Interruption and Dissolution of Peaceful Meetings?

1. The offender is any public officer or employee, who without legal ground, prohibits or interrupts the holding of peaceful meeting or shall dissolve the same.
2. The offender is not one of the participants of the meeting which was interrupted or dissolved.
3. The meeting is peaceful, lawful and valid with permit.
4. The stoppage is done through violence, intimidation, force or any other means.
5. Other analogous acts

c. What is the evidence needed to file a crime of Prohibition, Interruption and Dissolution of Peaceful Meeting?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence - Permit, invitation, programs and other pertinent documents about the meeting, Medical records of the injured participants of the meeting if any, Police records such as blotter, SOCO report and others.
3. Objects Evidence - weapons or devices used to interrupt the meeting.
4. Other relevant evidence

3.1.9 CRIMES AGAINST RELIGIOUS WORSHIP

a. What law punishes the crime against Religious Worship?

- Republic Article No. 132 -133

b. What are the elements of the crimes of Interruption of Religious Worship?

1. The offense constitutes an interruption of religious worship or offending a religious worship. The offense is qualified if it is accomplished by violence or threats.
2. There must be a deliberate and willful intent to hurt the feeling of the faithful. Offense to feelings is judged from the feelings of the person mocked, scoffed at and members of his sect.
3. The religious worship should be in a place devoted for religious worship.
4. Other analogous acts

c. What are the evidences needed to file a crime against religious worship?

1. Testimonial evidence
2. Documentary evidence - video or photographs or voice recorder of slanderous imputation offending a religious worship, police records, blotter, reports and other records.
3. Object Evidence -weapons or devices used in case of the presence of violence or threats
4. Other relevant evidence

3.2 CRIMES AGAINST PUBLIC ORDER

3.2.1 REBELLION

a. What law punishes the crime of Rebellion?

- Revised Penal Code Article 134

b. What are the elements of Rebellion?

1. There is public uprising and taking arms against the Government.

2. The purpose is either:
 - a) To remove from the allegiance to said Government or its laws territory of the Philippines or any part thereof, or any body of land, naval or other armed forces; or
 - b) To deprive the President or Congress, wholly or partially, any of their powers or prerogatives.
 - c) Other analogous acts
- c. What is the evidence needed to file a crime of Rebellion?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence - Subversive documents and other pertinent documents, Photographs and videos.
 3. Object Evidence - weapons or devices used in taking up arms.
 4. Other relevant evidence

3.2.2 COUP D' ETAT

- a. What law punishes the crime of Coup D' etat?
 - Revised Penal Code Article 134-A
- b. What are the elements of Coup D' etat?
 1. Offenders belong to the military, police or are holding public office.
 2. It is committed by means of swift attack accompanied by violence, intimidation, threat, strategy or stealth.
 3. Directed against duly constituted authorities or any military camp or installation, communication network, public utilities needed for the exercise and continued possession of power.
 4. The purpose is to seize or diminish state power.
 5. Other analogous acts

- c. What are the evidences needed to file a crime of Coup D' etat?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses
 - 2. Documentary Evidence - Subversive documents and other pertinent publications, police records relevant to the filing of the case and other pertinent documents.
 - 3. Object Evidence - Weapons or devices used.
 - 4. Other relevant evidence

3.2.3 SEDITION AND CONSPIRACY TO COMMIT SEDITION

- a. What law punishes the crime of Sedition?
 - Revised Penal Code Article 139 -141
- b. What are the elements of Sedition?
 - 1. There is public uprising.
 - 2. The purpose is to:
 - a) Prevent the promulgation or execution of any law or holding of any popular election.
 - b) Prevent the public officers from exercising their functions or the execution of any administrative order.
 - c) Despoil for political or social reason, any person, town, province or the National Government of its property.
 - d) Inflict any act of hate or revenge upon the person or property of any public officer or upon private persons or any class for any political or social end.
 - 3. There is agreement to commit sedition and sedition has actually been committed.
 - 4. Other analogous acts

- c. What is the evidence needed to file a crime of Sedition?
 - 1. Testimonial evidence
 - 2. Documentary Evidence - Photograph, video and other visual evidence of sedition, subversive documents, publications police records and other reports.
 - 3. Objects Evidence - Weapons or devices used to inflict hate or revenge.
 - 4. Other relevant evidence

3.2.4 INCITING TO COMMIT SEDITION

- a. What law punishes the crime of Conspiracy to Commit Sedition?
 - Revised Penal Code Article 142
- b. What are the elements of Inciting to Commit Sedition?
 - 1. Incites others to do any act constitutive of sedition by means of speeches, proclamation and banners.
 - 2. Utters seditious words which tend to disturb the public peace.
 - 3. Write and circulate scurrilous libels against the Government and duly constituted authorities, which tend to disturb public peace.
 - 4. Other analogous acts

NOTE:

Two rules relative to seditious words:

- 1. The clear and present danger rule – the words used are such that by uttering them there is a danger of public uprising and such is both clear and imminent.
- 2. The dangerous tendency rule – the words uttered tend to generate a danger of public uprising.

c. What are the evidences needed to file a crime of Inciting to Commit Sedition?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence - publications, reports and other documents, photographs and videos of acts of inciting and police records
3. Other relevant evidence

3.2.5 CRIMES AGAINST POPULAR REPRESENTATION

a. What law punishes the acts tending to prevent the meeting of congress and similar bodies, disturbance of proceedings and violation of parliamentary immunity?

- Revised Penal Code Article 143 -145

b. What the elements of the crimes against Popular Representation?

1. The meeting disturbed must be that of the congress or provincial board, city or municipal council.
2. The disturbance is directly intended to prevent or disturb a session of the congress or provincial board, city or municipality council.
3. The act is in violation of parliamentary immunity of any member of congress or provincial board, city or municipal council.
4. Other analogous acts

NOTE:

A member of Congress cannot be arrested while Congress is in session, unless he has committed a crime punishable under the RPC by a penalty of prison mayor or higher.

c. What are the evidences needed to file a crime against Popular Representation?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – weapons used in creating disturbance.
4. Other relevant evidence

3.2.6 ILLEGAL ASSEMBLIES

a. What law punishes the crime of Illegal Assemblies?

- Revised Penal Code Article 147

b. What are the elements of Illegal Assemblies?

1. Any meeting attended by armed persons for the purpose of committing any of the crimes in the RPC.
2. Any meeting in which the audience, armed or not, is incited to commit treason, rebellion, sedition or assault upon person in authority or his agent.
3. Other analogous acts

NOTE:

Mere presence at the meeting makes the attendee liable even if he is not armed.

c. What is the evidence needed to file a crime of Illegal Assemblies?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – weapons

4. Other relevant evidence

3.2.7 DIRECT ASSAULT

- a. What law punishes the crime of Direct Assault?
 - Revised Penal Code Article 148
- b. What are the elements of Direct Assault?
 1. The victim is with authority and directly vested with jurisdiction, i.e., having the power and authority to govern and execute the laws or who is the agent of the person in authority.
 2. The victim was assaulted on occasion or because or by reason of the performance of official business.
 3. The attack made on one of the persons in authority or their agents against one among them is on occasion or by reason of official performance or decision.
 4. The offender has knowledge that the victim is a person in authority or his agent.
 5. Other analogous acts

NOTES:

1. Two (2) modes of committing direct assault
 - a) Without public uprising, by employing force and intimidation to attain the purposes of rebellion or sedition. The first mode of direct assault is sedition without public uprising.
 - b) Without public uprising, by attacking, by employing force or seriously intimidating or by seriously resisting any person in authority or any of his agents while engaged in the performance of their duties or on the occasion of such performance.
2. An agent of a person in authority is one charged with the maintenance of peace and the protection of life and property. Policemen, BIR agents, sheriffs are agents of person in authority.

3. Direct assault becomes qualified when:
 - a) Assault is committed with a weapon.
 - b) Offender is a public officer or employee.
 - c) Offender lays a hand upon a person in authority.
4. What is the evidence needed to file a crime of Direct Assault?
 - a) Testimonial Evidence – Affidavit of complainant and witnesses.
 - b) Documentary Evidence – photographs, videos, police reports and other documents
 - c) Object Evidence – weapons
 - d) Other relevant evidence

3.2.8 INDIRECT ASSAULT

- a. What law punishes the crime of Indirect Assault?
 - Revised Penal Code Article 149
- b. What are the elements of Indirect Assault?
 1. A person in authority or his agent is the victim of direct assault.
 2. A person comes to the aid of such authority or his agent.
 3. The offender uses force or intimidation upon such person coming to the aid of the authority of his agent.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Indirect Assault?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – weapons

4. Other relevant evidence

3.2.9 RESISTANCE AND SERIOUS DISOBEDIENCE

- a. What law punishes the crime of Resistance and Serious Disobedience?

- Revised Penal Code Article 151

- b. What are the elements of Resistance and Serious Disobedience?

1. Offender seriously resists or disobeys the person in Authority or his agent.
2. The disobedience is the failure or refusal to obey a direct order from the authority or his agent.
3. The offender must have knowledge that the person arresting him is a peace officer.
4. The force employed by offender is not deliberate or the offender has no intention to ignore or defy the authority or his agents.
5. Other analogous acts

NOTE:

Persons in authority: mayor, superintendent of schools, public and private teachers, fiscal, municipal judge, councilors, and barangay chairman.

- c. What is the evidence needed to file a crime of Resistance and Serious Disobedience?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – weapons
4. Other relevant evidence

3.2.10 PUBLIC DISORDERS

- a. What law punishes tumults and other public disturbance?
 - Revised Penal Code 153
- b. What are elements of tumults and other public disturbance?
 1. The tumultuous act is caused by more than three (3) armed persons.
 2. The tumultuous act is a spontaneous or unconscious outburst.
 3. The tumultuous act creates public disturbance.
 4. Other analogous acts
- c. What are the evidence needed to file a crime of tumults and other public disturbance?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – weapons
 4. Other relevant evidence

3.2.11 UNLAWFUL USE OR MEANS OF PUBLICATION AND UNLAWFUL UTTERANCE

- a. What law punishes the crime of Unlawful Use or Means of Publication and Unlawful Utterance?
 - Revised Penal Code Article 154
- b. What are the elements of Unlawful Use or Means of Publication and Unlawful Utterance?
 1. Publishing any false news which may endanger public order.
 2. Encouraging disobedience to the law or constituted authorities by extolling punishable acts.

3. Maliciously publishing official resolutions without proper authority or before they are published officially.
4. Publishing books, pamphlets which do not bear the real printer's name or which are anonymous.
5. Other analogous acts

c. What is the evidence needed to file a crime of Unlawful Use or Means of Publication and Unlawful Utterance?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – publications, police reports and other documents.
3. Object Evidence – publications, books, pamphlets and other records.
4. Other relevant evidence

3.2.12 ALARMS AND SCANDALS

a. What law punishes the crime of Alarms and Scandals?

- Revised Penal Code Article 155

b. What are the acts of Alarms and Scandals?

1. Discharge of firearms and rockets calculated to cause alarm.
2. Charivari or other disorderly meetings offensive and prejudicial to public tranquility.
3. Disturbance of public places.
4. Disturbance caused by inebriated persons in a manner not tumultuous in nature.
5. Other analogous acts

c. What is the evidence needed to file a crime of Alarms and Scandals?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – firearms
4. Other relevant evidence

3.2.13 EVASION OF SERVICE OF SENTENCE

a. What law punishes the Evasion of Service of Sentence?

- Revised Penal Code Article 157-159

b. What are the acts of Evasion of Service of Sentence?

1. Evasion of service of sentence by escaping while serving sentence.
2. Evasion of sentence on the occasion of disorders.
3. Violation of terms of conditional pardon.
4. Other analogous acts

c. What are the evidences needed to file a crime of Evasion of Service of Sentence?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Objects Evidence – weapons, if any.
4. Other relevant evidence

3.3 CRIMES AGAINST PUBLIC INTEREST

3.3.1 FALSIFICATION OF DOCUMENTS

- a. What law punishes the crime of Falsification of Documents?
 - Revised Penal Code Article 171
- b. What are the acts of Falsification of Documents?
 1. Counterfeiting or imitating any handwriting, signature or rubric.
 2. Causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate.
 3. Attributing to persons who have participated other than in fact made by them.
 4. Making untruthful statement in a narration of facts.
 5. Altering true dates.
 6. Making any alteration or intercalation in a genuine document which changes its meaning.
 7. Issuing in an authenticated form a document purporting to be a copy of an original when no such original exists or including in such copy a statement contrary to or different from that of the genuine original.
 8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry or official book.
 9. Other analogous acts
- c. What is the evidence needed to file a crime of Falsification of Documents?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – original and falsified documents.

4. Other relevant evidence

3.3.2 INVESTIGATIONS OF CASES OF FALSIFICATION

To prove falsification, it is usually necessary for an investigator to secure a specimen of the suspect's handwriting for comparison purposes. There are two (2) classes of specimen or standard writings. One consists of writing or printing executed from day-to-day in the course of business, social or personal affairs. Such standards may be referred to as *collected standards*. The second class consists of specimens of person's writing or printing executed upon request of the investigating officer for the sole purpose of comparison with the questioned documents and is generally known as *requested or dictated standards*.

a. Acts of constituting Falsification Under Art 171 of the Revised Penal Code:

1. Counterfeiting or imitating any handwriting, signature or rubric.
2. Causing it to appear that persons have participated in any act when they did not in fact so participate.
3. Attributing to persons that persons have participated in any act of proceeding statements other than those in fact made by them.
4. Making untruthful statements in a narration of facts.
5. Altering true dates.
6. Making any alteration or intercalation in a genuine document which changes its meaning.

b. INVESTIGATIVE PROCEEDURES

1. Procedure in handling Cases of Falsification

The following **GENERAL STEPS** are necessary for every police investigator to acquire jurisdiction of the case up to its filing in the Prosecutor's Office:

- a) There must be a complaint.
- b) Duly accomplished complaint sheet to be filled up by the complainant.

- c) Interview the complainant to establish facts surrounding the complaint.
- d) Secure the necessary documents to prove the offense.
- e) Make necessary request addressed to the Crime Laboratory for purposes of comparison and forensic examination, both of the questioned and original documents.
- f) File charges before the Prosecutor's Office, whether for Violation of Article 170, 171, 172, 173, 174 and 175, of the Revised Penal Code.

2. Counterfeiting or Imitating any Handwriting

- a) Secure a specimen of the suspect's handwriting for comparison purposes.
- b) Come up with two (2) classes of specimen or standard writings, the procedures of which are as follows:
 - 1) Obtain at least 15 to 20 collected/genuine signatures.
 - 2) If investigation is about other specimen of handwriting or hand printing, secure at least 4 to 5 pages of handwriting or hand printing.
 - 3) Procure ink signature for comparison with questioned ink specimens and pencil standards for comparison with questioned specimen.
- c) Secure collected standards which consist of writing or printing executed from day-to-day in the course of business, social or personal affairs.
- d) Obtain requested or dictated standards from the suspect consisting of specimen handwriting executed upon the request of investigating officer by using the following procedure:
 - 1) Obtain at least 25 to 30 specimen signatures.
 - 2) If questioned signatures are in ink, let the suspect write with a pen; if in pencil, with a pencil.

- 3) Require the suspect to write each signature on separate sheets of paper or form.
- 4) Procure standard signatures of approximately the same date as the disputed documents.
- 5) Collate both collected and dictated standards and submit these documents for examination by the technical experts of the PNP Crime Laboratory.

CASE FOLDER: Falsification cases -Counterfeiting or Imitating

- a) TAB A – Complaint Sheet
 - b) TAB B – Affidavit of Complainant/witnesses
 - c) TAB C – Request for QD examination addressed to the Crime Laboratory
 - d) TAB D – Result of examination
 - e) TAB E – Case referral for Violation of Article 171, RPC addressed to the Prosecutor’s Office
3. Falsification of Legislative Documents (Article 170, RPC)
- a) Secure questioned and altered documents, to wit:
 - 1) Altered legislative bill, resolution or ordinances enacted or approved.
 - 2) Other related documents relative to this case.
 - b) Initiate verification with concerned agencies/entities to obtain additional information as to the disputed documents.
 - c) Make a necessary request addressed to the PNP Crime Laboratory for comparison/examination both of the questioned and altered documents.

CASE FOLDER: (Falsification of Legislative Documents)

- a) TAB A – Complaint Sheet
- b) TAB B - Affidavit of complainant/witnesses/s

- c) TAB C – Request for QD examination of altered documents addressed to the Crime Laboratory
 - d) TAB D -Verification Letter addressed to the concerned entities where altered documents emanated.
 - e) TAB E - Result of examination
 - f) TAB F - Case referral for Violation of Article 170, RPC addressed to the Prosecutor's Office
4. Falsification – committed BY Public Officer and Employee (Article 171, RPC) or by Private Individual and use of falsified documents (Article 172, RPC)
- a) Secure questioned and altered documents.
 - 1) Falsified public or official documents or letter of exchange or any other kind of commercial documents.
 - 2) Documents with altered dates if committed by altering true dates.
 - 3) Altered genuine documents which changed its meaning.
 - b) Initiate verification with concerned agencies/entities to obtain additional information as to the disputed documents.
 - c) Investigator shall submit the questioned and altered documents for comparison/examination by the technical experts of the PNP Crime Laboratory.

CASE FOLDER: (Falsification by Public Officer or Private Individual)

- a) TAB A - Complaint sheet.
- b) TAB B - Affidavit of complainant and witnesses.
- c) TAB C - Request for QD examination of Altered Documents addressed to the Crime Laboratory for the following:
 - 1) Falsified Public or official document.

- 2) Commercial document.
- 3) Documents with altered dates.
- d) TAB D – Verification letter addressed to the concerned Agencies/entities where said documents emanated.
- e) TAB E - Result of examination
- f) TAB F - Case referral for Violation of Article 171 or 172, RPC addressed to the Prosecutor's Office

3.3.3 USURPATION OF AUTHORITY OR OFFICIAL FUNCTIONS

b. What law punishes the crime of Usurpation of Authority or Official Functions?

- Revised Penal Code Article 177

c. What are the elements of Usurpation of Authority or Official Functions?

1. The offender made a false representation maliciously to an officer, agent or representative of the Philippine Government or any foreign government. It is not necessary that the offender performs an act pertaining to a public officer.
2. The offender commits an act of usurpation of official function where a person performs an act pertaining to a person in authority or public officer, when he had no right or authority to do so.
3. Other analogous acts

d. What is the evidence needed to file a crime of Usurpation of Authority or Official Functions?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – weapons

4. Other relevant evidence

3.3.4 PERJURY (FALSE TESTIMONY)

- a. What law punishes Perjury?
 - Revised Penal Code Article 180 -183
- b. What are the elements of Perjury?
 1. The statement is made under oath or in an affidavit must be on a material matter.
 2. The statement is made before one authorized to administer oath.
 3. The Statement is a willful and deliberate falsehood.
 4. The execution thereof is required by law.
 5. Other analogous acts
- c. What are the evidences needed to file a crime of Perjury?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – false statement contained in a document.
 4. Other relevant evidence

3.3.5 FRAUD

- a. What punishes Fraud?
 - Revised Penal Code Article 185-189
- b. What are the acts of Fraud?

1. Machinations in public auctions or any attempt to cause prospective bidders to stay away from auction by means of threats, gift or any other artifice.
2. Monopolies and combinations in restraint of trade.
3. Importation and disposition of falsely marked articles or merchandize made of gold, silver or other precious metals.
4. Substituting and altering trademarks and trade names or service mark.
5. Unfair competition, fraudulent registration of trade name, trademark, or service mark; fraudulent designation of origin and false description.
6. Other relevant evidence

NOTE:

Infringement, plagiarism and unfair competition are covered by Intellectual Property Rights. (Please refer to the chapter pertaining to crimes punishable under special laws)

- c. What are the evidences needed to file a crime of fraud?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – false statement contained in a document.
 4. Other relevant evidence

3.3.6 INTELLECTUAL PROPERTY RIGHTS

The State recognizes that an effective intellectual and industrial property system is vital to the development of domestic and creative activity, facilitates transfer of technology, attracts foreign investments, and ensures market access for our products. It shall protect and secure the exclusive rights of scientists, inventors, artists and other gifted citizens to their intellectual property and creations, particularly when beneficial to the people.

The use of intellectual property bears a social function. To this end, the State shall promote the diffusion of knowledge and information for the promotion of national development and progress and the common good.

It is also the policy of the State to streamline administrative procedures of registering patents, trademarks and copyright, to liberalize the registration on the transfer of technology, and to enhance the enforcement of intellectual property rights in the Philippines. (Declaration of State Policy, RA 8293)

a. IPR INVESTIGATIVE PROCEDURES – Counterfeit Items

1. Complaint
 - a) Duly accomplished complaint sheet.
 - b) Letter request for assistance from IP owners' representative.
 - c) Special Power of Attorney/Secretary's Certificate.
2. Test Buy / Surveillance
 - a) Proof of purchase on the counterfeit item subject of complaint.
 - b) Sketch of the place where counterfeit items are stored or the specific place to be searched in preparation for Search Warrant application.
 - c) Affidavit of deponent/Search warrant applicant.
3. Certification
 - a) Letter request for certification of authenticity.
 - b) Certificate of authenticity of the counterfeit items.
4. Applying for Search Warrant
 - a) Letter request for authority to apply Search Warrant from Group Director addressed to the Chief, PNP.
 - b) Authority to apply for search warrant duly approved by the Chief, PNP.

- c) Search Warrant application.
- d) Affidavit of deponents/witness/es.
- e) Pieces of evidences, i.e. counterfeit items subject of complaint together with the corresponding certification.

5. Implementation of Search Warrant

- a) Pre-Operations Clearance.
- b) Coordination with other law enforcement units, barangay offices etc.
- c) Witnesses during conduct of orderly search to include owners/occupants who will receive the copy of search warrant prior to the conduct of search on the specific place stated therein.
- d) Receipts of property seized with certification of authenticity from IP owner representative on the seized subject items administered by a Police Commissioned Officer who is present at the place of search.
- e) Certification of Orderly Search signed by witnesses/barangay officials who were present at all times during the conduct of searches.
- f) Motion addressed to the concerned court for storage of seized items in a court-appointed warehouse.
- g) After motion is granted by the court, storage of seized items at a warehouse rented by IP owner.

6. Prosecution

- a) Inquest if arrest was made.
- b) Regular/Ordinary filing if no arrest was made.

7. Return of Search Warrants

CASE FOLDER: (To be prepared in 3 copies. 1 copy for the investigator, 1 for the station and 1 for the PHQ.)

- a) TAB A - Duly accomplished complaint sheet.
- b) TAB B - Letter request for assistance from IP owner's representative.
- c) TAB C - Special Power of Attorney/Secretary's Certificate.
- d) TAB D - Proof of purchase on the counterfeit item subject of complaint.
- e) TAB E - Sketch of the place where counterfeit items are stored or the specific place to be searched.
- f) TAB F - Affidavit of deponent/Search warrant applicant.
- g) TAB G - Letter request for certification of authenticity.
- h) TAB H - Certificate of authenticity of the counterfeit items.
- i) TAB I - Letter request for authority to apply Search Warrant from Group Director addressed to the Chief, PNP.
- j) TAB J - Authority to apply for search warrant duly approved by the Chief, PNP.
- k) TAB K - Search Warrant application.
- l) TAB L - Pre-Operations Clearance.
- m) TAB M - Coordination with other law enforcement units, barangay offices, etc.
- n) TAB N - Receipts of properly seized with certification of authenticity from IP owner representative on the seized subject items administered by a Police Commissioned Officer who is present at the place of search.
- o) TAB O – Certification of Orderly Search signed by witnesses/barangay officials who were present at all times during the conduct of searches.
- p) TAB P – Receipt of storage of seized items at a warehouse rented by IP owner.

- q) TAB Q – Case Referral addressed to the Prosecutor.
- r) TAB R – Return of SW

3.4. CRIMES RELATIVE TO OPIUM AND OTHER PROHIBITED DRUGS

The present law consolidating all of laws on drugs (Art. 190 to 194 of the RPC. RCA 6425, PD. 1683 and RA 7659) is RA 9165 known as “An Act instituting the comprehensive Dangerous Drugs Act. of 2002.” (Please refer to the chapter pertaining to crimes punishable under special laws).

3.5. CRIMES AGAINST PUBLIC MORALS

3.5.1 GAMBLING AND BETTING

PD 1602 governs crimes against public moral repealing Articles 196 to 199 of the RPC, PD 486 (betting and machinations on sport contest and PD 499 (on fighting) (Please refer to the chapter pertaining to crimes punishable under special laws).

3.5.2 OFFENSES AGAINST DECENCY AND GOOD CUSTOMS

- a. What law punishes offenses against decency and good customs?
 - Revised Penal Code Article 200-202
- b. What are the acts of offenses against decency and good customs?
 - 1. Grave scandal consists of acts offensive to decency and good customs which are publicly committed and scandalizes persons who have accidentally witnessed it.
 - 2. Immoral doctrines, obscene publication and exhibition.
 - 3. Vagrancy and prostitution (prostitutes are no longer liable for prostitution and must be treated as victims).
- c. What is the evidence needed to file an action for offenses against decency and good customs?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses.

2. Documentary Evidence – reports, police records and other documents.
3. Object Evidence – photographs and videos
4. Other relevant evidence

3.6. CRIMES COMMITTED BY PUBLIC OFFICERS

3.6.1 DERELICTION OF DUTY

- a. What law punishes the crime of dereliction of duty?
 - Revised Penal Code Article 204-207
- b. What are the acts of dereliction of duty?
 1. An unjust decision is one contrary to law and not supported by evidence made with conscious and deliberate intent to do injustice.
 2. The offender in dereliction of duty must have the duty to prosecute or move for the prosecution of the law-violator.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of dereliction of duty?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – document containing the unjust decision.
 4. Other relevant evidence

3.6.2 DIRECT BRIBERY

- a. What law punishes the crime of Direct Bribery?
 - Revised Penal Code Article 210

b. What are the elements of Direct Bribery?

1. The accused is a public officer.
2. He receives directly or through another, some gift or present or promise.
3. Such gift, present or promise has been given in consideration of: a) the commission of a crime; or b) execution of an act which is not a crime; c) refraining from doing his official duty.
4. The crime or act relates to the exercise of the functions of the public officer.
5. Other analogous acts

c. What is the evidence needed to file a crime of Direct Bribery?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – gift being offered or accepted.
4. Other relevant evidence

3.6.3 INDIRECT BRIBERY

a. What law punishes the crime of Indirect Bribery?

- Revised Penal Code Article 211

b. What are the elements of Indirect Bribery?

1. The offender is a public officer.
2. The offender accepts gifts.
3. The gifts are offered to him by reason of his office.
4. Other analogous acts

- c. What is the evidence needed to file a crime of Indirect Bribery?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 - 2. Documentary Evidence – photographs, videos, police reports and other documents.
 - 3. Object Evidence – gifts offered or accepted.
 - 4. Other relevant evidence

3.6.4 QUALIFIED BRIBERY

- a. What law punishes the crime of Qualified Bribery?
 - Revised Penal Code Article 211-A
- b. What are the elements of Qualified Bribery?
 - 1. The offender is a public officer entrusted with law enforcement.
 - 2. The offender refrains from arresting or prosecuting an offender who has committed a crime punishable by reclusion perpetua and/or death.
 - 3. Consideration of any promise, gift or present. If it is the public officer who asks or demands such gift or present, he shall suffer the penalty of death under RA 7659.
 - 4. Other analogous acts
- c. What are the evidences needed to file a crime of Qualified Bribery?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses
 - 2. Documentary Evidence – photographs, videos, police reports and other documents
 - 3. Object Evidence – gift offered or accepted.
 - 4. Other relevant evidence

3.6.5 CORRUPTION OF PUBLIC OFFICERS

- a. What law punishes the crime of Corruption of Public Officers?
 - Revised Penal Code Article 211-A
- b. What are the elements of Corruption of Public Officers?
 1. The offender offers/promises/gives gift or presents to a public officer.
 2. The gift was accepted by the public officer.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Corruption of Public Officers?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – gifts being offered or accepted.
 4. Other relevant evidence

3.6.6 ANTI-GRAFT AND CORRUPT PRACTICES ACT

- a. What law punishes the crime of graft and corrupt practices?
 - Republic Act No 3019 AS AMENDED BY RA 3047
- b. What are the acts of graft and corruption?
 1. Persuading another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be influenced to commit such violation of offense.
 2. Directly or indirectly requesting or receiving any gift, present, share, percentage or benefit for himself or for any other

person, in connection with any transaction between the government and any other party, wherein the public officer in his official capacity to intervene under the law.

3. Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefits, for himself or for another, from any person for whom the public officer has obtained any Government permit or license, in consideration of the help given or to be given.
4. Having any member of his family accept employment in a private enterprise which has pending official business with him during the pendency thereof or one year after his termination.
5. Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence.
6. Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of a discriminating against any other interested part.
7. Entering on behalf of the government, into any transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited thereby.
8. Directly or indirectly having financial or pecuniary interest in any business, contract transaction in connection with which he intervenes or takes part in his official capacity.
9. Directly or indirectly becoming interested in any transaction requiring the approval of a board, panel or group of which he is a member.
10. Knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit, privilege, or advantage, or of a mere representative or dummy of one who is not so qualified or entitled.

11. Divulging valuable information of a confidential character, acquired by his office or by him on account of his official position to unauthorized persons, or releasing such information in advance of its authorized date.
 12. Other analogous acts
- c. What is the evidence needed to file a crime of graft and corruption?
1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – transaction records, contracts, police reports and other documents.
 3. Object Evidence – permit or license or order obtained.
 4. Other relevant evidence

3.6.7 FRAUD AND ILLEGAL EXACTIONS AND TRANSACTIONS

- a. What law punishes the crime of Illegal Transactions?
- Revised Penal Code Article 213
- b. What are the acts of illegal transactions?
1. Agreement with any interested party to defraud the government in respect of furnishing supplies or adjustment or settlement of accounts relating to public funds or property.
 2. Demands for the payment of sum different from or larger than those authorized by law in the collection of taxes, licenses and fees.
 3. Failure to issue receipt provided by law for any taxes, licenses and fees.
 4. Collection by way of payment, things of a nature different from that provided by law in the collection of taxes, licenses, and fees.
 5. Other analogous acts

- c. What is the evidence needed to file a crime of illegal transaction?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 - 2. Documentary Evidence – photographs, videos, police reports and other documents.
 - 3. Object Evidence – illegal transactions.
 - 4. Other relevant evidence

3.6.8 OTHER FRAUDS

- a. What law punishes the crime of Other Frauds?
 - Revised Penal Code Article 214
- b. What are the elements of Other Frauds?
 - 1. The offender is a public official who take advantage of his position.
 - 2. The offenses covered are: estafa; other forms of swindling; swindling a minor; and other deceits.
 - 3. Other analogous acts
- c. What is the evidence needed to file a crime of Other Frauds?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 - 2. Documentary Evidence – photographs, videos, police reports and other documents.
 - 3. Object Evidence – fraudulent transaction.
 - 4. Other relevant evidence

3.6.9 PROHIBITED TRANSACTION

- a. What law punishes the crime of Prohibited Transaction?

- Revised Penal Code Article 215

b. What are the elements of Prohibited Transaction?

1. Appointive public officer.
2. Becomes interested in any transaction of exchange or speculation.
3. Within his territorial jurisdiction.
4. During his incumbency.
5. Other analogous acts

c. What is the evidence needed to file a crime of Prohibited Transaction?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – records or contracts made through prohibited transactions.
4. Other relevant evidence

3.6.10 POSSESSION OF PROHIBITED INTEREST BY A PUBLIC OFFICER

a. What law punishes the crime of Possession of Prohibited Interest by a Public Officer?

- Revised Penal Code Article 216

b. What are the elements of Possession of Prohibited Interest by a Public Officer?

1. The offender intervenes in transactions with intention of subordinating the interest of the government.
2. The offender is the only official who, by reason of their office, must intervene in contacts or transactions.
3. Other analogous acts

c. What is the evidence needed to file a crime of Possession of Prohibited Interest by a Public Officer?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – contracts that had been intervened by public officer.
4. Other relevant evidence

3.6.11 MALVERSATION OF PUBLIC FUNDS OR PROPERTY

a. What law punishes the crime of Malversation of Public Funds or Property?

- Revised Penal Code Article 217-221

b. What are the acts of malversation of public funds or property?

1. Malversation by appropriating, misappropriating or permitting any other person to take public funds or property.
2. Failure of accountable officer to tender account.
3. Failure of responsible public officer to tender account before leaving the country.
4. Illegal use of public funds or property funds or property.
5. Failure to make delivery of public funds of property.
6. Other analogous acts

NOTE:

- Abuse of confidence and taking advantage of public position are inherent in malversation.
- Malversation can only be committed by a public official who has charge of public funds or property by virtue of his official position.

- Public officer who, having custody of public property, through abandonment of negligence renders it possible for others to abstract commits malversation through negligence.
- Technical malversation pertains to funds appropriated by law for a particular purpose and are channeled for public use other than what they were intended for.

c. What is the evidence needed to file a crime of malversation of public funds or property?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – contracts made through malversation.
4. Other relevant evidence

3.6.12 INFIDELITY OF PUBLIC OFFICERS

a. What law punishes the crime of Infidelity of Public Officers?

- Revised Penal Code Article 223 - 230

b. What are the acts of Infidelity of Public Officers?

1. Infidelity in the custody of prisoner.
2. Infidelity in the custody of documents.
3. Revelation of secret.
4. Connivance must exist between the offender and the prisoner for the latter to escape.
5. The prisoner is one confined in prison or prisoner serving sentence or merely a detention prisoner.
6. Other analogous acts

c. What are the evidences needed to file an action for infidelity of public officers?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Other relevant evidence

3.6.13 REMOVAL, CONCEALMENT, DESTRUCTION OF DOCUMENT

a. What law punishes the crime of Removal, Concealment, Destruction of Document?

- Revised Penal Code Article 226

b. What are the elements of removal, concealment, destruction of document?

1. The offender is a public officer.
2. The offender abstracts, destroys, or conceals the documents.
3. Entrusted to him by person of his office.
4. Injury to a third party or damage to public interest be caused by removal, destruction or concealment.
5. Other analogous acts

c. What is the evidence needed to file a crime of removal, concealment, destruction of documents?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Other relevant evidence

3.6.14 REVELATION OF SECRETS

- a. What law punishes the crime of Revelation of Secrets?
 - Revised Penal Code Article 229-230
- b. What are the acts of revelation of secrets?
 - 1. The public officer is the offender.
 - 2. The public officer revealed the secrets of a private individual.
 - 3. The secrets revealed are known to public officer by reason of his official capacity.
 - 4. The revelation shall cause serious damage to public interest.
 - 5. Other analogous acts
- c. What is the evidence needed to file a crime of revelation of secrets?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 - 2. Documentary Evidence – photographs, videos, police reports and other documents.
 - 3. Object Evidence – contracts or documents revealed.
 - 4. Other relevant evidence

3.6.15 OPEN DISOBEDIENCE

- a. What law punishes the crime of Open Disobedience?
 - Revised Penal Code Article 231
- b. What are the elements of Open Disobedience?
 - 1. Offender is a judicial or executive officer.
 - 2. A valid judgment, decision or order of a superior and competent authority.

3. The offender openly refuses to execute said judgment, decision or order which he is duty-bound to obey.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Open Disobedience?
1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – Court order or decision.
 4. Other relevant evidence

3.6.16 REFUSAL OF ASSISTANCE

- a. What law punishes the crime of Refusal of Assistance?
- Revised Penal Code Article 233
- b. What are the elements of Refusal of Assistance?
1. The offender is a public officer.
 2. The offender fails or refuses maliciously to lend cooperation to a competent authority towards the administration of justice or other public service.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Refusal of Assistance?
1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – Court order or decision.

4. Other relevant evidence

3.6.17 REFUSAL TO DISCHARGE ELECTIVE DUTIES

a. What law punishes the crime of Refusal to Discharge Elective Duties?

- Revised Penal Code Article 234

b. What are the elements of Refusal to Discharge Elective Duties?

1. The offender is an elective official.
2. The offender refuses to discharge his elective duties without legal basis.
3. Other analogous acts

c. What is the evidence needed to file a crime of Refusal to Discharge Elective Duties?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Other relevant evidence

3.6.18 MALTREATMENT OF PRISONER

a. What law punishes the crime of Maltreatment of Prisoner?

- Revised Penal Code Article 235

b. What are the elements of Maltreatment of Prisoner?

1. The offender must have the prisoner under his custody.
2. The offender maltreated the prisoner.
3. Other analogous acts

c. What is the evidence needed to file a crime of Maltreatment of Prisoner?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – weapons used in maltreatment.
4. Other relevant evidence

3.6.19 ABANDONMENT OF OFFICE/POSITION

a. What law punishes the crime of Abandonment of Office/Position?

- Revised Penal Code Article 238

b. What are the elements of Abandonment of Office/Position?

1. The offender is a judge who assumes power pertaining to executive authorities.
2. The offender obstructs the exercise of their powers.
3. Other analogous acts

c. What is the evidence needed to file a crime of Abandonment of Office/Position?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Other relevant evidence

3.6.20 USURPATION OF JUDICIAL FUNCTION

a. What law punishes the crime of Usurpation of Judicial Function?

- Revised Penal Code Article 241
- b. What are the elements of Usurpation of Judicial Function?
 1. The offender represents himself as an officer of a department of the government (executive, legislative, judicial).
 2. The offender performs the function of the officer of another department.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Usurpation of Judicial Function?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Other relevant evidence

3.6.21 DISOBEYING REQUEST FOR DISQUALIFICATION

- a. What law punishes the crime of Disobeying Request for Disqualification?
 - Revised Penal Code Article 242
- b. What are the elements of Disobeying Request for Disqualification?
 1. This crime is committed by administrative or judicial officers.
 2. The offender disobeys to disqualify a public officer.
 3. There is an order for disqualification, or the disqualification is resolved by the proper authority.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Disobeying Request for Disqualification?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Other relevant evidence

3.6.22 ORDERS OR REQUEST BY EXECUTIVE OFFICERS TO ANY JUDICIAL AUTHORITY

a. What law punishes the crime of Orders or Request by Executive Officers to Any Judicial Authority?

- Revised Penal Code Article 243

b. What are the elements of Orders or Request by Executive Officers to Any Judicial Authority?

1. The offender is an executive officer.
2. The purpose is to intervene with the functions of judicial authority.
3. The interference need not be limited to a case under litigation. It may cover any matter exclusively within the cognizance of judicial authority.
4. Other analogous acts

c. What is the evidence needed to file a crime of Orders or Request by Executive Officers to Any Judicial Authority?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – Court order or decision which was intervened by executive officer.
4. Other relevant evidence

3.6.23 UNLAWFUL APPOINTMENT

- a. What law punishes the crime of Unlawful Appointment?
 - Revised Penal Code Article 244
- b. What are the elements of Unlawful Appointment?
 1. The gravamen of the offense is the: 1) nomination; or 2) appointment of someone who lacks qualification at the time the offender made the nomination or appointment.
 2. There must be a law setting forth the qualifications of a person to be nominated or appointed to a public office.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Unlawful Appointment?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – fraudulent appointment.
 4. Other relevant evidence

3.6.24 ABUSES AGAINST CHASTITY

- a. What law punishes the crime of Abuses against Chastity?
 - Revised Penal Code Article 245
- b. What are the elements of Abuses against Chastity?
 1. The public officer must solicit (demand sexual intercourse) or make “immoral” or indecent advance.
 2. The solicitation or proposal consummates the crime and it is not necessary that the woman to whom solicitation is addressed is made to yield thereof.

3. Other analogous acts
- c. What is the evidence needed to file a crime of Abuses against Chastity?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – Medical records including results of seminal or DNA test, if there is sexual intercourse.
 4. Other relevant evidence

3.7 CRIME AGAINST PERSONS

3.7.1 PARRICIDE

- a. What law punishes the crime of Parricide?
 - Revised Penal Code Article 248
- b. What are the elements of Parricide?
 1. The offender killed his father, mother, child (legitimate of illegitimate), legitimate other ascendant or descendant and legitimate spouse.
 2. The parent or child killed need not be legitimate. But the spouse and other ascendant or descendant must be legitimate.
 3. The killing is intentional.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Parricide?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.

3. Object Evidence – weapon used and autopsy of slain victims.
4. Other relevant evidence

3.7.2 DEATH OR PHYSICAL INJURIES UNDER EXCEPTIONAL CIRCUMSTANCE

a. What law punishes the crime of Death or Physical Injuries under Exceptional Circumstance?

- Revised Penal Code Article 245

b. What are the elements of Death or Physical Injuries under Exceptional Circumstance?

1. The offender is either: a) a legally married person (wife or husband); or b) a parent.
2. The victim was surprised by: a) his/her spouse; or b) his/her daughter who is under 18 years of age and living with him/her, in the act of committing sexual intercourse with another person, as the case maybe.
3. The offender kills or inflicts serious physical injuries upon any or both of them.
4. The offender must catch the culprits in the act of sexual intercourse.
5. Other analogous acts

c. What is the evidence needed to file a crime of Death of Physical Injuries under Exceptional Circumstance?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – weapon used.
4. Other relevant evidence

3.7.3 MURDER

- a. What law punishes the crime of Murder?
 - Revised Penal Code Article 248
- b. What are the elements of Murder?
 1. Murder is the unlawful killing of any person not constitutive of parricide or infanticide.
 2. The act of killing is qualified by the following circumstances:
 - a) Treachery (alevosia) taking advantage of superior strength, with the aid of armed men, or employing means to weaken the defense to insure impunity.
 - b) In consideration of a price, reward, or promise.
 - c) By means of inundation, fire. Poison, explosion, shipwreck, standing of a vessel, derailment or assault upon a railroad, fall of an airship, by means of vehicles, or with the use of any other means involving great waste or ruin.
 - d) On the occasion of any of the calamities enumerated in the preceding paragraph or of an earthquake, eruption of a volcano or any other public calamity.
 - e) With evident premeditation.
 - f) With cruelty by deliberately and inhumanly augmenting the suffering of the victim or outraging or scoffing at his person or corpse (as amended by RA 7659).
 3. These qualifying circumstances must be alleged in the information otherwise, they could not be proven as such under the principle of non alegata non probate. What is not alleged cannot be proven.
 4. Other analogous acts

- c. What is the evidence needed to file a crime of Murder?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 - 2. Documentary Evidence – photographs, videos, police reports and other documents.
 - 3. Object Evidence – Autopsy, weapons used and other Forensic Reports.
 - 4. Other relevant evidence

3.7.4 HOMICIDE

- a. What law punishes the crime of Homicide?
 - Revised Penal Code Article 249
- b. What are the elements of Homicide?
 - 1. Homicide is the killing of any person which does not constitute parricide, infanticide or murder and it is not attended by any justifying circumstances.
 - 2. Homicide is generic term and could be committed by culpa (negligence) or dolo (intent).
 - 3. Other analogous acts
- c. What is the evidence needed to file a crime of Homicide?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 - 2. Documentary Evidence – photographs, videos, police reports and other documents.
 - 3. Object Evidence – Autopsy, weapons used and other Forensic Reports.
 - 4. Other relevant evidence

3.7.5 DEATH CAUSED OR INJURIES INFLICTED IN A TUMULTUOUS AFFRAY

a. What law punishes the crime of Death Caused or Injuries Inflicted in a Tumultuous Affray?

- Revised Penal Code Article 251-252

b. What are the elements of Death Caused or Injuries Inflicted in a Tumultuous Affray?

1. Tumultuous affray takes place when a quarrel occurs among several persons in tumultuous or confused manner.
2. The persons killed or wounded with the author thereof incapable of being ascertained but the ones who inflicted serious physical injuries could be identified.
3. The person is killed but author thereof cannot be identified.
4. Other analogous acts

c. What is the evidence needed to file a crime of Death Caused or Injuries Inflicted in a Tumultuous Affray?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – Autopsy, weapons used and other Forensic Reports.
4. Other relevant evidence

3.7.6 GIVING ASSISTANCE TO SUICIDE

a. What law punishes the crime of Giving Assistance to Suicide?

- Revised Penal Code Article 253

b. What are the elements of Giving Assistance to Suicide?

1. The offender helps the victim to commit suicide.
 2. The act of suicide may necessarily be consummated.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Giving Assistance To Suicide?
1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – Autopsy, weapons used and other Forensic Reports.
 4. Other relevant evidence

3.7.7 INFANTICIDE

- a. What law punishes the crime of Infanticide?
 - Revised Penal Code Article 255
- b. What are the elements of Infanticide?
 1. This offense contemplates the killing of any child less than 3 days old (72 hours).
 2. The victim may not necessarily be the child of the offender.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Infanticide?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – Autopsy, weapons used and other Forensic Reports.

4. Other relevant evidence

3.7.8 ABORTION

a. What law punishes the crime of Abortion?

- Revised Penal Code Article 256

b. What are the elements of Abortion?

1. Intentional abortion committed by using violence upon the person for the pregnant woman.
2. Intentional abortion committed without using violence but without consent of the woman.
3. Intentional abortion with the woman's consent (with or without violence).
4. Unintentional abortion, meaning abortion through reckless imprudence but with use of violence.
5. Abortion practiced by the woman herself or by another person with her consent.
6. Abortion committed by the parents of the pregnant woman with her consent to conceal dishonor.
7. Abortion intentionally caused by a physician or midwife or brought about by their assistance.
8. The act of a pharmacist in dispensing abortives.
9. Abortion is the willful killing of the fetus in the uterus, or the violent expulsion of the fetus from the maternal womb which results in its death.
10. Other analogous acts

c. What is the evidence needed to file a crime of Abortion?

1. Testimonial Evidence – Affidavit of complainant and witnesses.

2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – Autopsy, weapon used and other Forensic reports.
4. Other relevant evidence

3.7.9 HOMICIDE (GENERIC) INVESTIGATION

a. Upon Receipt of Call/Walk-in Complaint. The duty desk officer shall:

1. Record the time it was reported;
2. Get the identity of the caller/complainant;
3. Get the place of the incident;
4. Get the nature of the incident;
5. Get the number of victims;
6. Record the brief synopsis of the incident;
7. Direct the nearest mobile car/beat patrollers or the nearest police precinct to act as first responder equipped with a camera and “police line” to secure the place of incident; and
8. Inform the duty investigator (preferably one team of investigator).

b. Guidelines in Homicide Investigation

1. Record the time the call was received as well as the time of arrival at the scene.
2. Preserve the crime scene.
3. Do not remove anything until its location and position have been noted and photographed. The position of evidence should be measured and/or photographed in reference to permanent fixtures in the crime scene.

4. Pay attention to the wound inflicted which may have caused the death of the victim and how it was committed.
5. Designate one person to pick up all physical evidence. No one should touch or move anything unless and until the fingerprint technician has finished his tasks.
6. A systematic, detailed search of the crime scene should be conducted.
7. Colored as well as black-and-white photographs should be taken.
8. Look for physical evidence that will tend to prove the elements of the crime under investigation.
9. Take note of unusual odors, symbols, fetishes, rituals.
10. When the body is finally moved, attention should be given to the area beneath the body.
11. While moving the body, use a rubber sheet to prevent contaminating the crime scene with spilled blood.
12. Conduct a careful inspection of a dead person holding a gun.

(The hand of a dead person usually has no gripping power. Therefore, if the gun was placed in an unnatural position (Cadaveric Spasm), it may have been placed in the hand after the death of the person).
13. Note the condition and types of food at the crime scene as the pathologist may be able to use this information in determining whether the victim's last meal was eaten at the crime scene.
14. The course and direction of each bullet should be determined. This applies to the trajectory of the bullet through the body as well as the trajectory of the bullet through a solid object at the crime scene.
15. If all slugs were not removed at the crime scene, have the body X-rayed. This is excellent for determining the distance of fire from patterns and shows the trajectory of the bullet through the body.

16. Take photographs of all bystanders. These may be helpful later to identify possible witnesses or subject (who sometimes DOES return to the crime scene).
17. Try to:
 - a) Determine if any of the victim's valuables are missing.
 - b) Record the color of blood stains (bright red, reddish brown, brown, black or almost black).
 - c) Determine what portion of the stain is wet (just the center, completely wet, completely dry, dry around the edges) for an estimate of time of death.
 - d) If the blood is wet, see if a paper clip will separate the stain as it goes through or if the blood will flow together again.
 - e) Note the size, dimension and location of blood drops.
 - f) Determine the direction and distance of blood drops.
 - g) Enter in your notebook details of the test to determine whether the victim is still alive. Record if the body is cool to touch, warm, etc.
 - h) Record the weather, as well as weather changes (sunny to cloudy or vice-versa).
 - i) Talk to everyone with whom the suspect has spoken.
 - j) Look for weapons which could have inflicted the wounds.
 - k) Obtain soil samples (double handfuls) at ten-foot intervals in circles around the body and the scene, when appropriate.
 - l) Take samples of other items for exclusionary purposes.
 - m) Obtain botanical samples when necessary.
 - n) Take a temperature reading of the scene. If the body is submerged in a bathtub, record the temperature of the water at the time of your arrival.
18. If it is necessary to cut the victim's clothing, avoid using bullet or knife holes. Where possible, cut the clothing along seams so that the clothing can be restored to approximately its original condition.
19. The spatter pattern of blood spots should be noted as it is:
 - a) An aid in determining if the object or persons was in motion when the blood spattered.
 - b) Possible for an expert to tell you how the crime was committed as indicated by the blood spots.

- c) Possible to trace every spot to its origin by observing its characteristics.
 - d) Indicative of whether it was a result of a weapon striking a victim, or it was thrown there from a weapon, or it was created by some other weapon.
 - 20. BE CAUTIOUS. Remember that fingerprints may be present on light switches, light bulbs, telephone, doorknobs, etc.
 - 21. When fingerprints are on an object which has a dark color, consider using fluorescent powder as the standard fingerprint powders are not as effective in developing latent prints on such objects. Aerial photographs of the crime scene and escape route should be taken, when possible and practicable.
- c. Things to Remember in the conduct of Homicide (Generic) Investigation

Places of Importance

1. The crime scene. Make a methodical and thorough search.
2. Avenues of approach. How did the killer(s) arrive?
3. Avenues of escape. Investigate and search along this route.
4. Places where victim was seen immediately prior to his death. Who was with him/her? What was he doing? Was this customary? Get the time.
5. Places where suspect claims he was; places where he was seen before, during and after the crime was committed for the purpose of checking his alibi.
6. Places where evidence can be found. Weapons or poison, etc. – Where can they be obtained? Where can they be hidden?
7. Places where the suspect and the victim were frequently seen before the commission of the crime.
8. Place/s of suspect/s lairs.

Times of Importance

1. Time of death
2. Time crime was reported
3. Time of arrival of police at the scene
4. Time victim was last known to be alive
5. Time relative to victim's movement preceding death
6. Time relating to suspect(s) movements.
7. Time the crime scene was turned over by the first responder to the investigator.
8. Time the investigator arrived at the crime scene.
9. Time started/terminated processing of the crime scene by the investigator and the SOCO.
10. Time the recovered evidence was turned to evidence custodian.
11. Time the investigator was dispatched.
12. Time of the arrival of SOCO team at the Crime Scene.

Persons of Importance

1. Victim - victim's personal background/history and his/her relationship with other people.
2. Witnesses - Get their statements without delay.
3. Suspects - Isolate them if there is absolute evidence against them.
4. Person who reported the crime - Remember that he probably has key information. Check out his statement.
5. Persons who stand to gain by the death. This is a sensitive matter. Be circumspect in your approach.
6. Relatives and other sources of information.

Things of Importance

1. Body of the deceased.
2. Properties or belongings of the deceased. Here, we may find motive.
3. Weapons – what in particular? Locate, list and record them as evidence.
4. Means of transportation
5. Sounds, shots, screams, arguments, or falling objects.
6. Odors – gunpowder, distinctive smell of poison, etc.
7. Items of evidence should be legally obtained and carefully preserved.

d. Handling the suspect

1. Obtain the following evidence from the suspect:
 - a) The suspect's clothing should be photographed, marked, and sent to the crime laboratory for examination.
 - b) Any scratches on the suspect should be photographed.
 - c) Fingernail scrapings should be obtained.
 - d) Take blood samples from the suspect in a medically approved manner and with proper legal justification.
 - e) Take hair samples.
 - f) Have the fingerprint technician check the paper money which may have been taken from the victim's house for the victim's fingerprints.
 - g) Check the suspect's personal effects very closely for items of evidentiary value.
 - h) Obtain teeth mark impressions when appropriate.

- i) Semen samples in rape or rape with homicide cases should be obtained medically.
 - j) Consider polygraph examinations.
- 2. Never take a suspect or a subject to the crime scene in the clothing he was wearing at the time he was arrested. (This includes shoes.) The accused lawyer may later claim that the clothing was contaminated at the scene of the crime.
- 3. Attempt to ascertain the following:
 - a) The suspect's mode of living as compared to the amount of his income.
 - b) The suspect's mode of living before the crime as compared to his mode of living after the crime. (Compare his financial condition before the crime with his financial condition after the crime).
 - c) Compare his behavior before the crime with his behavior after the crime.
 - d) Make a methodical and complete check of the suspect's alibi.
- e. Body and Post-Mortem
 - 1. Designate a member of the investigating team to secure the cadaver from the scene up to the place where the autopsy will be conducted.
 - 2. An investigating officer should remain at the autopsy area to prevent the embalming of the cadaver and to prevent anyone from touching or removing any of the clothing from the said cadaver until the medico-legal officer arrives.
 - 3. Obtain a copy of the autopsy report.
 - 4. Make a detailed report to the Chief of Office regarding the findings of the medico-legal officer.
- f. Follow-up Investigation
 - 1. Look for possible witness/es, who may be close friends or relatives of the victim, past pictures of the victim with anyone,

or even relatives that can possibly help in the solution of the case.

2. Methodically interview residents in the area and record the interviews by using a tape recorder or taking notes.
3. Re-enact the crime to possibly establish what transpired at the crime scene.
4. Return to the crime scene during the time of day the crime was committed. (As we are all creatures of habit, possible witnesses and suspects can be located through this technique).
5. Conduct case conference for regular updates.
6. Check the victim's and the suspect's toll calls. (Records of toll calls are usually retained for approximately three months by the telephone companies).
7. Present photographs and crime reports to several psychiatrists to ascertain what type of person would commit such a crime, including the motives.
8. If there is/are already witnesses, keep them separated so that they will give what they personally observed and not just corroborate what others are saying.

g. Court Preparation

1. Have a diagram of the crime scene and the location of all evidence.
2. Make a list of the evidence on hand and what you hope to prove with it.
3. Be prepared to show the following:
 - a) Relationship existed between the victim and the suspect.
 - b) Indications that the suspect threatened to harm the victim.
 - c) Possible witnesses to the threats.
 - d) A photograph of the crime scene (before and after processing) can be very helpful.

- e) Review everything, including testimony, with the prosecutor before trial.
- f) Review with witnesses their testimony to refresh their memory.

3.7.10 CHALLENGING TO A DUEL

- a. What law punishes the crime of Challenging to a Duel?
 - Revised Penal Code Article 261
- b. What are the elements of Challenging to a Duel?
 - 1. A duel is a combat with deadly weapons between 2 persons under certain agreed and prescribed rules.
 - 2. The person who killed or inflicted physical injuries upon his adversary, or both combatants in any other case, as principals.
 - 3. Other analogous acts
- c. What is the evidence needed to file a crime of Challenging to a Duel?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses
 - 2. Documentary Evidence – photographs, videos, police reports and other documents
 - 3. Object Evidence – Autopsy, weapon used and other Forensic reports
 - 4. Other relevant evidence

3.7.11 MUTILATION

- a. What law punishes the crime of Mutilation?
 - Revised Penal Code Article 262
- b. What are the elements of Mutilation?

1. The offense committed is mutilation, or lopping or clipping off any part of the body of the victim or castrating the organs necessary for reproduction.
 2. The offense is done intentionally and purposely.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Mutilation?
1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – Medical results, weapon used and Forensic reports.
 4. Other relevant evidence

3.7.12 SERIOUS PHYSICAL INJURIES

- a. What law punishes the crime of Serious Physical Injuries?
- Revised Penal Code Article 263
- b. What are the elements of Serious Physical Injuries?
1. The injured person becomes insane, imbecile, impotent or blind.
 2. Injured party loses speech, hearing and smelling power or loses an eye, hand, foot, arm, leg or the use of such member, or becomes incapacitated for work.
 3. Injured persons a) becomes deformed; or b) loses any other member of his body; or c) loses the use thereof; or d) becomes incapacitated to work for more than 90 days.
 4. Injured person is incapacitated for more than 30 days but not more than 90 days.
 5. The offender has no intent to kill.

6. Other analogous acts

c. What is the evidence needed to file a crime of Serious Physical Injuries?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – Medical examination, weapons used and Forensic reports.
4. Other relevant evidence

3.7.13 ADMINISTERING INJURIOUS SUBSTANCES

a. What law punishes the crime of Administering Injurious Substances?

- Revised Penal Code Article 264

b. What are the elements of Administering Injurious Substances?

1. There must not be intent to kill.
2. The injuries produced are grave in character.
3. The offender was aware that the substance administered may be detrimental to the victim's health.
4. Other analogous acts

c. What is the evidence needed to file a crime of Administering Injurious Substances?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.

3. Object Evidence – Medical examination, substance administered and Forensic reports.
4. Other relevant evidence

3.7.14 LESS SERIOUS PHYSICAL INJURIES

- a. What law punishes the crime of Less Serious Physical Injuries?
 - Revised Penal Code Article 265
- b. What are the elements of Less Serious Physical Injuries?
 1. The period of incapacity for labor is for 10 days not more than 30 days or needs medical attendance for the same period.
 2. The wound requires medical attendance for only 2 days but the injured party was prevented from attending to his ordinary to his regular employment for a period of 29 days, the injuries are less serious. (Trinidad 4 Phil. 152)
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Less Serious Physical Injuries?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – Medical results, weapons used and Forensic reports
 4. Other relevant evidence

3.7.15 SLIGHT PHYSICAL INJURIES AND MALTREATMENT

- a. What law punishes the crime of Slight Physical Injuries and Maltreatment?
 - Revised Penal Code Article 266

b. What are the elements of Slight Physical Injuries and Maltreatment?

1. There is no evidence of actual injury.
2. The offense is considered ill treatment.
3. Other analogous acts

c. What is the evidence needed to file a crime of Slight Physical Injuries and Maltreatment?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – medical results.
4. Other relevant evidence

3.7.16 RAPE

a. What law punishes the crime of Rape?

- Revised Penal Code Article 266 amended by RA 8353

b. What are the elements of Rape?

1. Rape is committed by a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a) Through force, threat or intimidation;
 - b) When the offended party is deprived of reason or is otherwise unconscious;
 - c) By means of fraudulent machination or grave abuse of authority;
 - d) When the offended party is under twelve (12) years of age or is demented, even though none of the circumstances mentioned above be present.

2. By any person who, under any of the circumstances mentioned in par. 1 hereof, shall commit an act of sexual assault by inserting his penis into another person's mouth, anal orifice, or instrument or object, into the genital or anal orifice of another person. (RA 8353)
3. Rape is qualified under the following circumstances:
 - a) When the victim is under 18 years old and the offender is a parent, ascendant, step-parent, guardian, relative by consanguinity or affinity within the third civil degree, or the common law spouse of the parent of the victim;
 - b) When the victim is under the custody of the police or military authorities or any law enforcement or penal institution;
 - c) When the rape is committed in full view of the spouse, parent, any of the children or other relatives within the third civil degree of consanguinity;
 - d) When the victim is a religious engaged in legitimate religious vocation of calling and is personality known to be such by the offender before or at the time of the commission of the crime;
 - e) When the victim is a child below 7 years old;
 - f) When the offender knows that he is afflicted with human Immuno-Deficiency Virus (HIV)/Acquired Immune Deficiency Syndrome (AIDS) or any other sexually transmissible disease and the virus or disease is transmitted to the victim;
 - g) When the offender is a member of the armed forces of the Philippines or para-military units thereof or the Philippines National Police or any law enforcement agency or penal institution, when the offender takes advantage of his position to facilitate the commission of the crime;
 - h) When by reason or on the occasion of the rape, the victim suffered permanent physical mutilation or disability;

- i) When the offender knew of the pregnancy of the offended party at the time of the commission of the crime; and
- j) When the offender knew of the mental disability, emotional disorder and/or physical handicap of the offended party at the time of the commission of the crime.

4. Other analogous acts

NOTE:

- 1. Under RA 8353 which amended the Penal Code, on October 22, 1997, a male or female can now commit rape.
- 2. "Effect of pardon" – The subsequent valid marriage between the offender and the offended party shall extinguish the criminal action or the penalty imposed.
- 3. In case it is the legal husband who is the offender, the subsequent forgiveness by the wife as the offended party shall extinguish the criminal action not be abated if the marriage be void ab initio.

c. What is the evidence needed to file a crime of Rape?

- 1. Testimonial Evidence – Affidavit of complainant and witnesses.
- 2. Documentary Evidence – photographs, videos, police reports and other documents.
- 3. Object Evidence – Medical records, seminal/DNA Test, weapons used and other forensic reports.
- 4. Other relevant evidence

3.8. CRIMES AGAINST LIBERTY

3.8.1 KIDNAPPING AND SERIOUS ILLEGAL DETENTION

a. What law punishes the crime of Kidnapping and Serious Illegal Detention?

- Revised Penal Code Article 267 amended by RA 7659

b. What are the elements of Kidnapping and Serious Illegal Detention?

1. Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty.
2. The kidnapping or detention shall have lasted more than three (3) days.
3. Any serious physical injuries shall have been inflicted upon the person kidnapped or detained or if threats to kill him shall have been made.
4. The person kidnapped or detained shall be a minor, except when the accused is any of the parents, female or a public officer.
5. Other analogous acts

NOTE:

1. The gravamen of the offense is actual confinement or restraint or deprivation of the victim's liberty.
2. Ransom is the money demanded as a condition for the release of a person being deprived of his liberty or any other person, even if none of the circumstances above is present, kidnapping or serious illegal detention was still committed.
3. The offense of kidnapping connotes transporting the offended party one place to another while, illegal detention focuses on one restrained of his liberty/locomotion without necessarily transporting him from one place to another.
4. Serious Illegal Detentions is committed when the illegal detention lasts for 3 days, or the offended party is a) a minor; b) female; or c) public officer even when the detention lasts only for minutes, or committed by simulation of authority, or threats to kill are made and physical injuries are inflicted.
5. When the victim is killed or dies as a consequence of the detention, or is raped or is subjected to future or dehumanizing acts, the maximum penalty (death) shall be imposed.

c. What is the evidence needed to file a crime of Kidnapping and Serious Illegal Detention?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – Medical records, autopsy, seminal/DNA Test, weapons used and other forensic reports.
4. Other relevant evidence

3.8.2 INVESTIGATION PROCEDURES ON KIDNAP FOR RANSOM INCIDENTS

a. Introduction

The crime of Kidnap for Ransom is not only a serious crime; it is also a critical, life-threatening incident, violating the victim's freedom; furthermore, it undermines human rights. By nature, it is a heinous crime that has become a social menace due to its adverse effect on the security (peace and order), political and economic stability of the government. Its prevalence raises fears and doubts among the general public and discourages investments.

The objective of this section is to provide police investigators with a practical tool in strengthening their capacity and effectiveness in the investigation of kidnap for ransom cases.

b. What is Kidnap for Ransom?

The unlawful taking and carrying away of a person by force or fraud or against his will, or in any manner depriving him of his liberty for the purpose of extorting ransom as payment for his release.

c. Elements of Kidnap for Ransom:

1. The offender is a private individual;
2. He kidnaps or detains another, or by any means deprives the latter of his liberty;
3. The act of detention and kidnapping must be illegal;
4. The purpose of kidnapping is to extort ransom from the victim or any other person.

One of the elements requires that the offender must be a private individual. If the offenders are police officers who kidnap, detain, and deprive another's liberty for the purpose of extorting ransom, these officers are committing the crime of KFR in their private capacity. They can be held liable for the crime of KFR because they acted not in the line of duty, kidnap, detain, and deprive a person's liberty for ransom or personal reason. In a case entitled *People vs. PO2 Murphy Uddin et al; PO2 Murphy Uddin, PO1 Casem Ote, and PO1 Papeniano Razos* kidnapped, detained, and deprived Amelia Barreto's liberty on July 18, 2003 in QC for the purpose of extorting ransom. Hon. Judge Alexander S. Balut of Br. 76 QC RTC sentenced the 3 policemen to suffer the penalty of Reclusion Perpetua.

d. Key Elements in Responding to KFR

Any alleged KFR is a serious incident with potentially life-threatening consequences. Its investigation requires the collection, timely analysis and careful and effective use of information. Investigators, specially the case officer, will be required to exercise judgment and to make difficult decisions. Many acts of kidnapping are well-planned. Though sometimes, it may occur at the spur of the moment.

Regardless of the motive, each kidnapping is likely to be unique and extremely challenging for law enforcement authorities. It is vital for police staff at all levels to be trained to understand the basic principles of countering KFR and their own potential role in reacting to it.

The skill and experience of case officers (and prosecutors) vary. In some countries, the rate of kidnapping continues to be low, but it is still necessary to be prepared to deal effectively with KFR cases should they occur.

Regardless of these differences, it is possible to identify a number of key elements, or general principles, in an investigation of an alleged kidnapping that are common to most cases and which the case officer needs to consider.

e. Objectives of the Kidnapping for Ransom Investigation

The objectives of the kidnapping for ransom investigation are as follows:

1. To preserve life;
2. To ensure prompt and safe return of the victim;
3. To protect and support the family of the victim;
4. To ensure public safety; and

5. To gather information, intelligence and evidence leading to the solution of the case, eventual arrest and conviction of the offenders.

f. Procedures to be undertaken during a kidnap for ransom incident:
Responsibility of the Desk Officer

1. Record the incident in the Police Blotter as a Missing Person Case for validation;
2. Immediately inform the Chief of Police of the incident.

g. Responsibility of the Chief of Police

The Chief of Police upon validation of the KFR incident shall refer the case to the Crisis Management Committee (CMC) responsible for the investigation of kidnap for ransom cases.

h. For KFR victim/suspects Intercepted in a Checkpoint

1. Refer to General Investigative Procedures (Chapter III Investigative Procedures) - if the case is KFR, blotter the incident as Missing Person case.
2. Inform the Chief of Police as soon as possible - the COP will initially take cognizance of the case and make a formal turn-over of the case to the CMC.

i. Prohibition

Do not send a patrol car or police officer to the scene unless the alleged KFR needs immediate action and occurring in public view. (The purpose of this prohibition is to avoid any indication that law enforcement agencies have been informed of the KFR incident).

j. Duties of the Investigator assisting in the investigation of KFR case:

1. Assist in the conduct of victimology; and
2. In case the abandoned motor vehicle used in the kidnapping is recovered:
 - a) Treat the motor vehicle similar to a crime scene;
 - b) Secure the motor vehicle and request for SOCO assistance; and

- c) Refer to General Investigative Procedures (Chapter III Investigative Procedures).

k. Investigation Procedures in Handling Kidnap for Ransom Incidents
Receipt of the complaint

1. Accomplishment of a complaint document;
2. Assignment of the case – The Investigator on case and Case Officer shall be designated to handle the case. The Investigator on case should maintain a logbook of all cases referred to him, either in person or through communications, recording therein the nature/facts of the case, name of complainant, name of the investigator and the date it was assigned.
3. Written report – based on the initial investigation, the Investigator on case and Case Officer should prepare a written report;
4. Taking of statements – The investigator on case should then take the sworn statements of the complainant and witnesses. If arrested suspect/s is willing to give a confession he should be assisted by a counsel of his own choice. At this stage, the Case Officer should exert all efforts to gather all evidence relevant to the case;
5. The taking of statement from a female victim shall be made by a female investigator.
6. Determine Modus Operandi
 - a) KFR group scouts for a potential victim through an informer whose work is to acquire targets for the group. To facilitate the groups operation, a member is made to seek employment such as drivers or household help or have a business transaction to gain access and control of the victim;
 - b) KFR group conducts a thorough study of background of the potential victim. Study the victim's background such as capability to pay the ransom and his daily movements and activities;
 - c) Execution of the plan at an opportune time. In coordination with their inside man, the group snatches

the victim in a manner that would not catch attention from the public, by blocking the victim's car using vehicle with siren to simulate a legitimate police operation. Sometimes the victim is accosted for being involved in illegal drugs to obtain physical control on him. Victim is brought to a Safe House (SH) usually outside of the urban area while ransom for his release is negotiated.

- d) Handling of KFR Case – the purpose of recording the incident as Missing Person case and refrain unnecessary publicity of the same, is to avoid any indication that law enforcement agencies have been informed of the KFR incident; The victim's family should be informed about this concept of the PNP in handling KFR cases, such as, the primary concern is the safety of the victim, and no police action until the victim is safely released.
7. Conduct of Victimology (Victim Profiling) – Victimology/Victim Profiling includes complete information regarding the victim's physical description, normal behavioral patterns, the family dynamics and their known friends and acquaintances.
8. Conduct of Neighborhood Investigation – Is directed toward the discovery of evidence accidentally or intentionally left by the suspects in the crime scene that can provide the investigators with valuable investigative lead in solving a case.
9. Release of Victim – Debriefing should be conducted by the CMC after the release of the victim from the custody of the kidnappers and submit the victim to medical examination. The investigator on case should then take the victim's statement. All relevant and material facts occurred during the victim's captivity must be included in the statement to strengthen the case against the respondent.
10. Debriefing – Conducted after the release of the KFR victim from the hands of the kidnappers to determine the latter's motive and modus operandi, identity of the kidnappers, their armaments, vehicles, and location of their safe house. The purpose of debriefing is to receive information from a KFR victim after his or her release from the hands of the kidnappers and to instruct the KFR victim as to what information can be released to the public and what information is restricted. Another purpose of debriefing is to assess the KFR victim and reunite him with his family as soon as possible.

11. Backtracking – Conducted after the release of the KFR victim from the hands of the kidnappers to gather and trace evidence needed by the investigator handling the case. The purpose of backtracking is to return to the previous places traveled by the kidnappers during the victim's abduction for gathering of valuable investigative leads in the identification of the kidnappers and location of their safe house.
12. Hot Pursuit – Law enforcers are presumed to regularly perform their official duties. Warrantless arrest conducted by them after a hot pursuit are made in compliance with the requirements on rules on warrantless arrest.
13. Lawful Warrantless Arrest – Warrantless arrest is made after an offense of KFR has just been committed and the arresting officers have personal knowledge of facts indicating that the persons to be arrested have committed it. (Section 5 (b), Rule 113, Rules on Criminal Procedure). In the preparation of the affidavit of arrest, all relevant and material facts made before, during, and after the arrest must be included to strengthen the case against the respondents. Inform the arrested persons of the reason of their arrest and apprise them of their constitutional rights. As usual, all the necessary documentation must be prepared - the booking sheet and arrest report, fingerprint cards, and submit the arrested persons for medical examination. (Sec 5 (b) Rule 113 of RCP – an arrest without a warrant can be made by a peace officer or private citizen when an offense has just been committed and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it).
14. Recovered Evidence – Photograph and make an inventory with complete markings upon recovery of the evidence.
15. For cell phone messages used in the negotiation for the release of the KFR victim, preserve it and inform the service provider immediately.
16. For motor vehicle used in the KFR – treat the evidence motor vehicle similar to crime scene. Record the circumstances of recovery and conduct technical inspection in the presence of 2 witnesses. Secure the evidence vehicle and direct the investigator concern to assist the SOCO for proper processing. Proper examination of the evidence vehicle will reveal the presence of evidence that may provide the

investigator with valuable investigative lead and to build a strong case against the respondents. Determine the registered owner of evidence motor vehicle with the Land Transportation Office (LTO).

17. For evidence firearm – determine the registered owner through the PNP Firearms and Explosives Division (FED).
18. Kidnappers' Safehouse is Located – Coordinate with local police and SOCO to investigate and process the crime scene. Fingerprints of the KFR victim lifted in the crime scene is a proof that he or she was kept therein. Pieces of DNA evidence of the victim and suspects must also be preserved. Proper examination of the SH or crime scene will reveal the presence of evidence that may provide the investigator with valuable investigative leads and build a strong case against the respondents.
19. Artist's Sketches of Suspects – Advise the KFR victim and witnesses to provide the description of the suspects to the artist. In many cases the photograph of suspects are not available and the best substitute are the artist's sketches based on the recollection of the eye witnesses.
20. Rouge's Gallery – Show to the KFR victim and witnesses the rouge's gallery of KFR suspects for positive identification. In some instances, the rouge's gallery will lead to a positive identification of the suspects by the complainant and/or witnesses.
21. Invitation of Suspects – Invitation for suspects to appear before the investigating office should be signed by the Chief of Office or his deputy and duly recorded in a logbook intended for this purpose. The result of the invitation should be filed in the case folder to form part of the records of the case. Invitation of the suspect to appear before the investigating office is a part of the Custodial Investigation. The questioning of the person invited in connection with an offense he is suspected to have committed is crucial to the case.
22. Extra-Judicial Confession – A suspect's confession is indispensable in a case where there is a conspiracy to be established by evidence. In a case, *People vs. Sosing*, (111 SCRA 368, 376-377) – A confession made by an accused is admissible only against him and not against his co-accused who did not in any manner take part in the said confession,

except where there is conspiracy established by evidence other than the confession itself.

23. Case Referral – The case officer should prepare the case referral to the inquest prosecutor for the latter's appropriate recommendation. Case referral and related documents needed by the Prosecutor should be reviewed by the Legal Officer for his appraisal, evaluation, recommendation, and legal advice.
24. Collation of evidence – Interview witnesses at the place where the victim was kidnapped and released, if possible look for any establishment within the area equipped with CCTV and request for copy of coverage. Ensure careful and orderly collection prior to proper marking of the pieces of evidence obtained.
25. Progress Report – a progress report should be submitted by the Case Officer regarding the apprehension of other suspects, recovery of the evidence and all other development of the case;
26. Documentation – once the suspects have been apprehended and duly investigated, the investigator on case should prepare the affidavit of apprehending officers and the Case Officer should prepare the corresponding referral to the Inquest Prosecutor for appropriate recommendation;
27. Case preparation/analysis – before the Investigator on case and Case Officer file the case with the Prosecutor's Office, the case should first be reviewed by the Legal Officer for appraisal, evaluation, recommendation and legal advice;
28. Preparation of a case for trial – Trial Preparation – Prior to testifying in a case, the police witness should have a case conference with the prosecutor handling the case for the preparation of his testimony to avoid errors, confusions, and inconsistencies. A police witness should review the case records for the purpose of comparing and correlating the statements and other investigative materials before taking the witness stand.
29. Testifying in Court – The police witness should study his case before taking the witness stand, by doing proper preparation prior to the scheduled hearing. Never memorize stet testimony, just know the facts but do not try to say things word for word. You will look rehearsed during your testimony and

then you will not be able to handle cross examination, where questions are not in sequence. During cross examination, avoid looking at your Prosecutor when answering questions. This looks like you are asking for help and the Judge might interpret this as a damaging question even though your answers make perfectly good sense.

30. Monitoring of cases – Case Monitoring – Case monitoring division is in-charge of the continuous monitoring of the court proceedings of all filed cases in coordination with the prosecutors, complainant, and witnesses to ensure conviction. The investigators' job does not end upon the filing of the case before the Prosecutor's Office. The case should be continuously monitored up to its final resolution.

3.8.3 SLIGHT ILLEGAL DETENTION

- a. What law punishes the crime of Slight Illegal Detention?
 - Revised Penal Code Article 268
- b. What are the elements of Slight Illegal Detention?
 1. If the illegal detention is not attended by any of the 5 circumstances enumerated in Art. 267, the illegal detention is SLIGHT punishable under Art. 268.
 2. Illegal detention necessarily includes coercion.
 3. The offender releases the victim within 3 days without accomplishing his purpose and provided the criminal /action has not been instituted yet.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Slight Illegal Detention?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – Medical records, weapons used and other forensic reports

4. Other relevant evidence

3.8.4 UNLAWFUL ARREST

- a. What law punishes the crime of Unlawful Arrest?
 - Revised Penal Code Article 269
- b. What are the elements of Unlawful Arrest?
 1. A private person effects an arrest without legal or reasonable ground.
 2. The purpose of arrest is to deliver the arrested person to the proper authorities.
 3. The detention is merely incidental to the offender's primary intention to charge the offended party for a crime not actually committed.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Unlawful Arrest?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – Medical records, weapons used and other forensic reports.
 4. Other relevant evidence

3.8.5 KIDNAPPING AND FAILURE TO RETURN MINOR

- a. What law punishes the crime of Kidnapping and Failure to Return Minor?
 - Revised Penal Code Article 270

b. What are the elements of Kidnapping and Failure to Return Minor?

1. The offender has custody of the minor.
2. The offender deliberately fails to restore the minor to his parents or guardian.
3. Other analogous acts

c. What is the evidence needed to file a crime of Kidnapping and Failure to Return Minor?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – Medical records, and other forensic reports
4. Other relevant evidence

3.8.6 INDUCING A MINOR TO ABANDON HOME

a. What law punishes the crime of Inducing a Minor to Abandon Home?

- Revised Penal Code Article 271

b. What are the elements of Inducing a Minor to Abandon Home?

1. The inducer must have moral ascendancy over the minor induced.
2. The offender induced the minor to abandon his or her home.
3. Other analogous acts

c. What is the evidence needed to file a crime of Inducing a Minor to Abandon Home?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents

3. Other relevant evidence

3.8.7 SLAVERY

- a. What law punishes the crime of Slavery?
 - Revised Penal Code Article 272
- b. What are the elements of Slavery?
 1. The offender purchases, sells, kidnaps or detains person.
 2. The purpose is to enslave the victim
 3. Other analogous acts

NOTE:

When the offender takes the victim and transports him or her to another place purposely for forced labor or sexual exploitation the crime committed is Trafficking in Person or violation of RA 9208.

- c. What is the evidence needed to file a crime of Slavery?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – Medical records, weapons used and other forensic reports
 4. Other relevant evidence

3.8.8 EXPLOITATION OF CHILD LABOR

- a. What law punishes the crime of Exploitation of Child Labor?
 - Revised Penal Code Article 273
- b. What are the elements of Exploitation of Child Labor?
 1. The offense consists of retaining the services of a minor.

2. The purpose is for reimbursement of debt owed to the offender by the minor's ascendant or guardian or by a person entrusted with his custody.
3. Other analogous acts

NOTE:

This is already covered by RA 9208 and RA 7610 as amended by RA 7658 fully covers punishable acts involving employment and exploitation of children.

Labor? c. What is the evidence needed to file a crime of Exploitation of Child Labor?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – Medical records, weapons used and other forensic reports
4. Other relevant evidence

3.8.9 Service Rendered Under Compulsion in Payment of Debt

a. What law punishes the crime of Service Rendered under Compulsion in Payment of Debt?

- Revised Penal Code Article 274

b. What are the elements of Service Rendered under Compulsion in Payment of Debt?

1. The offense is committed when the offender compels a debtor to work either as a household servant or farm laborer.
2. The purpose is to pay the latter's debt.
3. Other analogous acts

NOTE:

When the offender takes the victim and transports him or her to another place purposely for forced labor, the crime committed is trafficking in person or violation of RA 9208.

c. What is the evidence needed to file a crime of Service Rendered under Compulsion in Payment of Debt?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – Medical records, autopsy, seminal/DNA Test, weapons used and other forensic reports
4. Other relevant evidence

3.9 CRIME AGAINST SECURITY

3.9.1 ABANDONMENT OF PERSONS IN DANGER AND ABANDONMENT OF ONE'S VICTIMS

a. What law punishes the crime of Abandonment of Persons in Danger and Abandonment of One's Victims?

- Revised Penal Code Article 275

b. What are the elements of Abandonment of Persons in Danger and Abandonment of One's Victims?

1. The offender fails to render assistance to a wounded or dying person.
2. The wounded and dying person is found in an uninhabited place.
3. The offender is in position to render assistance without risk to himself.
4. Other analogous acts

c. What is the evidence needed to file a crime of Abandonment of Persons in Danger and Abandonment of One's Victims?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – Medical records, autopsy and other forensic reports.
4. Other relevant evidence

3.9.2 ABANDONMENT OF A MINOR

a. What law punishes the crime of Abandonment of a Minor?

- Revised Penal Code Article 276

b. What are the elements of Abandonment of a Minor?

1. The offender is having custody of a child below 7 years of age.
2. The offender abandons the child.
3. Other analogous acts

c. What is the evidence needed to file a crime of Abandonment of a Minor?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – Medical records, autopsy, and other forensic reports
4. Other relevant evidence

3.9.3 ABANDONMENT OF MINOR BY A PERSON ENTRUSTED WITH HIS CUSTODY; INDIFFERENCE OF PARENTS

a. What law punishes the crime of Abandonment of Minor by a Person Entrusted with His Custody; Indifference of Parents?

- Revised Penal Code Article 277

b. What are the elements of Abandonment of Minor by a Person Entrusted with His Custody; Indifference of Parents?

1. The offenders are the parents who having the means to give their children their education which the financial capability warrants.
2. The offenders fail to give their children education which their station in life requires and financial condition permits.
3. Other analogous acts

NOTE:

RA 9262 and RA 7610 cover the abuses on children which includes physical, economic, psychological and other forms of abuses.

c. What is the evidence needed to file a crime of Abandonment of Minor by a Person Entrusted with His Custody; Indifference of Parents?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object evidence – Medical reports
4. Other relevant evidence

3.9.4 EXPLOITATION OF MINOR

a. What law punishes the crime of Exploitation of Minor?

- Revised Penal Code Article 278

b. What are the elements of Exploitation of Minor?

1. Any person who shall cause any boy or girl under sixteen years of age to perform any dangerous feat of balancing, physical strength, or contortion.
2. Any person who, being an acrobat, gymnast, rope-walker, diver, wild-animal tamer or circus manager or engaged in a similar calling, shall employ in exhibitions of these kinds of children under sixteen years of age who are not his children or descendants.
3. Any person engaged in any of the callings enumerated in the next preceding paragraph who shall employ any descendant of his under twelve years of age in such dangerous exhibitions.
4. Any ascendant, guardian, teacher or person entrusted in any capacity with the care of a child under sixteen years of age, who shall deliver such child graciously to any person following any of the callings enumerated in paragraph 2 hereof, or to any habitual vagrant or beggar.
5. Any person who shall induce any child under sixteen years of age to abandon the home of its ascendants, guardians, curators, or teachers to follow any person engaged in any of the callings mentioned in paragraph 2 hereof, or to accompany any habitual vagrant or beggar.

NOTE:

RA 7610 as amended by RA 7658 and RA 9208 covers the prohibition in exploitation of minors.

- Minor?
- c. What is the evidence needed to file a crime of Exploitation of
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – Medical records, weapons used and other forensic reports
 4. Other relevant evidence

3.9.5 QUALIFIED TRESPASS

- a. What law punishes the crime of Qualified Trespass?
 - Revised Penal Code Article 280
- b. What are the elements of Qualified Trespass?
 1. The offender enters another's dwelling against the will of the occupant.
 2. The entry is effected through violence or intimidation.
 3. The dwelling embraces a room in a hotel, or a room in a house where one resides as a boarder.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Qualified Trespass?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – Medical records, weapons used and other forensic reports
 4. Other relevant evidence

3.9.6 OTHER FORMS OF TRESPASS

- a. What law punishes the crime of Other Forms of Trespass?
 - Revised Penal Code Article 281
- b. What are the elements of Other Forms of Trespass?
 1. The offender entered closed premises.
 2. The offender entered unfenced estates with a clear and manifest prohibition against entry therein.
 3. Other analogous acts

c. What is the evidence needed to file a crime of Other Forms of Trespass?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – Medical records, weapons used and other forensic reports
4. Other relevant evidence

3.9.7 GRAVE THREATS

a. What law punishes the crime of Grave Threats?

- Revised Penal Code Article 283

b. What are the elements of Grave Threats?

1. The threat is a future wrong designed to inspire terror and produce alarm or discomfiture.
2. The wrong of harm is in the future and conditional.
3. The threat leads to the commission of a crime.
4. Other analogous acts

c. What is the evidence needed to file a crime of Grave Threats?

1. Testimonial Evidence – Affidavit of complainant and witnesses.
2. Documentary Evidence – photographs, videos, police reports and other documents.
3. Object Evidence – weapons and other devices.
4. Other relevant evidence

3.9.8 LIGHT THREATS

- a. What law punishes the crime of Light Threats?
 - Revised Penal Code Article 283
- b. What are the elements of Light Threats?
 1. The offender threatens another.
 2. Money is demanded under threat.
 3. The threat does not amount to crime.
 4. Other analogous acts
- c. What are the evidences needed to file a crime of Light Threats?
 1. Testimonial Evidence – Affidavit of complainant and witnesses.
 2. Documentary Evidence – photographs, videos, police reports and other documents.
 3. Object Evidence – weapons, devices or demand letters.
 4. Other relevant evidence

3.9.9 OTHER LIGHT THREATS

- a. What law punishes the crime of Other Light Threats?
 - Revised Penal Code Article 285
- b. What are the elements of Other Light Threats?
 1. The offender threatens another.
 2. The threat is made in the heat of anger.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Other Light Threats?
 1. Testimonial Evidence – Affidavit of complainant and witnesses

2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – weapons and other devices
4. Other relevant evidence

3.9.10 GRAVE COERCION

- a. What law punishes the crime of Grave Coercion?
 - Revised Penal Code Article 286
- b. What are the elements of Grave Coercion?
 1. Any person who prevents another from doing something not prohibited by law.
 2. Any person who compels another to do something against his will be it right or wrong.
 3. The prevention or compulsion is effected by violence, either by material force or such a display of it as would produce intimidation and control the will of the offended party.
 4. The offender had no right to do so.
 5. Other analogous acts
- c. What is the evidence needed to file a crime of Grave Coercion?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – weapons and other devices
 4. Other relevant evidence

3.9.11 LIGHT COERCION

- a. What law punishes the crime of Light Coercion?

- Revised Penal Code Article 287
- b. What are the elements of Light Coercion?
 - 1. The offender seizes anything from another.
 - 2. The purpose of seizure is to apply the same to the victim's debt.
 - 3. Other analogous acts
- c. What is the evidence needed to file a crime of Light Coercion?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses
 - 2. Documentary Evidence – photographs, videos, police reports and other documents
 - 3. Object Evidence – weapons and other devices
 - 4. Other relevant evidence

3.10 CRIMES AGAINST PROPERTY

3.10.1 ROBBERY

- a. What law punishes the crime of Robbery?
 - Revised Penal Code Article 293 - 298
- b. What are the elements of the crime of Robbery?
 - 1. The personal property belongs to another.
 - 2. The unlawful taking of that property.
 - 3. With intent to gain (animus lucrandi).
 - 4. Violence against or intimidation of any person or force upon things.
 - 5. The offense can be committed by a band or with the use of firearms on a street, road or alley or by attacking a moving train, street car, motor vehicle or airship or by entering or taking the passenger conveyance by surprise.

6. Other analogous acts
- c. What are the evidences needed to file the crime of robbery?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – stolen items, weapons and other devices
 4. Other relevant evidence

3.10.2 ROBBERY IN AN INHABITED HOUSE OR EDIFICE FOR WORSHIP AND PRIVATE BUILDING

a. What laws punish the robbery in an inhabited house or public or edifice devoted for worship or in an uninhabited place or in a private building?

- Article 299 - 302

b. What are the elements of robbery in an inhabited house or public or edifice devoted for worship or in an uninhabited place or in a private building?

1. The culprit must enter the building where the object to be taken is found.
2. The entrance is effected by any of the following means through an opening not intended for entrance, breaking any wall, roof or floor, outside door or window, using false keys, picklocks or similar tools.
3. The entrance is not required when the doors (of furniture), wardrobes, chest or sealed furniture are broken or taking such object away to be broken outside the place of robbery.
4. Other analogous acts
- c. What is the evidence needed to file a crime of robbery in an inhabited house or public or edifice devoted for worship or in an uninhabited place or in a private building?
 1. Testimonial Evidence – Affidavit of complainant and witnesses

2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – stolen items, weapons and other devices
4. Other relevant evidence

3.10.3 BRIGANDAGE

- a. What law punishes the crime of Brigandage?
 - Revised Penal Code Article 306-307
- b. What are the elements of Brigandage?
 1. The offense is committed by at least four armed persons.
 2. The offenders formed a band for the purposes of committing any or all of the following: a) robbery in the highway; b) kidnap persons for ransom; c) attain any other purpose through force and violence.
 3. There is a preconceived or intended victim.
 4. Other analogous acts

NOTE:

Those who profit from the loot are liable as aiding and abetting a band of brigands.

- c. What is the evidence needed to file a crime of Brigandage?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – stolen items, weapons and other devices
 4. Other relevant evidence

3.10.4 THEFT (HURTO)

- a. What law punishes the crime of Theft?
 - Revised Penal Code Article 308
- b. What are the elements of Theft?
 1. Any personal property belonging to another.
 2. The personal property is taken with intent to gain.
 3. The taking is without the owner's consent.
 4. Absence of or without violence or intimidation of persons or force upon things.
 5. Other analogous acts

NOTE:

Theft is consummated when the offender is able to take possession of the thing. Once the thief has full possession of the thing, even if he did not have a chance to dispose the same, theft is consummated.

- c. What is the evidence needed to file a crime of Theft?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – stolen items, weapons and other devices
 4. Other relevant evidence

3.10.5 USURPATION

- a. What law punishes the crime of Usurpation?
 - Revised Penal Code Article 312-313
- b. What are the elements of the crime of Usurpation?

1. The offender takes possession of real property or real right.
 2. The real property belongs to another.
 3. The taking is through violence or by intimidation of persons.
 4. The taking is with intent to gain.
 5. Other analogous acts
- c. What is the evidence needed to file a crime of Usurpation?
1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – real property rights, weapons and other devices
 4. Other relevant evidence

3.10. 6 CULPABLE INSOLVENCY

- a. What law punishes the crime of Culpable Insolvency?
- Revised Penal Code Article 314
- b. What are the elements of Culpable Insolvency?
1. This offense is committed when a debtor absconds with his property, real or personal, to the prejudice of his creditors.
 2. Insolvency proceedings are not a requirement.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Culpable Insolvency?
1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents

3. Object Evidence – travel documents and transfer contracts
4. Other relevant evidence

3.10.7 ESTAFA

- a. What law punishes the crime of Estafa?
 - Revised Penal Code Article 315
- b. What are the elements of Estafa?
 1. There is deceit.
 2. There is damage or prejudice to the offended party.
 3. The deceit is through unfaithfulness or abuse of confidence.
 4. Some by means of false pretenses or fraudulent acts or means.
 5. Other analogous acts
- c. What is the evidence needed to file a crime of Estafa?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – stolen items, weapons and other devices
 4. Other relevant evidence

3.10.8 MAKING OR DRAWING AND ISSUANCE OF A CHECK WITHOUT SUFFICIENT FUNDS OR CREDIT

- a. What law punishes the making or drawing and issuance of a check without sufficient funds or credit?
 - Batasang Pambansa Bilang 22

b. What are the acts which constitute the crime of making or drawing and issuance of a check without sufficient funds or credit?

1. Any person who makes or draws and issues any check to apply on account or for value, knowing at the time of issue that he does not have sufficient funds in or credit with the drawee bank for the payment of such check in full upon its presentment or would have been dishonored for the same reason had not the drawer, without any valid reason, ordered the bank to stop payment.
2. Any person who, having sufficient funds in or credit with the drawee bank when he makes or draws and issues a check, shall fail to keep sufficient funds or to maintain a credit to cover the full amount of the check if presented within a period of ninety (90) days from the date appearing thereon, for which reason it is dishonored by the drawee bank.
3. Other analogous acts

c. What is the evidence needed to file the actions for violations of BP 22?

1. Testimonial Evidence – affidavit of the complainant and witnesses
2. Documentary Evidence – Notice from the bank for insufficiency of funds, demand letter, police records and other pertinent documents
3. Object Evidence – the check or any negotiable instruments
4. Other evidence relevant

3.10.9 ESTAFA AND BOUNCING CHECKS INVESTIGATION

In Estafa cases, there are two elements that are indispensable: Fraud – the deceit employed to defraud another and the other one is Damage – which is the injury or damage caused. ESTAFA can be committed through falsification of a public and/or commercial document.

Elements of Estafa

a. That the accused defrauded another by abuse of confidence, or by means of deceit.

1. This element covers the three different ways of committing estafa under Article 315 of the Revised Penal Code. Take note that Art. 315 have three subdivisions, classifying the different forms of estafa according to the means by which the fraud is committed, to wit:

a) By means of false pretense or fraudulent acts.

b) Through fraudulent means.

These three may be reduced to two only. The first form under subdivision (i) if known as estafa with abuse of confidence (the abuse of confidence takes the place of deceit), and the second and third forms under subdivisions (ii) and (iii) cover estafa by means of deceit.

b. That damage or prejudice capable of pecuniary estimation is caused to the offended party of a third person.

This element is the basis of the penalty. It is necessary that the damage or prejudice is capable of pecuniary estimation because the amount or prejudice is the basis of the penalty for estafa.

c. Elements of estafa with abuse of confidence.

1. That there is false pretense, fraudulent act or fraudulent means.

2. That said pretense, fraudulent act or fraudulent means be made or executed prior to or simultaneously with the commission of the fraud.

3. That the offended party relied on the false pretense, fraudulent means, that is, he was induced to part with his money or property because of the false pretense, fraudulent act or fraudulent means.

4. That as a result thereof, the offended party suffered damages.

d. Estafa through falsification of public or commercial documents.

When the offender commits on a document any of the acts of falsification under Article 171 of the Revised Penal Code, as a necessary means to commit another crime, like estafa, theft or malversation, the two crimes form a complex crime under Article 48. The document, however, must be public, official or commercial. If the falsification is committed to hide the crime of estafa, there are two separate offenses of estafa and falsification.

e. Payment made subsequent to the commission of the crime of estafa does not extinguish criminal liability or reduce the penalty, nor does it alter the nature of the crime.

NOTE: Three Ways of Committing Estafa

1. By using fictitious name.
2. By falsely pretending to possess: a) power; b) influence; c) qualification; d) property; e) credit; f) agency; g) business or imaginary transaction; and
3. By means of similar deceit
 - Altering the quality, fineness or weight of anything pertaining to his art or business as when a jeweler to whom is entrusted a diamond-studded ring changes the gem with lower quality.
 - Pretending to have bribed any government employee when in fact the offender converted for his use the money taken under the pretext of a bribe.
 - Estafa by: Obtaining food/accommodation without paying thereof, or obtaining credit by the use of false pretense; or abandoning or surreptitiously credit and food without paying thereof.
 - Estafa by inducing another to sign my document.
 - Estafa by resorting to fraudulent practice to insure success in a gambling game.
 - Estafa by removing or concealing any court record office files.

3.10.10 ESTAFA THROUGH ISSUANCE OF POSTDATING OF CHECK WITHOUT FUNDS

a. Elements

1. That the offender has postdated or issued a check in payment of an obligation contracted at the time of postdating or issuance of such check, not pre-existing at the time of payment.
2. That at the time of the postdating or issuance of said check, the offender had no funds or the funds deposited were not sufficient to cover the amount of the check.
 - a) The offender has postdated or issued a check in payment of an obligation contracted at the time of the postdating or issuance of such check;
 - b) He postdated or issued such check knowing at the time that he had no funds in the bank or the funds deposited by him in the bank were not sufficient to cover the amount of the check;
 - c) He did not inform the payee of such circumstances;
 - d) The payee had been defrauded.

b. It is still essential that the check must be issued in payment of a simultaneous obligation. So, if it was issued in payment of a pre-existing obligation, there is no estafa since the accused obtained nothing for the said check.

c. If a check was issued as a mere guarantee, there is no estafa since it was not issued in payment of an obligation. And when the postdated checks were intended merely as promissory notes, there is also no estafa.

d. Good faith is a defense regarding the issuance of such checks. The payee's knowledge that the drawer has no sufficient funds to cover the postdated checks at the time of their issuance negates estafa.

e. Issuance of the check must be a MEANS to obtain a valuable consideration from the payee (offended party.)

3.10.11 THE BOUNCING CHECK LAW (BATAS PAMBANSA BLG. 22)

Acts Penalized under BP22 includes:

a. The making, drawing or issuance of any check to apply on account or for value, the drawer knowing at the time of issue that he does not have sufficient funds in credit with the bank to pay the check in full when it is presented for payment. The check is dishonored had not the drawer, without any valid reason, ordered the bank to stop payment.

b. The failure of any person who, having sufficient funds in or a credit with the bank when he makes or draws a check, shall fail to keep sufficient funds or to maintain in a credit to cover the full amount of the check if presented within 90 days from the date of the check. As a result the check bounces.

REMEMBER: A bad check passer may be prosecuted both for estafa under the Revised Penal Code, and under BP 22. This instance may arise when the bouncing check is issued to pay an obligation incurred simultaneously with or in consideration of the check.

If the bouncing check was issued to pay a pre-existing obligation, the drawer is liable only for violation of BP 22.

If the payee is aware of the insufficiency or lack of fund in the bank to cover the check at the time it was issued, the drawer may be held liable for BP 22, not estafa since there is no deceit by the drawer.

BP 22 applies even if the check is a crossed check, or a manager's check or was just used as a guarantee.

Each act of drawing and issuing a bouncing check constitutes a violation of BP 22.

If the drawer has valid reason to stop payment, he could not be held liable for BP 22;

3.10.12 PRELIMINARY STEPS

a. Duly accomplished complaint sheet.

b. Interview the complainant to determine the extent of fraud and to establish the following:

1. The amount of damage incurred by the suspects because the amount of the damage of prejudice is the basis of the penalty.
 2. Establish whether it is committed by means of false pretenses or fraudulent acts or means; or abuse of confidence which is necessary in filing of cases.
- c. Obtain documentary evidence from the complainant to prove the offense, as follows:
1. Transaction receipts
 2. Acknowledgement receipts
 3. Preferably at least three (3) successive Demand Letters.
- d. If none, advise the complainant to make a necessary demand letter whether by personal delivery or registered mail.
- e. Establish the amount of damage incurred from the complainant and all the necessary elements of the offense.
- f. Take down the Sworn Statement of the complainant.
- g. File case for Violation of Estafa (Article 315).

3.10.13 CASE FOLDER: Estafa

- a. Tab A – Complaint sheet
- b. Tab B - Affidavit of complainant/witnesses
- c. Tab C - Pieces of documentary evidence
 1. Transaction Receipts
 2. Acknowledgement receipts
 3. Demand Letter
 4. Invitation Letter, if any
- d. Tab D – Case referral for Violation of Article 315, RPC addressed to the Prosecutor's Office.

3.10.14 PROCEDURES IN HANDLING CASES OF BOUNCING CHECKS (BATAS PAMBANSA BLG. 22)

GENERAL STEPS:

- a. Duly accomplished complaint sheet.
- b. Interview the complainant to obtain facts and circumstances before taking the sworn statements.
- c. Obtain documentary evidence from the complainant for its probative value;
 1. The bounced/dishonored checks issued by the suspect/s.
 2. Determine whether the dishonored checks are issued checks without sufficient funds or issued with evidence of knowledge of insufficient funds.
- d. Make sure that the bounced checks was properly marked by the drawee bank indicating therein whether the reason thereof, i. e., "Account Closed" or "Insufficiency of Funds"
- e. Make necessary case referral before the Prosecutor's Office for Violation of BP 22.

3.10.15 CASE FOLDER: BOUNCING CHECKS

- a. Tab A – Complaint sheet
- b. Tab B - Affidavit of complaint/witnesses
- c. Tab C – Copy of demand letter
- d. Tab D - Photocopy of dishonored postdated checks
- e. Tab E - Case referral for Violation of Batas Pambansa Blg 22 addressed to the Prosecutor's Office

3.10.16 ALTERING THE SUBSTANCE, QUANTITY OR QUALITY OF THINGS

a. What law punishes the crime of Altering the Substance, Quantity or Quality of Things?

- Revised Penal Code Article 315 1-A

b. What are the elements of Altering the Substance, Quantity or Quality of Things?

1. Offender has an onerous obligation to deliver something of value.
2. He alters its: a) substance; b) quantity; c) quality
3. Damage or prejudice is caused to another.
4. Other analogous acts

c. What is the evidence needed to file the crime of Altering the Substance, Quantity or Quality of Things?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – stolen items, weapons and other devices
4. Other relevant evidence

3.10.17 MISAPPROPRIATING/CONVERTING MONEY OR GOODS RECEIVED IN TRUST OR COMMISSION OR FOR ADMINISTRATOR OR UNDER ANY OTHER OBLIGATION TO DELIVER OR RETURN

a. What laws punishes the crime of misappropriating/converts money or goods received in trust or commission or for administrator or under any other obligation to deliver or return?

- Revised Penal Code Article 315, 1- b

b. What are the elements of the crime misappropriating/converts money or goods received in trust or commission or for administrator or under any other obligation to deliver or return?

1. The accused receives personal property for administration, or under any obligation involving the duty to make delivery of or to return, the same.
2. For safekeeping or on commission or for administration or under an obligation involving the obligation to return the same but there is misappropriation or conversion or denial on his part of such receipt.
3. The offender misappropriates or converts the thing received to the prejudice of another.
4. That there is a demand made by the offended party on offender.
5. Other analogous acts

c. What is the evidence needed to file the crime of misappropriating/converting money or goods received in trust or commission or for administrator or under any other obligation to deliver or return?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – bank records and other fund transfer
4. Other relevant evidence

3.10.18 TAKING UNDUE ADVANTAGE OF THE SIGNATURE OF THE OFFENDED PARTY IN BLANK

a. What law punishes the crime of Taking Undue Advantage of the Signature of the Offended Party in Blank?

- Revised Penal Code Article 315, 1- C

b. What are the elements of Taking Undue Advantage of The Signature of the Offended Party in Blank?

1. Any paper with the offended party's signature in blank.
2. Offended party delivers the said paper to the offender.

3. Any document above the signature of the offended is written by the offender without authority to do so.
 4. Prejudice to the offended party.
 5. Other analogous acts
- c. What is the evidence needed to file a crime of Taking Undue Advantage of the Signature of the Offended Party in Blank?
1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – bank documents
 4. Other relevant evidence

3.10.19 OTHER FORMS OF SWINDLING

- a. What law punishes the crime of Other Forms of Swindling?
- Revised Penal Code Article 316
- b. What are the elements of Other Forms of Swindling?
1. Any person who under pretense as the owner of a real property sells or mortgages the same.
 2. Any person knowing a real property to be encumbered and falsely representing the same to be unencumbered disposes of the same.
 3. Any owner of a personal property wrongfully taking it from its lawful possessor to the prejudice of the latter or any third person.
 4. Any person who executes a fictitious contract to the prejudice of another.
 5. Any person who accepts compensation for services which were not actually rendered but given to him under the belief that they were performed.
 6. Any surety in a bond in a civil or criminal case without court authority or before cancellation of his bond sells or encumbers

the properties offered as collaterals for the issuance of the bond.

7. Other analogous acts

c. What is the evidence needed to file a crime of Other Forms Of Swindling?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – bank documents and other transactions
4. Other relevant evidence

3.10.20 SWINDLING A MINOR

a. What law punishes the crime of Swindling a Minor?

- Revised Penal Code Article 317

b. What are the elements of Swindling a Minor?

1. The offender takes advantage of the inexperience or gullibility of a minor.
2. The offender induces the minor to assume an obligation or give release or to execute a transfer of any property right in consideration of a loan or credit or other personal property.
3. The inducement is detrimental to the minor.
4. Other analogous acts

c. What is the evidence needed to file a crime of Swindling a Minor?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – bank documents and other transactions
4. Other relevant evidence

3.10.21 OTHER DECEITS

- a. What law punishes the crime of Other Deceits?
 - Revised Penal Code Article 318
- b. What are the elements of Other Deceits?
 1. Any person who shall defraud or damage another by any other deceit.
 2. Any person who, for profit or gain, shall interpret dreams, make forecasts, tell fortunes, or take advantage of the credulity of the public in any similar manner.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Other Deceits?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – records of transaction
 4. Other relevant evidence

3.10.22 ARSON

- a. What are the laws governing Arson?
 - PD 1613 which repealed Arts. 3 to 320-b of the RPC
 - RA 7659 as regards the imposition of death penalty.
- b. What are the elements of the crime of Arson?
 1. Any person burning a structure (edifice or building or dwelling).
 2. The burning is intentional and with intent to damage the property.
 3. Other analogous acts

- c. What are the evidences needed to file the crime of Arson?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses
 - 2. Documentary Evidence – photographs, videos, police reports and other documents
 - 3. Object Evidence – flammable substances and burned debris with forensic reports
 - 4. Other relevant evidence

3.10.23 ARSON INVESTIGATION

As mandated by law, the Bureau of Fire Protection (BFP) shall have the power to investigate all causes of fire and if necessary, file the proper complaint with the City or Provincial Prosecutor who has jurisdiction over the case. The tasks and responsibility of the fire arson investigators are not only limited to conducting exhaustive investigations and filing of complaints with the prosecutor's office, but also includes the appearance and giving of testimonies before the court of law during legal proceedings.

It is provided in the rule that it is the prosecution who has the burden of proof and the quantum of evidence is proof beyond reasonable doubt. Once proven, the maximum highest penalty for the commission of arson is life imprisonment under the present law since the abolition of the death penalty law.

Arson is a classic heinous crime that requires skillful, scientific and systematic investigation procedures thus, the respective chiefs of the investigation and intelligence offices of the BFP are enjoined to closely supervise the conduct of the investigation in order to attain effective and plausible results.

Specific Investigative Procedures

- a. Arson Investigation

Laws and Jurisprudence

The criminal offense of Arson is punishable under Articles 320 to 326-B of the Revised Penal Code as amended by Presidential Decree 1613, 1744 and Section 10 of Republic Act 7659 (Heinous Crime Law). As mandated by the provisions of Section 50, Rule VIII, Implementing Rules and Regulations of Republic Act 6975, otherwise known as the Department of the Interior and Local

Government Act of 1990, stipulates among others that the Bureau of Fire Protection shall have the power to investigate all causes of fire and if necessary, file the proper complaint with the City or Provincial Prosecutor who has jurisdiction over the case.

1. Elements of Arson

- a) Actual burning took place.
- b) Actual burning is done with malicious intent.
- c) The actual burning is done by person(s) legally and criminally liable.

2. Levels of Offense for Arson

- a) **ATTEMPTED ARSON** - A gets a rag and soaks it in kerosene with intent to burn the house of B, his enemy. A puts the rag in a combustible portion of B's house and when in the act of striking his match in order to burn the rag soaked with kerosene, A is arrested by a policeman who happens to pass by.
 - A begins the commission of the felony directly by overt acts but does not fulfill all the acts of execution necessary to produce the felony by reason of the timely arrival of the policeman.
- b) **FRUSTRATED ARSON** - A, with intent to burn, puts the rag soaked with kerosene in the combustible part of B's house. A lights the rag and while it is burning, A runs away. Before the fire from the rag consumes any part of the house, B discovers it and extinguishes the fire.
 - A had already performed all the acts of execution necessary to produce the felony but the felony was not produced by the reason of the timely arrival of B, which is independent of the will of A.
- c) **CONSUMMATED ARSON** - A, with intent to burn, lights a rag soaked with kerosene in the combustible part of B's house. But before the fire was extinguished by B, it had already burned a small portion of the house.
 - A had already performed all the acts of execution necessary to produce the felony. The consummation of

the crime does not depend upon the extent of damage caused. Any charring of the wood or any structure, whereby the fiber of the wood is destroyed, is already sufficient. It is not necessary that the wood or structure should be ablaze. Setting fire to the contents inside the building can constitute consummated crime of arson, whether if no part of the building was burned.

3. Authority in the conduct of Fire / Arson Investigation

The investigation of all fire incident and arson cases shall be referred to or turned over to the Bureau of Fire Protection, in reference to the provisions of Section 50, R.A. 6975.

b. Supplemental Guidelines on Arson Law

1. It is a well-settled principle of criminal law that a conviction for a crime cannot be unless the *corpus delicti* is established. (State v. Sullivan, 17 L. R. 902). To establish the *corpus delicti* in arson, the proof of two elements is required:
 - a) The burning of the house or other thing, and
 - b) The criminal group that caused it. (Spears v. State, 16 LRA (N.S.) 285; People v. Ong Chiat Lay, 60 Phil. 788).
2. Arson is established by proving the *corpus delicti*, usually in the form of CIRCUMSTANTIAL EVIDENCE such as the criminal agency, meaning the substance used, like gasoline, or other combustible materials which caused the fire. It can also be in the form of electrical wires, mechanical, or electronic contrivance designed to start a fire; or ashes or traces of such objects which are found in the ruins of the burned premises.
3. If the crime of ARSON was employed by the offender as a means to kill the offended party, the crime committed is MURDER. The burning of the property as the MEANS to kill the victim is what is contemplated by the word "*fire*" under Article 248 of the Revised Penal Code which qualifies the crime to MURDER.
4. When the burning of the property was done by the offender only to cause damage but the ARSON resulted in the DEATH of the person, the crime committed is still ARSON because the

death of the victim is a mere CONSEQUENCE and not the INTENTION of the offender.

5. There is no special complex crime of ARSON WITH HOMICIDE. What matters in resolving cases involving arson is the CRIMINAL INTENT of the offender.
6. When the burning of one's property results from reckless imprudence and it leads to serious physical injuries and/or damage to property of another, the penalty to be imposed shall not be for the crime of arson under P.D. 1613 but rather, the penalty shall be based on Article 365 of the Revised Penal Code as a felony committed by means of *culpa* - imprudence and negligence. (e.g. *Reckless Imprudence Resulted to Damage to Property / Reckless Imprudence Resulted to Serious Physical Injuries*)

c. Basic Methods of Fire Investigation

1. Preservation of the Fire Scene
 - a) Consider the fire scene itself as evidence.
 - b) Avoid contamination, loss or unnecessary movement of physical evidence within the fire scene.
 - c) Secure the fire scene from unauthorized intrusion.
 - d) Limit the access in the fire scene to those persons who only need to be there.
2. Examination of the Fire Scene
 - a) Examination should be thorough.
 - b) Analyze fire patterns.
 - c) Trace fire spread.
 - d) Identify areas and point of origin.
 - e) Identify the fuel involved.
 - f) Establish the *corpus delicti* by eliminating all natural or accidental causes.

3. Recording the Fire Scene

Take photographs of the following:

- a) Exterior Views.
- b) Identification of the property / Signage or house addresses number.
- c) Out-building and grounds / Aerial photographs.
- d) Interior of the building, room by room, in logical sequence. The series of shots should start at the main door / entrance of the premises going inside. Series of photographs should also depict unburned areas of the building.
- e) Evidence, prior to removal, in close-up and wide angle shots. Use of "Title Sheet" that shows identifying information of evidence is mandatory (date / location of evidence / investigating team and other situational information).
- f) Travel of fire or burn and flame spread patterns.
- g) Label each canister of film used to prevent confusion or loss and maintain Photographic Log (photo record).

4. Fire Scene Sketch

A sketch is made to assist investigators in presenting a clear picture of the involved building to the court. The detail maybe general approximation or precise measurement. Supplemented by photographs, drawings of damage patterns, good documentation of a fire scene can assist an investigator in re-analyzing a fire scene if previously unknown information becomes available. The sketch should clearly show the layout of the entire building. In commercial or industrial buildings, the sketch should locate the standpipe, audible alarm bell, elevators or any other pertinent factor involving the investigation of the fire. The sketch should also show the position of evidence found at the fire scene. (See also Chapter 2, *Sketching the Crime Scene*)

5. Physical Evidence Examination and Testing (See also Chapter 6, *Scientific Aids to Criminal Investigation*)

- a) Physical evidence should be thoroughly documented before removal.
- b) Evidence must be collected, identified, preserved and transported to the laboratory in the best possible condition. Every effort should be made to prevent contamination of materials secured as evidence. Containers for evidence may consist of thick self-sealing plastic bags of various sizes, clean glass mason jars with rubber washers and screw tops, metal cans with clean pressure or plastic lids, clean glass bottles with screw caps, and card-board or plastic boxes of assorted sizes.
- c) Maintain the security and integrity of physical evidence from the time of its initial recovery and collection to its subsequent examination and testing.
- d) Evidence containing latent prints should be protected so as not to smudge or destroy the prints.
- e) A letter of instruction should be sent to the laboratory with the evidence, describing the same and what the investigator expects the laboratory technician to recover via the various laboratory processes.

6. Sources of Information

7. Preliminary interview with the owners / occupants

This interview is conducted to ascertain the name(s) of owner(s) / occupant(s), insurance data, employment, etc. *Warning:* Nothing should be said or implied during this interview to indicate any suspicion about the person interviewed. Information obtained in these preliminary contacts may provide a possible clue as to an accidental fire, or leads on possible suspects and motives.

8. Insurance Firm

The insurance agent or broker will provide the name of the company/ies, policy number(s), terms of the insurance and expiration dates, mortgage payable clause, name of the adjuster, and whether or not the insurance was in the period of cancellation. It should also be ascertained, from the agent / broker who solicited the business, who suggested the amount

of coverage and whether the premium payment was current or delinquent.

The insurance adjusters can provide complete insurance information regarding the loss. Adjusters can also supply any statements taken from the assured and can be able to provide a sworn proof of loss, which will include specific items claimed to be damaged or lost and which may provided the investigator with information indicating an attempted fraud. Adjusters frequently have access to the books (ledgers, journals, inventories, etc.) of the business establishment involved in the fire. Should the investigation indicate a probable fraud, the adjuster can request the interested insurance company/ies to withhold payment during the course of the investigation.

9. Neighborhood Inquiry

When conducting a neighborhood inquiry, interview persons within a wide area of the surrounding community. Interview the person who discovered the fire, how he/she happened to be in the area, the location of the fire when initially observed and other pertinent facts. Interview the person who turned on the alarm. Obtain observations from neighbors concerning the fire, prior to, during and after the fire. Ascertain the relationship of the owners(s)/occupants(s) with the neighbors. Witness(es) may be able to provide information relative to the insured's domestic life, financial condition, anticipated sale of the property and problems with the property such as flooding, heating, change of routes, etc. It is sometimes useful to take statements from any witnesses who appear to be hostile or who may later change their testimonies. Remember you are seeking information. Do not divulge information to the witness/es.

10. Public Records

Legal records: deeds, mortgages of real estate and chattels; liens, encumbrance; local and national taxes; hospital and mental records.

Financial and credit information: building and loan associations; charge accounts; public utilities (i.e., gas, water, electricity, telephone) servicemen (i.e., newsboy, milkman, etc.)

Employment records, military records, school records, juvenile court records.

d. Questioning Principal Suspects

1. Prior preparation will determine when the investigator should conduct the initial questioning. All background information pertaining to the suspect and the matter under investigation should be known to the investigators prior to the interview. Principal witnesses should be questioned separately. The fewer the investigators present at the interview (two is an ideal team), the more prone the suspect will be to divulge information.

Statements:

- a) Tape-recorded statements should be made on a permanent recording, for their preservation to forestall any alterations and to ensure their availability to the court, if necessary. Once started, a tape recorder should operate continuously. If for any reason the recorder is shut off, the subject should be made aware of this and when the recording is resumed, the reason for shutting off the recorder should be noted. The subject should be asked if he/she was promised of any reward, threatened, or forced to continue his / her statement.
- b) When shorthand notes are being taken, the stenographer should be introduced to the subject. Some investigators request the subject to initial all pages of the shorthand notes.
- c) Statements may be narrative or question-and-answer type. There may be times when the subject will write his own statement, and this is desirable.
- d) Statements should contain a complete personal history of the principal subject, associates, complete and accurate account of the purchases, lease of rental of the involved property, any strikes, personnel problems, loss of business, neighborhood change, highway changes, inventory, a complete account of his activities, prior to, during and after the time of fire, etc.

e. Motives

It is not essential to prove motive in obtaining a conviction for the crime of arson. Establishing a motive does help in providing the reason why the suspect committed the crime. The following motives for setting fires are well-known to investigators and are self-explanatory.

1. Fraud or Arson for Profit (mostly insurance claims related)
2. Spite or Revenge
3. To cover-up another violation of law/Crime concealment
4. Juvenile fire setters and vandalism
5. Pyromania/Psychological compulsion
6. Mass civil disturbance (riot)
7. Terrorism

f. Reporting Arson Investigation

1. Preliminary Report

It is not necessary to go into details in preparing a preliminary report. This report should be submitted to the supervisor as soon as possible after preliminary investigation. The report should include the followings:

- a) Owner – his / her personal circumstances
- b) Occupants – their personal circumstances
- c) Date and hours of fire (Time fire started and Fire Out)
- d) Location of fire, street address, city or municipality, province
- e) Person requesting investigation and date of request.
- f) Brief description of the building as to construction and occupancy.
- g) Available insurance data:

- 1) Name and address of agent
- 2) Name and address of adjuster
- h) Investigator's conclusion as to cause of the fire. Is it accidental? Suspicious? Incendiary?
- i) Reason for closing the investigation. Accident report may be concluded with the preliminary report.
- j) Reason for continuing the investigation. Note what action is expected to be taken by the investigator.
- k) Date of preliminary investigation
- l) Date of report
- m) This report should contain a resume of the facts and information obtained during the course of the preliminary investigation. It should cite the details for investigator's conclusions.

2. Final Report

This report contains a word picture of all information developed during the investigation. All materials included should be concise, accurate and complete, as it becomes a permanent record and may be used by prosecutors and attorneys in the preparation of cases for trial.

- a) Case number
- b) Date of report
- c) Name, title, address of person requesting investigation and date of request
- d) Subject: owner(s) or occupant(s), and personal circumstances
- e) Date and hour of fire alarm
- f) Weather condition, specially wind direction and strength.
- g) Complete and detailed descriptions of building: height, construction, type of roof, wiring, plumbing, heating

device, air conditioning, fuel load etc. (Attach sketch). If automobile or non-structure fire, describe and give the serial number, license number, make, model, etc.

- h) Location of loss. If in the city, give the street name and number and city name. If rural, give mailing address, distance and direction from the nearest road intersection, plot or lot number, etc.
- i) Occupants
 - 1) Dwelling: List name, age, race, relationship, present address, telephone number, place of employment. If multiple dwelling, contact all occupants and obtain the above information.
 - 2) Commercial / Institutions: List names, titles and addresses of all officer and supervisory personnel.
- j) Fire History
 - 1) Name and personal circumstances of person(s) who discovered or reported the fire.
 - 2) Fire departments and companies responded and officers in charge.
 - 3) Detailed history of the fire as learned from BFP personnel. In this paragraph, list any unusual circumstances observed by firemen in extinguishing the fire.
- k) Insurance
 - 1) List name, address, telephone number of company, amount of insurance, date and number of policy and to whom it was issued.
 - 2) Agent's name, address, telephone number and name of company.
 - 3) Adjuster's name, address, telephone number and name of company.

l) Evidence

What was found, the date, time, location and who now has custody; names; titles and addresses of persons securing evidence; how marked; date and time evidence was taken to the laboratory, receipt to be made a part of the report. Report from laboratory should also be made a part of the report. Evidence should be secured until the case is disposed of.

m) Photographs

Note the type of camera used to take the photos; the name, title and address of the person taking the photos; the name and address of the person or firm developing the prints; type of film used. List the order in which the photographs were taken, and what each depicts. Note: who has custody of the negatives.

o) Fingerprints

It is desirable to include three copies of fingerprints and photos of suspect(s) if available.

p) Suspects

- 1) In case no charge is filed or will be filed until more information is obtained, but the reporting officer has the name(s) of strong suspect(s), such name(s) should be included here.
- 2) State the names, aliases and nicknames of the suspect(s), the present address, occupation, places of enjoyment, habits, associates, family history, and past criminal records and physical descriptions.

q) Motive

The investigator should describe in his own words the reason or reasons why the suspect committed the crime. The suspect might have related his motives for the commission of the crime, or they may be deduced from the statements of witnesses.

r) Modus Operandi

Describe or narrate in investigator's own words the method, system or manner by which the suspect entered the building, such as by using a key, forcing a window or door open. Also outline suspects' actions before, during and after the crime. Set forth all other relevant information that may be obtained, outline from what sources these conclusions were drawn.

s) Property

List and describe the articles that were removed from the premises before the fire, and if recovered, give the name and address of the holder. Also list and describe any articles that the owner said were in the fire and which you were not able to identify as being there. If the articles were recovered, take note the time and date of recovery and where they were recovered. Secure a copy of the proof of loss from the adjusters.

t) Witnesses

Give the names and personal circumstances of witnesses, their occupation, reliability and availability. State what each can testify to and, if possible, state whether a witness is prejudiced for or against the subject. Include a written report of all statements obtained from witnesses. Lengthy statements may be separated and attached to the report. Summarize statement in the report and refer to the complete statement attached.

u) Financial Reports

Obtain reports of the financial status of owners, suspects or the accused, i.e., bank statements, mortgage, debts, bankruptcy, etc.; credit reports; information on sale of property. Information pertaining to deeds, titles, taxes, etc. should be included in this paragraph.

v) Court Action

State the defendant's name, ages, and addresses. Give the names and addresses of the court's presiding judge, the prosecutor and defense counsel.

w) Assisting Officers

Police, and fire arson investigators of the Bureau of Fire Protection, NBI agents, etc.

x) Subsequent Reporting

In submitting additional information, follow the outline, as set forth, listing the information to be reported under the proper headings and in the same, sequence, using only the captions applicable.

3.11 CRIMES AGAINST CHASTITY

3.11.1 ADULTERY

a. What law punishes the crime of Adultery?

- Revised Penal Code Article 333

b. What are the elements of Adultery?

1. Adultery is committed by a married woman who engages in sexual intercourse with a man other than her husband.
2. The man commits adultery if he knew the woman to be married at the time of sexual intercourse.
3. Other analogous acts

c. What is the evidence needed to file a crime of Adultery?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Other relevant evidence

3.11.2 CONCUBINAGE

a. What law punishes the crime of Concubinage?

- Revised Penal Code Article 334

- b. What are the elements of Concubinage?
 - 1. Keeping a mistress in the conjugal dwelling.
 - 2. Having sexual and/or scandalous circumstances with a woman who is not his wife.
 - 3. Cohabiting with her in any other place.
 - 4. Other analogous acts
- c. What is the evidence needed to file a crime of Concubinage?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses
 - 2. Documentary Evidence – photographs, videos, police reports and other documents
 - 3. Other relevant evidence

3.11.3 ACTS OF LASCIVIOUSNESS

- a. What law punishes the crime of Acts of Lasciviousness?
 - Revised Penal Code Article 336
- b. What are the elements of Acts of Lasciviousness?
 - 1. The offender commits any act of lasciviousness or lewd design.
 - 2. Under any of the following circumstances: a) by using force or intimidation; or b) when the offended party is derived of reason or otherwise unconscious; or c) when the offended party is under 12 years old.
 - 3. The offended party is of either sex.
 - 4. Other analogous acts
- c. What is the evidence needed to file a crime of Acts of Lasciviousness?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses

2. Documentary Evidence – photographs, videos, police reports and other documents
3. Other relevant evidence

3.11.4 ACTS OF LASCIVIOUSNESS WITH THE CONSENT OF THE OFFENDED PARTY

a. What law punishes the crime of Acts of Lasciviousness with the Consent of the Offended Party?

- Revised Penal Code Article 339

b. What are the elements of Acts of Lasciviousness with the Consent of the Offended Party?

1. The lascivious acts are committed upon a woman who is a virgin or single or widow of good reputation under 18 years of age but over 12 years or a sister, descendant regardless of her reputation or age.
2. The offender accomplishes the acts by Abuse of authority, confidence, relationship or deceit.
3. There is no sexual intercourse.
4. Only a female can be victim under this article.
5. Other analogous acts

c. What is the evidence needed to file a crime of Acts of Lasciviousness with the Consent of the Offended Party?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Other relevant evidence

3.11.5 QUALIFIED SEDUCTION

a. What law punishes the crime of Qualified Seduction?

- Revised Penal Code Article 337

b. What are the elements of Qualified Seduction?

1. The offender party is a virgin who is presumed unmarried and of good reputation.
2. Over 12 and under 18 years of age.
3. With whom sexual intercourse is consummated through: a) abuse of authority; b) confidence; or 3) relation on the part of the offender.
4. Other analogous acts

NOTE:

Two modes of qualified seduction:

1. Seduction of a virgin over 12 but under 18 years of age by any of the following: a) a person in public authority; b) a priest; c) house servant; d) domestic; e) guardian; f) teacher; and f) any person entrusted with the custody or education of the woman.
2. Seduction of a sister or descendant, regardless of age, by her brother or ascendant.
3. Virginitv does not refer to the physical attribute but a woman's chaste character and good reputation.
4. Domestic and household servant contemplates all persons residing with the family and who are members of the same household regardless of whether their residence may be temporary or are merely paying for board and lodging.
5. Unlike in simple seduction, deceit is not necessary in qualified seduction.
6. Under the second mode of qualified seduction where the victim is a sister or descendant, age is immaterial.

c. What is the evidence needed to file a crime of Qualified Seduction?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents

3. Object Evidence – Medical and other Forensic reports
4. Other relevant evidence

3.11.6 SIMPLE SEDUCTION

- a. What law punishes the crime of Simple Seduction?
 - Revised Penal Code Article 338
- b. What are the elements of Simple Seduction?
 1. The offended party is over 12 and under 18 years of age.
 2. Of good reputation, single or widow.
 3. With whom sexual intercourse is committed
 4. Through deceit.
 5. Other analogous acts

NOTE:

1. Virginity is not essential but the woman must be unmarried and of good reputation.
 2. The deceit usually takes the form of promise to marry.
- c. What is the evidence needed to file a crime of Simple Seduction?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – Medical and Forensic reports
 4. Other relevant evidence

3.11.7 WHITE SLAVE TRADE

- a. What law punishes the crime of White Slave Trade?

- Revised Penal Code Article 266
- RA 9208 (Trafficking in Person)
- b. What are the elements of White Slave Trade?
 1. By engaging in the business of prostitution
 2. By profiting from prostitution
 3. By enlisting the service of a woman for the purpose of prostitution
 4. Other analogous acts
- c. What is the evidence needed to file a crime of White Slave Trade?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Other relevant evidence

3.11.8 FORCIBLE ABDUCTION

- a. What law punishes the crime of Forcible Abduction?
 - Revised Penal Code Article 342
- b. What are the elements of Forcible Abduction?
 1. Abduction of a woman, regardless of age, civil status or reputation.
 2. Against her will.
 3. With lewd design on the part of the offender.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Forcible Abduction?
 1. Testimonial Evidence – Affidavit of complainant and witnesses

2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – Medical and Forensic reports
4. Other relevant evidence

3.11.9 CONSENTED ABDUCTION

- a. What law punishes the crime of Consented Abduction?
 - Revised Penal Code Article 343
- b. What are the elements of Consented Abduction?
 1. The offended party is over 12 and under 18 years of age.
 2. She is a virgin.
 3. The taking away of the offended party must be with her consent or cajolery from the offender.
 4. The abduction must be with lewd design.
 5. Other analogous acts
- c. What is the evidence needed to file a crime of Consented Abduction?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – Medical and Forensic reports
 4. Other relevant evidence

3.11.10 INVESTIGATION OF CASES INVOLVING WOMEN AND CHILDREN

- a. How is the crime of Violence against Women and stet Children (RA 9262), committed?

Any act or series of acts committed by any person against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode, which results in or is likely to result in physical, sexual, psychological harm or suffering, or economic abuse including threats of such acts, battery, assault, coercion, harassment or arbitrary deprivation of liberty. It includes but not limited to the following acts:

1. Physical Violence
2. Sexual Violence
3. Psychological Violence
4. Economic Abuse
5. Duties of Law Enforcers:
 - a) Respond immediately to a call for help or request for assistance or protection of the victim by entering the dwelling, if necessary, whether or not a protection order has been issued, and ensure the safety of the victims;
 - b) Confiscate any deadly weapon in the possession of the perpetrator or within plain view;
 - c) Transport or escort the victim to a safe place of their choice or to a clinic or hospital;
 - d) Assist the victim in removing personal belongings from the house;
 - e) Assist barangay officials and other government officers and employees who respond to a call for help;
 - f) Ensure the enforcement of the Protection Orders issued by the Punong Barangay or the courts;
 - g) Effect the arrest of the suspected perpetrator by virtue of a warrant except that a valid warrantless arrest may be conducted when any of the acts of violence, or when he/she has personal knowledge that any act of abuse has just been committed, and there is imminent danger to the life or limb of the victim; and

- h) Immediately report the call for assessment or assistance of the DSWD, Social Welfare Department of LGU's or accredited non-government organizations (NGO's)

Investigative Procedures

- a) Upon receipt of the complaint from the desk officer, the Women and Children's Protection Desk (WCPD) officer shall conduct initial investigation and record the incident in the blotter purposely used by WCPD.
- b) Refer and accompany the victim to the nearest PNP Crime Laboratory and/or government hospital for appropriate medico- legal examination. It shall be the WCPD officer's duty to ensure that as far as possible, the examining physician must be of the same gender as the victim, especially in sexual violence cases.
- c) In all investigations involving children, the victim shall be accompanied by his/her unoffending parent, guardian, or local social worker.
- d) In all investigations involving women other than children in sexual abuse cases, only persons expressly authorized by the victim shall be allowed by the WCPD officer inside a room where police investigations as well as medical/physical examination are being conducted in private.
- e) Ensure the confidentiality of identity of the victim and all other parties directly involved with the case under investigation. For this purpose, the WCPD officer must maintain a separate blotter on crimes committed under the Act. Under no circumstances shall any police officer allow media access to information concerning VAWC reported to PNP.
- f) Get the sworn statement of the victim to include all the witnesses.
- g) After the conduct of police investigation, the WCPD officer shall refer the victim to the social worker of the LGU, any available DSWD shelter, NGO's and other

service providers for psychological intervention and other rehabilitation programs.

- h) The WCPD officer shall forward the investigation report together with the relevant evidence, including the formal statements of witnesses and results of medico-legal examination, to the prosecutor for filing of appropriate criminal action under the Act.
- i) If the victim is found to have manifestations of the Battered Woman Syndrome which is validated by past police records and testimonies from witnesses in interest, the WCPD officer shall inform the punong barangay, the local social worker, or the concerned NGOs, local professional or civic groups in the area for appropriate psychiatric and psychological evaluation which may form part of the evidence to be presented in court.
- j) Assist in the application and enforcement of the provisions of the protection order as may be issued by the barangay or the court.
- k) Respond, with the assistance of other police personnel, barangay officials, and other parties in interest, to a call for emergency assistance to ensure immediate protection of the victim by entering the dwelling if necessary whether or not protection has been issued.

b. Investigation of cases under RA 8353

Under R.A. No. 8353, the crime of rape is classified as crime against persons and it may be committed by and against a man or a woman.

When the victim is under 12 years of age, the presence of force, threat, or intimidation is immaterial. This first form of rape may be committed by a man only and against a woman.

There is NO issue of consent for child victims under the age of 12 years old. Children under 12 **CANNOT** give their consent. This is called **STATUTORY RAPE**.

In rape, perfect penetration is not essential; *any penetration* of the female organ by the male organ, however slight, is sufficient. The entry of the *labia* or lips of the female organ, even without rupture of the hymen or laceration

of the vagina, is sufficient to warrant conviction for consummated rape (Pp v Orito 184 SCRA 105).

Any person who, under any of the circumstances mentioned above, shall commit an act of Sexual Assault by:

1. Inserting his penis into the mouth or anal orifice of another person; or
2. Inserting any instrument or object (including a finger) into the genital or anal orifice of another person;

The second form of rape is called rape by sexual assault which may be committed by and against a man or a woman. The gender of the perpetrator and victim is immaterial.

The subsequent valid marriage between the offender and the offended party shall extinguish the criminal action or the penalty imposed. There can however, be no valid marriage between the offender and the victim who is a minor (below 18 years old).

Investigative Procedures

- a) Upon receipt of the complaint from the desk officer, the WCPD officer shall conduct initial investigation and record the incident in the blotter purposely used by WCPD.
- b) Refer and accompany the victim to the nearest PNP Crime Laboratory and/or government hospital for appropriate medico- legal examination. It shall be the WCPD officer's duty to ensure that as far as possible, the examining physician must be of the same gender as the victim, especially in sexual violence cases.
- c) In all investigations involving children, the victim shall be accompanied by his/her unoffending parent, guardian, or local social worker.
- d) In all investigations involving women other than children in sexual abuse cases, only persons expressly authorized by the victim shall be allowed by the WCPD officer inside a room where police investigations as well as medical/physical examination are being conducted in private.

- e) Ensure the confidentiality of the identity of the victim and all other parties directly involved with the case under investigation. For this purpose, the WCPD officer must maintain a separate blotter on crimes committed under the Act. Under no circumstances shall any police officer allow media access to information concerning VAWC reported to PNP.
- f) After the conduct of police investigation, the WCPD officer shall refer the victim to the social worker of the LGU, any available DSWD shelter, NGO's and other service providers for psychological intervention and other rehabilitation programs.
- g) The WCPD officer shall forward the investigation report together with the relevant evidence, including the formal statements of witnesses and result of medico-legal examination, to the prosecutor for filing of appropriate criminal action under the Act.

Inquest Procedures

If the referral complaint/criminal complaint has been filed for inquest proceedings (respondent is arrested and detained), the respondent and arresting officers must be present during the inquest proceedings and the latter must be ready to answer clarificatory questions that may be propounded by the inquest prosecutor on the circumstances surrounding the arrest. If the inquest prosecutor finds the attached or appended documents in the referral/criminal complaint insufficient, the investigator-on-case must ask for a chance to submit the same if there is still time before the prescribed period expires under Art. 125 of the Revised Penal Code. (Section 5, DOJ Cir No. 61, New Rules on Inquest).

c. Investigation of Cases under The Anti-Child Abuse Law (RA 7610)

- The Essential Elements of Republic Act 7610

Who is a Child?

“Children” refers to persons below eighteen (18) years of age or those over but are unable fully take care of themselves or protect themselves from abuse, neglect, cruelty, exploitation or discrimination because of physical mental disability or condition.

What is Child Abuse?

Child abuse is the maltreatment, whether habitual or not, of a child and includes any of the following acts:

1. Psychological and physical abuse, neglect, cruelty, sexual abuse and emotional maltreatment.
2. Any act by deeds or words which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.
3. Unreasonable deprivation of his/her basic needs for survival such as food and shelter.
4. Failure to give medical treatment immediately to an injured child resulting in serious impairment of her growth and development or in her permanent incapacity or death (Section 3(b) or RA 7610).

Simply stated, child abuse refers to the imposition of physical or psychological injury, cruelty, neglect, sexual abuse or exploitation of a child (IRR of RA 7610).

What are the Types of Child Abuse?

Cruelty refers to any act by word or deed which debases, degrades or demeans the intrinsic worth and dignity of a child as a human being.

- a) **Physical Abuse** refers to any act which results in the non-accidental and /or unreasonable infliction of physical injury which includes, but is not limited to, lacerations, fractured bones, burns, internal injuries, severe injury or serious bodily harm.
- b) **Psychological Abuse** refers to any harm to a child's emotional, psychological or intellectual functions which may be exhibited by severe anxiety, depression, withdrawal or outward aggressive behavior, or a combination of said behavior, which may be demonstrated by a change in behavior, emotional response or cognition.

Child neglect refers to the failure to provide, for reasons other than poverty, adequate food, clothing, shelter, basic

education or medical care so as to seriously endanger physical, mental, social and emotional growth and development. Neglect also includes:

- 1) Abandonment or concealment of child.
 - 2) Failure to give education commensurate to family's financial condition.
 - 3) Causes or permits child's truancy.
 - 4) Allows child to possess or carry deadly weapons
 - 5) Allows child to drive without license or with a fake license
- c) **Sexual Abuse** refers to the involvement of children in sexual activities that they do not fully understand and to which they cannot give consent, and which violate social and cultural of behavior. Child sexual abuse includes the employment, use, persuasion, inducement, enticement, or coercion of a child to engage in, or assist another person in engaging in any of the following (IRR of RA 7610)
- 1) Sexual intercourse
 - 2) Lascivious conduct
 - 3) Molestation
 - 4) Prostitution
 - 5) Incest with children
- d) Child Trafficking refers to the act or acts of trading and dealing with children including, but not limited to, the act of buying and selling of a child for money, or for any other consideration, or barter.

Investigative Procedures

- a) Upon receipt of the complaint from the desk officer, the WCPD officer shall conduct initial investigation and record the incident in the blotter purposely used by WCPD.
- b) Refer and accompany the victim to the nearest PNP Crime Laboratory and/or government hospital for appropriate medico- legal examination. It shall be the

WCPD officer's duty to ensure that as far as possible, the examining physician must be of the same gender as the victim, especially in sexual violence case.

- c) In all investigations involving children, the victim shall be accompanied by his/her unoffending parent, guardian, or local social worker.
- d) Ensure the confidentiality of identity of the victim and all other parties directly involved with the case under investigation. For this purpose, the WCPD officer must maintain a separate blotter on crimes committed under the Act. Under no circumstances shall any police officer allow media access to information concerning VAWC reported to PNP.
- e) After the conduct of police investigation, the WCPD officer shall refer the victim to the social worker of the LGU, any available DSWD shelter, NGO's and other service providers for psychological intervention and other rehabilitation programs.
- f) The WCPD officer shall forward the investigation report together with the relevant evidence, including the formal statements of witnesses and result of medico-legal examination, to the prosecutor for filing of appropriate criminal action under the Act.

List of Evidence to be attached to the Complaint

The complaint filed to commence a criminal action consists of the following:

1. Preliminary investigation Sheet which should include the complete name and addresses of the offender;
2. Sworn written statement or Sinumpaang Salaysay of the complainant or offended party;
3. Sworn statement of witnesses, if any; and
4. Sworn statement of any peace officer or public officer charged with enforcement of the law violated.

Other requirements:

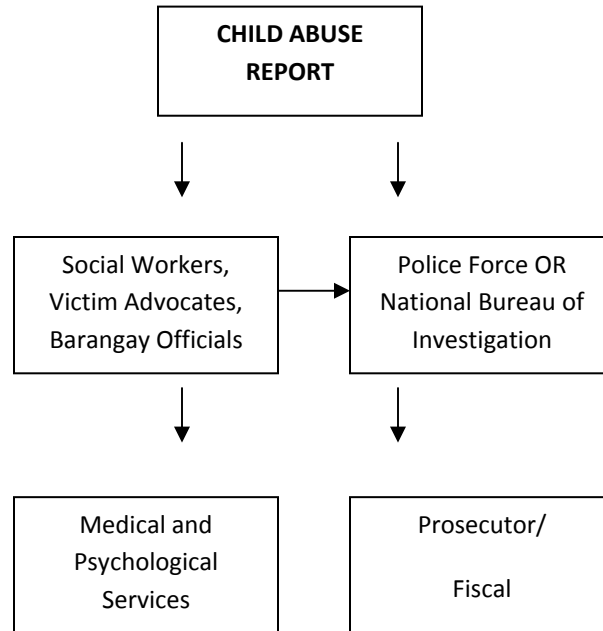
1. Such number of copies of the sworn written statements as there are offenders plus two (2) copies for the office of the prosecutor;
2. Sworn written statements shall be subscribed and sworn to before the prosecutor, government official authorized to administer oath or in their absence, any notary public;
3. Certification of subscribing officer that he personally examined the affiants AND IS satisfied that they voluntarily executed and understood their statements.

Attachments (The following may be given at a later date and not necessarily at the time of filing of the complainant)

1. Custodial investigation report
2. Medico-legal report
3. Investigation report of the Department of Social Welfare and Development (DSWD) or law enforcement agency
4. psychological/mental, examination
5. Extra-judicial confession, if any, executed in accordance with Republic Act 7438
6. Other documentary and physical evidence such as
 - a) Child's birth certificate; and
 - b) Marriage certificate of the parent and offender, if relevant

Inquest Procedures

If the referral complaint/criminal complaint has been filed for inquest proceedings (respondent is arrested and detained), the respondent and arresting officers must be present during the inquest proceedings and the latter must be ready to answer clarificatory questions that may be propounded by the inquest prosecutor on the circumstances surrounding the arrest. If the inquest prosecutor finds the attached or appended documents in the referral/criminal complaint insufficient, the investigator-on-case must ask for a chance to submit the same if there is still time before the prescribed period expires under Art. 125 of the Revised Penal Code. (Section 5, DOJ Cir No. 61, New Rules on Inquest).



Crime Scene

It is important to conduct a crime scene investigation after interviewing the child. Identify and secure the crime scene(s) to ensure that evidence is not contaminated or destroyed. Limit crime scene access to essential personnel and record identity and information for anyone who enters or leaves. Also determine whether there is a secondary crime scene.

d. Anti-Trafficking in Persons Act of 2003 (R.A. 9208)

Trafficking in persons is an illegal act and is considered a violation of human rights and inimical to human dignity and national development. It consists of the following elements:

1. It involves the recruitment, transportation, transfer of harboring or receipt of person.
2. It is with or without the victim's consent or knowledge.
3. It is done within across national boundaries.
4. It is committed by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power of position, giving or receiving of payments or benefits to achieve the consent of a person having actual control over another person.

5. It is done for the purpose of exploitation such as sexual exploitation, forced labor or services, slavery, and removal or sale of organs or other similar acts.

Initial Assessment Interview of Reporting Party

An initial assessment interview must be conducted by the WCPD personnel with the person who reported the incident after the referral by the desk officer.

The questions set out below are intended to gather preliminary information about the reported incident:

1. What is the name, address and contact number of the reporting party?
2. What is the name, address, age and other personal circumstances of the victim? Describe the physical and mental state of the victim.
3. Where is the victim now? Is the victim in the Philippines or outside of the country? Is she/he at the airport, seaport or land transportation terminal?
4. When and where was the last contact with the victim? What transpired during this last contact?
5. Who else was with the victim? Did the victim travel alone or accompanied by the recruiter? Were there other possible victims with her?
6. Who are the suspects? Give the name and physical description of the suspects.
7. What happened to the victim? What prompted the person to report the incident?
8. Are there any other persons who know about the incident?

Identification of a Possible Trafficking Situation

An evaluation of the totality of the circumstances based on the initial assessment interview, indicator checklist, and additional corroborative materials will then make it possible to identify a possible trafficking situation. The key questions that must be answered by the investigator are:

1. Is there any act of recruitment, transportation, transfer, harbor or receipt of a victim involved in the incident?
2. Is the act done by means of threat or use of force, coercion, abduction, fraud, deception, abuse of power or taking advantage of the vulnerability of the victim, or the giving or receiving of payments or benefits?
3. Does the intended purpose involve exploitation such as prostitution or other forms of sexual exploitation, forced labor or servitude, slavery or slavery-like practices or the removal or sale of organs?

If all of the answers to these questions are positive, then the law enforcer has a potential case for violation of RA 9208. The next course of action will depend on the assessment of the situation. There will be cases when an immediate arrest and rescue may be necessary, especially when the victims are in immediate danger. However, there will be cases when it will be best to gather more information to build up the case.

Information to be Gathered

To move the case forward, the WCPD personnel must gather the following information:

1. Identity and background of all the suspects;
2. Age and personal circumstances of the victim;
3. Modus operandi regarding recruitment, transportation, transfer, harbor and receipt of persons which may include the identification of “fronts” for organized crime, such as overseas employment agencies, training centers, promotions and talent agencies, etc.;
4. Travel routes and means, including the place of origin, transit and destination and the vehicles used for transportation and travel;
5. Type of exploitation such as the kind of work and the conditions of employment;
6. Details of communication used by the traffickers like snail mail address, e-mail addresses, mobile phone or landline numbers, etc.;

7. Financial transactions that support the trafficking business, such as names of the bank, names of the account holders, bank account numbers and transactions, money transfers, modes of payment, etc.; and
8. Methods of securing falsified travel documents, certificates, etc.

Sources of Information

The WCPD personnel can tap a wide range of sources to gather relevant information. While there is general reliance on the victim to provide the information, the WCPD personnel should explore other sources of information, such as the following:

1. Inquiry with relevant national and local government agencies, such as the local government unit (LGU) licensing office, POEA, Department of Labor and Employment (DOLE), Commission on Higher Education (CHED), barangay associations, etc.;
2. Monitoring of the private business sector, such as overseas employment and recruitment agencies, promotion and talent training centers, airlines, shipping vessels, bus lines, land transportation, adult entertainment establishments like nightclubs, KTV bars, massage parlors, internet cafes, sweatshops, etc.;
3. Monitoring of advertisements in tri-media and other inter-active exchange of information like the internet;
4. Monitoring of airports, seaports and land transportation terminals; and
5. Community, people's organizations (PO), NGOs, other civil society groups.

Investigative Procedures

- a) Upon receipt of the complaint from the desk officer, the WCPD officer shall conduct initial investigation and record the incident in the blotter purposely used by WCPD.
- b) Refer and accompany the victim to the nearest PNP Crime Laboratory and/or government hospital for

appropriate medico- legal examination. It shall be the WCPD officer's duty to ensure that as far as possible, the examining physician must be of the same gender as the victim, especially in sexual violence cases.

- c) In all investigations involving children, the victim shall be accompanied by his/her unoffending parent, guardian, or local social worker.
- d) In all investigations involving women other than children in sexual abuse cases, only persons expressly authorized by the victim shall be allowed by the WCPD officer inside a room where police investigations as well as medical/physical examination are being conducted in private.
- e) Ensure the confidentiality of identity of the victim and all other parties directly involved with the case under investigation. For this purpose, the WCPD officer must maintain a separate blotter on crimes committed under the Act. Under no circumstances shall any police officer allow media access to information concerning VAWC reported to PNP.
- f) Get the sworn statement of the victim to include all the witnesses.
- g) After the conduct of police investigation, the WCPD officer shall refer the victim, if a minor, to the social worker of the LGU, any available DSWD shelter, NGO's and other service providers for psychological intervention and other rehabilitation programs.
- h) All women victims shall be referred to other service providers for psychological intervention and other rehabilitation programs.
- i) Conduct follow-up rescue operations in case there are other victims in the hands of the traffickers in coordination with Local Social Welfare and Development Offices (LSWDO), Department of Labor and EMPLOYMENT (DOLE) and other concerned government agencies.
- j) The WCPD officer shall forward the investigation report together with the relevant evidence, including the formal

statements of witnesses and results of medico-legal examination, birth certificate of minor, to the prosecutor for filing of appropriate criminal action under the Act.

Inquest Procedure

If the referral complaint/criminal complaint has been filed for inquest proceedings (respondent is arrested and detained), the respondent and arresting officers must be present during the inquest proceedings and the latter must be ready to answer clarificatory questions that may be propounded by the inquest prosecutor on the circumstances surrounding the arrest. If the inquest prosecutor finds the attached or appended documents in the referral/criminal complaint insufficient, the investigator-on-case must ask for a chance to submit the same if there is still time before the prescribed period expires under Art.125 of the Revised Penal Code. (Section 5, DOJ Cir No. 61, New Rules on Inquest).

Regular Filing

If the referral complaint/criminal complaint has been filed for regular filing (respondent is not arrested), the investigator-on-case must ensure that the subpoena will reach his office for notification and service of processes. His file-copy of the referral or criminal complaint must contain in bold letters the Investigation Slip (I.S.) Number or Criminal Case Number of the case for easy reference.

WCPD investigator must submit the following documents to the investigating prosecutor for his resolution of the case:

1. Referral letter to the Inquest Prosecutor;
2. Affidavit of arrest;
3. Booking Sheet and Arrest Report;
4. Investigation report with attachments;
5. Statements of offended party and witnesses;
6. Birth Certificate of the minor victim;
7. Medico-legal report/certificate; and
8. Where available – social workers assessment, and other supporting evidence

e. Juvenile Justice and Welfare Act of 2006 (R.A. 9344)

The Juvenile Justice and Welfare Act (Republic Act 9344) defines a **“child in conflict with the law”** or CICL as a child who is alleged as, accused of, or adjudged as, having committed an offense under Philippine laws. A child is a person below eighteen (18) years of age.

When young people fifteen years and below commit violations of law, they are exempt from criminal liability. A person is 15 years of age on the date of the FIFTEENTH ANNIVERSARY OF HIS/HER BIRTHDAY. They are also exempt from criminal liability if they are above fifteen but below 18 years of age, UNLESS they acted with discernment.

While there is no criminal responsibility on the part of the child who is 15 years of age or below, he or she must still be held accountable for the crime through proper intervention by duty bearers, such as the social worker or the police or both, without necessarily resorting to court proceedings under the criminal justice system. Likewise, the civil liability of the crime committed must be charged against the parents/guardians of the minor.

For crimes punishable within six years imprisonment, including those status offenses as well as crimes that are considered “victimless”, the child shall undergo diversion proceedings to be administered by either the law enforcer, punong barangay or the a local social welfare and development officer (LSWDO).

For crimes punishable for more than six years, where the child has acted with discernment, the court will acquire jurisdiction, including the administration of appropriate diversion programs.

Police Techniques and Procedures

Apprehension or Initial Contact

1. Persons considered having initial contact
 - a) First police responders
 - b) Other law enforcement officers
2. At the time of the initial contact or apprehension, the PNP officer must exercise due diligence and sensitivity in attending to a child who commits an offense or violation of law. The responding police officer, thus, has the following options:

- a) If the offense is light, the responding officer shall:
 - 1) provide the child a friendly “payo” or a simple warning not to repeat the act/s he/she had committed; or
 - 2) call the unoffending parents¹ or guardians for their proper intervention in the treatment of the child; or
 - 3) refer the CICL directly to the barangay for proper disposition.

In all cases, the officer shall take down the facts of the case in his or her tickler.

- b) If the offense is less serious or serious, with or without victims, the apprehending officer must:
 - 1) take the child into police custody;
 - 2) refer the child to the Women and Children Protection Desk officer or other qualified investigator of CICL cases for proper disposition of the case; and
 - 3) exhaust all possible means to locate and notify the parents/guardians of the CICL as well as the social worker for the case management of the child, in cooperation with the investigating officer.

REMEMBER: Children in conflict with the law are to be held accountable for their offenses. RA 9344 provides, however, the mechanisms on how to deal with CICL through DIVERSION and other alternative measures adopting the principles of Restorative Justice.

- 3. In taking the child into police custody, the police officer shall:

- a) Introduce himself or herself as “**kuya**” or “**ate**” before the child and show proper identification card as a police officer.

If: The apprehending officer is wearing a vest or jacket while in uniform, said officer must show his nameplate and/or badge;

If: The apprehending officer is wearing civilian clothes, said officer must show identification card.

- b) conduct the search of a child in conflict with the law in a friendly, non-degrading, and gender-sensitive manner. A girl child shall only be searched by a law enforcement officer of the same gender;
- c) determine the age of the apprehended child (Note: PNP may seek a Memorandum of Agreement (MOA) with the National Statistics Office [NSO] for immediate coordination/access for the police concerning records involving the CICL);
- d) state and explain to the child, IN SIMPLE LANGUAGE OR DIALECT THAT HE/SHE CAN UNDERSTAND THE FOLLOWING:
 - 1) the reason/s for apprehending the child and placing him or her in police custody;
 - 2) the nature of offense that he/she allegedly committed; and
 - 3) his/her RIGHTS under custodial investigation:
 - 4) Documents showing proof of the child's age:
 - (a) Child's birth certificate;
 - (b) Child's baptismal certificate; or
 - (c) Any other pertinent documents such as but not limited to the child's school records, dental records or travel papers.
- e) The police may obtain the above documents from any of the following:
 - 1) Parents, guardian or relatives of the child (for copies of any of the above documents);
 - 2) Local civil registrar or the National Statistics Office (for a copy of the birth certificate);

- 3) School the child attends (for school records, dental records, birth certificate or baptismal certificate, when required by the school);
 - 4) Local health officer (for medical records); and
 - 5) Church (for baptismal records).
- f) When the above documents cannot be obtained or pending receipt of such documents, the police shall exhaust other measures to determine age by:
- 1) Interviewing the child and obtaining information that indicate age (e.g., date of birthday, grade level in school);
 - 2) Interviewing persons who may have knowledge of the age of the child (e.g., relatives, neighbors, teachers, classmates);
 - 3) Evaluating the physical appearance (e.g., height, built) of the child; and
 - 4) Obtaining other relevant evidence of age.
 - 5) The police may obtain the assistance of the LSWDO and the Barangay Council for the Protection of Children (BCPC) in gathering documents and other relevant information in ascertaining the age of the child.
- g) Take the child immediately to the proper medical and health officer for a thorough physical and mental examination;
- h) Whenever handcuffing is necessary, make sure that the face of the child is not exposed in public to avoid embarrassment;
- i) Prevent any possible violence or injury that may be inflicted against the child by any person, including a party that may have interest in the case, inside or outside the police station;
- j) Preserve the scene of the crime while awaiting the arrival of the SOCO, and in case a victim is found in the area

and in need of medical attention, provide the person with appropriate first aid treatment and bring said victim to the nearest hospital;

- k) Prevent public attention on the child's apprehension and the humiliation of the child;
- l) Bring the child immediately to the police station for proper disposition following the apprehension and referral to medical officer;
- m) Avoid, as much as possible, the use of firearms, handcuffs, or other instruments of force or restraint unless absolutely necessary and only after all the methods of control have been exhausted and have failed;
- n) Call for assistance from the unit in apprehending the CICL who may resist arrest (and in the protection of the victim, as the case may be) as well as in preserving evidence;
- o) Ensure that the arrival of the assisting unit/s will not cause any undue harm to the CICL during the apprehension.
- p) Police officers are PROHIBITED from:
 - 1) Locking up the CICL in a detention cell;
 - 2) Searching a girl child by a police officer of opposite sex;
 - 3) Allowing the child to have contact with adult offenders;
 - 4) Using offensive, vulgar or profane words against the child or any of the parties involved;
 - 5) Committing sexual advances on the child;
 - 6) Committing torture, inhuman or degrading treatment or punishment and other forms of violence and abuse against the CICL;
 - 7) Displaying or using any firearm, weapon, handcuffs or other instruments of force or restraint, unless absolutely necessary and only after all other

methods of control have been exhausted and have failed;

- q) The apprehending officer must turn over the CICL to the WOMEN AND CHILDREN PROTECTION DESK (WCPD) officer or any qualified investigator, who, in turn, shall:
4. Make a proper receipt from the apprehending officer of the following:
- a) Certification on whether or not handcuffs or other instruments of restraint were used, and if so, the reason for such;
 - b) Medical certificate;
 - c) Basis for determination of the age of the child;
 - d) Weapons recovered from the CICL, if any; and
 - e) Affidavit of apprehension (to be provided within 4 hours from the time of apprehension)
 - 1) Ensure the child's safety in the police station.
 - 2) Look for an area in the police station where the CICL may temporarily stay without experiencing any form of threat, fear, or anxiety.
 - 3) Notify the child's parents/guardians, the local social welfare and development officer (LSWDO), and the Public Attorney's Office of the child's apprehension not later than eight (8) hours as required under Section 21, Paragraph I, RA 9344.

Interview

1. Interview with a CICL must be conducted by a WCPD officer or, in the absence of a WCPD officer, a well-trained investigator of children's cases.
2. The initial interview shall be conducted in a manner which allows the child to participate and to express him/herself freely.

3. The investigating officer, when interviewing the child:
 - a) must explain the purpose of the interview;
 - b) must be friendly and non-threatening;
 - c) must exercise patience in the management of CICL;
 - d) must conduct the interview in a separate room or where the child could feel comfortable and free to express him/herself;
 - e) must avoid unnecessary interruptions, distractions and/or participation from non-parties during interview;
 - f) must use simple and understandable language in taking the statement of the child during the interview;
 - g) must listen to what the child says and take notes of what the child actually said during the interview;
 - h) must prepare a written statement that reflects the language used by the child and not the language used by the police officer;
 - i) may seek the assistance of the LSWDO in conducting the interview;
 - j) shall be neutral between parties by using open-ended questions and shall refrain from being judgmental or from lecturing for or against any of the parties present;
 - k) assure all parties of the confidentiality of the case.
4. Presence of persons required during the conduct of the police interview with the CICL:
 - a) Child's parents, guardian, or nearest relative, as the case may be; or
 - b) Child's counsel of choice or in the absence thereof, a lawyer from the Public Attorney's Office (PAO); or
 - b) LSWDO

5. The police investigator conducting the interview shall PREPARE A REPORT containing the following information:
 - a) If handcuffs or other instruments of restraint were used and the reason/s for such;
 - b) The parents or guardian of a child, or the LSWDO, or the PAO have been duly informed of the apprehension and the details thereof;
 - c) Measures taken to determine the age of the child;
 - d) The precise details of the physical and medical examination or the failure to submit a child to such examination;
 - e) To whom the child was released and the basis for the release; and
 - f) Where the case shall be referred, containing the following:
 - 1) The nature of the offense allegedly committed by the child;
 - 2) The corresponding imposable penalty for the commission of the offense; and
 - 3) Where the case of the child shall be referred in the event of an assessment that the child acted with discernment as provided in Rule 34, RA 9344.
6. All information and documentary evidence shall BE KEPT CONFIDENTIAL by the investigating officer and can only be referred to and discussed with the DSWD, local social worker officer, and/or the prosecutor, as the case may be.

REMEMBER: Even if the child is already handed over to the protective custody of the local social worker or DSWD personnel, the police shall proceed with the investigation of the case by gathering evidence, interview with victim/s (if any), and other investigative work.

Referral and Coordination

After the initial interview, the investigating officer shall determine if the case of the child shall be referred to:

1. LSWDO for intervention, if the child is:
 - a) fifteen (15) years old or below; or
 - b) above 15 but below 18 years of age, without discernment; or
 - c) above 15 but below 18 years of age, with discernment, and the crime is victimless with an imposable penalty of not more than six (6) years of imprisonment.
2. Diversion to be initiated by the police, in coordination with the LSWDO, if the child is above 15 but below 18 years of age who acted with discernment and allegedly committed an offense with an imposable penalty of not more than six (6) years of imprisonment.

REMEMBER: In all cases, the police shall turn over the physical custody of the child to the LSWDO within eight (8) hours from apprehension. The physical custody of the child shall be transferred to the LSWDO even if the investigating officer has not yet exhausted all measures to determine the age of the child and even if the initial investigation has not yet been terminated.

3. In case the child is apprehended at NIGHTTIME OR WEEKEND, the Investigating officer shall look for a safe temporary placement in the police station and not put the child in a detention cell, strictly not in the company of adult offenders, while waiting for the arrival of child's parents/guardians and proper turnover to the LSWDO.
4. The police must provide the CICL his/her basic human necessities while in their physical custody, such as food and water, clothing, medicines for illness as the case may be, and access to the comfort room.
5. IN THE ABSENCE of the parents/guardians or the LSWDO, temporary physical custody of the child may be given to a duly registered NGO that is licensed and accredited by the DSWD,

or a faith-based organization, or a barangay official, or a member of the BCPC.

6. Maintain a directory of partners and other networks in the area for ready reference during referral and coordination of cases involving CICL.

Where the Victim is also a Child

1. The investigating officer shall:
 - a) call the LSWDO to provide assistance and take protective custody of the child victim under RA 7610 (Anti-Child Abuse Law);
 - b) physically SEPARATE the CICL and his or her parents or guardians and the victim and his or her parents or guardians in the police station by interviewing or investigating them in separate rooms;
 - c) place the CICL under temporary care of other CHILD SENSITIVE investigators or police officers, with appropriate guidance for the management of the CICL;
2. Investigating officer may seek the assistance of other policewomen from other sections to put the CICL under their physical custody while interview with the victim is being conducted;
3. The investigating officer shall not display bias for or against the CICL or the child victim;
4. The investigating officer shall properly advise both parties on the nature of the offense and consequences of the act and on the decisions they may consider concerning the case. The investigating officer may suggest a brief "cooling-off period" prior to the next face-to-face confrontation;
5. The Women and Children Protection Desk officer shall be primarily responsible for the management of cases involving both CICL and child victim.

REMEMBER: The CICL and the child victim involved in the offense have distinct moral, psychological and social circumstances, requiring different interventions leading to different results for their recovery and reintegration. For this reason, the police officer tasked with the investigation of cases of children shall have proper training with a deeper understanding and wider appreciation of the psycho-social and moral stages of development of a child (Erickson and Kohlberg Models)

Case Confidentiality

1. The police investigator, in ensuring the confidentiality of CICL cases, shall:
 - a) maintain and keep from public view a SEPARATE BLOTTER and/or logbook for CICL cases;
 - b) ensure that spot reports, investigation reports, and other similar police reports contain DOCUMENT SECURITY classification in order to protect the identity of the CICL. The police shall not disclose any information to the public, particularly the media, that reveals the identity of the CICL and his or her family;
 - c) exclude other police officers who have nothing to do with the case from the area where the CICL is being held in custody by the investigating officer;
 - d) advise the media to observe the Guidelines for Media Practitioners on the Reporting and Coverage of Cases Involving Children issued by the Special Committee for the Protection of Children under the Department of Justice.
 - e) keep the results of the medical examination and other related documents confidential;
 - f) print the words "CICL CASE" on the upper right-hand corner of investigation reports and other similar documents to secure legal compliance of individuals and units on the confidentiality of the case;
 - g) submit the records of the case, whenever a criminal action is filed with the prosecutor or the judge, in a sealed envelope with the words "CICL CASE" written conspicuously on the upper right-hand corner of the face of the envelope, with appropriate receipts for the documents in second or photo copies enclosed therein.

REMEMBER: The Guidelines for Media Practitioners on the Reporting and Coverage of Cases Involving Children was issued by the Special Committee for the Protection of Children purposely to protect children --- whether victims, offenders and witnesses --- from media coverage using all outlets such as television, radio, newspaper, internet, and other media and communications facilities, equipment and materials.

Diversion

1. The police, whenever appropriate, can conduct diversion proceedings on cases of CICL as an alternative to the filing of criminal action against the CICL.
2. DIVERSION PROCEEDINGS refer to a meeting or series of meetings facilitated by concerned authorities, in particular the police officer, with a view to have the parties involved in the offense come up with an agreement that will benefit the concerned parties, but under no circumstances shall the police compel the parties to agree to settle their case.
3. If the parties DECIDE TO SETTLE the case on their own volition, the role of the police will merely be as FACILITATOR. The settlement must be in writing and signed by the parties. The proceedings may be tape recorded, if necessary;
4. The police shall seek the ASSISTANCE OF THE LSWDO in the conduct of the diversion proceedings. The LSWDO shall determine if diversion is appropriate in the particular case of the CICL.
5. The following members of the police force are AUTHORIZED to conduct diversion proceedings:
 - a) Chief of Police;
 - b) WCPD officer; and
 - c) Any police officer designated by the Chief of Police, who has probity, credibility, and in-depth involvement in police-community relations and who has undergone training on child rights.
6. The following FACTORS shall be considered to determine IF DIVERSION IS APPROPRIATE:
 - a) Nature and circumstance of the offense charged;
 - b) Frequency and severity of the act;
 - c) Circumstances of the child (e.g. age, maturity, intelligence, etc)

- d) Influence of the family and environment on the growth of the child;
 - e) Reparation of injury to the victim;
 - f) Weight of the evidence against the child;
 - g) Safety of the community; and
 - h) Best interest of the child.
7. The investigating officer, in the conduct of diversion proceedings, shall:
- a) Explain to the CICL and his/her family the objective and value of the diversion as well as the consequences of not undergoing the process;
 - b) Ask the CICL of the circumstances of the offense, the motives or purpose of the offense and the factors that have led the child to commit the offense;
 - c) Ask the CICL of his/her personal circumstances including his/her parents, family, peers and educational status;
 - d) Make the CICL understand the consequences of his/her actions and the corresponding responsibilities; and
 - e) Make the CICL understand and realize his/her accountability, be remorseful of his/her actions and take on the responsibility in repairing the harm done in lieu of filing a formal case in court.
8. The following DIVERSION PROGRAMS may be adopted by the police in coordination with the LSWDO:
- a) Restitution of property;
 - b) Reparation of the damage caused;
 - c) Indemnification for consequential damages;
 - d) Written or oral apology;
 - e) Care, guidance and supervision orders;

- f) Counseling for the child in conflict with the law and the child's family;
- g) Participation of the child in available community-based programs, including community service; or
- h) Participation of the child in education, vocation and life skills programs.
- i) Attendance of the child in community-sponsored trainings, seminars and lectures on:
 - 1) anger management skills;
 - 2) problem solving and/or conflict resolution skills;
 - 3) values formation; and
 - 4) other skills which will aid the child in dealing with situations which can lead to repetition of the offense.
- j) The police shall prepare a written DIVERSION CONTRACT, based on the prescribed format, which shall be signed by the CICL, his/her parents, and social worker, with attestation from the concerned police officer.
- k) In order for the diversion to proceed, the police must obtain the following conditions:
 - 1) The child voluntary admits to the commission of the act (such admission shall not be used as evidence against the child).
 - 2) Diversion program shall proceed and become binding if accepted by the parties (victim/s and offender/s) concerned.
 - 3) Acceptance shall be in writing and signed by the parties.
 - 4) LSWDO shall supervise the implementation of diversion program; proceedings to be completed within forty-five (45) days.
 - 5) Child shall present himself/herself to competent authorities for evaluation.

- I) FAILURE ON THE PART OF THE CICL TO COMPLY with the terms and conditions of the contract of diversion, as certified by the LSWDO, shall give the offended party the option to institute the appropriate legal action.
- m) After the signing of the diversion contract, the police officer on case shall:
 - 1) monitor the progress of the child's conduct, in coordination with the LSWDO, based on the agreements stipulated under the diversion contract.
 - 2) initiate dialogues with the concerned Barangay officials, LSWDO, or the parents of the CICL, as may be appropriate, for juvenile delinquency prevention programs in the area, and measures aimed at improving the management of cases of CICL.
 - 3) develop a data base of reported cases of CICL in the AOR.
 - 4) ensure that all records pertaining to the case of CICL are kept confidential.
 - 5) make an assessment of the effectiveness of the diversion program initiated by the police on cases involving CICL.
 - 6) perform analogous efforts for the best interest of CICL.

OTHER ISSUES ON CICL

- 1. What if victim wants to file the complaint but the CICL is exempt from criminal liability?
 - a) Explain to the victim the provisions of RA 9344 on the age of criminal responsibility of a CICL;
 - b) OTHER THAN THE DIVERSION PROGRAM INITIATED BY THE POLICE WHERE CIVIL ISSUES MAY BE DISCUSSED BETWEEN AND AMONG PARTIES, THE PARENTS ARE NOT PRECLUDED FROM SEEKING AN ALTERNATIVE MEANS TO FILE A SEPARATE

CIVIL ACTION AGAINST THE PARTY OF THE CICL THROUGH A LAWYER.

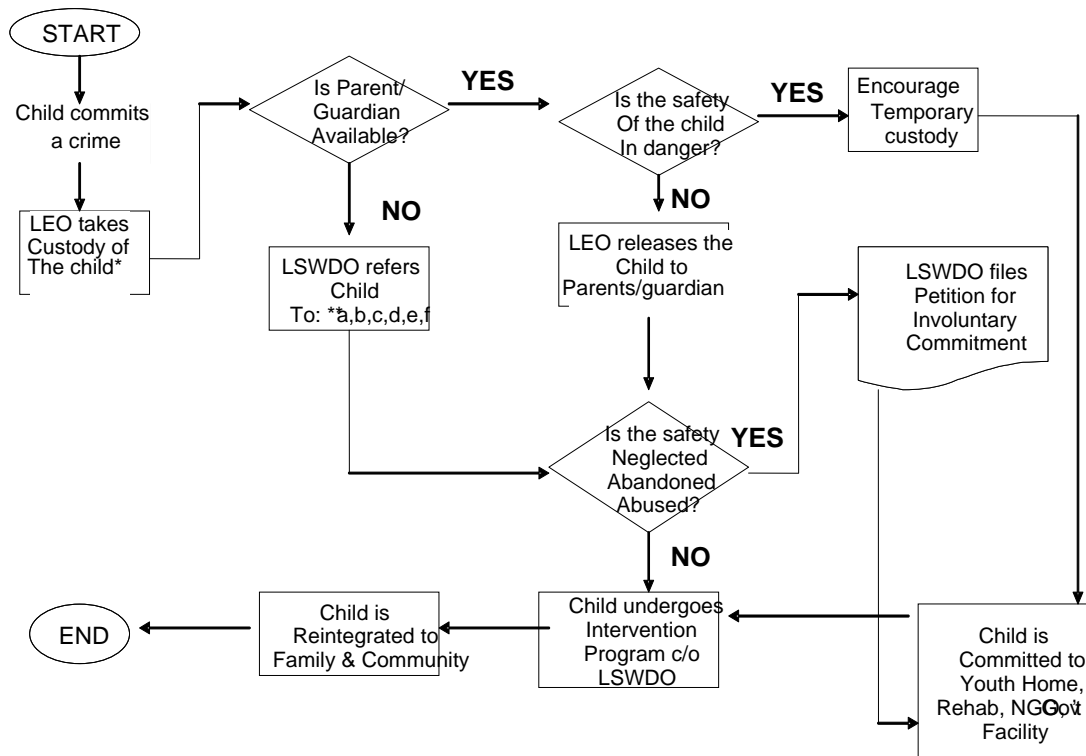
2. What if the CICL wants to stay with the police and not with the social worker?
 - a) The police investigator should be able to explain properly to the CICL that staying with the police may not provide the child the other important services needed for his or her welfare;
 - b) Unless the investigation necessitates the police to retain physical custody over the CICL, the police investigator must bring the said child to the DSWD or local social worker where a more effective intervention can be provided.
3. What if the parents of the victim want to pursue the filing of the case of CICL fifteen years or below?
 - a) Initially, the police should explain to the victim and family members the provisions of the law which provides exemption to CICL 15 years and below from any criminal responsibility;
 - b) The investigating officer should seek advice from the office of the prosecutor or the social worker in explaining to the aggrieved party that the CICL is exempt from criminal liability;
4. What if the CICL committed the offense in the company of adult offenders?
 - a) The investigating officer should ascertain right away if the CICL committed the offense with adults;
 - b) CICL shall be handled by the WCPD investigator where proper intervention must be conducted. The adult offenders shall be referred to the regular investigators;
 - c) If the adults are parents of the CICL, the officer shall file a separate case of violation of RA 7610 against the parents;
 - d) If the CICL claims he committed the offense with adults who were not among those apprehended, the police shall

pursue the case in collecting evidence and in running after the adult offenders.

5. What if the CICL is a repeat offender or a “recidivist”?

- a) The police should refer the case to either the social worker TO DETERMINE WHETHER THE CHILD IS BEING NEGLECTED IN HIS LIFE or the prosecutor for the next stage of intervention on the child’s repeat offenses. The police may also consult with the prosecutor on the propriety of giving the CICL another chance at life without prejudice to the legal action from aggrieved party/ies.

PROCESS FLOWCHART IN HANDLING CICL PER RA 9344
CHART 1: CHILDREN 15 YEARS OLD AND BELOW



PROCESS FLOWCHART IN HANDLING CICL PER RA 9344
CHART 3: ABOVE 15 YEARS OLD WITH DISCERNMENT

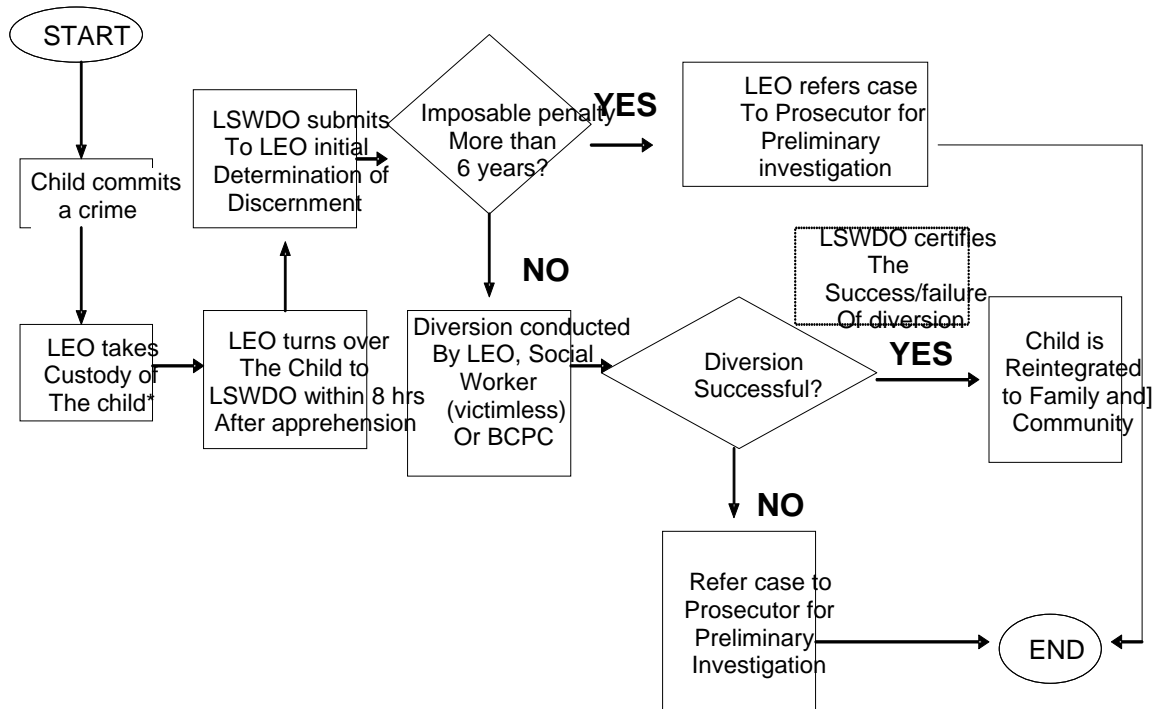
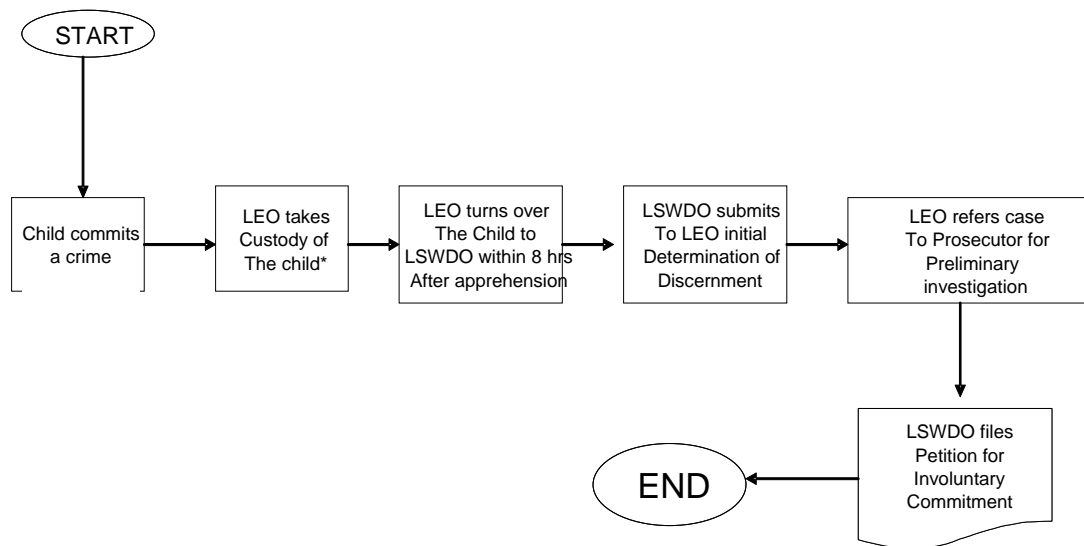


CHART 4: PROCESS FLOWCHART IN HANDLING CICL PER RA 9344

(IMPOSABLE PENALTY FOR THE CRIME COMMITTED IS MORE THAN 12 YEARSIMPRISONMENT



3.12 CRIMES AGAINST THE CIVIL STATUS OF PERSONS

3.12.1 SIMULATION OF BIRTH

- a. What law punishes the crime of Simulation of Birth?
 - Revised Penal Code Article 347
- b. What are the elements of Simulation Of Birth?
 1. The child is baptized or registered in the Registry of Birth.
 2. The child loses its real status and acquires a new one.
 3. The offender's purpose is to cause the loss of any trace of the child's filiations.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Simulation Of Birth?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – simulated birth certificate
 4. Other relevant evidence

3.12.2.1 USURPATION OF CHILD STATUS

- a. What law punishes the crime of Usurpation of Child Status?
 - Revised Penal Code Article 348
- b. What are the elements of Usurpation of Child Status?
 1. Any person represents himself as another.
 2. The offender assumes the rights pertaining to another.
 3. Other analogous acts

Status? c. What is the evidence needed to file a crime of Usurpation of Child

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – identification records
4. Other relevant evidence

3.12.3 BIGAMY

a. What law punishes the crime of Bigamy?

- Revised Penal Code Article 349

b. What are the elements of Bigamy?

1. The offender has been legally married.
2. The marriage has not been legally dissolved or, in case his/her spouse is absent, the absentee could not yet be presumed dead under the New Civil Code.
3. He contracts a second or subsequent marriage.
4. The subsequent marriage has all essential requisites for validity.
5. Other analogous acts

c. What is the evidence needed to file a crime of Bigamy?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – marriage contracts
4. Other relevant evidence

3.12.4 MARRIAGE CONTRACT AGAINST PROVISIONS OF LAW

a. What law punishes the crime of Marriage Contract against Provisions of Law?

- Revised Penal Code Article 350

b. What are the elements of Marriage Contract against Provisions Of Law?

1. The offender contracted a marriage.
2. He knew at the time of the marriage that the requirement of the law had not been complied with or that legal impediments for such marriage had been disregarded.
3. Other analogous acts

c. What is the evidence needed to file a crime of Marriage Contract against Provisions of Law?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – marriage contract
4. Other relevant evidence

3.12.5 PREMATURE MARRIAGE

a. What law punishes the crime of Premature Marriage?

- Revised Penal Code Article 351

b. What are the elements of Premature Marriage?

1. The offense is committed when a widow gets married within 301 days of her husband's death.
2. She was pregnant at the time of his death or when a woman whose marriage having been dissolved or annulled, married

before her delivery or within 301days after the legal separation.

3. The object of the law is to prevent doubtful paternity.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Premature Marriage?
1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – Medical records
 4. Other relevant evidence

3.12.6 PERFORMANCE OF ILLEGAL MARRIAGE CEREMONY

a. What law punishes the crime of Performance of Illegal Marriage Ceremony?

- Revised Penal Code Article 352

b. What are the elements of Performance of Illegal Marriage Ceremony?

1. The offender is either a priest or minister of any religious or by civil authorities.
2. The offender performs a marriage ceremony.
3. The marriage is invalid.
4. Other analogous acts

c. What is the evidence needed to file a crime of Performance of Illegal Marriage Ceremony?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents

3. Object Evidence – marriage contract
4. Other relevant evidence

3.13 CRIMES AGAINST HONOR

3.13.1 LIBEL

- a. What law punishes the crime of Libel?
 - Revised Penal Code Article 353
- b. What are the elements of Libel?
 1. Imputation of a crime, or a vice, or defect, real or imaginary or any act, omission, condition, status or circumstance tending to cause the dishonor, discredit, or contempt of a natural or juridical person, or to blacken the memory of one who is dead.
 2. Malice, either in law or in fact;
 3. Publication of the imputation
 4. Identifiably of the victim
 5. Other analogous acts
- c. What is the evidence needed to file a crime of Libel?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – publications or letters
 4. Other relevant evidence

3.13.2 THREATENING TO PUBLISH AND OFFER TO PREVENT SUCH PUBLICATION FOR COMPENSATION

a. What law punishes the crime of threatening to publish and offer to prevent such publication for compensation?

- Revised Penal Code Article 356

b. What are the elements of threatening to publish and offer to prevent such publication for compensation?

1. There is threat to publish libel.
2. There is offer to prevent such publication for a compensation.
3. Other analogous acts

c. What is the evidence needed to file a crime of threatening to publish and offer to prevent such publication for compensation?

1. Testimonial Evidence – Affidavit of complainant and witnesses
2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – publications or letters
4. Other relevant evidence

3.13.3 SLANDER

a. What law punishes the crime of Slander?

- Revised Penal Code Article 358

b. What are the elements of Slander?

1. Any imputation
2. with intent to defame or insult
3. Other analogous acts

- c. What is the evidence needed to file a crime of Slander?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses
 - 2. Documentary Evidence – photographs, videos, police reports and other documents
 - 3. Other relevant evidence

3.12.4 SLANDER BY DEED

- a. What law punishes the crime of Slander by Deed?
 - Revised Penal Code Article 359
- b. What are the elements of Slander by Deed?
 - 1. Any action against another
 - 2. with intent to embarrass the victim
 - 3. Other analogous acts
- c. What is the evidence needed to file a crime of Slander by Deed?
 - 1. Testimonial Evidence – Affidavit of complainant and witnesses
 - 2. Documentary Evidence – photographs, videos, police reports and other documents
 - 3. Other relevant evidence

3.13.5 LIBELOUS REMARKS

- a. What law punishes the crime of Libelous Remarks?
 - Revised Penal Code Article 362
- b. What are the elements of Libelous Remarks?
 - 1. The offender made a public and malicious imputation.
 - 2. The imputation is made with malice.

3. The imputation is a violation of privilege communication.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Libelous Remarks?
1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – publications or letters
 4. Other relevant evidence

3.13.6 INCRIMINATORY MACHINATIONS

- a. What law punishes the crime of Incriminatory Machinations?
- Revised Penal Code Article 363
- b. What are the elements of Incriminatory Machinations?
1. The offender performs an act which is not constitutive of perjury.
 2. Such act incriminates or imputes to an innocent person the commission of a crime.
 3. The act must be malicious.
 4. Other analogous acts
- c. What is the evidence needed to file a crime of Incriminatory Machinations?
1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Other relevant evidence

3.13.7 INTRIGUING AGAINST HONOR

- a. What law punishes the crime of Intriguing against Honor?
 - Revised Penal Code Article 364
- b. What are the elements of Intriguing against Honor?
 1. Any person who shall make any intrigue.
 2. The purpose is to blemish the honor or reputation of another person.
 3. Other analogous acts
- c. What is the evidence needed to file a crime of Intriguing against Honor?
 1. Testimonial Evidence – Affidavit of complainant and witnesses
 2. Documentary Evidence – photographs, videos, police reports and other documents
 3. Object Evidence – publications or letters
 4. Other relevant evidence

3.14 QUASI OFFENSES (CRIMINAL NEGLIGENCE)

- a. What law punishes Criminal Negligence?
 - Revised Penal code Article 365
- b. What are the elements of Criminal Negligence?
 1. The offender commits an act by reckless imprudence.
 2. The act will constitute a grave felony, if it is intentional.
 3. Other analogous acts
- c. What is the evidence needed to file a case of reckless imprudence
 1. Testimonial Evidence – Affidavit of complainant and witnesses

2. Documentary Evidence – photographs, videos, police reports and other documents
3. Object Evidence – Medical records or list of damages incurred
4. Other relevant evidence

DISASTER INCIDENTS INVESTIGATION

When a disaster occurs, a tremendous responsibility is immediately vested on the law enforcement officer to perform many tasks. A disaster is usually a situation that strikes suddenly and is totally unexpected. It consists of a single event or a series of events that may be brought on by the work of the elements or through some man-made accident.

3.14.1 RULE I: GENERAL GUIDELINES IN THE CONDUCT OF DISASTER INVESTIGATION

The procedures to be adopted by the investigator in a disaster situation vary on the type of disaster that occurs.

a. When a man-made disaster happens, there is a need to charge suspects of the crime committed, the investigator's primary role therefore, is to establish that a crime was committed either by deliberate means or gross negligence, recklessness or lack of foresight. The investigator's roles are focused mainly in gathering and preserving physical evidence, take testimonies of survivors/witnesses, locate and identify the suspects and file a case in court. In the disaster scene, the investigator must strictly follow the basic crime scene management/ procedure so as not to destroy vital evidence needed to prove the culpability of the suspects and keep record on the evidence chain of custody to avoid loss or intermixing or swapping with other pieces of evidence.

b. When a natural disaster occurs, there is nobody to be charged in court for the incident is an act of nature or "force majeure". The investigator's roles are supportive in nature and are mainly to give assistance to survivors/victims, sealing/cordoning the disaster area, (if practicable, to prevent looting and or arrest persons committing crimes), keeping records of the survivors, the injured and the dead, documenting/tagging of dead bodies prior to transport to consolidation area, keeping inventory of recovered personal belongings, assist in identifying dead bodies, securing death certificates for future legal actions, maintaining record of chain of custody of recovered items and other similar roles which are intended to document the loss of lives and destruction of properties caused by the disaster incident.

c. In the occasion of the disaster, the police investigator shall investigate and directly file cases against persons arrested for committing collateral crimes (looting, thefts, robbery, rape, etc.) during and after the disaster incident to appropriate court.

3.14.2 RULE II: INVESTIGATIVE PROCEDURES FOR WATERBORNE DISASTER

Waterborne disasters occur in water areas such as sea, rivers and lakes. It may be caused by natural or man-made forces or combination of both. Most of these disasters are sea mishaps (ships sank by typhoons), ship collision, overloading of passengers and cargoes, mass drowning during fluvial parades/festivities or dam collapse/over-flooding and tidal waves.

The responding investigator must be appropriately dressed and equipped for waterborne response for protection, comfort, ease and safety.

a. ARRIVAL AT THE SCENE OF INCIDENT

The following are the actions to be taken by the Investigator

1. Assist injured survivors and bring them to the nearest medical facility for treatment;
2. Immediately inform concerned agencies, Philippine Coast Guard (PCG), Maritime Industry Authority (MARINA), National Disaster Coordinating Council (NDCC) through the fastest means of communication;
3. Search and locate cadavers. Put a Cadaver Tag on every dead body and photograph/video it with the tag number on it. *(Note: Do not remove any personal effects or belongings of the cadaver. It will help in identifying the victim. Transport all cadavers to the consolidation area or morgue.)*
4. Record the names of survivors and segregate the passengers from the crew.
5. Conduct interview and obtain statement of survivors and crews for testimonial evidence;
6. Arrest persons who may have committed collateral crimes such as theft, robbery, acts of lasciviousness or rape, etc on the occasion of the incident. Remind them of the Miranda Doctrine at the first possible instance.

7. If the disaster occurs in lakes or river areas where there is the possibility of containing/securing the area, cordon the scene by putting up nets and marker buoys, rope lines and other flotation devices;
8. After processing of the crime scene, SOCO or other concerned agencies shall turn-over the scene of incident to the police investigators for subsequent release of the scene of incident after consultation with other agencies.

b. ACTIONS IN THE CONSOLIDATION AREA

The duties of the police investigator in the consolidation area are the following:

1. Conduct initial identification of the cadaver/s;
2. Assist in segregating identified cadavers from unidentified ones and keep records of identified cadavers and missing persons;
3. Assist in the initial physical examination of the cadaver and record its description (height, weight, gender, race, etc.) fingerprints, distinguishing marks, dentures and other similar activities;
4. Assist in the conduct of inventory of personal effects/belongings of the cadavers, such as clothes, identification cards, jewelries, wallets, cellphones, and other valuables and place them in a container or plastic bag and turn them over to the designated agency custodian. The container or plastic bag must be marked according to the cadaver tag number;
5. In case of ship mishaps, secure passenger Manifests to account for the passengers and crew, especially the dead and missing ones;
6. Secure a copy of Death certificates for future reference in legal settlements, Insurance Policies, Death Claims and Benefits, re- marriage of survivors, business relationships, etc;
7. Obtain a record of inventory receipts of turn-over documents, items and cadavers;

8. Prepare/Submit progress and final reports on the incident.

c. GUIDELINES IN THE FILING OF CASES

Waterborne Disaster, especially sea disasters are usually investigated by a Board Of Marine Inquiry (BMI)- a fact-finding body appointed by the Secretary of Department of Transportation (SDOTC) to determine the cause of incident. If the incident is caused by human factors such as gross negligence, recklessness and lack of foresight on the ship/boat crews, the police investigator can file a case using the result of the findings of the BMI as primary basis.

3.14.3 RULE III: INVESTIGASTIVE PROCEDURES FOR EARTHQUAKES, LANDSLIDES AND VOLCANIC ERUPTIONS

Earthquakes, landslides and volcanic eruptions are mainly caused by natural forces of nature causing displacement of population, injuries and death to a large number of people in a disaster-stricken area. It is force majeure and cannot be blamed on any human, hence criminal liability is non-existent. The investigator's role is more on the determination on the extent of damages both to human life and properties. The investigator must coordinate and assist concerned agencies, Local Govt. Units (LGU), Office Civil Defense (OCD), National Disaster Coordinating Council (NDCC) in documenting and identifying the victims of the incident and properties destroyed.

In responding to any of the above incidents, due care must be exercised by the investigator to protect himself/herself from both physical and chemical hazards in the scene of incident.

a. UPON ARRIVAL AT THE INCIDENT SCENE

1. Assist survivors and bring the injured ones to nearest medical facility for treatment;
2. List the names of the injured and dead identified on the spot;
3. Put a cadaver tag on the unidentified victims/bodies and take photograph/video;
4. Conduct interviews and obtain statements of survivors and witnesses about whereabouts of their other companions/households to account for the missing;
5. Arrest persons who committed collateral crimes such as theft, robbery/looting, act of lasciviousness or rape, etc on the occasion of the incident;

6. Transport all cadavers to the consolidation area or morgue.
Note: Do not remove any personal effects or belongings of the cadaver.

b. ACTIONS AT THE CONSOLIDATION AREA

The duties of the police investigator in the consolidation area are the following:

1. Assist in the conduct of initial identification, physical examination of the cadaver and record its description (height, weight, gender, race, etc.) fingerprints, distinguishing marks, dental examination results and other similar activities;
2. Assist in the conduct of inventory of the personal effects/belongings of the cadavers, such as clothes, identification cards, jewelries, wallets, mobile phones, and other valuables and placed them in a container or plastic bag and turn-over to the agency designated as custodian. The container or plastic bag must be marked according to the cadaver tag number;
3. Keep/update records of identified cadavers and missing persons;
4. Secure Death certificates for future reference in legal settlements, Insurance Policies, Death Claims and Benefits, re-marriage of survivors, business relationships, etc;
5. Establish chain of custody of inventoried /recovered personal effects/belongings of the cadaver;
6. Determination and Investigations of other collateral crimes committed;
7. Determination and estimation of the cost of damages;
8. Submit Incident Report.

3.14.4 RULE IV: INVESTIGATIVE PROCEDURES FOR AVIATION DISASTER/ACCIDENT

In a civil aircraft accident, the Civil Aviation Authority of the Philippines (CAAP) is the lead agency to investigate. The duty of the PNP/investigator who

have the jurisdiction in the area is to secure the crash site. All actions during investigation shall be in coordination with the CAAP particularly in processing the crash site as mandated in the RA 9497, An Act Creating the Civil Aviation Authority of the Philippine (CAAP) and International Civil Aviation Organization (ICAO) Annex 13.

In responding to this kind of incident, the investigator shall ensure that there is no threat to his safety and security against hazards such as chemical spill, possible explosions and fire by wearing safety gears (combat shoes, helmet, gloves, and eye protectors).

a. ACTIONS UPON ARRIVAL AT THE SCENE

Upon receipt of the report, inform the PNP AVSEGROUP, Civil Aviation Authority of the Philippines (CAAP) and DOTC about the incident.

1. Save lives – survivors should be immediately given for medical attention;
2. Protection of the crash site/scene of incident – crash site shall be protected so as not to contaminate the possible evidence in determining the cause of accident. If possible, put police line and deploy PNP personnel as perimeter security;
3. Coordinate for assistance from the PNP-Maritime Group, Phil. Coast Guard & AFP if the aircraft crashed into a body of water/ocean;
4. Intruders/looters should be arrested.
5. Coordinate with the proper authority before removing objects or parts of the plane, personal belonging of passengers and crews and dead bodies. It may contaminate or tamper the evidences and destroy the scene or crash site;
6. Conduct interviews with the witnesses;
7. Photograph/video the scene and victims;
8. Conduct briefing prior to turning over the scene of accident/ crash site to the proper authority (CAAP);
9. Assist appropriate lead agency in the investigation, particularly in the identification of the victims/dead bodies.
10. Prepare/Submit an Incident/Case Report.

b. ACTIONS IN THE CONSOLIDATION AREA

The duties of the police investigator in the consolidation area are the following:

1. Conduct initial identification of the cadaver;
2. Assist in segregating identified cadavers from unidentified ones and keep records of identified cadavers and missing persons;
3. Assist in the physical examination of the cadaver and record its description (height, weight, gender, race, etc.) fingerprints, distinguishing marks, dentures and other similar activities;
4. Assist in the conduct of inventory of personal effects/belongings of the cadavers, such as clothes, identification cards, jewelries, wallets, cellphones, and other valuables and placed them in a container or plastic bag and turn them over to the designated agency custodian. The container or plastic bag must be marked according to the cadaver tag number;
5. Secure passenger manifests to account for the passengers and crew, especially the dead and missing ones.
6. Secure a copy of death certificates for future reference in legal settlements, insurance policies, death claims and benefits, re-marriage of survivors, business relationships, etc;
7. Obtain a record of inventory receipts of turn-over documents, items and cadavers;
8. Prepare/submit progress and final reports on the incident.

3.14.5 **RULE V: INVESTIGATION PROCEDURE FOR LAND TRANSPORTATION (MRT- RAILROAD COLLISION) RESULTING IN DISASTER**

Traveling by train is one of the fastest, cheapest, most comfortable and reliable means of public transportation. This mass transit system is utilized by a great number of people, especially in Metro Manila.

Train accidents are caused by negligence on the part of the engineers, maintenance crew and/or the train operator. However, some of these catastrophes also result from mechanical failure or substandard train manufacturing.

Other causes:

- a. Collision with another train
- b. Derailment
- c. Collision with a car or bus
 - 1. Mechanical failure that leads to an accident
 - 2. Inadequate security on the train
 - 3. Dated and unsuitably maintained tracks
 - 8. Conductor or engineering negligence

ACTIONS UPON ARRIVAL AT THE CRIME SCENE

- 1. Save lives - survivors/injured passengers and crews should be immediately rescued for medical treatment;
- 2. Secure the railways and scene of accidents – immediately informed the dispatcher/operators regarding the incident to immediately stop or re-route the operations, if necessary;
- 3. Arrest intruders/looters;
- 4. Interview the witnesses;
- 5. Photograph/video the scene of incident before and after the incident;
- 6. Inform the concerned agency in Philippine National Railways (PNR), Light Rail Transit Authority (LRTA), or Manila Metro Rail Transit Corp.(MRTC).
- 7. Upon arrival of the concerned investigating agencies, PNP investigator shall conduct briefing prior to the turnover of the scene of incident for their further processing;

8. After processing of the crime scene by the SOCO or other concerned agencies, they shall turn-over the scene of incident to the police investigators for subsequent release of the scene of incident in consultation with other agencies;
9. Assist the proper authority in the conduct of investigation;
10. Prepare special/ initial investigation report;
11. Prepare incident case folder.

3.14.6 RULE VI: PROCEDURE IN THE INVESTIGATION OF CHEMICAL, BIOLOGICAL, RADIOLOGICAL AND NUCLEAR (CBRN) TERRORISM

CBRN is an acronym that stands for chemical, biological, radiological, and nuclear. It is in common use worldwide, to refer to incidents or weapons in which any of these four hazards are presented.

A CBRN incident Differs from a hazardous material incident in both effect scope (i.e., CBRN can be a mass casualty situation) and in intent. CBRN incidents are responded to under the assumption that they are deliberate, malicious acts with the intention to kill, sicken and/or disrupt society. Evidence preservation and perpetrator apprehension are of greater concern for CBRN investigators.

a. Personal Protective Equipment (PPE)

1. Eye protector
2. Gloves
3. Mask
3. Gown/Suit

b. General Indicators of CBRN incident

1. Unexplained number of people displaying unusual behavior, signs and symptoms;
2. Explosions
3. Abandoned spraying devices or packages

4. Unusual or unscheduled insect spraying
5. Unusual fog, clouds or mist (particularly indoors)
6. Pools of liquid that have no visible source or an unusual source
7. Strange smells
8. Dead animals
9. Discolored, withered vegetation
- 10 .An unusual number of people displaying flu-like symptoms or other illness
10. Suspicious packages and their locations etc.

c. ACTIONS UPON ARRIVAL AT THE SCENE

1. Recognize the incident, respond to it, but do not intervene, while taking the necessary precautions and calling in the appropriate specialized resources.
2. Save lives – If possible and with the clearance from appropriate authority, survivors should immediately be given assistance for medical treatment;
3. Arrest the perpetrators/looters;
4. Secure the area – do not allow anyone to enter the affected area;
5. Inform/coordinate with the proper authority such as (The Philippine Nuclear Research Institute (PNRI), Department of Health (DOH) and National Disaster and Coordinating Council (NDCC.)
6. Interview the witnesses;
7. Photograph/video the scene;
8. Upon arrival of concerned investigating authorities, the local investigator shall conduct briefing prior to the turn-over of the crime scene/scene of incident for their disposition.

9. Prepare Special/initial Investigation report.
10. Prepare Incident Case folder.

CADAVER TAG DATA (Sample)

Cadaver Tag Number	01/23-5-09 (Nr./day/month/year)
Name <i>(If Identified)</i>	Unknown
Date/Time/Place of Recovery	May 26, 2009/1330H/Sitio Liit, Brgy. Isla, Mamburao, Mindoro Occ.
Time/Date/Type /place of incident	May 23, 2009/1200H/ship sank/ Sea waters off Batangas (Princess of the Stars)
Gender	Male
Other Pertinent Information	Tattoo on the right shoulder "Guardian"
Name of Investigator	PO3 Juan Takbo, Mamburao Police Stn.

*"He who does not prevent a crime when he can,
encourages it."*

(Seneca)

CHAPTER IV

BASIC CRIMINAL PROCEDURE

4.1 ARREST

Arrest is the taking of a person into custody so he can answer for the commission of an offense.

4.1.1 WHO ARE EXEMPTED FROM ARREST

- a. President of the Philippines
- b. Senators or members of the House of Representatives, while Congress is in session, in all offenses punishable by not more than six (6) years imprisonment.
- c. Diplomatic officials and their domestics.

4.1.2 METHODS OF ARREST:

- a. With warrant of arrest – The officer shall inform the person to be arrested of the cause of the arrest and of the fact that a warrant has been issued for his arrest, except when he flees or forcibly resists before the officer has opportunity to inform him or when the giving of such information will imperil the arrest. The officer need not have the warrant in his possession at the time of the arrest but after the arrest, if the person arrested so requires, the warrants shall be shown to him as soon as practicable.
- b. Without warrant of arrest – The officer shall inform the person to be arrested of his authority and the cause of his arrest, unless the person to be arrested is then engaged in the commission of an offense or is pursued immediately after its commission or after an escape, or flees or forcibly resists before the officer has opportunity to inform him, or when the giving of such information will imperil the arrest.

4.1.3 WHEN LAWFUL WARRANTLESS ARREST IS MERITED

- a. When, in the law enforcer's presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense.

b. When an offense has in fact just been committed, and the officer has personal knowledge of facts indicating that the person to be arrested has committed it.

c. When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

d. If a person lawfully arrested escapes or is rescued, any person may immediately pursue or retake him without a warrant at any time and in any place within the Philippines.

e. When the arrest is made by a bondsman for the purpose of surrendering the accused.

f. Where the accused released on bail attempts to leave the country without court permission.

g. Violation of conditional pardon, punishable under Article 159 of the Revised Penal Code as a case of evasion of service of sentence.

h. Arrest following a Deportation Proceeding by the Immigration Commissioner against illegal and undesirable aliens.

“Hot Pursuit” Arrest

A hot pursuit arrest must have the following elements: a) that an offense has been committed, b) offense has just been committed, and c) that there is probable cause based on personal knowledge of facts or circumstances that the persons to be arrested were the ones who committed it.

4.1.4 ARREST AS RESULT OF A “BUY-BUST” OPERATION:

A “buy-bust” operation is a form of entrapment which has been repeatedly accepted to be valid means of arresting violators of Dangerous Drugs Law. It is a means of catching a malefactor in flagrante the delicto. The police officers conducting the operation are not only authorized but duty-bound to apprehend the violator and to search him for anything that may have been part of or used in the commission of the crime. (PP vs. Salazar, Jan. 27, 1997)

4.1.5 HOW TO EFFECT ARREST

In general, an arrest is made by an actual restraint of the person to be arrested, or by his submission to the custody of the person making the arrest.

No violence or unnecessary force shall be used in making an arrest, and the person arrested shall not be subjected to any greater restraint than is necessary for his detention. (Sec. 2, Rule 113 of Rules of Court)

a. Making the Arrest.

1. Use good judgment in connection with the arrest.
2. Assume that the subject is armed and will take your life if given an opportunity.

b. Arrest on the Street.

1. This should be made from the side or rear of the person to be arrested when possible.
2. Subject should be forced toward a building.
3. Avoid congested areas when possible.

c. Arrest at Home, Office or Business Establishment.

1. Restrict the subject's movement. Do not grant request for personal privileges before being searched.
2. Clothing and other things requested should be examined for weapons or items of evidence before turning them over to the subject.

4.1.6 SUMMONING ASSISTANCE FOR ARREST

Any officer making a lawful arrest may verbally summon as many as he deems necessary to aid him in making the arrest. Every person so summoned shall aid him in the making of such arrest when he can render such aid without detriment to himself (Sec 10, *ibid*)

4.1.7 PROCEDURES WHEN ARREST IS MADE

- a. Secure the person arrested (handcuff at the back)
 1. Conduct thorough search for weapons and other illegal materials;
 2. Inform the arrested person of his rights as provided for in the Constitution;
- b. Use reasonable force in making arrest.
 1. Confiscated evidence shall be properly documented;
 2. Bring the arrested person to the Government Accredited Hospital for Medical Examination.
 3. Bring the arrested person to the Police Station for documentation

4.1.8 ARREST OF MINORS (RA 9344, Juvenile Justice Act of 2005)

If it has been determined that the child taken into custody is fifteen (15) years old or below, the authority which will have an initial contact with the child has the duty to immediately release the child to the custody of his/her parents or guardian, or in the absence thereof, the child's nearest relative. Said authority shall give notice to the local social welfare and development officer. If the parents, guardians or nearest relatives cannot be located, or if they refused to take custody, the child may be released to any of the following:

- a. Duly registered non-governmental or religious organization;
- b. A barangay official or a member of the Barangay council for the Protection of Children (BCPC);
- c. A local social welfare and development officer;
- d. DSWD

4.1.9 DETENTION AND BODILY SEARCH OF A MINOR

A child in conflict with the law shall only be searched by a law enforcement officer of the same gender and shall not be locked up in a detention cell. However, if detention is necessary, the arresting officer shall ensure that the child shall be secured in quarters separate from that of the opposite sex and adult offenders.

4.1.10 USE OF HANDCUFFS AND OTHER INSTRUMENTS OF RESTRAINT OF FORCE OR RESTRAINT

Unless absolutely necessary and only after all other methods of control have been exhausted and have failed shall handcuffs or other instruments of restraint be used. (Sec. 21, e)

Apprehending officers shall avoid displaying or using any firearm, weapon, handcuffs or other instrument.

The taking of statement of the child shall be conducted in the presence of the following:

- a. child's counsel of choice or in the absence thereof, a lawyer from the Public Attorney's Office;
- b. the child's parents, guardian, or nearest relative, as the case maybe be; and
- c. the local social welfare and development officer (Sec. 22)

4.1.11 POINTS TO CONSIDER IN MAKING AN ARREST

- a. Use of "Reasonable Force":

The force to be used must be one that is only necessary to overcome any actual resistance to the arrest (PP vs. Delima, 46 Phil 738). In U.S. vs Mojica, 42 Phil 784, the Supreme Court ruled that a police officer, in the performance of his duty, must stand his ground and cannot, like a private individual, take refuge in flight, his duty requires him to overcome his opponent. The force which he may exert therefore differ somewhat from that which may ordinarily be offered in self-defense. A police officer is not required to afford a person attacking him the opportunity for a fair and equal struggle.

b. Arrest of Suspects on board a Moving Vehicle;

In general, vehicles carrying suspected persons may not be fired upon solely to disable the car. The driver or other occupant of a moving vehicle may be fired upon only if the police has probable cause to believe that the suspects pose an imminent danger of death to the police or other persons, and the use of firearm does not create a danger to the public that outweighs the like benefits of its use. (Rule 8, POP)

c. Rights of the Accused under Custodial Investigation

1. Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.
2. No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, *incommunicado*, or other similar forms of detention are prohibited.
3. Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

4.1.12 RIGHT OF ATTORNEY OF RELATIVE TO VISIT PERSON ARRESTED

Any member of the bar shall, at the request of the person arrested or of another on his behalf, have the right to visit and confer privately with such person, in jail or any other place of custody at any hour of the day or, in urgent cases, of the night. This right shall be exercised by any relative of the person arrested to reasonable regulation (Sec. 14, Rule 113)

Executive Order No. 155, dated March 1987, amending Republic Act No. 857, penalizes any public officer who deprives a person of his right to counsel. The penalty shall be prison correctional or imprisonment of 6 months and 1 day to 6 years.

RA 857 has been repealed by RA 7438. The penalty is now a fine of P/ 6,000.00 or a penalty of imprisonment of not less than 8 years but not more than 10 years, or both. The penalty of perpetual absolute disqualification shall be imposed upon the investigating officer who has been previously convicted of a similar offense.

4.1.13 CUSTODIAL INVESTIGATION

a. It is the skillful questioning of a suspect or a hostile witness to divulge information on the crime being investigated.

b. It must be remembered, however, that police investigators cannot learn proper investigation merely by reading books. The success of the investigation depends on its legality, topic, physical insight and experience.

4.1.14 DUTIES OF ARRESTING OFFICER (Extracted from POP)

a. It shall be the duty of the officer executing the warrant to arrest the accused and deliver him without delay to the nearest police station or jail for the recording of the fact of the arrest of the accused.

b. At the time of the arrest, with or without warrant, it shall be the duty of the arresting officer to inform the person to be arrested of the cause of the arrest and the fact that a warrant has been issued for his arrest (Section 7, Rule 113 Revised Rules on Procedure) and in case of arrest without a warrant, it shall be the duty of the arresting officer to inform the person to be arrested of his authority and the cause of the arrest (Section 8, Rule 113 Revised Rules of Criminal Procedure), in the dialect or language known to him, except when he flees or forcibly resists before the officer has the opportunity to so inform him or when the giving of such information will imperil the arrest. The officer need not have the warrant in his possession at the time of the arrest but after the arrest, if the person arrested so requires, the warrant shall be shown to him as soon as practicable.

1. The person arrested, with or without warrant, shall be informed of his constitutional right to remain silent and that any statement he might make could be used against him. He shall have the right to communicate with his lawyer or his immediate family. It shall be the responsibility of the arresting officer to see to it that this is accomplished.

2. A person arrested without a warrant shall be immediately brought to the proper police station for investigation without unnecessary delay, and within the time prescribed in Article 125 of the Revised Penal Code, as amended (i.e., 12, 18, or 36 hours, as the case may be), shall be subjected to inquest proceedings under Section 7, Rule 112 of the 2000 Rules of Criminal Procedure.
3. No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against an arrested person. The bringing of arrested persons to secret detention places, solitary confinement (*incommunicado*) or other forms of detention is prohibited.
4. If the person arrested without a warrant waives his right under the provisions of Art 125 of the Revised Penal Code the arresting officer shall ensure he shall sign a waiver of detention in the presence of his counsel of choice.

If the person arrested waives his right against self-incrimination and opts to give his statement, the arresting officer shall ensure that the waiver shall be made in writing and signed by the person arrested in the presence of counsel of his own choice or a competent and independent counsel provided by the government.

5. When transporting the suspect/s to the police station, be sure that no weapon/s are retained in their persons that could be used against the arresting officer, regardless if the person arrested is a noted criminal or not. It is also a must that the arrested person/s be handcuffed to prevent violence.

4.1.15 BOOKING PROCEDURES OF THE ARRESTED PERSON/SUSPECT

a. The arrested suspect shall be subjected to booking procedure. He shall likewise be fingerprinted, photograph and tested for possible use of prohibited drugs

b. A person under arrest who refuses to be fingerprinted may be prosecuted for disobedience to an agent of person in authority, as defined and penalized by Article 151 of the RPC.

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c. Inform the arrested person of his rights as provided for in the Constitution.

d. Prepare spot report, sworn statement/s of arresting officers and witnesses, other supporting documents, and processing of evidences.

4.1.16 MEDICAL EXAMINATION OF ARRESTED PERSON / SUSPECT

Immediately after the arrest of a person ordered arrested by the court, or of a suspect under investigation, he should be subjected to a medical examination. Prior to his release or any change of custody, the suspect should also be medically examined by a medico-legal officer or, in the absence of such medico-legal officer, by any government physician in the area.

4.1.17 MUGSHOTS AND FINGERPRINTS

Arresting units shall at all times take the mugshots and fingerprints of all arrested persons. Copies thereof shall be submitted to the PNP Crime Laboratory Service to serve as master file.

4.1.18 REPORTS ON ARRESTED PERSONS

All arrests made shall be immediately reported to the C, PNP; ATTN: DO, DIDM; PACER/AIDSOTF (in case of kidnapping /drugs).

4.1.19 ACCOMPLISHMENT OF NATIONAL CRIME REPORTING SYSTEM (NCRS)

Operating units concerned shall accomplish regularly the NCRS and all agencies concerned shall be provided with copies thereof.

4.2. RAID

a. Every member of a law enforcement organization must know the technique of conducting a raid.

b. Raids are usually made after careful investigation and when other methods of accomplishing the mission are not suitable.

c. Whenever available, men experienced in conducting police raids should be chosen as raid commanders.

A raid is a surprise invasion of a building or area.

Legal basis. A raid must be legal, having its basis in lawful process and conducted in a legal manner. This will be in the form of a search warrant or warrant of arrest. The raid may be in pursuit of a person reasonably believed to be guilty of felony and when it is known that the felony has just been committed.

4.2.1 OBJECTIVES

The purpose of a raid is usually to:

- a. Effect an apprehension;
- b. Obtain evidence of illegal activity by surprising the offenders in flagrante delicto; or
- c. Recover stolen property.

Coordination with the Local Station Commander

It is imperative that immediately before the service of a search warrant, the team leader should see to it that proper coordination is made with the commander of local police station having jurisdiction over the target premises. The coordinating party will inform the local station that their team is conducting an operation in their area. This gesture of coordination is not only a manifestation of courtesy but also a safety measure to avoid the possibility of a mistake encounter.

4.2.2 BASIC REQUIREMENT IN THE CONDUCT OF RAID

Generally, all police operations (arrest, raid, search and seizure, checkpoint, etc) shall be conducted:

- a. With a marked police vehicle;
- b. Preferably led by a Commissioned Officer;

- c. With personnel in proper police uniform (Rule 3, PNP Operational Procedures)
 - Exception to this rule is when using a marked police vehicle will jeopardize the safety of the raiding team and will greatly affect the success of the operation.

4.2.3 USE OF REASONABLE FORCE

The use of force shall be avoided. However, when during the conduct of the raid an armed confrontation took place due to unavoidable circumstances, the police may use reasonable force to overcome the threat posed by the suspect. The use of firearm is justifiable only by virtue of the Doctrines of Self-defense, Defense of Relative, and Defense of Stranger, and if the police has probable cause to believe (based on facts) that the suspect poses an imminent danger of death or serious physical injury to the police or other persons.

The officer-in-charge must ensure that no innocent civilian is caught in the crossfire (Rule 6 and 7 supra).

Things to be done after a raid where an armed confrontation ensued. The officer-in-charge shall:

- a. Secure the sight of the confrontation;
- b. Check whether the situation still poses imminent danger;
- c. Evacuate the wounded to the nearest hospital;
- d. Account for the killed, wounded and arrested persons for proper disposition (Rule 9, *ibid*)

Jurisdictional Investigation. The police unit which has jurisdiction over the area of the armed confrontation, together with the SOCO team, if any, shall immediately undertake the necessary investigation and processing of the scene of the encounter (Rule 10, PNP Operational Procedures).

Dont's in Raid

- a. Don't take unnecessary chances.
- b. Don't underestimate the ability or courage of the subject(s).

- c. Don't raid when not properly prepared.
- d. Don't endanger the lives of bystanders.
- e. Don't use police personnel who are not well-acquainted with each other.
- f. Don't forget gas masks when employing teargas.
- g. Don't be unnecessarily violent on the subject(s).
- h. Don't shoot unless very imperative.
- i. Don't touch the evidence unless seen by witnesses, or by the owner or occupant of the place.

4.3. SEARCH

Search is an examination of an individual's person, house papers or effects, or other buildings and premises to discover contraband or some evidence of guilt to be used in the prosecution of a criminal action.

What is a Search Warrant?

A search warrant is an order in writing issued in the name of the People of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and to bring it before the court. (Sec 1, Rule 126)

Requisites for filing an application for Search Warrant:

All applications for Search Warrant shall be personally endorsed by the Heads of the Agency for the search of places and the things to be seized to be particularly described therein. The application shall be recorded in a log book. The application shall likewise indicate the following data:

- a. Office applying for the Search Warrant;
- b. Name of officer-applicant;
- c. Name of the Subject, if known;
- d. Address/place(s) to be searched;

- e. Specific statement of things/articles to be seized;
- f. Sketch of the place to be searched.

A search warrant shall be issued only upon probable cause (personal knowledge of facts and not mere hearsay) in connection with one specific offense to be determined personally by the judge. The facts must be sufficient to establish the need for the issuance of the warrant.

Where to file Search Warrant:

An application for search warrant shall be filed with any court within whose territorial jurisdiction a crime was committed; or for compelling reason stated in the application, with any court within the judicial region where the crime was committed if the place of the commission of the crime is known, or any court within the judicial region where the warrant shall be enforced. If the criminal action has been filed, the application shall only be made in the court where the criminal action is pending (Sec. 2, Rule 126 Rules of Court).

Requirements and other significant features in a Search Warrant

a. Probable Cause Required for Search Warrant. Probable cause means that sufficient facts must be presented to the judge issuing the warrant to convince him that circumstances sufficiently establish the need for the issuance of the warrant.

b. May Things Illegally Seized be Admitted as Evidence? The fruits of an illegal search are inadmissible as evidence. Any evidence obtained in violation of the right of the people against unlawful searches and seizure shall be inadmissible for any purpose in any proceeding. [Sec 3(2), Art. III, 1987 Constitution.]

c. May Articles Not Mentioned in the Searched Warrant be seized? Generally, articles not included in the search warrant may not be seized. However, articles prohibited by a statute, although not included in the search warrant, may be seized. Thus, if during the progress of a bonafide search for other commodities illegally possessed, whether with search warrant or not, contraband or items declared as illegal per se are discovered, the contraband can be seized. The seizure of goods, the possession of which is forbidden by statute, violates no constitutional right of the accused.

Procedures in the Implementation of a Search Warrant

How to Serve a Search Warrant. A search warrant must be served within ten (10) days from its date (thereafter, it shall be void) Sec 9, Rule 126) in the following manner:

a. The police officer concerned must go to the place indicated in the search warrant and take the things described therein, in the presence of at least one competent witness who is a resident of the neighborhood. If he is refused admittance to the place of search after giving notice of his purpose and authority, he may force himself in to execute the warrant; and if he is detained therein, he may force himself out to liberate himself. (Sec 6, *ibid*)

b. The search must be made at daytime, unless otherwise stated. (Sec. 8, *ibid*)

No search of a house, room, or any other premises shall be made except in the presence of the lawful occupant thereof or any member of his family or in the absence of the latter, two (2) witnesses of sufficient age and discretion residing in the same locality. (Sec. 8, Rule 126)

c. The officer seizing the property must issue a detailed receipt for the same to the lawful occupant of the premises in whose presence the search and seizure were made, or in the absence of such occupant, must in the presence of at least two (2) witnesses of sufficient age and discretion residing in the same place, leave a receipt in the place in which he found the seized property. (Sec. 11, Rule 126)

1. In compliance with this procedure, it has been standard practice to issue a RECEIPT FOR PROPERTY SEIZED (See Appendix "A") after a seizure. The receipt is signed by the seizing officer only and two witnesses. A Recent Supreme Court decision, however, declared that such receipt when signed by the accused is in effect an extrajudicial confession of the commission of the offense charge. (*People v de las Marinas*, G.R. No. 87215, 30 Apr 91; and *People v Mauyao*, G.R. No. 84525, 6 Apr 92). Consequently, if the accused does not sign such receipt, it may still be used in evidence. Moreover, if the accused DID in fact sign the receipt, but he signed it with the assistance of a lawyer of his choice, that act would constitute a valid waiver of his right against self-incrimination.

2. It must be noted that in the cases cited above, the crime charged is possession of prohibited drugs. Thus, the signature of an accused on the receipt is a declaration against interest and a tacit admission of the crime charged, as mere unexplained possession of prohibited drugs is punishable. The doctrine is therefore not a hard and fast rule as far as the "Receipt for Property Seized" is concerned. If the crime charged is possession of unlicensed firearms, for example, the doctrine would apply. In other cases, it does not apply.
3. Another document which is made after a search is a CERTIFICATION OF PROPERTY SEIZED (See Appendix "B"). This is signed by the owner of the seized property, and would seem to fall more under the court pronouncement above than the "Receipt for Property Seized" does.
 - d. As much as possible, during the opening of safes, drawers, cabinets, tables, etc., the lifting of the articles should be done by the owner of the house or his authorized representative, or by immediate members of his family, to preclude any suspicion of theft or planting of evidence.
 - e. Thereafter, the officer must immediately deliver the things or property seized to the judge who issued the warrant, together with an inventory duly verified under oath. (Sec 11, *ibid.*)
 - f. Things or personal properties not specifically indicated or particularly described in the search warrant shall not be taken;
 - g. Court approval necessary to Retain Seized Property. Approval by the court which issued the search warrant is necessary for the retention of the property seized by the police officers; and only then will their custody of the court to be allowed. Absent such approval, the police officers have no authority to retain possession ...and more so, to deliver the property to another agency...(Vide *Tambasen v. PP*, 246 SCRA 184)

Lawful Warrantless Searches and Seizures

Warrantless searches and seizures are lawful under any of the following circumstances:

- a. When there is consent or waiver. To be valid waiver, the right must exist, the owner must be aware of such right, and he must have an intention to relinquish it.

b. When evidence to be seized is in “plain view.” The discovery of the evidence must be inadvertent or unintentional.

c. Customs search or searches made at airports/seaports in order to collect duties. This warrantless search is allowed due to urgency.

d. Search of moving vehicles may be made without a warrant because it would be impracticable to secure a warrant before engaging in “hot pursuit.” (Bagista 214 SCRA 63)

e. Routine searches made at or in the interest of national security, such as border checks or checkpoints.

f. Stop-and-search or stop-and-frisk, where the search precedes the arrest, and is allowed on grounds of reasonable suspicion.

g. Search incidental to a lawful arrest. A person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof of the commission of an offense, without a search warrant. (Sec 12, Rule 126)

It should be noted that the arrest must precede the search. The search is limited to body search and to that point within reach or control of the person arrested, or that which may furnish him with the means of committing violence or of escaping or reach for evidence to destroy it (PP vs. Lua, 70 SCAD 446)

h Search of Vessels – Search of vessels and aircraft because of their mobility and the relative ease in fleeing the state’s jurisdiction (Roldan vs Arca, 65 SCRA 336).

i Exigent Circumstances – Justice Reynato Puno proposed this exception as a catch-all category that would encompass a number of diverse situations where some kind of emergency makes obtaining a search warrant impractical, useless, dangerous or unnecessary (PP vs. Fernandez, 57 SCAD 481)

Note:

Things prohibited by law which were illegally searched and seized does not call for their return to the owner. (Uy Kheytyin vs. Villareal, 42 Phil 886).

4.4. SEIZURE

Seizure – is the confiscation of personal property by virtue of a search warrant issued for the purpose. A search warrant may be issued for the search and seizure of the following personal properties:

- a. Subject of the offense;
- b. Stolen or embezzled and other proceeds, or fruits of the offense; or
- c. Used or intended to be used as the means of committing an offense.

Items to be Seized

A search warrant may be issued for the search and seizure of the following personal property:

- a. Property subject of the offense;
- b. Property stolen or embezzled and other or fruits of the offense; and
- c. Property used or intended to be used for committing an offense.
(Sec 2, ibid)

Disposition of Seized Items

The following will be seized at the scene of the raid:

- a. Weapons which may be used against the raiding party.
- b. Articles which might be used as a means of suicide.
- c. Articles which might be used in escaping.
- d. Articles which might be used in the commission of the crime.
- e. Proceeds or fruits of the crime (stolen property).

Disposition of money and other valuable property

- a. Money should be counted and the serial numbers of the bills noted;

- b. Valuables should be sealed in a property envelope in the presence of the owner;
- c. Property envelope should show a complete inventory of its contents;
- d. The owner should initial the outside of the envelope showing approval of its contents;
- e. Raiding officers should sign their names on the outer part of the envelope; and
- f. A receipt should be given to the suspect. However, this is qualified by the decision of the Supreme Court declaring as inadmissible in evidence the Receipt for Property Seized, signed by the accused, in cases where mere possession of the items seized is punishable.

Disposition of articles not covered in a search warrant

- a. If the articles are illicit or contraband, the same must be seized.
- b. Such articles may be used as evidence to prosecute the person.
- c. Non-contraband articles must be returned to the owners or must not be seized in the first place.

4.5. INQUEST

Inquest is an informal and summary investigation conducted by a public prosecutor in criminal cases involving persons arrested and detained without the benefit of a warrant of arrest issued by the court for the purpose of determining whether or not said persons should remain under custody and correspondingly be charged in court.

The provisions of this section were lifted from the text of Department of Justice Circular No. 61 entitled New Rules On Inquest, which refers to the duties and responsibilities of the prosecutor and not of the PNP personnel. Though some of the provisions are necessary for our information, other provisions were reworded to harmonize with the intent of the manual. The purpose of the investigation manual is to guide police personnel on what is his/her role or sanctions in case of failure to do so. It does not cover those sanctions in cases of neglect or irregularity in the performance of their duties since it has no jurisdiction over them.

Inquest Prosecutor

PNP units shall coordinate with the City or Provincial Prosecutors to ensure efficient inquest proceedings. It shall secure updated list of Prosecutors who are detailed as duty inquest with their names and schedule of assignments. If there is only one Prosecutor in the area, all inquest cases shall be referred to him for appropriate action.

Commencement and Termination of Inquest

The inquest proceedings shall commence upon receipt by the Inquest Officer from the law enforcement authorities of the complaint/referral documents which should include:

- a. the affidavit of arrest;
- b. the investigation report;
- c. the statement of the complainant and witnesses; and
- d. other supporting evidence gathered by the police in the course of the latter's investigation of the criminal incident involving the arrested or detained person.
- e. the Inquest Officer shall, as far as practicable, cause the affidavit of arrest and statement/affidavit of the complainant and the witnesses to be subscribed and sworn to before him by the arresting officer and the affiants.
- f. the inquest proceedings must be terminated within the period prescribed under the provisions of Article 125 of the Revised Penal Code, as amended.

Inquest Procedure

a. Documents required in specific cases – The investigator-on-case shall prepare the following documents for submission/presentation to the inquest Prosecutor, to wit:

1. Murder, Homicide and Parricide
 - a) certified true copy/machine copy of the certificate of death of the victim; and

- b) Necropsy report and the certificated of post-mortem examination, if readily available.
- 2. Frustrated or Attempted Homicide, Murder, Parricide and Physical Injuries
 - a) medical certificate of the complaining witness showing the nature or extent of the injury;
 - b) certification or statement as to duration of the treatment or medical attendance; and
 - c) certificate or statement as to duration of incapacity for work.
- 3. Violation of the Dangerous Law (R.A 9165, as amended)
 - a) Refer to Rule II Section 13 of the PNP Manual on Anti-Illegal Drugs Operation and Investigation of CY 2010.
- 4. Rape, Seduction and Forcible Abduction with Rape.
 - a) the medico-legal report (living case report), if the victim submitted herself for medical or physical examination.
- 5. Violation of the Anti-Carnapping Law (R.A. No. 6539)
 - a) machine copy of the certificate of motor vehicle registration;
 - b) machine copy of the current official receipt of payment of the registration fees of the subject motor vehicle; and
 - c) other evidence of ownership.
- 6. Violation of the Anti-Cattle Rustling Law (PD No. 533)
 - a) machine copy of the cattle certificate for registration; and
 - b) photograph of the cattle, if readily available.
- 7. Violation of Illegal Gambling Law (PD No. 9287)
 - a) gambling paraphernalia; and

- b) cash money, if any.
- 8. Illegal Possession of Explosives (R.A No. 8294 as amended)
 - a) chemistry report duly signed by the forensic chemist; and
 - b) photograph of the explosives, if readily available
- 9. Violation of the Fisheries Law (PD No. 704)
 - a) photograph of the confiscated fish, if readily available; and
 - b) certification of the Bureau of Fisheries and Aquatic Resources.
- 10. Violation of the Forestry Law (PD No. 705)
 - a) scale sheets containing the volume and species of the forest products confiscated, number of pieces and other important details such as estimated value of the products confiscated;
 - b) certification of Department of Environment and Natural Resources/ Bureau of Forest Management; and
 - c) seizure receipt.

The submission of the foregoing documents shall not be absolutely required if there are other forms of evidence submitted which will sufficiently establish the facts sought to be proved by the foregoing documents.

a. Incomplete documents. – When the documents presented are not complete to establish probable cause, the Inquest Officer shall direct the law enforcement agency to submit the required evidence within the prescribed period under the provision of Article 125 of the Revised Penal Code, as amended. Otherwise, the Inquest Officer shall order the release of the detained person and, where the inquest is conducted outside of office hours, direct the law enforcement agency concerned to file the case with the City or Provincial Prosecutor for appropriate action.

b. Presence of detained person – the presence of the detained person who is under custody shall be ensured during the proceedings.

However, the production of the detained person before the Inquest Officer may be dispensed with in the following cases:

1. if he is confined in a hospital;
2. if he is detained in a place under maximum security;
3. if production of the detained person will involve security risks;
or
4. if the presence of the detained person is not feasible by reason of age, health, sex and other similar factors.

The absence of the detained person by reason of any of the foregoing factors shall be noted by the Inquest Officer and reflected in the record of the case.

c. Charges and counter-charges - All charges and counter-charges arising from the same incident shall, as far as practicable, be consolidated and inquested jointly to avoid contradictory or inconsistent disposition.

d. Duty of Inquest Officer - The Inquest Officer shall first determine if the arrest of the detained person was made in accordance with paragraphs (a) and (b) of Section 5, Rule 13 of the 1985 Rules on Criminal Procedure, as amended, which provide that arrest without a warrant may be affected:

1. When, in the presence of the arresting officer, the person to be arrested has committed, is actually committing, or is attempting to commit an offense; or
2. When an offense has in fact just been committed and the arresting officers have personal knowledge of facts indicating that the person to be arrested has committed it.

For the purpose, the Inquest Officer may summarily examine the arresting officers on the circumstances surrounding the arrest of apprehension of the detained person.

e. Where arrest not properly effected - Should the Inquest Officer find that the arrest was not made in accordance with the Rules, he shall:

1. recommend the release of the person arrested or detained;
2. note down the disposition on the referral document;

3. prepare a brief memorandum indicating the reasons for the action taken; and
4. forward the same, together with the record of the case, to the City or Provincial Prosecutor for appropriate action.

Where the recommendation for the release of the detained person is approved by the City or Provincial Prosecutor but the evidence on hand warrants the conduct of a regular preliminary investigation, the order of release shall be served on the officer having custody of said detainee and shall direct the said officer to serve upon the detainee the subpoena or notice of preliminary investigation, together with the copies of the charge sheet or complaint, affidavits or sworn statements of the complainant and his witnesses and other supporting evidence.

f. Where arrest is properly effected - Should the Inquest Officer find that the arrest was properly effected, the detained person shall be asked if he desires to avail himself of a preliminary investigation and, if he does, he shall be made to execute a waiver of the provisions of Article 125 of the Revised Penal Code, as amended, with the assistance of a lawyer and, in case of non-availability of a lawyer, a responsible person of his choice. The preliminary investigation may be conducted by the Inquest Officer himself or by any other Assistant Prosecutor to whom the case may be assigned by the City or Provincial Prosecutor, which investigation shall be terminated within fifteen (15) days from inception.

g. Inquest proper - Where the detained person does not opt for a preliminary investigation or otherwise refuses to execute the required waiver, the Inquest Officer shall proceed with the inquest by examining the sworn statements/affidavits of the complainant and the witnesses and other supporting evidence submitted to him.

If necessary, the Inquest Officer shall require the presence of the complaining witnesses and subject them to an informal and summary investigation or examination for purposes of determining the existence of probable cause.

h. Meaning of Probable Cause - Probable cause exists when the evidence submitted to the Inquest Officer engenders a well-founded belief that a crime has been committed and that the arrested or detained person is probable guilty thereof.

1. Presence of Probable Cause - If the Inquest Officer finds that probable cause exists; he shall forthwith prepare the corresponding complaint/ information with the recommendation that the same be filed in court. The complaint/information shall indicate the offense committed and the amount of bail recommended, if available.

Thereafter, the record of the case, together with the prepared complaint/information, shall be forwarded to the City of Provincial Prosecutor for appropriate action.

The complain/information may be filed by the Inquest Officer himself or by any other Assistant Prosecutor to whom the case may be assigned by the City or Provincial Prosecutor.

2. Contents of Information - The information shall, among others contain:
 - a) certification by the filing Prosecutor that he is filing the same in accordance with the provisions of Section 7, Rule 112, Rules on Criminal Procedure, in cases cognizable by the Regional Trial Court;
 - b) the full name and aliases, if any, and address of the accused;
 - c) the place where the accused is actually detained;
 - d) the full names and addresses of the complainant and witnesses;
 - e) a detailed description of the recovered items, if any;
 - f) the full name and address of the evidence custodian;
 - g) the age and date of birth of the complainant or the accused, if eighteen (18) years of age or below; and
 - h) the full names and addresses of the parents, custodians or guardians of the minor complainant or accused, as the case may be.
3. Absence of Probable Cause - If the Inquest Officer finds no probable cause, he shall:

- a) recommend the release of the arrested or detained person;
- b) note down his disposition on the referral document;
- c) prepare a brief memorandum indicating the reasons for the action taken; and
- d) forthwith forward the record of the case to the City Provincial Prosecutor for appropriate action.

If the recommendation of the Inquest Officer for the release of the arrested or detained person is approved, the order of release shall be served on the officer having custody of the said detainee.

Should the City or Provincial Prosecutor disapprove the recommendation of release, the arrested or detained person shall remain under custody, and the corresponding complaint/information shall be filed by the City or Provincial Prosecutor or by any Assistant Prosecutor to whom the case may be assigned.

i. Presence at crime scene - Whenever a dead body is found and there is reason to believe that the death resulted from foul play or from the unlawful acts or omissions of other persons and such fact has been brought to his attention, the Inquest Officer shall:

1. forthwith proceed to the crime scene or place of discovery of the dead person; and
2. cause an immediate autopsy to be conducted by the appropriate medico-legal officer in the locality or the PNP medico-legal division or the NBI medico-legal office, as the case may be;
3. direct the police investigator to cause the taking of photographs of the crime scene or place of discovery of the dead body;
4. supervise the investigation to be conducted by the police authorities as well as the recovery of all articles and pieces of evidence found thereat and see to it that the same are safeguarded and the chain of the custody thereof properly recorded; and

5. submit a written report of his findings to the City or Provincial Prosecutor for appropriate action.

j. Sandigan cases - Should any complaint cognizable by the Sandiganbayan be referred to an Inquest Officer for investigation, the latter shall, after conducting the corresponding inquest proceeding, forthwith forward the complete record to the City or Provincial Prosecutor for appropriate action.

k. Recovered articles - The Inquest Officer shall see to it that all articles recovered by the police at the time of the arrest or apprehension of the detained person are physically inventoried, checked and accounted for with the issuance of corresponding receipts by the police officer/investigator concerned.

1. The said articles must be properly deposited with the police evidence custodian and not with the police investigator.
2. Inquest Officer shall ensure that the items recovered are duly safe guarded and the chain of custody is properly recorded.

l. Release of recovered articles - The Inquest Officer shall, with the prior approval of the City or Provincial Prosecutor or his duly authorized representative, order the release of recovered articles to their lawful owner or possessor, subject to the conditions that

1. there is a written request for their release;
2. the person requesting the release of said articles is shown to be the lawful owner or possessor thereof;
3. the requesting party undertakes under oath to produce said articles before the court when so required;
4. the requesting party, if he is material witness to the case, affirms or reaffirms his statement concerning the case and undertakes under oath to appear and testify before the court when so required;
5. the said articles are not the instruments, or tools in the commission of the offense charged nor the proceeds thereof; and

6. photographs of said articles are first taken and duly certified to by the police evidence custodian as accurately representing the evidence in his custody.

4.6 REGULAR OR DIRECT FILING OF CASE

Regular Filing is the process of filing a complaint or information with the court or office of the prosecutor under the following circumstances:

- a. for the offenses where a preliminary investigation is required (where penalty imposed is at least four (4) years, two (2) months and one (1) day without regard to the fine), by filing the complaint with the proper officer for the purpose of conducting the requisite preliminary investigation.

- b. For all other offenses, by filing the complaint or information directly with the Municipal Trial Courts and Municipal Circuit Trial Courts, or the complaint with the office of the prosecutor. In Manila and other chartered cities, the complaints shall be filed with the Office of the Prosecutor unless otherwise provided in their charters.

- c. When accused lawfully arrested without warrant. - When a person is lawfully arrested without warrant involving an offense which requires a preliminary investigation, the complaint or information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted in accordance with existing rules. In the absence or unavailability of an inquest prosecutor, the complaint may be filed by the offended party or a peace officer directly with the proper court on the basis of the affidavit of the offended party or arresting officer or person.

*When I hear, I forget;
when I see, I remember;
but when I do, I understand.”
(Confucius)*

CHAPTER V

CRIMES PUNISHABLE UNDER SPECIAL LAWS

5.1 COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002

- a. What law pertaining to dangerous drugs?
 - Republic Act 9165
- b. What are the acts punishable under Comprehensive Dangerous Drugs Act?
 - 1. Importation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals
 - 2. Sale, Trading, Administration, Dispensation, Delivery, Distribution and Transportation of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals
 - 3. Maintenance of a Den, Dive or Resort
 - 4. Being Employees and Visitors of a Den, Dive or Resort
 - 5. Manufacture of Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.
 - 6. Manufacture or Delivery of Equipment, Instrument, Apparatus, and Other Paraphernalia for Dangerous Drugs and/or Controlled Precursors and Essential Chemicals
 - 7. Possession of Dangerous Drugs
 - 8. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs
 - 9. Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings
 - 10. Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings
 - 11. Use of Dangerous Drugs

12. Cultivation or Culture of Plants Classified as Dangerous Drugs or are Sources Thereof
13. Maintenance and Keeping of Original Records of Transactions on Dangerous Drugs and/or Controlled Precursors and Essential Chemicals
14. Unnecessary Prescription of Dangerous Drugs
15. Unlawful Prescription of Dangerous Drugs
16. Other analogous circumstances

c . What is the evidence needed to file a case for violation of RA 9165?

1. Testimonial Evidence – Affidavit of witnesses and others.
2. Documentary Evidence – Certificate of non-issuance of license to import or to engage in trade of precursors/paraphernalia/equipment, photographs, video, police records and other pertinent documents related thereto.
3. Object Evidence – dangerous drugs, precursors, paraphernalia, equipment, results of drug examination and drug test.
4. Other evidence relevant

5.2. DRUGS INVESTIGATIONS (VIOLATION OF COMPREHENSIVE Dangerous Drugs Act of 2002)

5.2.1 Coordination Requirements

a. PNP units, prior to any anti-drug operations shall, as far as practicable, coordinate with the Philippine Drug Enforcement Agency (PDEA).

b. In any case, the PNP anti-drug units shall coordinate/inform the PDEA of the anti-drug operation within 24 hours from the time of the actual custody of the suspects or seizure of said drugs and substances as well as paraphernalia and transport equipment used in illegal activities involving such drugs and/or substances and shall regularly update the PDEA on the status of the cases involving the said anti-drug operation. (Section 86(a) IRR, RA 9165)

c. The word “As far as practicable” as being used in Section 86, IRR, RA 9165, means that which prior coordination with the PDEA may be done, practiced or accomplished and which is feasible and possible to be performed. However, it admits of an exception. The following instances, among others are deemed not practicable for prior coordination, to wit:

1. In remote places, where coordination is not possible;
2. When coordination will compromise the lives of police operatives, informants and witnesses, involved in anti-drug operation;
3. When coordination will prejudice the apprehension of drug suspects and confiscation of dangerous drugs and Controlled Precursors and Essential Chemicals (CPECs);
4. When prior coordination will compromise the entire police operation.

(Note: In the above instances, post-coordination shall be made in lieu of prior coordination).

5.2.2. AUTHORITY TO OPERATE

- a. Paragraph (a) to (e) Section 24, RA 6975 as amended by RA 8551.
- b. Republic Act 9165 and its IRR.
- c. The PNP still possesses authority to conduct anti-illegal drug operations provided that the case shall eventually be transferred to the PDEA based on Supreme Court Decisions in *People of the Philippines versus Sta. Maria*, G.R. No. 171019, February 23, 2007 and *People of the Philippines versus Rashamia Hernandez et. Al.*, G.R. No. 184804, June 18, 2009. Hence, PDEA deputation is no longer necessary or required for PNP personnel assigned with anti-drug units.

d. The PNP are not prevented from conducting warrantless arrest under Section 5, Rule 113 and search incidental to a lawful arrest under Section 13, Rule 126 of the Rules of Court.

5.2.3. INVESTIGATION OF CASES INVOLVING PLANNED OPEATIONS

- a. Buy-Bust Operation

1. All warrantless arrest, search, and seizures to be undertaken by PNP member/anti-drug units shall be in accordance with Section 5, paragraphs (a) and (b), Rule 113, Section 13, Rule 126 of the Rules of Court, respectively and relevant Supreme Court Decisions.
2. The Team Leader shall see to it that prior reports have been submitted which may include but not limited to the following classified reports:
 - a) Summary of Information of the Target/s
 - b) Special Reports
 - c) Surveillance Report
 - d) Contact Meeting Report
 - e) Development Report
3. The following shall be strictly observed by the Arresting Officers/Investigator-on-Case during the conduct of Buy-Bust Operations:
 - a) Arrested person shall be informed of the nature of his arrest and be apprised of his constitutional rights (Miranda Doctrine);
 - b) The dangerous drugs, CPECs, paraphernalia and equipment as the case may be, shall be immediately seized and taken into custody of the apprehending team;
 - c) The seizing officer shall, as far as practicable, conduct the actual physical inventory, take photographs and properly mark the items or articles seized or confiscated in the place of seizure and in the presence of the arrested person/or his counsel or representative and representatives from the Department of Justice, MEDIA and any elected government officials who shall be required to sign on the inventory and given each a copy thereof. (Observed the rule on chain of custody and DOJ Department Circular No. 3 in compliance with Prescribed Procedures on the Seizure and Custody of Dangerous Drugs.)

NOTE: DOJ Department Circular No. 3 para 2 and 3 stated that:

Paragraph 2. All anti-drug operations require physical inventory and photography of seized and confiscated drugs. – The mandatory nature of the requirements under Section 21 (1), Article II of RA

9165 and its IRR does not distinguish between warrantless seizures and those made by virtue of a warrant. The difference merely lies in the venues of the physical inventory and photography of the seized items. Thus:

- 1. In seizures covered by search warrants, the physical inventory and photography must be conducted in the place where the search warrant was served;*
- 2. In case of warrantless seizures such as a buy-bust operation, the physical inventory and photography shall be conducted at the nearest police station or office of the apprehending officer/team, whichever is practicable; however, nothing prevents the apprehending officer/team from immediately conducting the physical inventory and photography of the items at the place where they were seized.*

Paragraph 3. *In case of non-observance of the prescribed procedure, the apprehending law enforcement officers must present an explanation to justify the same, and must prove that the integrity and evidentiary value of the seized items are not tainted. – While lapses in the handling of confiscated evidence in anti-drug operations may be countenanced, these lapses must be duly recognized and explained in terms of their justifiable grounds. The integrity and evidentiary value of the evidence seized must also be shown to have been preserved.*

- d) The seizing officer shall submit the seized or confiscated items to the nearest PNP Crime Laboratory for examination and analysis;*
- e) The arresting officer shall bring the arrested suspects to their office for proper custody, documentation and proper disposition;*
- f) The arrested suspect/s shall be presented to the PNP CRIME LABORATORY (CL) for physical, medical examination and drug testing;*
- g) The assigned Investigator-On-Case shall collate the results of the examinations and prepare the appropriate charges and refer the case to the prosecutor's office for inquest proceedings. He shall submit the following:*
 - 1) Copy of the Spot Report duly received by PDEA*

- 2) Copy of the Receipt of the Inventory of items seized/ Confiscated duly verified under oath
 - 3) Photograph of the scene
 - 4) Copy of the Receipt of Turn-Over of Evidence
 - 5) Copy of the Receipt of Turn-Over of the arrested suspect/s
 - 6) Copy of the request for and results of the Laboratory, Drug Test and Physical/Medical examination on the Drugs and the suspect/s
 - 7) Copy of the Booking Sheet and Arrest Report
 - 8) Photographs of the evidence seized and the suspect/s
 - 9) Copy of the Affidavit of Arrest
 - 10) Copy of the Affidavit of Seizing Officer
 - 11) Affidavit of other witnesses, if any
 - 12) Others that may be submitted later
- h) The Investigator-On-Case shall thereafter submit a report to the Chief of Office.
- i) The Investigator-On-Case shall furnish the PDEA with a complete set of the case folder and regularly update the same with the status of the case.
- j) The Chief of Office and the Investigator-On-Case shall maintain a case monitoring system or record of the case and shall ensure the religious presence of the PNP witnesses during court (*This is in compliance to PNP MC No. 2008-0801-003 dated August 1, 2008 in relation to NAPOLCOM MC No. 2007-001*).
- k) Search and Seizure by Virtue of Warrant

The following rules and procedures shall govern the responsibility of anti-drug units in the application and implementation of a Search Warrant (SW).

- 1) All applications for a Search Warrant before the Local Courts shall be approved by the Regional, Provincial, District, City Directors, Chief of Police and NOSU Directors as the case maybe, or their duly designated authority. However, if there is reasonable ground to believe that the application in the local Courts shall compromise the operation, the applications for SW for violation of RA 9165 may

also be filed before the Executive Judges of Manila and Quezon City as the case maybe with the personal endorsement of the C, PNP or TDIDM as provided for under Supreme Court A.M. No 08-4-4-SC, dated July 7, 2009.

- 2) Upon approval by the Chief of Office concerned, the application shall be filed to the Court of jurisdiction during office hours. However, the application may be filed after office hours, during Saturdays and Sundays and Holidays provided, the applicant shall certify and state the facts under oath, to the satisfaction of the Judge, that its issuance is urgent as provided under *Supreme Court Administrative Circular No 19 dated August 4, 1987*. In view of this, concerned units are encouraged to coordinate with and acquire the addresses and contact numbers of the Judges in their respective jurisdictions.
- 3) Pursuant to DOJ Department Circular No. 3 para 1 (Compliance with Prescribed Procedures on the Seizure and Custody of Dangerous Drugs) the following shall be observed:

Paragraph 1 Physical inventory and photography of seized and confiscated drugs are required in anti-drug operations. – Section 21 (1), Article II of Republic Act (RA) 9165 entitled “Comprehensive Dangerous Drugs Act of 2002” and its Implementing Rules and Regulation (IRR) require that after seizure and confiscation of drugs, police officers shall immediately physically inventory and photograph the same in the presence of the following persons:

- (a) the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel;*
 - (b) a representative from the media;*
 - (c) a representative from the Department of Justice (must be Prosecutor); and*
 - (d) any elected public official who shall sign, and shall be given copies of the inventory.*
- 4) The Search Warrant shall immediately be returned to the issuing Judge with all the pieces of evidence

seized, and inform him on the results of the search conducted. In no case should the subject Search Warrant be returned beyond the prescribed period.

- 5) Upon approval of the Court, the seizing officer, in coordination with the Investigator-On-Case, shall turn over the seized evidence to PNP Crime Laboratory for examination and proper disposition. The Investigator-On-Case shall prepare the request to the PNP Crime Laboratory for examination.
- 6) The arrested suspect/s shall be apprised of his Constitutional Rights and be brought to the office of the operating unit and shall be turned over to the Investigator-On-Case for booking, investigation, documentation and appropriate action.
- 7) The Investigator-On-Case shall submit the arrested suspects to PNP Crime Laboratory for Drug Test and Physical/Medical Examination.
- 8) The Investigator-On-Case shall secure and collate all the results of the Laboratory and Medical Examination for attachment to the case referral to the prosecutor for inquest proceedings.
- 9) In cases where the arrested suspect/s are foreign nationals, the Investigator-On-Case shall make formal communication to the Embassy concerned, Bureau of Immigration and other concerned government agencies such as Anti-Money Laundering Council (AMLC) and the National Bureau of Investigations (NBI).
- 10) The Investigator-On-Case shall prepare the case referral for inquest proceeding before the Prosecutor's Office with the following attachments:
 - (a) Copy of the prior coordination form to PDEA (*as far as practicable*)
 - (b) Copy of the Spot Report received by PDEA
 - (c) Copy of the Receipt of the Inventory of items seized/ confiscated duly verified under oath

- (d) Copy of the Certification of Orderly Search
 - (e) Photograph of the crime scene
 - (f) Copy of the Receipt of Turn-Over of Evidence
 - (g) Copy of the Receipt of Turn-Over of the arrested suspect/s
 - (h) Copy of the request for and results of the Laboratory, Drug Test and Medical examination on the Drugs and the suspect/s.
 - (i) Copy of the Booking Sheet and Arrest Report
 - (j) Photographs of the evidence seized and the suspect/s
 - (k) Copy of the Affidavit of Arrest
 - (l) Copy of the Affidavit of Seizing Officer
 - (m) Affidavit of other witnesses, if any
 - (n) Others that may be submitted later
- 11) In cases where there is no arrested suspect, the Investigator-On-Case shall prepare the case referral to the Prosecutor's Office for appropriate legal action with the following attachments:
- (a) Copy of the Search Warrant
 - (b) Copy of return of Search Warrant
 - (c) Copy of the prior coordination form to PDEA (*as far as practicable*)
 - (d) Copy of the Spot Report received by PDEA
 - (e) Copy of the Receipt of the Inventory of items seized/ confiscated duly verified under oath
 - (f) Copy of the Certification of Orderly Search

- (g) Photograph of the crime scene
 - (h) Copy of the Receipt of Turn-Over of Evidence
 - (i) Copy of the request for and results of the Laboratory on the Drugs.
 - (j) Photographs of the evidence seized
 - (k) Copy of the Affidavit of Seizing Officer
 - (l) Affidavit of other witnesses, if any
 - (m) Surveillance Report
 - (n) Artist's Sketches/Descriptions of suspect/s if any,
 - (o) Others that may be submitted later
- 12) After the filing of the case, the following shall also be done:
- (a) The Investigator-On-Case shall submit an after-inquest report or progress report to the Chief of Office.
 - (b) The Investigator-On-Case shall furnish PDEA with a copy of the case folder with complete attachments.
 - (c) The operating unit shall regularly update the PNP Directorate for Operations (DO) and PDEA on the status of the case.
 - (d) The Investigator-On-Case and the arresting officers respectively shall maintain a case tracking/monitoring system or record of the case and shall inform his immediate officer and the higher office in writing if the case is dismissed or the suspect/s is released for further investigation by the prosecutor.
 - (e) The Chief of Office shall ensure that all police witnesses shall religiously attend and testify in

court during the trial and shall require them to submit on after court-duty report.

5.2.4. Clandestine Laboratory and Storage Facility

a. All operations involving clandestine laboratories and storage facilities shall be coordinated with PNP AIDSOTF for technical assistance, proper assessment and evaluation prior to any negation operation.

b. The investigation shall commence with an intelligence data-gathering process to verify the existence of the clandestine laboratory or storage facility and to identify the persons involved in its operations. The intelligence operations shall be appropriately documented by reports supported by sketches, maps, photographs and other relevant pieces of evidence.

1. Under no circumstance shall any person deliberately use his or her sense of smell, taste, or touch to identify suspected dangerous drugs, chemicals or hazardous materials or substances. Smoking is strictly prohibited in the clandestine laboratory site.
2. After a PNP anti-drug unit has successfully seized clandestine laboratory, it shall ensure that the pieces of evidence are properly preserved. It shall strictly observe the following :
 - a) All pieces of evidence shall be handled and processed appropriately, having in mind the possibility of lifting latent prints.
 - b) Any evidence on hand shall not be moved unless first photographed or videotaped. The photograph or videotape shall contain the date/time, sequence, and a caption including a complete description of the vehicle, location, etc. The film shall be restored properly as evidence.
 - c) Once the pieces of evidence have been processed, the bulk chemicals and any contaminated laboratory hardware, including glasswares, shall be preserved in the clandestine laboratory until after the ocular inspection by the Court.
 - d) All documents found in the laboratory shall be preserved in their totality. They shall also be examined for fingerprints.

- e) In case of possible actual environmental leakage of chemicals in the laboratory or any incident that would endanger public health and safety, guidelines developed by the DOH and DENR as per Republic Act 6969 shall be followed.
- f) When a clandestine laboratory is dismantled, investigators should conduct back-tracking investigation on the dangerous drugs, controlled precursor and essential chemicals found in the laboratory:
 - 1) Collect all documents for paper trail examination and indicators that might lead to identification of those involved, the origin of the chemicals, and how it was obtained and brought to the country (diversion or smuggling through the port or coastal areas).
 - 2) Examine controlled chemical containers for labels and markings to determine manufacturer and country of source or origin.
 - 3) All arrested persons shall be apprised of their Constitutional Rights and conduct post-arrest interview to elicit further useful information such as who obtained the controlled chemical and when, where and how it entered the country.

5.2.5. FINANCIAL INVESTIGATION

a. During the intelligence/surveillance phase of the anti-drug operations, the PNP operating units must also gather information on possible money laundering activities of target personalities and their cohorts/accomplices.

b. Operating units must check/examine the financial records of the suspect/s which include, among others, the following:

- 1. Bank accounts records (Bank statements, deposit slips, encashed checks, credit card monthly billings, debit/credit memos, wire transfers, cashier's checks, foreign exchange sold);
- 2. Business records (Articles of Incorporation/By-Laws, board minutes, stock record books);

3. Deeds of conveyances (Deed of Sale, Deed of Donation, Deed of Transfer, etc);
4. TCTs, ORs/CRs of vehicles;
5. Payment of bills, purchase of materials, stock certificates; and
6. Anything that will show that the money went into financial institutions or where the money went/spent and where it came from.

c. If there is a need for financial investigation on the case, the PNP-Anti Drug Unit shall refer the matter to the Anti-Money Laundering Council (AMLC) for appropriate action.

5.2.6 INVESTIGATION OF CASES INVOLVING UNPLANNED OPERATIONS

a. In *Flagrante Delicto* Cases - Acts committed in violation of RA 9165 subject for warrantless arrest, search, and seizure which is classified in this Manual as unplanned operation with the exception of cases enumerated under planned operation.

b. Other *In flagrante delicto* cases in violation of RA 9165:

1. Search made incidental to a valid arrest;
2. Search of moving vehicles, vessels and aircrafts;
3. Seizure of dangerous drugs, CPECs etc, which are concealed in smuggled items;
4. When there is a consented search;
5. Seizure of evidence in plain view (*evidence which can be seen in plain view without need of search done in Police Check-Points, Routine Police Patrol and Inspections*) and
6. Other analogous police operations.

c. Procedures stated in Section 12.3 para 3 shall be observed by the PNP personnel or anti-illegal drug units, in the enforcement of warrantless arrest under Section 5, Rule 113 and Section 13, Rule 126 of the Rules of Court.

5.2.7 DOJ DEPARTMENT CIRCULAR NO. 1 (Resolutions A Quo of Cases Covered by Automatic Review)

This particular DOJ circular provides inter alia: "In the interest of the service, pursuant to existing laws and to prevent public confusion and pre-emptive results, no copy of the resolution in the cases covered by automatic review of the Secretary of Justice shall be released and/or promulgated pending the exercise of such review;

Department Circular (DC) 46, dated 26 June 2003, "Automatic Review of Dismissed Cases Involving R.A. No. 9165 (Comprehensive Dangerous Drugs Act of 2002)"

Any resolution released in violation hereof shall be invalid as having been issued without authority/unlawfully and the officers/persons responsible for such release shall be administratively and criminally dealt with.

5.2.8 DOJ DEPARTMENT CIRCULAR NO. 2-A in relation to DOJ Department Circular No. 46

In the interest of public service and pursuant to existing laws, effective upon issuance hereof and until otherwise ordered, the dismissal of all cases, whether on inquest/preliminary investigation or on appeal, filed for violation of RA No. 9165 and involving the maximum penalty of life imprisonment to death, shall be subject to automatic review, as follows:

- a. For cases dismissed by City and Provincial Prosecutors, by the Regional State Prosecutor having jurisdiction over the Prosecution Office concerned; and
- b. For cases dismissed by the Chief State Prosecutors and City Prosecutors of cities in Metropolitan Manila by the Secretary of Justice.

The entire record of the case shall be elevated to the reviewing authority concerned within three (3) days from issuance of the resolution dismissing the complaint or appeal, as applicable.

The automatic review shall be summary in nature and shall be completed within sixty (60) days from receipt of the case records.

This Department Circular shall apply to covered cases which have been dismissed, prior to the issuance hereof if such dismissal has not yet attained finality as of the date of this Circular.

5.3 ILLEGAL/UNLAWFUL POSSESSION OF FIREARMS

a. What law punishes Illegal Possession of Firearms?

- Republic Act No 8294 amending PD 1866

b. What are the acts that constitute Illegal Possession of Firearms?

1. Any person who shall unlawfully manufacture, deal in, acquire, dispose, or possess any low powered firearm, such as rimfire handgun, .380 or .32 and other firearm of similar firepower, part of firearm, ammunition, or machinery, tool or instrument used or intended to be used in the manufacture of any firearm or ammunition: Provided, That no other crime was committed or
2. Any person who shall carry any licensed firearm outside his residence without legal authority or with expired license or permit to carry.

NOTE:

- If homicide or murder is committed with the use of an unlicensed firearm, such use of an unlicensed firearm shall be considered as an aggravating circumstance. If the violation of this Sec. is in furtherance of or incident to, or in connection with the crime of rebellion or insurrection, sedition, or attempted coup d'etat, such violation shall be absorbed as an element of the crime of rebellion, or insurrection, sedition, or attempted coup d' etat.

- The same penalty shall be imposed upon the owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall wilfully or knowingly allow any of the firearms owned by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of the preceding paragraphs or wilfully or knowingly allow any of them to use unlicensed firearms or firearms without any legal authority to be carried outside of their residence in the course of their employment.

c. What is the evidence needed to file a case of illegal possession of firearms?

1. Testimonial Evidence – Affidavit of witnesses and arresting officer

2. Documentary Evidence - Certificate of non-registration and other pertinent documents, police records, macro-etching and ballistics results and other related documents
3. Object Evidence - Firearms and other related parts and ammunitions
4. Other relevant evidence

5.4 ILLEGAL/UNLAWFUL POSSESSION OF EXPLOSIVES AND INCENDIARY DEVICES

a. What law punishes Illegal Possession of Explosives and Incendiary devices?

- Republic Act No 9516 amending PD 1866

b. What are the acts that constitute Illegal Possession of Explosives and Incendiary devices?

1. Any person who shall wilfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any explosive or incendiary device, with knowledge of its existence and its explosive or incendiary character, where the explosive or incendiary device is capable of producing destructive effect on contiguous objects or causing injury or death to any person, including but not limited to, hand grenade(s), rifle grenade(s), 'pillbox bomb', 'molotov cocktail bomb', 'fire bomb', and other similar explosive and incendiary devices or
2. Any person who shall wilfully and unlawfully manufacture, assemble, deal in, acquire, dispose, import or possess any part, ingredient, machinery, tool or instrument of any explosive or incendiary device, whether chemical, mechanical, electronic, electrical or otherwise, used or intended to be used by that person for its manufacture, construction, assembly, delivery or detonation, where the explosive or incendiary device is capable or is intended to be made capable of producing destructive effect on contiguous objects or causing injury or death to any person.
3. The acts stated above are done without license issued by proper authority.

4. Other analogous acts

NOTE:

- The mere possession of any part, ingredient, machinery, tool or instrument directly used in the manufacture, construction, assembly, delivery or detonation of any explosive or incendiary device, by any person whose business activity, or employment does not lawfully deal with the possession of such article shall be prima facie evidence that such article is intended to be used by that person in the unlawful/illegal manufacture, construction, assembly, delivery or detonation of an explosive or incendiary device
- The owner, president, manager, director or other responsible officer of any public or private firm, company, corporation or entity, who shall wilfully or knowingly allow any explosive or incendiary device or parts thereof owned or controlled by such firm, company, corporation or entity to be used by any person or persons found guilty of violating the provisions of this law

c. What is the evidence needed to file a case of Illegal Possession of Explosives and Incendiary Devices?

1. Testimonial Evidence – Affidavit of witnesses and arresting officer
2. Documentary Evidence - Certificate of non-registration and other pertinent documents, Photographs of explosives and incendiary devices, Forensic chemical results of explosives and other incendiary devices, police records and other pertinent documents
3. Object Evidence - Explosives and incendiary devices
4. Other relevant evidence

5.5 INVESTIGATION OF BOMBINGS

The increasing challenges posed by the growing sophistication of terrorist organizations not only in the Philippines but elsewhere in the world have become a major concern among law enforcement and security officers. In the light of this concern, this section is formulated to guide investigators, such as the bomb technicians, criminal investigators and forensic personnel during the investigation of bombing incidents and other incidents involving explosive devices and materials.

5.5.1 SPECIFIC INVESTIGATIVE PROCEDURES: A General Procedure Upon Receipt of Explosive-Related Incident such as discovery of IED/explosive materials, bomb threats and explosion:

a. Desk Officer shall ask for and record in the Police Blotter the following from the source of information:

1. Name of the source
2. Contact information of the source
3. Exact location of the incident
4. Time and date of the incident
5. Details of the incident

b. Desk Officer shall inform the Chief of Police about the incident.

c. Desk Officer shall dispatch mobile or foot-patrol police personnel to verify the incident.

d. Desk Officer shall direct the TOC to call the following emergency service agencies, request them to be on standby while verification of the incident is on-going and seek their assistance once the incident is verified:

1. Police Bomb Squad Units/EOD Team
2. SOCO Operatives
3. Fire Services
4. Emergency Medical Services/Rescue
5. Engineering Services (for lighting, heavy equipment, etc.)
6. Utility Services (Electric and Water)
7. Other agencies (Philippine Red Cross, Metro Manila Development Authority, NDCC, etc.)

e. Desk Officer shall inform his Commander (Station Commander, Chief of Police, etc.) about the incident and all actions taken.

5.5.2 DURING VERIFICATION OF THE INCIDENT BY THE FIRST RESPONDER/S OR INVESTIGATORS:

- a. The First Responder/Investigator shall record the information about the nature of their dispatch in their notebooks or ticklers. They should be equipped with a camera or video recorder for capturing the condition of the scene upon their arrival and any succeeding events.
- b. They shall proceed to the incident scene.
- c. They shall assess the situation at the scene of the incident and immediately notify the Desk Officer who will in turn inform his Chief of Police about the confirmation of the incident.
- d. In case IED/explosive materials are found, request for the immediate assistance of the Bomb Squad/EOD Team.
- e. They shall cordon the area to preserve and secure the crime scene and wait for the arrival of the Bomb Squad/EOD Team.
- f. If the scene is obvious for signs of an explosion, First Responders/Investigators shall cause the immediate evacuation of people who were injured from the crime scene. Whenever possible, immediately maintain order and control of the crowd. THEY SHALL NOT TOUCH, REMOVE, OR ALTER ANY PIECE OF EVIDENCE (INCLUDING DEAD PEOPLE).
- g. Initiate immediate investigation.

5.5.3 KEY INFORMATION NEEDED FOR BOMB THREAT:

Time of call or suspected package (bomb threat) was received.

5.5.4 KEY INFORMATION NEEDED FOR FOUND UNEXPLODED EXPLOSIVE / EXPLOSIVE ITEMS:

- a. Has the source seen the device? It's important to establish the basis of knowledge of the source. This information may be less reliable than first-hand knowledge as the source is likely to have strong understanding of explosive devices and/or explosive materials and may misstate information. The distinction between first-hand and second-hand knowledge is important and should be identified in reporting.

b. How large is the device? Provide dimension and weight where possible. If a cultural reference is used to describe the size or weight of the item, please provide a rough English or Metric measurement equivalent.

c. What does the device look like? Looking at the device, what does it appear to be from the outside? A briefcase, a metal pipe, a radio, etc.

d. Does the device have a container? Some types of explosives require confinement to produce an explosion. Other devices may use the container to produce fragmentation to cause injuries. Not all devices will have a container.

e. Is the device concealed within the vehicle? For example, are the explosives hidden within the door panels to prevent detection upon a casual inspection or are the explosives visible when the interior of the vehicle, trunk (if applicable), or cargo area are examined?

f. Is the device a Vehicle Bomb?

g. What type of vehicle is it? Car, van, light truck, semi-truck, bus, boat, plane, etc.

h. What is the specific make/model of the vehicle? Is it modified in any way?

i. Does the device have any unusual characteristics? Are there extra items added to the device to produce an enhanced effect of some sort? Examples include: nails added to a device for an enhanced fragmentation effect, gas cylinders added for an enhanced blast effect, other chemicals added to produce a toxic effect, a "special" material added (such as radioactive material – if the source is not directly involved in the plot, knowledge of the specific materials may be limited and referred to in general terms).

j. What is the source's basis of knowledge of explosive materials/and or devices? Examples include: reading terrorist training manuals, hands-on terrorist training, commercial blasting training and/or experience, military training and/or experience (it's important to identify what military training was received – some fields, such as Explosives Ordnance Disposal receive extensive training, while others, such as infantry, receive limited explosive training), or academic knowledge (chemistry, electronics, physics or other engineering courses).

k. Ask the source to draw a sketch of the device.

l. Ask the source to specifically identify the appearance of the explosive material. Color, texture and quantity are important elements of the description as some explosives have distinct coloration that may assist in the

identification of the material. If the source has knowledge of the original packaging of the explosive material, have it described as well. Some explosives have distinct packaging materials which may further assist in the evaluation of the information.

m. Does the source know how the device is supposed to function? If yes, ascertain details.

n. Is the device electrically initiated or non-electrically initiated? Electrical initiation requires a power source. Attempt to obtain a description of the power source (battery size, type, etc.). Non-electrical initiation uses systems such as a burning fuse, a chemical reaction, or other non-powered means of causing the device to function.

o. Have the source describe the method of functioning of the device. Improvised Explosive Devices (IEDs) may function in a variety of methods, including, but not limited to, time delay, remote control, suicide initiation, or victim-initiated (booby-trap). Devices may have multiple methods of firing.

p. For time delay devices: What type of time delay was used to operate the device? Examples include: modified analog or digital watch/alarm clock, an improvised electronic circuit, a modified commercial product, burning fuse or chemical time delay (also referred to as a chemical time delay pencil).

q. For remote control devices: What type of remote control was used? Examples include: pagers, cellular phones, hand-held radio system, garage door opener, hobby remote control system (for example, model cars or airplanes), car alarms, improvised electronic circuit, or other modified commercial item. If possible, describe the appearance of the receiver device and the transmitter.

r. For suicide-initiated devices: What are the means of setting the device off? For example, push buttons, toggle switch, bare wire connectors, or other type of switch. Important factors include the location of the switch and whether it or the wires are visible or not.

s. For victim-initiated devices: What action is required by the victim to cause the device to function? Examples include: passing a certain point, performing a certain action, lifting an item, applying pressure to an object, removing an object, etc.

5.5.5 KEY INFORMATION NEEDED FOR EXPLODED ITEM:

a. Time of detonation/explosion.

- b. Sound of explosion. Description of the sound produced by the explosion.
- c. Force of the explosion and its direction. Description of the extent and direction of blast wave.
- d. Color of smoke. Example: black, gray, white
- e. Color of flame. Example: red, yellow, etc.
- f. Odor of the gases produced. Example: LPG, natural gas, etc.
- g. Record names and addresses of person(s) such as, medical and fire personnel, etc. accessing the scene and submit list to the Investigator-on-Case.
- h. Do not issue press releases or any statements. It is the job of the Incident Commander or his designated spokesman.

5.5.6 SPECIFIC INVESTIGATION PROCEDURES

a. Bomb Threat

After the bomb squad has declared the area safe, the investigator shall determine the following:

1. Gather information from the person who received the bomb threat call.
2. Name and contact number of person who received the call.
3. Date, time, duration of call and number of called made
4. Gender of caller and estimated age.
5. What were the exact words of person making the threats?
6. Reasons for the threat.
7. Voice characteristics of the caller:

<input type="checkbox"/> Calm	<input type="checkbox"/> Nasal
<input type="checkbox"/> Angry	<input type="checkbox"/> Stutter
<input type="checkbox"/> Excited	<input type="checkbox"/> Lisp
<input type="checkbox"/> Slow	<input type="checkbox"/> Raspy
<input type="checkbox"/> Rapid	<input type="checkbox"/> Deep
<input type="checkbox"/> Soft	<input type="checkbox"/> Ragged
<input type="checkbox"/> Loud	<input type="checkbox"/> Clearing throat
<input type="checkbox"/> Laughter	<input type="checkbox"/> Deep breathing
<input type="checkbox"/> Crying	<input type="checkbox"/> Cracking voice
<input type="checkbox"/> Normal	<input type="checkbox"/> Disguised
<input type="checkbox"/> Distinct	<input type="checkbox"/> Accent
<input type="checkbox"/> Slurred	<input type="checkbox"/> Familiar

8. If voice is familiar, who did it sound like?

9. Familiarity of caller with the area.

10. Threat Language

- a) Well-spoken
- b) Incoherent
- c) Irrational
- d) Taped
- e) Message read by caller
- f) Abusive
- g) Other
- h) Background Noises

<input type="checkbox"/> Street noise	<input type="checkbox"/> Factory/Machinery
<input type="checkbox"/> Plates	<input type="checkbox"/> Animal noises
<input type="checkbox"/> Voices	<input type="checkbox"/> Clear
<input type="checkbox"/> PA System	<input type="checkbox"/> Static
<input type="checkbox"/> Music	<input type="checkbox"/> Local
<input type="checkbox"/> House noises	<input type="checkbox"/> Long distance
<input type="checkbox"/> Office	<input type="checkbox"/> Booth
<input type="checkbox"/> Motor	Other _____
<input type="checkbox"/> Office	_____

- i) Determine motive by gathering information on the person/company/establishment receiving the threat.
- j) Gather information and evidence on the suspect (if known).

- k) File appropriate charges if there is concrete evidence gathered against the suspect.
- l) If no lead is developed, information gathered can be used for future reference.

b. Recovery/Discovery/Seizure of IED and Other Explosive Materials

1. Improvised Explosive Device (IED):

PROCEDURES:

- a) After the hazard has been eliminated by the responding Bomb Squad Unit/EOD personnel, request SOCO to process the device for latent prints, collect explosive residue and fingerprints of bomb technician/EOD and other person who access the device for elimination.
- b) Interview the First Responder.
- c) Question witnesses and record pertinent facts about unusual activity such as, persons or vehicles.
- d) Search areas for ingress and egress for evidence such as, tapes, explosives wrappers or containers, footprints, tire tracks, fingerprints and other associative that may relate to the suspect(s).
- e) Check business establishments that could have been used by the suspect as an observation post such as: 24-hour service station, canteen, lodging house, etc.
- f) Prepare a suspect list showing investigative facts relevant to the incident.
- g) Record description of suspect(s), suspect vehicles and suspect premises.
- h) Check sources of device components and materials recovered at the scene.
- i) Secure report of the Bomb Squad Unit on the IED's functionality and destructive capability.

- j) Secure laboratory report of SOCO for explosive determination and fingerprints analysis.
- k) Conduct follow-up investigation on matters related to the secured technical reports.
- l) Establish possible motives. If evidence gathered is concrete against the suspect(s), file appropriate charges.
- m) Take photographs and turn in explosive item(s) to Bomb Squad Unit for custody until court presentation
- n) Secure court order for the immediate disposal of explosive material.

2. Discovery of Unassembled Complete IED Components such as:

Power Source. Example: 9-volt battery; 6-volt battery; blasting machine; meters of electric wire

Initiators. Example: blasting cap (electric, non-electric, improvised initiator using Christmas light bulb)

Explosives. Example: ANFO (ammonium nitrate w/ fuel oil); dynamite; TNT block; C4; RDX; detonating cord; time/safety fuse; mortar cartridges (60mm, 81mm, 105mm, etc.), boosters, black powder, pyrotechnics products

Switches. Example: toggle or sliding switch; alarm clock; mobile phone; matches; etc.

PROCEDURES:

- a) First Responder/Investigator must request Bomb Squad Unit/EOD personnel to identify and certify the item/s discovered.
- b) Request the assistance of SOCO for processing of trace evidence.
- c) Bomb Technician should extract explosive sample from military ordnance or commercial explosive.
- d) Request assistance of Crime Laboratory to determine presence of explosives.

- e) Determine the suspect's connections/links.
- f) Establish possible motives. If evidence gathered is concrete against the suspect(s), file appropriate charges.
- g) Take photographs of the items. Turn in explosive item(s) to Bomb Squad Unit for custody until court presentation
- h) Secure court order for the immediate disposal of explosive material.

3. Illegal Possession of Explosive/s

PROCEDURES: (Refer to the Duties of Investigator after arrest)

After the arrest of suspects for illegal possession of explosives and other explosive ingredients, the investigator shall:

- a) Interview the witnesses.
- b) Request Bomb Squad Unit/EOD personnel to extract explosive sample from military ordnance or commercial explosive.
- c) Bring extract to Crime Laboratory for chemical examination of suspected explosive item(s).
- d) Establish motives. If evidence gathered is concrete against the suspect(s), file appropriate charges.
- e) Take photographs of the items. Turn in explosive item(s) to Bomb Squad Unit for custody until court presentation
- f) Secure court order for the immediate disposal of explosive material.

c. Discovery of Explosives/IED/s as a result of Military Operation

PROCEDURE:

- 1) On discovery of explosive materials, AFP EOD unit thru channels shall inform the concerned local PNP unit upon compliance of the necessary security measures.

- 2) On the discovery of IED/s in suspected terrorist camp/lair and after the conduct of RSP, EOD Unit shall call the assistance of the local police unit who has jurisdiction on the area.
- 3) In the absence of local police and SOCO Team, EODT may conduct the proper collection (wearing of sterile latex gloves), markings and preservation (using appropriate containers) of explosive items. In any case that an EOD personnel touched the evidence with his bare hands, he must be fingerprinted for suspect elimination.
- 4) All collected components of explosive devices (itemized in the report), documents (video recordings or photographs) and other corresponding reports (initially a Spot Report; and later on the Technical Evaluation Report (TER) and/or Post Blast Investigation (PBI) Report, if already available) on the incident must be turned over to the concerned local police unit at the soonest possible time.
- 5) The concern local police unit in turn shall verify the reported incident; conduct own investigation; and evaluate the evidentiary value of items submitted.
- 6) Continue on with the procedure of Discovery of IED. (Sec 5.5.6b)

d. Custody of Explosive Evidence:

1. After the technical analyses have been conducted on the seized explosive device/s, non-explosive items part of the recovered evidence such as battery; alarm clock; cellular phone; wires; containers; fragmentation, etc., shall be turnover to concerned Crime Laboratory office for custody.
2. Explosive evidence items such as explosives, military ordnance, detonating cord, safety/time fuse, blasting caps; shall be submitted to the PNP Bomb Squad Unit who has jurisdiction in the area, for custody. The designated unit custodian shall sign on the CL's Evidence Chain of Custody Form.
3. In the absence of a PNP Bomb Squad Unit, concerned AFP EOD Team in the area shall be designated as Custodian of the explosive evidence. The designated custodian of AFP

EOD unit shall sign on the CL's Evidence Chain of Custody Form.

e. Disposal of Hazardous Explosive Item/s

Disposal of hazardous explosive item/s shall only be conducted by the authorized Bomb Squad/EOD Team. The disposal shall be witnessed by representative/s from the investigating PNP unit and concerned Crime Laboratory Office. A corresponding disposal report supported by photographs should be prepared by the bomb squad/EODT for documentation.

f. Explosion/Bombing Incident

1. Minor Case – the explosion has no fatality nor incurred damage to property.

PROCEDURE:

- a) Request assistance of Bomb Squad Unit/EOD personnel to determine the cause of explosion, and whether criminal or accidental in nature.
- b) If incident is criminal in nature, gather information from witness(es) and determine the significance of place where the explosion occurred.
- c) Determine existence of a target and establish motive.
- d) If no lead is developed, information gathered can be used for future reference.

2. Major Case – the explosion incurred injuries or death of person or number of persons and damage to property.

POST-BLAST INVESTIGATION (PBI) PROCEDURE:

- a) *Conduct preliminary evaluation of the crime scene.* First Responders must assess the scene quickly yet thoroughly to determine the course of action to be taken.
- b) *Exercise scene safety.* First Responders must take steps to identify and remove or mitigate safety hazards (e.g. secondary device(s), hanging live electric wires, weak

building structure) that may further threaten victims, bystanders and public safety personnel.

- c) *Administer life-saving efforts.* First Responders must rescue living victims and provide treatment for life-threatening injuries.
- d) *Establish security and control.* First Responders will establish control and restrict scene access to essential personnel (EMS), thereby aiding rescue efforts and scene preservation.
- e) *Ensure scene integrity.* The Incident Commander must ensure the integrity of the scene by establishing security perimeters and staging areas, contamination control procedures and evidence collection and control procedures.
- f) *Conduct scene walkthrough.* The Incident Commander must conduct walkthrough with respective Team Leader of Investigators, Bomb Squad Unit and SOCO to establish scene parameters, entry/exit path, and to acquire overview of the incident.
- g) *Secure required resources.* Following the walkthrough, the Incident Commander should meet the available emergency responders and PBI Team for updates of the scene and to determine what resources, equipment and additional personnel may be needed.
- h) *Develop written documentation.* There should be a Decision Logbook, wherein every crucial decision made related to the incident should be documented and signed by whoever made the decision such as, allowing entry to crime scene by person(s) not member of PBI Team; removal of any object inside the scene. First Responders and SOCO Team will prepare scene documentation (e.g. person who access the scene, sketches, floor plans and architectural or engineering drawings); while the Investigators document activities, noting dates and time associated with the incident, physical and environmental conditions, statement given by the victims/witnesses, etc.
- i) *Photograph/Videotape the scene.* Aside from the SOCO documentation, Investigator must have his/her own

documentation of the overall views and assembled crowd.

- j) *Locate and interview victims and witnesses.* Investigators should obtain victim's/witnesses' identities/details, statements and information concerning their injuries and accounts of the incident.
- k) *Request the assistance of Bomb Squad Unit and SOCO.* Secure the assistance of these technical personnel to ensure a tight case.
- l) *Collect, preserve, inventory, package, transport of evidence to Crime Laboratory.* Refer to Crime Lab Manual.
- m) *Ensure that all investigative steps are documented.* The Investigators must review all documentation before releasing the scene.
- n) *Ensure crime processing is completed.* The scene may be released only upon conclusion of the on-site investigation and thorough evidence collection.
- o) *Release of crime scene by SOCO to Investigator-on-Case.* Release the scene with the notion that there is only one chance to perform the job correctly and completely and after completion of the final survey and proper documentation.
- p) *Turnover of crime scene by the Investigator-on-Case to authorized person.* The release of the scene must be documented. The Investigator should ensure communication of known scene-related health and safety issues to a receiving authority at the time of release.

g. Submit Reports to Philippine Bomb Data Center

1. Detailed technical information regarding explosives and explosive devices are collected, integrated and disseminated via the Philippine Bomb Data Center. These data help authorities identify the existence of serial bombers, the sophistication of explosive devices being used and the need for uniform procedures and further development of equipment.

2. The concerned investigating police unit **MUST** submit the following reports to the Philippine Bomb Data Center for analysis and incorporation to the national database of explosive-related incidents:
 - a) Explosive-Related Incident Report Form;
 - b) Investigation Report of concerned PNP unit;
 - c) Post Blast Investigation Report/Technical Evaluation Report of responding PNP Bomb Squad Unit or EOD Team of the AFP/NBI/PCG;
 - d) Digital and colored close-up photographs of IED and IED components recovered;
 - e) SOCO & Laboratory Reports (PNP Crime Laboratory);
 - f) Arrest reports including mug-shots of arrested suspect/s;
 - g) Inquest documents/papers; and
 - h) Court decision

5.5.7 GENERAL GUIDELINES

- a. Consistent with its mandate, the PNP is the lead agency that will conduct investigations on bombing and other explosives-related incidents.
- b. In case of an explosives-related incident, the responsibility for responding is often but not always shared by a variety of professionals. PNP foot and mobile patrol personnel, EOD personnel from the AFP, NBI and PCG, fire-fighters from the Bureau of Fire Protection (BFP), medical teams and local volunteer organizations, invariably are the first to respond to calls for assistance. Medical personnel are expected to treat those injured and evacuate them to hospitals, fire-fighters from BFP and local fire brigades to put out fires, and the PNP first responders to cordon the area to secure and preserve the crime scene.
- c. Render safe procedures (RSP) and Improvised Explosive Device (IED) recovery will be the sole discretion of the responding PNP Bomb Squad Unit/AFP EOD personnel that has already taken first cognizance of an IED in the incident scene.
- d. In area where there is no organized PNP Bomb Squad Unit, military EOD unit assistance can be requested. Assistance is limited only to checking of

secondary device and provision of RSP on identified explosive hazard. Further, they should turn over to concerned local PNP unit all physical pieces of evidence and provide significant information limited to the Technical Evaluation Report or Post-Blast Investigation report.

e. Police Bomb Squad Unit and the PNP Crime Laboratory should be notified. Before the EOD and bomb technicians are allowed entry to the scene, they should allow themselves to be swabbed by PNP CL/SOCO personnel. If no secondary device exists and the area is declared safe by the EOD and bomb technicians, the PNP CL can proceed with Scene of Crime Operation (SOCO) to collect and document evidences.

Notes:

1. In the absence of SOCO personnel, Investigator may damp clean dry cotton with acetone or distilled water and individually swab hands and clothing of all Bomb Technicians/EOD personnel accessing the scene. Store in a dry separate plastic container, label and submit to Crime Laboratory.
 2. In the event that "Hand Entry" procedure was used by the PNP/AFP Bomb Technician/EOD in rendering safe an IED, he/she must be subjected to fingerprint by the PNP Crime Laboratory for suspect elimination.
- f. Security/Protection of the crime scene shall be the responsibility of the local police unit assisted by the military units in the area. Police line must be established as soon as applicable. In case of bombing/explosion incident, the police line should be extended at a distance of 50% of the total distance from the seat of explosion to the farthest fragment.
- g. Incident Commander must identify the area designated for the command post, media area, etc. outside the police line. **ONLY AUTHORIZED PERSONS ARE ALLOWED TO ENTER THE CRIME SCENE.**

Note: Only authorized personnel should enter the crime scene after it is declared safe by Bomb Squad/EOD Team personnel. They **MUST** wear gloves, shoe covers, mask, and if needed hard hats before entering the crime scene and avoid touching any piece of evidence thereat to ensure that no cross contamination will occur.

Authorized persons are:

For Bombing and Explosions: Members of the Post-Blast Investigation Team

For Raids, Searches and Seizures: Investigators, Searching and Seizing Officer and Bomb Squad/EOD Team Personnel

For Bomb Threat: Bomb Squad/EOD Team Personnel

- h. SOCO personnel are the only authorized persons to handle, document, and conduct laboratory examination of gathered physical evidences. Bomb technicians/EOD personnel however, may join the search for bomb parts/fragments in tandem with PNP Crime Laboratory personnel. The assistance can be extended during the reconstruction of the device.
- i. In cases where an explosion resulted in a subsequent conflagration/fire, responding BFP or fire volunteer brigade personnel should be advised beforehand of the location of the alleged explosion. Fire in the specific area of explosion should only be contained and not be over-flooded with water to assure the collection of pieces of evidence that might be crucial in the conduct of investigation.
- j. In the absence of a Bomb Squad/EOD Team and SOCO Team, designated investigator can collect pieces of evidence using the proper procedure and preserve items in appropriate labelled containers. Bear in mind that the assistance of both technical units (Bomb Squad and Crime Lab) is very crucial in establishing a case and for further filing of appropriate charges against identified suspect/s.
- k. Chemical examination/analysis of collected evidence will be the responsibility of the PNP Crime Laboratory with the assistance of the National Bureau of Investigations (NBI), if requested.
- l. The reconstruction process of IED using the actual collected pieces of IED components (for purposes of determining the pre-blast condition of the device) by the PBI Team should be documented (preferably videotaped). If court presentation is required, videotape recording and pre-blast IED prototype using similar materials should be submitted. Preserving the integrity of these pieces of evidence is the police's utmost primary functions, small pieces of evidence should be segregated by type, labelled and stored in a sealed plastic container.
- m) Recovered explosives, explosive accessories and military ordnance must be completely described (i.e. explosive filler, lot numbers,

symbols, color, measurements, diameter, container, presence of indentation on the rotating band of the munitions, etc) in the Incident Report, including its photographs.

- n) Evidence explosive material/s must be rendered safe before safekeeping of authorized bomb squad unit in a magazine or ammo dam.
- o) Be on the lookout for some chemicals which can be used in producing improvised explosives. See the attached list of these chemicals and list chemicals of security concerns.

5.6 ELECTRONIC COMMERCE ACT

- a. What law punishes violations of the Electronic Commerce Act?

- Republic Act No 8792

- b. What are the acts in violations of Electronic Commerce Act?

- 1. Any acts of hacking or cracking or unauthorized access into or interference in a computer system/server or information and communication system; or any access in order to corrupt, alter, steal, or destroy using a computer or other similar information and communication devices including the introduction of computer viruses and the like, resulting in the corruption, destruction, alteration, theft or loss of electronic data messages or electronic documents.
 - 2. Any act of Piracy or the unauthorized copying, reproduction, dissemination, or distribution, importation, use, removal, alteration, substitution, modification, storage, uploading, downloading, communication, making available to the public, or broadcasting of protected material, electronic signature or copyrighted works including legally protected sound recording or phonograms or information material on protected works, through the use of telecommunication networks, such as, but not limited to, the internet, in a manner that infringes intellectual property rights.
 - 3. The access is without the knowledge and consent of the owner of the computer or information and communications system.
 - 4. Other analogous acts

c. What is the evidence needed to file a case for violation of Electronic Commerce Act?

1. Testimonial Evidence – Affidavit of Complainants and witnesses
2. Documentary Evidence –Cyber or Computer Forensic Results, Police records, transaction records and other documents
3. Object Evidence - Computer and any device used to hack or crack or pirate the computer information, Original Documents copied or pirated Documents.
4. Other relevant evidence

5.7 PROCEDURES IN HANDLING OF COMPUTER/CYBERCRIME CASES

5.7.1 LEGAL BASIS

- R.A. 8792 Electronic Commerce Act of 2000
- R.A. 8484 Access Device Act

5.7.2 PURPOSE

The standard operating procedure prescribes a uniform and step-by-step process to be observed by all personnel of CIDG in the conduct of investigation regarding Computer/Cybercrime cases.

5.7.3 SCOPE OF APPLICATION

This procedure shall be strictly observed by investigators handling computer/cybercrime cases. The head of office or Chief must always be informed of the disposition or action taken on complaints. Computer and Network can be involved in crimes in several ways:

- a. Computer or network can be a tool of crime (used to commit the crime)
- b. Computer or network can be a target of the crime (the “victim”)

- c. Computer or network can be used for incidental purposes related to the crime

5.7.4 DEFINITION OF TERMS (Based on Webster Computer Dictionary New Revised Edition)

a. Computer Server – is a computer or device on a network that manages network resources. For example, a file server is a computer and storage device dedicated to storing files. Any user in the network can store files on the server. A print server is a computer that manages one or more printer, and a network server is a computer that manages network traffic. A database server is a computer system that processes database queries.

b. Computer Network – is a collection of computers and devices connected to each other. The network allows computers to communicate with each other and share resources and information.

c. Computer Crime – Any illegal behavior directed by means of electronic operations that targets the security of computer systems and the data processed by them. (UN Definition)

d. Cyber Crime – Any illegal behavior committed by means of, or in relation to, a computer system or network, including such crimes as illegal possession, offering or distributing information by means of a computer system or network. (UN Definition)

e. Domain Name – is an identification label to define realms of administrative autonomy, authority, or control in the internet, based on the Domain Name System.

f. Electronic Mail – often abbreviated as e-mail or email, is a method of exchanging digital messages, designed primarily for human use. A message at least consists of its content, an author, address, and one or more recipient addresses.

g. Internet Protocol (IP) Address – a numerical identification and logical address that is assigned to devices participating in a computer network utilizing the Internet Protocol for communication.

h. Electronic Evidence – is any probative information stored or transmitted in digital form that a party to a court case may use at trial.

i. Electronic Crime Scene - A crime scene where there are electronic evidence found.

j. Web Hosting Service – is an individual or organizations providing website or Internet hosting service that allows individuals or organizations to provide their own website accessible via the World Wide Web.

k. Web site (Group of Web pages) – is a collection of related web pages, images, videos or other digital assets that are addressed with a common domain name or IP address in an Internet Protocol-based network. A web site is hosted on at least one web server, accessible via the Internet or a private local area network.

l. Social Network Website – a web site that focuses on building online communities of people who share interests and/or activities, or who are interested in exploring the interests and activities of others.

m. Hacking or Cracking (Lifted from R.A. 8792 Sec 33 para A) – Refers to unauthorized access into or interference in a computer system/server or information and communication system; or any access in order to corrupt, alter, steal, or destroy using a computer or other similar information and communication devices, without the knowledge and consent of the owner of the computer or information and communications system, including the introduction of computer viruses and the like, resulting in the corruption, destruction, alteration, theft or loss of electronic data messages or electronic documents shall be punished by a minimum fine of One Hundred Thousand pesos (P 100,000.00) and a maximum commensurate to the damage incurred and a mandatory imprisonment of six (6) months to three (3) years;

5.7.5 POLICY GUIDELINES OF COMMAND

a. Guidelines and Procedures in the Conduct of Arrested Person under Custodial Investigation (R.A. No. 7438).

b. Guidelines on Police Intervention Operations such as arrest, raid, Search and seizure and others.

c. Guidelines on PNP personnel to strictly respect and uphold Human Rights.

5.7.6 PROCEDURES

a. Walk-in Complainant

NOTE: Complaints can be handled by RCIDU or coordinated with ATCD.

1. Complaint(s) will be guided to fill up a complaint sheet and affix his/her signature.
2. Sworn statements and other necessary documents will be prepared.
3. If the nature of complaint is pertaining to Computer/Cyber Crime cases such as but not limited to:
 - a) Hacking/Cracking
 - b) Email Cases (Hacking/Threat/Extortion)
 - c) Identity theft or in relation to Social Networking cases

NOTE: The investigator shall determine the Internet Protocol (IP) address or Domain Name Service (DNS) Address in question/involved in the investigation.

4. The investigator shall then conduct online WHOIS tracing on the identified IP address or Domain name (website) to determine its Internet Service Provider (ISP) and Web Hosting Company.
5. If the result of the WHOIS traces to the local IP address and Local Domain Name Hosting, the investigator shall coordinate with the ISP and Web Hosting Company through letters rogatory to preserve the log files and further identify the owner of the IP address and the registrant of Domain Name (website).
6. Else, If the WHOIS traces foreign IP address and Foreign Domain Name Hosting, the investigator shall coordinate with the foreign counter-part Law Enforcement Agency through Mutual Legal Assistance Treaty (MLAT) procedures to get the information on the owner of the IP address and the registrant of Domain Name (website). Coordination should be made with Legal Division, CIDG.
7. After the completion of the investigative requirements, the case will be filed in court for possible arrest and conviction of the suspect. If not, pursued the solution of the case.

NOTE: All seized devices should be sent to Computer Forensic Sec, ATCD, CIDG for Computer/Cellphone Forensic examination. (Requirements stated in Part VI para 3)

8. If the nature of the complaint is pertaining to cellphone-related cases such as but not limited to:
 - a. Text Scam
 - b. Cellphone Threat
 - c. Cellphone Extortion, and etc.

NOTE: The investigator shall identify the Subscriber Identity Module (SIM) Card number and its corresponding Telecommunication Company (TELCO) carrier. (SMART/GLOBE/SUN/PLDT, etc)

If the SIM card number belongs to a local TELCO, then the investigator shall coordinate through letter derogatory to determine the owner of the SIM card number and any logs/records pertaining to the said SIM.



9. If the SIM card number belongs to a foreign TELCO, then the investigator shall coordinate through letter rogatory with the foreign counter-part Law Enforcement Agency through Mutual Legal Assistance Treaty (MLAT) procedures to get the information on the owner of the SIM card number and other log/records pertaining to the said SIM.
10. After completion of the investigative requirements, the case will be filed in court for possible arrest and conviction of the suspect. If not, pursue the solution of the case.



NOTE: All seized devices should be sent to Computer Forensic Sec, ATCD, CIDG for Computer/Cellphone Forensic examination. (Requirements stated in Part VI para 3)

- b. Application of Search Warrant

NOTE: Preferably conducted by Trained Personnel not necessarily coming from Computer Forensic Sec, ATCD, CIDG.

Step	Action
	ELECTRONIC CRIME SCENE PROCEDURES
1.	<p>Secure and take control of the area containing the suspected electronic media. Always be aware of officer's safety and securely take control of the scene.</p> <div data-bbox="613 405 1305 919"> <p>The photograph shows a desk setup with a printer on the left, a computer tower in the center, and a monitor on the right. A telephone is on the desk near the tower. Several diskettes are on the desk. A keyboard is in front of the monitor. A box labeled 'Software' is on the floor next to the printer. A box labeled 'Counterfeit Documents' is on the floor next to the computer tower. Arrows point from each label to the corresponding item in the photo.</p> </div>
2.	<p>The investigator should move individuals at the scene away from all computer equipment to ensure no last-minute changes or corruption to the data occur.</p> <div data-bbox="500 1108 1167 1608"> <p>The photograph shows a scene in what appears to be an office or computer room. Two men are in the foreground; one in a red shirt is standing with his back to the camera, and another in a white shirt is leaning over him, possibly restraining him. In the background, another person is sitting at a desk, and there are computer monitors and equipment visible.</p> </div> <p>If suspect is allowed to access computer equipment, he or she may be able to destroy or alter the evidence making it much more difficult to conduct the forensic analysis at a later time.</p>

3.	<p>Once all individuals have been removed from the areas containing the electronic evidence, investigators can start conducting interviews of either the suspects on the scene or potential witnesses.</p>  <p>Interviewing the individuals on the scene may provide a substantial amount of information pertaining to the case and may help lead the investigators in the right direction. The interviews should take place in an area where the interviews will not be interrupted and allow for the individual to talk freely to the investigator.</p> <p>At this time, conduct your interviews with individuals found on the scene or the crime or the reporting person who provided the information.</p>
4a.	<p>The investigator should avoid switching the computer system on if it is turned off upon your arrival. Make sure there is no active screen saver by pressing one of the arrow keys located on the keyboard connected to the computer system. The arrow keys will not alter any documents if the system is active.</p>  <p>Photograph the monitor to show the status of the system upon your arrival on the scene.</p>

4b.	<p>If the screen is blank and the system is turned on, again, press the arrow keys to ensure a screen saver is not active. If the monitor power is off, turn the monitor power on.</p>  <p>Once the monitor comes on, photograph the monitor to show what was on the screen at the time of your arrival.</p>
5.	<p>Check to see if the system is connected to the internet or has network capabilities. Some systems may not have a CAT5 or other type of network cable attached; the system could be utilizing a wireless connection.</p>  <p>If the system is networked, the investigator will want to capture the volatile data contained in the system's memory. If the system's power is disconnected before volatile data has been collected, the data will be lost and the investigator will not be able to retrieve that data at a later time.</p>

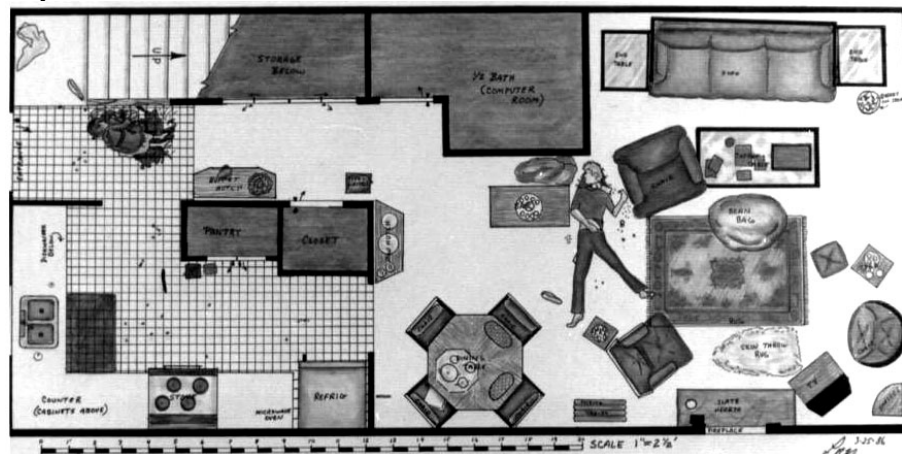
6.

Once the investigator has collected the volatile data, he will want to disconnect the power from the machine in order to shut it down. The forensic practice is to disconnect the power source from the rear of the machine and NOT from the wall outlet.



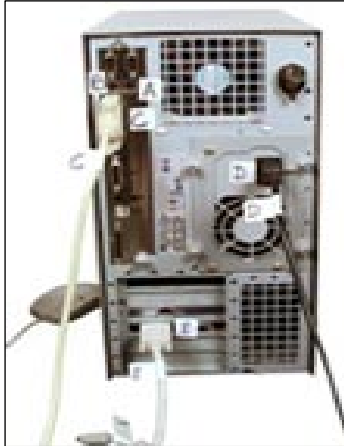
This will make sure the investigator is removing the correct power supply and not another systems power. Shutting down (using the Operating System) will alter the registry and it will be considered as tampering of evidence.

8.	<p>The next step is to document the crime scene even further by drawing a sketch of the entire crime scene. The sketch will show the measurements of the crime scene and where the evidence is located on the crime scene by their exact distance from other objects on the crime scene.</p>
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9. After taking all the necessary photographs, the investigator must to label and tag all the evidence located in the crime scene. When labeling the computer system, the investigator should label each connector and port attached to the system. This will help ensure the investigator will be able to reconstruct the system in a court of law.



The investigator can place a tag on the video cable labeled "A." Then label the video port on the back of the system also with the letter "A." This way the investigator will know that cable "A" connects to port "A." This method, also known as "Bagging and Tagging," should be done for each cable connected to the system.

At this time, label all the connections to the computer system.

10. Once the system has been labeled correctly, the investigator can place evidence tape over the 3 ½ inch drive and the drive case. This will help the investigator know if anyone tampers with the computer system in transit back to the forensic lab.



If there is any media located in the drives, the media should be photographed and then removed to protect the evidence from being destroyed or altered. CD-ROMS may be scratched in transit and therefore may become unreadable.

At this time, remove any media in the drive bays and place evidence tape over the drives.

11.



Now it is time to package all the equipment for transportation. All electronic evidence should be packaged in anti-static bags to help ensure the integrity of the data is maintained. As each piece of evidence is packaged, an evidence label should be attached.



This evidence label will help identify the evidence, the date and time it was found on the scene, the location it was recovered from, and the investigator who found the evidence. Additional information can be added to include the Case Number and the primary investigating officer.

At this time, please ensure all evidence has been packaged and labeled from the crime scene.

12. Before each item is removed from the crime scene, a chain of custody must be filled out to ensure the evidence is properly tracked from investigator to investigator.
- A chain of custody will contain the name of the recovering officer and the date and time he transferred the evidence to the primary investigating officer. Additionally, the chain of custody may contain the item number or evidence number along with the case number of the crime.

 <div style="text-align: center;"> Republic of the Philippines Department of Interior and Local Government National Police Commission PHILIPPINE NATIONAL POLICE CRIMINAL INVESTIGATION AND DETECTION GROUP ANTI-TRANSNATIONAL CRIME DIVISION Computer Crime Unit Camp Crame, Quezon City </div> 			
PROPERTY INVOICE			
DATE:		CASE NUMBER:	
OWNER OF PROPERTY:		SUSPECT:	
VICTIM:		CASE TYPE:	
CONTRIBUTING DEPT:		CONTACT OFFICIAL:	
LOCATION OF OFFENSE:		PHONE #:	
Item Number	Quantity	Full Description of Property, Serial Numbers, Identity Markings:	
I certify that I have received, and am responsible for, the articles listed above.			
Date & Time	Print or Type Name	Signature	
Chain of custody			
Item #	Date/Time	Received From:	Received By:
		Type/Print	Type/Print
		Signature:	Signature:
		Type/Print	Type/Print
		Signature:	Signature:

13. Search through all documentation to find passwords or other physical evidence that may pertain to the crime.



Passwords or hidden notes may be located on the scene inside documentation manuals or books.

- c. Requirements for Computer/Cellphone Forensic Examination at Computer Forensic Laboratory, ATCD, CIDG.

For Hard Disk

1. Letter Request for Examination (From RC, RCIDU/RD, PRO/DD, NCRPO District/Dir, NSU/Head of Agency/Corporate Secretary of Private Corporations/Private Complainant)
2. One (1) piece Hard Disk (Double the Size of the Hard Disk for examination)
3. One (1) piece Compact Disk (CD) Recordable for the Forensic Result

For Cellphone

One (1) piece Compact Disk (CD) Recordable for the Forensic Result

Note: The requesting party or the Court can only request for the Examination results and pieces of evidence after filling up the Chain of Custody form.

5.8. ACCESS DEVICES REGULATION ACT OF 1998

- a. What law punishes access device fraud (unlawful use of credit card)?

- Republic Act No 8484

- b. What are acts that constitute access device frauds?

The following acts shall constitute access device fraud and are hereby declared to be unlawful:

1. An act of producing, using, trafficking in one or more counterfeit access devices;
2. An act trafficking in one or more unauthorized access devices or access devices fraudulently applied for;
3. An act of using, with intent to defraud, an unauthorized access device;

4. An act of using an access device fraudulently applied for;
5. An act of possessing one or more counterfeit access devices or access devices fraudulently applied for;
6. An act of producing, trafficking in, having control or custody of, or possessing device-making or altering equipment without being in the business or employment, which lawfully deals with the manufacture, issuance, or distribution of such equipment;
7. An act of inducing, enticing, permitting or in any manner allowing another, for consideration or otherwise to produce, use, traffic in counterfeit access devices, unauthorized access devices or access devices fraudulently applied for;
8. An act of multiple imprinting on more than one transaction record, sales slip or similar document, thereby making it appear that the device holder has entered into a transaction other than those which said device holder had lawfully contracted for, or submitting, without being an affiliated merchant, an order to collect from the issuer of the access device, such extra sales slip through an affiliated merchant who connives therewith, or, under false pretences of being an affiliated merchant, present for collection such sales slips, and similar documents;
9. An act of disclosing any information imprinted on the access device, such as, but not limited to, the account number or name or address of the device holder, without the latter's authority or permission;
10. An act of obtaining money or anything of value through the use of an access device, with intent to defraud or with intent to gain and fleeing thereafter;
11. An act of having in one's possession, without authority from the owner of the access device or the access device company, an access device, or any material, such as slips, carbon paper, or any other medium, on which the access device is written, printed, embossed, or otherwise indicated;
12. An act of writing or causing to be written on sales slips, approval numbers from the issuer of the access device of the fact of approval, where in fact no such approval was given, or

where, if given, what is written is deliberately different from the approval actually given;

13. An act of making any alteration, without the access device holder's authority, of any amount or other information written on the sales slip;
 14. An act of effecting transaction, with one or more access devices issued to another person or persons, to receive payment or any other thing of value;
 15. An act, without the authorization of the issuer of the access device, soliciting a person for the purpose of:
 - a) Offering an access device; or
 - b) Selling information regarding or an application to obtain an access device; or
 16. An act, without the authorization of the credit card system member or its agent, causing or arranging for another person to present to the member or its agent, for payment, one or more evidence or records of transactions made by credit card.
 17. Other analogous acts
- c. What is the evidence needed to file a case of access device fraud?
1. Testimonial Evidence – affidavit of complainants and witnesses
 2. Documentary Evidence - Certificate of Registration of the owner of access devices, Photographs of access devices fraudulently used, Certificate of Obligation issued as a result of fraudulent transactions or contract of sale and other pertinent documents obtained through the use of fraudulent access device, police records and other relevant records
 3. Object Evidence - Subject access devices, computers and other electronic equipments
 4. Other relevant documents

5.9. CREDIT CARD FRAUD INVESTIGATIONS (VIOLATION OF RA 8484)

5.9.1 ACCOUNT TAKE-OVER

Account Take-over (ATO) – a criminal trying to take over another person's account, first by gathering information about the intended victim, then contacting their bank or credit issuer – masquerading as the genuine cardholder – asking for mail to be redirected to a new address. The criminal then reports the card lost and asks for a replacement to be sent. The replacement card is then used fraudulently.

5.9.2 STEPS IN INVESTIGATING ATO CARD

- a. There must be a complaint
 1. Duly accomplished complaint sheet
 2. Affidavit of the complainant and issuing Bank
 3. If complainant is a juridical person, ask for his/her authority to file a complaint (Special Power of Attorney or Corporate Secretary's Certificate).
 4. Evaluate the complaint to ascertain the crime committed and/or if the case is suited for entrapment.
 5. Determine what appropriate laws can be applied.
- b. Pieces of Evidence Needed
 1. Delivery receipt signed by the suspect/s (if credit card was delivered)
 2. Affidavit of the courier (if card was delivered)
 3. Affidavit of the legitimate card holder
 4. Credit Card itself (if recovered)
 5. Affidavit of merchant/s (if the credit card was used)
 6. Sales Invoice and charge slip (if the credit card was used)
 7. Affidavit of Arrest (if suspects were arrested)

8. Statement of Account

c. Filing of the Case (the documents needed can be secured from the complainant)

Inquest, if arrest was made, with the following documents:

1. Referral addressed to the Prosecutor's Office
2. Duly accomplished complaint Sheet
3. Affidavit of complainant and issuing Bank

Note: If complainant is a juridical person, Special Power of Attorney (SPA) and/or Corporate Secretary's Certificate is needed.

- d. Affidavit of the legitimate cardholder
- e. Delivery receipt signed by the suspect, if credit card was delivered
- f. Affidavit of the courier, if credit card was delivered
- g. Credit Card itself, if recovered
- h. Affidavit of merchants, if credit card was used
- i. Sales invoice and charge slip, if credit card was used
- j. Statement of account
- k. Affidavit of arrest
- l. Booking sheet
- m. Picture of the suspect/s (if arrested)

1. Regular/Ordinary Filing if no arrest was made

Note: Affidavit of arrest and booking sheet is not required

2. Suspect/s can be charged with Sec 9 of RA 8484, Art 172 and/or 172, Art 178, and Art 315 and Art 308, all of RPC and CA 142 as amended by RA 6085, etc...

Note: The Case Folder shall contain all of paragraph 3.

Fraudulent Application (Fraudaps) – suspect used stolen or fake documents to open an account in someone else's name.

5.9.3 STEPS IN INVESTIGATING FRAUDULENT APPLIED CARD

- a. There must be a complaint
 1. Duly accomplished complaint sheet
 2. Affidavit of the complainant/issuing Bank
 3. If a complainant is a juridical person, ask for his/her authority to file a complaint Special Power of Attorney or Corporate Secretary's Certificate
 4. Evaluate the case to ascertain the crime committed and/or if the case is suited for entrapment.
 5. Determine what appropriate laws are applicable.
- b. Documents needed
 1. Application form (if any, application usually done thru phone)
 2. Documents presented in support to that application i.e. ID's, certificate of employment, etc (if any)
 3. Delivery receipts signed by the suspect/s (if credit card was delivered)
 4. Affidavit of courier (if card was delivered)
 5. Credit Card itself (if recovered)
 6. Affidavit of merchant/s (if card was used)
 7. Sales Invoice and Charge Slip (if card was used)
 8. Affidavit of Arrest (if suspect/s were arrested)
 9. Statement of Account

5.9.4 FILING OF THE CASE (the documents needed can be secured from the complainant)

a. Inquest, if arrest was made

1. Referral addressed to the City Prosecutor
2. Duly accomplished complaint sheet (mandatory)
3. Affidavit of complainant/issuing Bank

Note: If complainant is a juridical person, Special Power of Attorney and/or Corporate Secretary's Certificate is needed.

4. Application Form (if any, application usually done thru phone)
5. Documents presented in support for that application i.e. ID's, certificate of employment etc (if any)
6. Affidavit of courier (if card was delivered)
7. Credit Card itself (if card was recovered)
8. Affidavit of merchant (if card was used)
9. Sales invoice and charge slip (if card was used)
10. Statement of Account
11. Affidavit of Arrest
12. Booking Sheet
13. Picture of the suspect (if arrested)

b. Regular/Ordinary Filing if no arrest was made

Note: Affidavit of arrest and booking is not required

- c. Suspect/s can be charged with Sec 9 of RA 8484, Art 172 and 171, Art 178, Art 315 all of RPC, and CA 142 as amended by RA 6085, etc.

Note: The Case Folder shall contain all of paragraph 3

- d. Counterfeit credit cards

5.9.5 Steps in Investigating Counterfeit Cards

- a. There must be a complaint
 - 1. Duly accomplished complaint sheet
 - 2. Affidavit of the complainant/certification from the issuing Bank
 - 3. If a complainant is a juridical person, ask for his/her authority to file a complaint (Special Power of Attorney or Corporate Secretary's Certificate).
 - 4. Evaluate the case to ascertain the crime committed and/or if the case is suited for entrapment.
 - 5. Determine what appropriate laws are applicable
- b. Pieces of Evidence Needed
 - 1. Credit Card itself (if recovered)
 - 2. Affidavit of merchant (if card was used)
 - 3. Sales invoice (if card was used)
 - 4. Charge slip (if card was used)
 - 5. Letter of dispute/affidavit of the legitimate card holder
 - 6. Affidavit of arrest (if suspect was arrested)
 - 7. Statement of Account
- c. Filing of the Case (the documents needed can be secured from the complainant)

Inquest, if arrest was made:

- 1. Referral addressed to the City Prosecutor
- 2. Duly accomplished complaint sheet
- 3. Affidavit of complainant/issuing Bank

Note: If complainant is a juridical person, Special Power of Attorney and/or Corporate Secretary's Certificate is needed

- d. Credit Card itself (if recovered)
- e. Affidavit of merchant (if card was used)
- f. Sales invoice and charge slip (if card was used)
- g. Letter of dispute/affidavit of the legitimate card holder
- h. Affidavit of arrest
- i. Statement of Account
- j. Booking Sheet
- k. Picture/s of the suspect (if arrested)

- 1. Regular/Ordinary Filing if no arrest was made

Note: Affidavit of Arrest and booking sheet is not required

- 2. Suspect/s can be charged with sec 9 of RA 8484, Art 315, Art 178 and CA 142 as amended by RA 6085.

Note: The Case Folder shall contain all of paragraph 3

5.9.6 LOST / STOLEN CREDIT CARD

- a. There must be a complaint
 - 1. Duly accomplished complaint sheet
 - 2. Affidavit of the complainant/issuing Bank
 - 3. If a complainant is a juridical person, ask for his/her authority to file a complaint (Special Power of Attorney or Corporate Secretary's Certificate).
 - 4. Evaluate the case to ascertain the crime committed and/or if the case is suited for entrapment
 - 5. Determine what appropriate laws are applicable

6. Determine what kind of document/s needed

b. Piece/s of Evidence Needed

1. Credit Card itself (if recovered)
2. Affidavit of merchant (if card was used)
3. Sales invoice (if card was used)
4. Charge slip (if card was used)
5. Letter of dispute/affidavit of the legitimate card holder
6. Affidavit of arrest (if suspect was arrested)
7. Police Blotter
8. Statement of Account

c. Filing of the Case (the documents needed can be secure from the complainant)

Inquest, if arrest was made

1. Referral addressed to the City Prosecutor
2. Duly accomplished complaint sheet
3. Affidavit of Complainant/issuing Bank
4. If the complainant is a juridical person, Special Power of Attorney and/or Corporate Secretary's Certificate is needed
5. Credit Card itself (if the card was recovered)
6. Police Blotter to the effect that the card was lost or stolen
7. Affidavit of Merchant (if the card was used)
8. Sales invoice and charge slip (if the card was used)
9. Letter of dispute/affidavit of the legitimate card holder
10. Affidavit of Arrest

11. Statement of account
 12. Booking sheet
 13. Picture/s of the suspect (if arrested)
- d. Regular/Ordinary Filing if no arrest was made
- Note:** Affidavit of arrest and booking sheet is not needed
- e. Suspect can be charged with sec 9 of RA 8484, Art 308 and Art 178 all of RPC, CA 142 as amended by RA 6085, etc.
- Note:** The Case Folder shall contain all of paragraph 3.

5.9.7 STEPS IN INVESTIGATING MANUFACTURING OF CREDIT CARDS

- a. There must be a complaint
1. Duly accomplished complaint sheet
 2. Affidavit of the complainant
 3. If complainant is a juridical person, ask for his/her authority to file a complaint.
 4. Evaluate the case to ascertain the offense committed.
 5. Determine what laws are applicable.
 6. Determine what document/s or pieces of evidence are needed to complete the picture of the case.
- b. Piece/s of evidence needed
1. Skimming device (Card Reader) – a device used to record the data of credit card and then transferred to a duplicate card
 2. Hot Stamper – machine used to shape plastic material by bending, folding, pressing, stretching and or twisting
 3. Embosser – machine used to carve a design in relief on a surface

4. Printer – external
 5. Scanner – computer peripheral or a stand-alone device that converts a document, filing, graphic, or photographic to a digital image.
 6. Blank PVC Cards – a standard-sized blank plastic card where a certain credit card is to be printed
 7. Computers – general purpose machine, commonly consisting of digital circuitry, that accepts (inputs), stores, manipulates, and generates (outputs) data a number, text, graphics, voice, video files, or electrical signals, in accordance with instructions called programs.
- c. If possible, apply for Search Warrant
- d. Filing of the Case
1. Inquest if arrest was made
 - a) Referral addressed to the City Prosecutor
 - b) Duly accomplished sheet
 - c) Affidavit of the complainant/Certification from the Credit Card Association of the Philippines
- Note:** If the complainant is a juridical person, Special Power of Attorney and/or Corporate Secretary's Certificate is needed.
- d) Skimming Device
 - e) Stamper
 - f) Embosser
 - g) Printer
 - h) Scanner
 - i) Blank PVC Card
 - j) Computers
 - k) Copy of Search Warrant/s

- l) Receipt of property seized
 - m) Certificate of orderly searched
 - n) Affidavit of Arrest
 - o) Booking Sheet
- 2. Ordinary Filing if no arrest was made

Note: Affidavit of Arrest and booking sheet is not needed
- 3. Suspect/s can be charged with sec 9 of RA 8484
- e. Return of Search Warrant/s

Note: The Case Folder shall contain all of paragraph 4 and 5.

5.10 SPECIAL PROTECTION OF CHILDREN AGAINST ABUSE, EXPLOITATION AND DISCRIMINATION ACT

- a. What law punishes violations of Anti-Child Abuse Exploitation and Discrimination Act?
 - Republic Act No. 7610
- b. What are the acts in violation of Anti-Child Abuse Exploitation and Discrimination Act?
 - 1. Any person who engages in or promotes, facilitates or induces child prostitution acting as a procurer of a child prostitute; inducing a person to be a client of a child prostitute by means of written or oral advertisements or other similar means; taking advantage of influence or relationship to procure a child as prostitute; threatening or using violence towards a child to engage him as a prostitute; or giving monetary consideration, goods or other pecuniary benefit to a child with intent to engage such child in prostitution
 - 2. Any person who commits the act of sexual intercourse of lascivious conduct with a child exploited in prostitution or subject to other sexual abuse;

3. Any manager or owner of the establishment where the prostitution takes place, or of the sauna, disco, bar, resort, place of entertainment or establishment serving as a cover or which engages in prostitution in addition to the activity for which the license has been issued to said establishment and derive profit
4. Any person who, not being a relative of a child, is found alone with the said child inside the room or cubicle of a house, an inn, hotel, motel, pension house, apartelle or other similar establishments, vessel, vehicle or any other hidden or secluded area under circumstances which would lead a reasonable person to believe that the child is about to be exploited in prostitution and other sexual abuse.
5. Any person receiving services from a child in a sauna parlor or bath, massage clinic, health club and other similar establishments.
6. Any person who shall engage in trading and dealing with children including, but not limited to, the act of buying and selling of a child for money, or for any other consideration.
7. Any person who attempt to facilitate the travel of a child alone to a foreign country without valid reason therefore and without clearance issued by the Department of Social Welfare and Development or written permit or justification from the child's parents or legal guardian.
8. Any person, agency, establishment or child-caring institution recruits women or couples to bear children for the purpose of child trafficking.
9. Any doctor, hospital or clinic official or employee, nurse, midwife, local civil registrar or any other person simulates birth for the purpose of child trafficking
10. Any person engages in the act of finding children among low-income families, hospitals, clinics, nurseries, day-care centers, or other child-during institutions who can be offered for the purpose of child trafficking
11. Any person who shall hire, employ, use, persuade, induce or coerce a child to perform in obscene exhibitions and indecent shows, whether live or in video, or model in obscene publications or pornographic materials or to sell or distribute the said materials.

12. Any ascendant, guardian, or person entrusted in any capacity with the care of a child who shall cause and/or allow such child to be employed or to participate in an obscene play, scene, act, movie or show or in any other acts.
13. Any person who shall commit any other acts of child abuse, cruelty or exploitation or to be responsible for other conditions prejudicial to the child's development.
14. Any person who shall keep or have in his company a minor, twelve (12) years or under or who in ten (10) years or more his junior in any public or private place, hotel, motel, beer joint, discotheque, cabaret, pension house, sauna or massage parlor, beach and/or other tourist resort or similar places.
15. Any person who shall induce, deliver or offer a minor to any one prohibited by this Act to keep or have in his company a minor.
16. Any person, owner, manager or one entrusted with the operation of any public or private place of accommodation, whether for occupancy, food, drink or otherwise, including residential places, who allows any person to take along with him to such place or places any minor.
17. Any person who shall use, coerce, force or intimidate a street child or any other child to beg or use begging as a means of living; act as conduit or middlemen in drug trafficking or pushing; or conduct any illegal activities.
18. Any establishments and enterprises which promote or facilitate child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows.
19. Any establishment which shall be deemed to promote or facilitate child prostitution and other sexual abuse, child trafficking, obscene publications and indecent shows, and other acts of abuse if the acts constituting the same occur in the premises of said establishment.
20. Any person who shall employ child models in all commercials or advertisements promoting alcoholic beverages, intoxicating drinks, tobacco and its products and violence.
21. Any acts that violate confidentiality of records.

22. Other analogous acts.

NOTE:

Child Prostitution and Other Sexual Abuse - Children, whether male or female, who for money, profit, or any other consideration or due to the coercion or influence of any adult, syndicate or group, indulge in sexual intercourse or lascivious conduct, are deemed to be children exploited in prostitution and other sexual abuse.

- c. What is the evidence needed to file a case of child abuse?
 - 1. Testimonial Evidence – affidavit of the complainant and witnesses
 - 2. Documentary Evidence – contract of employment/business permits, photographs, videos, publications, records, police records, forensic reports, medical records and other pertinent documents
 - 3. Object Evidence – computers, electronic devices and instruments used perpetrating child abuse and means to control the child victims
 - 4. Other evidence relevant

5.11 ANTI-CHILD PORNOGRAPHY ACT OF 2009

- a. What law punishes violations of Anti-Child Pornography Act?
 - Republic Act No. 9208
- b. What are the acts in violation of Anti-Child Pornography Act?
 - 1. Any person, who hires, employs, uses, persuades, induces or coerces a child to perform in the creation or production of child pornography.
 - 2. Any person, who produces, directs, manufactures or creates any form of child pornography and child pornography materials.
 - 3. Any person, who sells, offers, advertises and promotes child pornography and child pornography materials.

4. Any person who possesses, downloads, purchases, reproduces or makes available child pornography materials with the intent of selling or distributing them.
 5. Any person, who publishes, posts, exhibits, disseminates, distributes, transmits or broadcasts child pornography or child pornography materials.
 6. Any person, who knowingly possesses, views, downloads purchases or in any way takes steps to procure, obtain or access for personal use child pornography materials.
 7. Any person who attempts to commit child pornography by luring or grooming a child.
 8. Any acts that violate the confidentiality of records
 9. Other analogous acts
- c. What is the evidence needed to file a case for child pornography?
1. Testimonial Evidence – affidavit of the complainant and witnesses
 2. Documentary Evidence – contract of employment/business permits, photographs, videos, publications, records, police records, forensic reports and other pertinent documents
 3. Object Evidence – computers, electronic devices and instruments used in taking and distribution of pornography and means to control the child victims
 4. Other evidence relevant

5.12 JUVENILE JUSTICE AND WELFARE ACT OF 2006

a. What law punishes the violations of Juvenile Justice and Welfare Act?

- Republic Act No. 9344

b. What are the acts that constitute the violations of Juvenile Justice and Welfare Act?

1. Any competent authorities who brands or labels children as young criminals, juvenile delinquents, prostitutes or attaching to them in any manner any other derogatory names.
2. Any acts which shall be considered prejudicial and detrimental to the psychological, emotional, social, spiritual, moral and physical health and well-being of the child in conflict with the law.
3. Employment of threats of whatever kind and nature.
4. Employment of abusive, coercive and punitive measures such as cursing, beating, stripping, and solitary confinement.
5. Employment of degrading, inhuman and cruel forms of punishment such as shaving the heads, pouring irritating, corrosive or harmful substances over the body of the child in conflict with the law, or forcing him/her to walk around the community wearing signs which embarrass, humiliate, and degrade his/her personality and dignity.
6. Compelling the child to perform involuntary servitude in any and all forms under any and all instances.
7. Any acts in violation of confidentiality of records
8. Other analogous acts

c. What is the evidence needed to file a case for violation of the Juvenile Justice and Welfare Act?

1. Testimonial Evidence – affidavit of the complainant and witnesses
2. Documentary Evidence – photographs, videos, publications, records, police records, forensic reports, medical records and other pertinent documents
3. Object Evidence – weapons and instruments used in inflicting physical harm
4. Other evidence relevant

5.13 ANTI-VIOLENCE AGAINST WOMEN AND THEIR CHILDREN ACT OF 2004

a. What law punishes violations of Anti-Violence against Women and Children?

- Republic Act No. 9262

b. What are the acts in violation of Anti- Violence against Women and Children?

1. Causing physical harm to the woman or her child;
2. Threatening to cause the woman or her child physical harm;
3. Attempting to cause the woman or her child physical harm;
4. Placing the woman or her child in fear of imminent physical harm;
5. Attempting to compel or compelling the woman or her child to engage in conduct which the woman or her child has the right to desist from or to desist from conduct which the woman or her child has the right to engage in, or attempting to restrict or restricting the woman's or her child's freedom of movement or conduct by force or threat of force, physical or other harm or threat of physical or other harm, or intimidation directed against the woman or her child;
6. Threatening to deprive or actually depriving the woman or her child of custody or access to her/his family;
7. Depriving or threatening to deprive the woman or her children of financial support legally due her or her family, or deliberately providing the woman's children insufficient financial support;
8. Depriving or threatening to deprive the woman or her child of a legal right;
9. Preventing the woman from engaging in any legitimate profession, occupation, business or activity, or controlling the victim's own money or properties, or solely controlling the conjugal or common money, or properties;
10. Inflicting or threatening to inflict physical harm on oneself for the purpose of controlling her actions or decisions;

11. Causing or attempting to cause the woman or her child to engage in any sexual activity which does not constitute rape, by force or threat of force, physical harm, or through intimidation directed against the woman or her child or her/his immediate family;
12. Engaging in purposeful, knowing, or reckless conduct, personally or through another that alarms or causes substantial emotional or psychological distress to the woman or her child such as stalking or following the woman or her child in public or private places; peering in the window or lingering outside the residence of the woman or her child; entering or remaining in the dwelling or on the property of the woman or her child against her/his will; destroying the property and personal belongings or inflicting harm to animals or pets of the woman or her child; engaging in any form of harassment or violence;
13. Causing mental or emotional anguish, public ridicule or humiliation to the woman or her child, including, but not limited to, repeated verbal and emotional abuse, and denial of financial support or custody of minor children or denial of access to the woman's child/children;
14. Any acts in violation of confidentiality of records
15. Other analogous acts

NOTE:

The offender is any person who commits an act or series of acts against a woman who is his wife, former wife, or against a woman with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode

c. What is the evidence needed to file a case for violence against women and children?

1. Testimonial Evidence – affidavit of the complainant and witnesses
2. Documentary Evidence – contract of employment/business permits, photographs, videos, publications, records, police records, forensic reports, medical records and other pertinent documents

3. Object Evidence – computers, electronic devices, weapons and instruments used perpetrating violence and means to control the woman and child victims
4. Other evidence relevant

5.14 ANTI-SEXUAL HARASSMENT ACT OF 1995

a. What law punishes the act of sexual harassment?

- Republic Act No. 7877

b. What are the acts that constitute sexual harassment?

1. An employee, manager, supervisor, agent of the employer, teacher, instructor, professor, coach, trainor, or any other person who, having authority, influence or moral ascendancy over another in a work or training or education environment, demands, requests or otherwise requires any sexual favor from the other, regardless of whether the demand, request or requirement for submission is accepted by the victim.
2. The sexual favor is made as a condition in the hiring or in the employment, re-employment or continued employment of said individual, or in granting said individual favorable compensation, terms, conditions, promotions, or privileges.
3. The refusal to grant the sexual favor results in limiting, segregating or classifying the employee which in a way would discriminate, deprive or diminish employment opportunities or otherwise adversely affect said employee; or impair the employee's rights or privileges under existing labor laws; or create an intimidating, hostile, or offensive environment for the employee.
4. Any person who is in-charge of the care, custody or supervision of the education, training, apprenticeship or tutorship, requested for sexual favor as a condition to the giving of a passing grade, or the granting of honors and scholarships, or the payment of a stipend, allowance or other benefits, privileges, or considerations; or perform some sexual advances which result in an intimidating, hostile or offensive environment for the student, trainee or apprentice.

5. Any person who directs or induces another to commit any act of sexual harassment or who cooperates in the commission thereof.
 6. Other analogous acts
- c. What is the evidence needed to file a case for sexual harassment?
1. Testimonial Evidence – affidavit of the complainant and witnesses
 2. Documentary Evidence – contract of employment, training, school records, police records, forensic reports and other pertinent documents
 3. Object Evidence – instrument used in intimidating or gaining sexual favor
 4. Other evidence relevant

5.15 ANTI-TRAFFICKING IN PERSONS ACT OF 2003

- a. What law punishes trafficking in persons?
- Republic Act No. 9208
- b. What are the acts that constitute trafficking in persons?
1. Any person, natural or juridical who recruits, transports, transfers, harbors, provides, or receives a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage.
 2. Any person who introduces or matches for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 6955, any Filipino woman to a foreign national, for marriage for the purpose of acquiring, buying, offering, selling or trading him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage.
 3. Any person who offers or contracts marriage, real or simulated, for the purpose of acquiring, buying, offering, selling, or trading them to engage in prostitution, pornography,

sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage.

4. Any person who undertakes or organizes tours and travel plans consisting of tourism packages or activities for the purpose of utilizing and offering persons for prostitution, pornography or sexual exploitation.
5. Any person who maintains or hires a person to engage in prostitution or pornography.
6. Any person who adopts or facilitates the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage.
7. Any person who recruits, hires, adopts, transports or abducts a person, by means of threat or use of force, fraud, deceit, violence, coercion, or intimidation for the purpose of removal or sale of organs of said person.
8. Any person, who recruits, transports or adopts a child to engage in armed activities in the Philippines or abroad.
9. Any persons who knowingly leases or subleases uses or allows being used any house, building or establishment for the purpose of promoting trafficking in persons.
10. Any person who produces prints and issues or distributes un-issued, tampered or fake counselling certificates, registration stickers and certificates of any government agency which issues these certificates and stickers as proof of compliance with government regulatory and pre-departure requirements for the purpose of promoting trafficking in persons.
11. Any person who advertises, publishes, prints, broadcasts or distributes, or causes the advertisement, publication, printing, broadcasting or distribution by any means, including the use of information technology and the internet, of any brochure, flyer, or any propaganda material that promotes trafficking in persons;
12. Any person who assists in the conduct of misrepresentation or fraud for purposes of facilitating the acquisition of clearances and necessary exit documents from government agencies that are mandated to provide pre-departure registration and

services for departing persons for the purpose of promoting trafficking in persons;

13. Any person who facilitates, assists or helps in the exit and entry of persons from/to the country at international and local airports, territorial boundaries and seaports who are in possession of un-issued, tampered or fraudulent travel documents for the purpose of promoting trafficking in persons;
 14. Any person who confiscates, conceals, or destroys the passport, travel documents, or personal documents or belongings of trafficked persons in furtherance of trafficking or to prevent them from leaving the country or seeking redress from the government or appropriate agencies; and
 15. Any person who knowingly benefits from, financial or otherwise, or makes use of, the labor or services in a person held in a condition of involuntary servitude, forced labor, or slavery.
 16. Any acts that violate confidentiality of records
 17. Other analogous acts
- c. What is the evidence needed to file a case of trafficking in person?
1. Testimonial Evidence – affidavit of the complainant and witnesses
 2. Documentary Evidence – contract of employment, travel documents, records, police records, forensic reports and other pertinent documents
 3. Object Evidence – devices and instrument used in trafficking and means to control the trafficked victims
 4. Other evidence relevant

5.16 ECONOMIC SABOTAGE IN RELATION WITH ILLEGAL RECRUITMENT

- a. What law punishes economic sabotage in relation with illegal recruitment?
- Presidential Decree No. 2018

b. What are the acts that constitute economic sabotage in relation with illegal recruitment?

1. Illegal recruitment is committed by a syndicate
2. The illegal recruitment is carried out by a group of three (3) or more persons conspiring and/or confederating with one another in carrying out any unlawful or illegal transaction, enterprise or scheme.
3. Illegal recruitment is committed in large scale if committed against three (3) or more persons individually or as a group.
4. Other analogous acts

c. What is the evidence needed to file a case for economic sabotage in relation with illegal recruitment?

1. Testimonial Evidence – affidavit of complainants and witnesses
2. Documentary Evidence - Contract of Employment, Receipts and Other pertinent documents, Certification from DOLE that the establishment and entities found to be engaged in the recruitment of workers for overseas employment, without having been licensed or authorized to do so.
3. Object Evidence – Documents (as to its existence), paraphernalia, properties and other implements used in illegal recruitment activities.
4. Other relevant evidence

5.17 FAKE OVERSEAS EMPLOYMENT PROBLEMS (ILLEGAL RECRUITMENT & HUMAN TRAFFICKING)

Human Trafficking and Illegal Recruitment is a lucrative business for opportunist traffickers. They earn huge profits by taking advantage of a large number of potential migrants whose ambition to work abroad and hope for a more affluent life produces a supply of willing victims. Such endeavour favors the smugglers/traffickers because they face few risks in doing so, to include the procurement of fraudulent travel documents, passports and entry visas.

a. MODUS OPERANDI

1. The recruitment process is conducted in a presentable office to lure prospective innocent victims;

2. Application forms filled up by victims;
3. Fees allegedly charged up by victims;
 - a) Management and leg works;
 - b) Processing of passport;
 - c) Performance bond;
 - d) Settlement fees;
 - e) Incidental expenses;
4. Usually, official receipts are issued;
5. Also, lucrative employment is offered
6. Deployment of workers through tourist schemes but with a hidden agenda of employment. This can be done through their illegal foreign employers;
7. Use of passport other than that of the applicant to hide or clothe the applicant in another identity allegedly to ensure his departure and employment aboard;
8. Illegal use of the name of a licensed recruitment agency as front. They usually use fake authorizations to recruit overseas workers;
9. House-to-house recruitment, particularly in provinces;
10. Illegal recruiters are recruiting applicants by introducing themselves as authorized recruiting agents of a license recruitment agency;
11. Those who signified their intention to work abroad will be required to pay a certain amount of money to defray expenses for applicant's passport, visa and plane ticket;
12. Once the amount is given and the promise to leave is made, the illegal recruiter will then vanish and is nowhere to be found by the applicants.

13. Some applicants will be provided with fake passport, a passport of another person but with picture of the unsuspecting applicants in cahoots with some unscrupulous personnel in their port of area.
14. Most of the illegal recruiters go to remote areas, usually in the provinces due to ignorance/illiteracy of potential victim due to absence of the means to verify the authenticity of the recruiters.
15. Tourist-Worker Scheme – unscrupulous recruiters lure would be workers by employing means like leaving the country as tourist but are actually leaving for employment abroad.
16. Trainee-Worker Scheme – workers are recruited and deployed as trainees on a training agreement. More often, students leaving in the guise of a traineeship program for hotels, caregivers or other establishments abroad but eventually landing jobs in hotel/restaurants and even nursing homes abroad.
17. Visa Assistance or Immigration Consultancy Scheme – entities operating under the guise of consultancy or offering services for visa facilitation to include travel agencies are actually engaged in recruitment by offering placement abroad on immigration visa. Some of them also operate through the conduct of orientation seminars, which are actually recruiting activities.
18. Backdoor Exit – workers leave through the southern ports of exit where immigration control is lax. They usually leave on cargo ships or on boats.
19. Assumed Identity – workers leave under another name either using the name of another worker or through “Baklas system” or obtaining passports through fake birth certificate and other documents. Minors are usually deployed through this scheme.
20. Direct Hiring – workers are recruited directly by the foreign employer and deployed either as tourist or through any of the other illegal means.
21. Escort Service – workers are “escorted” at the airports and seaports and allowed to leave even without required travel documents in connivance with crooked government officials/workers.

22. Mail Order Bride Scheme – marriage is arranged by brokers between Filipino women and foreigners. The Filipino wife ends up as domestic helper to her husband and his family or even worse situations abroad.
23. Blind Ads – advertisements for overseas employment published in dailies do not indicate the name of the recruiter but provide a P.O. Box to which applications may be submitted. Unlike legitimate employment firms that have permanent address, many unscrupulous operators run their so-called job placement firms from out-of-state, and may provide only a post office or mail drop address. Although there are legitimate firms with post office or mail drop address, job applicants should be aware that this practice, when used by unscrupulous operators, makes it easier for the operators to avoid scrutiny by their clients.
24. Job Listing Service – there are many firms that make no promises to place you in a job. They merely sell a list of job opportunities, providing little assurance about the accuracy of the information. For instance, the information may be sold via a newsletter around the world. Many of the ads may be months-old, soliciting jobs that already have been filed. In addition, the ads may not have been verified to ensure that the jobs actually exist. Some ads may be from countries with strict quotas that discourage the hiring of foreign citizens. Other publications, may promise access to information on job opportunities, but provides nothing more than a listing of employers in various regions. They encourage applicants to submit their requirements through mail together with seemingly minimal fee.
25. Tie-Up or Kabit System – unlicensed recruiters tie-up with licensed agencies and recruit workers through the facilities of the latter. Workers are either deployed under the job order of the license agency but actually work for another employer abroad or the foreign principal of the unlicensed recruiter is registered or accredited under the licensed agency's name.
26. Camouflaged participants/representative in seminars/sports events – workers leave as participants in seminars or sports events abroad but actually intend to work there.

b. Investigative Procedures:

1. The Desk Officer shall entertain all walk-in complainant/s for Illegal Recruitment and Trafficking cases.
2. The Desk Officer, after a brief interview with the complainant/s, shall record the incident in the Police Blotter and refer them to the duty investigator.
3. The duty investigator shall require the complainant/s to fill up the complaint sheet provided for detailing the nature of their complaint.
4. The duty investigator, after examining the accomplished complaint sheet, shall take the sworn statements of the complainant/s and asked for any receipt or essential documents relative to their complaint.
5. The duty investigator shall request in writing information from POEA whether or not the recruitment agency subject of the complaint is duly licensed. If not licensed, get a certificate to this effect. If registered, get a certified copy of the POEA license.
6. If the recruitment agency is licensed to operate but has certain violations under R.A No-8042, or the person/s subject of the complaints is nowhere to be found, the investigator shall bring the case before the prosecutors' office for regular filing.
7. However, if not registered, and the employment agency continuously accepts applicants for overseas work and still negotiates with the complainant, the same shall be referred to the nearest CIDG Office for entrapment operations pursuant to EO 759 dated October 23, 2008.
8. In preparation to the entrapment operation, the operatives shall conduct an investigation/surveillance about the subject employment agency to determine the veracity of the complaint, and thereafter prepare a summary of information (SOI) as requirement to PRE-OPERATION CLEARANCE.
9. The investigator shall prepare a request to the PNP Crime Laboratory for Ultra Violet Powder for "Dusting" of marked money to be used in the entrapment operation.

10. The team leader shall coordinate personally with the concerned territorial Police Office within whose jurisdiction the operation will be conducted using the prescribed Coordination Form prior to the launching of the operation.
11. The arresting team must be equipped of camera/video to be used during the actual police operation.
12. Upon arrest of the suspect/s, apprise them of their Constitutional Rights as provided in RA 7438. Subject arrested person/s shall undergo an Ultra Violet Powder Examination and Physical/Medical Examination at the PNP Crime Laboratory.
13. The investigator shall prepare documentation and identification, fingerprinting (booking sheets) and the standard front, side view, whole body and back view photographs of the arrested suspect/s.
14. The officer-on-case shall prepare the letter of transmittal to the prosecutor having jurisdiction over the case. To be attached as annexes are:
 - a) Sworn statement taken
 - b) Certificate from the POEA
 - c) Booking sheets /Photographs
 - d) Affidavit of Arresting Officers
 - e) Receipts of payment& documents made by applicants
 - f) Request and Result of Ultra Violet Powder from PNP Crime Laboratory
 - g) Request and Result of Physical/Medical Examination of the PNP Crime Laboratory
 - h) Others to be presented later
 - i) After inquest, bring subjects to jail for temporary confinement until they are turned over to the city jail or local or provincial jails. This should be done immediately.

5.18 OPTICAL MEDIA ACT OF 2003

- a. What law punishes violations of the Optical Media Act?
 - Republic Act No 9239
- b. What are the acts in violation of the Optical Media Act?
 1. Any person, natural or juridical, who shall engage in the importation, exportation, acquisition, sale or distribution of, or possess or operate manufacturing equipment, parts and accessories without the necessary licenses from the Optical Media Board (OMB);
 2. Any person who shall engage in the mastering, manufacture, replication, importation or exportation of optical media without the necessary license from the OMB;
 3. Any person who by himself, or through another, causes the mastering, manufacture or replication of any intellectual property in optical media intended for commercial profit or pecuniary gain without authority or consent of the owner thereof;
 4. Any person who engages in the mastering, manufacture, or replication of optical media without affixing or installing in the resulting products the SID Code, and/or such other codes prescribed, assigned and authorized by the OMB;
 5. Any persons who engages in the mastering, manufacture, or replication of optical media using, affixing or installing in the resulting products false SID or other codes that have been assigned by the OMB to another person, or, having been assigned and authorized said codes by the OMB, allow or authorize another person, establishment or entity to use, affix or install such codes in the latter's products.
 6. Other analogous acts
- c. What is the evidence needed to file a case for violations of Optical Media Act?
 1. Testimonial Evidence – Affidavits of witnesses
 2. Documentary Evidence - Certificate of non-registration, contracts and other documents, results of Questioned

Documents examination for fake SID or codes and police records

3. Object Evidence - Original and fake Optical Media products subject of the violation and devices used for unlawful replication of optical media products
4. Other relevant evidence

5.19 ANTI-CARNAPPING ACT OF 1972

- a. What law punishes carnapping?
 - Republic Act No. 6539
- b. What are the acts that constitute carnapping?
 1. It is the taking of motor vehicle belonging to another without the latter's consent.
 2. The taking is by means of violence against or intimidation of persons, or by using force upon things.
 3. The taking is with intent to gain.
 4. The taking includes "defacing or tampering with", "repainting", "body-building", "remodelling", "dismantling", and "overhauling".
 5. Other analogous acts

NOTE:

The "Motor vehicle" is any vehicle propelled by any power other than muscular power using public highways, but excepting road rollers, trolley cars, street-sweepers, sprinklers, lawn mowers, bulldozers, graders, fork-lifts, amphibian trucks, and cranes if not used on public highways, vehicles, which run only on rails or tracks, and tractors, trailers and traction engines of all kinds used exclusively for agricultural purposes. Trailers having any number of wheels, when propelled or intended to be propelled by attachment to a motor vehicle shall be classified as separate motor vehicle with no power rating. It is the taking away of cattle by any means, method or scheme.

c. What are the evidences needed to file carnapping?

1. Testimonial Evidence – Affidavit of Complainant and witnesses
2. Documentary Evidence - Certificate of Registration of the motor vehicle, the macro-etching examination of the motor vehicle, photographs of carnapped motor vehicle, police records and other documents
3. Object Evidence – carnapped motor vehicle
4. Other relevant evidence

5.20 ANTI-PIRACY AND ANTI-HIGHWAY ROBBERY LAW OF 1974

a. What law punishes piracy and highway robbery?

- Presidential Decree No 532

b. What are the acts that constitute piracy and highway robbery?

1. Any person who commits piracy or highway robbery/brigandage.
2. Any person who inflicts physical injuries or commits rape, murder or homicide, kidnapping for ransom or extortion as a result or on the occasion of piracy or robbery or brigandage.
3. Any person who abandons the victims without means of saving themselves when the seizure is accomplished by firing upon or boarding a vessel.
4. Any person who knowingly and in any manner aids or protects pirates or highway robbers/brigands, such as giving them information about the movement of police or other peace officers of the government, or acquires or receives property taken by such pirates or brigands or in any manner derives any benefit there from.
5. Any person who directly or indirectly abets the commission of piracy or highway robbery or brigandage.
6. Other analogous acts

c. What is the evidence needed to file a case for piracy and highway robbery?

1. Testimonial Evidence – affidavit of the complainant and witnesses
2. Documentary Evidence – travel receipts and documents, bill of lading, police records, forensic reports and other pertinent documents
3. Object Evidence – the cargoes and other valuables stolen and proceeds of stolen items
4. Other evidence relevant

5.21 AN ACT PROHIBITING CERTAIN ACTS INIMICAL TO CIVIL AVIATION

a. What law punishes acts inimical to civil aviation?

- Republic Act No 6235

b. What are the acts inimical to civil aviation?

1. Any person to compel a change in the course or destination of an aircraft of Philippine registry, or to seize or usurp the control thereof, while it is in flight or to compel an aircraft of foreign registry to land in Philippine territory or to seize or usurp the control thereof while it is within the said territory.
2. The act to compel is through firing upon the pilot, member of the crew or passenger of the aircraft; exploding or attempted to explode any bomb or explosive to destroy the aircraft; or the crime is accompanied by murder, homicide, serious physical injuries or rape.
3. Any person, natural or juridical, who shall ship, load or carry in any passenger aircraft operating as a public utility within the Philippines, any explosive, flammable, corrosive or poisonous substance or material. The shipping, loading or carrying of any substance or material in any cargo aircraft operating as a public utility within the Philippines shall be in accordance with regulations issued by the Civil Aeronautics Administration.
4. Other analogous acts

c. What is the evidence needed to file a case for acts inimical to civil aviation?

1. Testimonial Evidence – Testimonial of complainant and witnesses
2. Documentary Evidence - Photograph or video of aircraft subject of the crime, Registration of aircraft and flight or travel documents, Inventory of hazardous materials being shipped by the aircraft, police records and other related documents
3. Object Evidence – Aircraft, hazardous materials being shipped by the aircraft and other materials
4. Other relevant evidence

5.22 ANTI-ELECTRICITY AND ELECTRIC TRANSMISSION LINES/ MATERIALS PILFERAGE ACT OF 1994

a. What law punishes Electricity Pilferage?

- Republic Act No 7832

b. What are the acts of Electricity Pilferage?

1. Any person/s, whether natural or juridical, public or private, who taps makes or causes to be made any connection with overhead lines, service drops, or other electric service wires or to the existing electric service facilities of any duly registered consumer.
2. Any person/s who knowingly uses or receives the direct benefit of electric service obtained through tampers, installing or using a tampered electrical meter, jumper, current reversing transformer, shorting or shunting wire, loop connection or any other device which interferes with the proper or accurate registry or metering of electric current or otherwise results in its diversion in a manner whereby electricity is stolen or wasted.
3. Any person/s that causes damage or destroys an electric meter, equipment, wire or conduit or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electric current.

4. The connection made is without previous authority or consent of the private electric utility or rural electric cooperative concerned or registered consumers.
 5. Other analogous acts
- c. What is the evidence needed to file a criminal action for Electricity Pilferage?
1. Testimonial Evidence – Affidavit of complainants and witnesses
 2. Documentary Evidence - Photograph or video of illegal tapping, jumper and tampered meter, police records, Certificate of non-registration and other related records
 3. Object Evidence – cable wires, electric meter, jumper devices and other equipment for electricity pilferage
 4. Other relevant evidence

5.23 ANTI-CATTLE RUSTLING LAW OF 1974

- a. What law punishes the crime of cattle–rustling?
 - Presidential Decree No. 533
- b. What are the acts that constitute cattle–rustling?
 1. It is the taking away of cattle by any means, method or scheme.
 2. Absence or without the consent of the owner/raiser, of any of the cattle.
 3. The purpose is regardless for profit or gain.
 4. The taking can be committed with or without violence against or intimidation of any person or force upon things.
 5. It includes the killing of large cattle, or taking its meat or hide without the consent of the owner/raiser.
 6. Other analogous acts

- c. What is the evidence needed to file an action for cattle-rustling?
 - 1. Testimonial Evidence – Affidavit of complaint, sworn statements of witnesses and others.
 - 2. Documentary Evidence - Registration documents of the cattle with marking and other pertinent documents related thereto.
 - 3. Object Evidence - Cattle with markings or skin of slaughtered cattle with marking and the metal stamp marking of the registered owner.
 - 4. Other evidence relevant

5.24 THE PHILIPPINE FISHERIES CODE OF 1998

- a. What law punishes any violation of The Philippine Fisheries Code?
 - Republic Act No 8550
- b. What are the acts in violation of The Philippine Fisheries Code?
 - 1. No person shall exploit, occupy, produce, breed, culture, capture or gather fish, fry or fingerlings of any fishery species or fishery products, or engage in any fishery activity in Philippine waters without a license, lease or permit.
 - 2. It shall be unlawful for any foreign person, corporation or entity to fish or operate any fishing vessel in Philippine waters. The entry of any foreign fishing vessel in Philippine waters shall constitute a prima facie evidence that the vessel is engaged in fishing in Philippine waters.
 - 3. It shall be unlawful for any person to catch, take or gather or cause to be caught, taken or gathered, fish or any fishery species in Philippine waters with the use of electricity, explosives, noxious or poisonous substance such as sodium cyanide in the Philippine fishery areas, which will kill, stupefy, disable or render unconscious fish or fishery species.
 - 4. It shall be unlawful to engage in fishing using nets with mesh smaller than that which may be fixed by the authority.

5. It shall be unlawful to engage in fishing in municipal waters and in all bays as well as other fishery management areas using active fishing gears.
6. It shall be unlawful for any person or corporation to gather, possess, sell or export ordinary precious and semi-precious corals, whether raw or in processed form, except for scientific or research purposes.
7. It shall be unlawful for any person, natural or juridical, to fish with gear method that destroys coral reefs, sea grass beds, and other fishery marine life habitat as may be determined by the Department.
8. It shall be unlawful to engage in fishing with the use of super lights in municipal waters or in violation of the rules and regulations on the use of super lights outside municipal waters.
9. It shall be unlawful for any person to convert mangroves into fishponds or for any other purposes.
10. It shall be unlawful to fish in overfished area and during closed season.
11. It shall be unlawful to fish in fishery areas declared by the Department as fishery reserves, refuge and sanctuaries.
12. It shall be unlawful to fish or take rare, threatened or endangered species.
13. It shall be unlawful for any person to catch, gather, capture or possess mature milkfish or "sabalo" and such other breeders or spawners of other fishery species.
14. Exportation of Breeders, Spawners, Eggs or Fry.
15. Importation or Exportation of Fish or Fishery Species.
16. It shall be unlawful for any person to fish in violation of catch ceilings.
17. Aquatic Pollution.
18. Other analogous acts

c. What is the evidence needed to file the action for any violation of The Philippine Fisheries Code?

1. Testimonial Evidence – Affidavits of complainants and witnesses
2. Documentary Evidence - Certificate of non-registration and other pertinent documents, Photographs of explosives and prohibited fishing devices, Forensic chemical results of explosives and hazardous fishing poisons, police record and other relevant documents
3. Object Evidence - explosives, fishing devices and other gadgets and Fish and other aquatic resources subject of the violations
4. Other relevant evidence

5.25 ANTI-FENCING LAW OF 1972

a. What law punishes fencing?

- PD No. 1612

b. What are the acts that constitute fencing?

1. Any person, firm, association, corporation or partnership or other organization who/which commits the act of fencing.
2. An act of any person, with intent to gain for himself or for another.
3. Such person shall buy, receive, possess, keep, acquire, conceal, sell or dispose of, or shall buy and sell or in any other manner deal in any article, item, object or anything of value which he knows, or should be known to him, to have been derived from the proceeds of the crime of robbery or theft.
4. Other analogous acts

c. What is the evidence needed to file a case of fencing?

1. Testimonial Evidence – Affidavit of complainants and witnesses

2. Documentary Evidence - Receipts or Contract of Sale and other pertinent documents, any documents showing the ownership of stolen items and appraised value or amount of stolen items police records and other related documents
3. Object Evidence - Stolen items, or proceeds of the stolen items
4. Other relevant evidence

5.26 CHAIN SAW ACT OF 2002

- a. What law punishes violations of the Chain Saw Act?
 - Republic Act No 9172
- b. What are the acts in violation of the Chain Saw Act?
 1. Selling, Purchasing, Re-selling, Transferring, Distributing or Possessing a Chain Saw without a Proper Permit.
 2. Unlawful Importation or Manufacturing of Chain Saw
 3. Tampering of Engine Serial Number
 4. Actual Unlawful Use of Chain Saw
 5. Other analogous acts
- c. What is the evidence needed to file a case for violation of the Chain Saw Act?
 1. Testimonial Evidence – Affidavits of witnesses
 2. Documentary Evidence - Certificate of non-registration, contracts, Macro-etching result of tampered engine serial number, Police records and other documents
 3. Object Evidence - Chain saw as subject of the litigation
 4. Other relevant evidence

5.27 HUMAN SECURITY ACT OF 2007

- a. What law punishes violations of Human Security Act?
 - Republic Act No. 9372
- b. What are the acts that constitute the violations of the Human Security Act?
 1. Any person who commits an act punishable under any of the following provisions of the Revised Penal Code:
 - a) Article 122 (Piracy in General and Mutiny in the High Seas or in the Philippine Waters);
 - b) Article 134 (Rebellion or Insurrection);
 - c) Article 134-a (Coup d' Etat), including acts committed by private persons;
 - d) Article 248 (Murder);
 - e) Article 267 (Kidnapping and Serious Illegal Detention);
 - f) Article 324 (Crimes Involving Destruction), or under
 - g) Presidential Decree No. 1613 (The Law on Arson);
 - h) Republic Act No. 6969 (Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990);
 - i) Republic Act No. 5207, (Atomic Energy Regulatory and Liability Act of 1968);
 - j) Republic Act No. 6235 (Anti-Hijacking Law);
 - k) Presidential Decree No. 532 (Anti-Piracy and Anti-Highway Robbery Law of 1974); and,
 - l) Presidential Decree No. 1866, as amended (Decree Codifying the Laws on Illegal and Unlawful Possession, Manufacture, Dealing in, Acquisition or Disposition of Firearms, Ammunitions or Explosives)

2. Thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand shall be guilty of the crime of terrorism
 3. When two or more persons come to an agreement concerning the commission of the crime of terrorism as defined in Section 3 hereof and decide to commit the same
 4. Any person who, not being a principal, cooperates in the execution of either the crime of terrorism or conspiracy to commit terrorism by previous or simultaneous acts
 5. Any person who, having knowledge of the commission of the crime of terrorism or conspiracy to commit terrorism, and without having participated therein, takes part subsequent to its commission in any of the following manner: (a) by profiting himself or assisting the offender to profit by the effects of the crime; (b) by concealing or destroying the body of the crime, or the effects, or instruments thereof, in order to prevent its discovery; (c) by harbouring, concealing, or assisting in the escape of the principal or conspirator of the crime
 6. Other analogous acts
- c. What is the evidence needed to file a case for violations of the Human Security Act?
1. Testimonial Evidence – affidavit of the complainant and witnesses
 2. Documentary Evidence – subversive documents, photographs, videos, publications, records, police records, forensic reports, medical records and other pertinent documents
 3. Object Evidence – computers, electronic devices, weapons and instruments used perpetrating violence and means to control the woman and child victims
 4. Other evidence relevant

5.28 PHILIPPINE ACT ON CRIMES AGAINST INTERNATIONAL HUMANITARIAN LAW, GENOCIDE AND OTHER CRIMES AGAINST HUMANITY

a. What law punishes the crimes against international humanitarian law, genocide, and other crimes against humanity?

- Republic Act No. 9851

b. What are the acts that constitute the crimes against international humanitarian law, genocide, and other crimes against humanity?

1. In case of an international armed conflict, grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under provisions of the relevant Geneva Convention:
 - a) Wilful killing;
 - b) Torture or inhuman treatment, including biological experiments;
 - c) Wilfully causing great suffering, or serious injury to body or health;
 - d) Extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly;
 - e) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
 - f) Arbitrary deportation or forcible transfer of population or unlawful confinement;
 - g) Taking of hostages;
 - h) Compelling a prisoner, a prisoner, of war or other protected person to serve in the forces of a hostile power; and
 - i) Unjustifiable delay in the repatriation of prisoners of war or other protected persons.
2. In case of a non-international armed conflict, serious violations of common Article 3 to the four (4) Geneva Conventions of 12 August 1949, namely, any of the following acts committed

against persons taking no active part in the hostilities, including members of the armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention or any other cause;

- a) Violence to life and person, in particular, willful killings, mutilation, cruel treatment and torture;
 - b) Committing outrages upon personal dignity, in particular, humiliating and degrading treatment;
 - c) Taking of hostages; and
 - d) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.
3. Other serious violations of the laws and customs applicable in armed conflict, within the established framework of international law, namely:
- a) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
 - b) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
 - c) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions or Additional Protocol III in conformity with international law;
 - d) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
 - e) Launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and

severe damage to the natural environment which would be excessive in relation to the concrete and direct military advantage anticipated;

- f) Launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, and causing death or serious injury to body or health.
- g) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives, or making non-defended localities or demilitarized zones the object of attack;
- h) Killing or wounding a person in the knowledge that he/she is hors de combat, including a combatant who, having laid down his/her arms or no longer having means of defence, has surrendered at discretion;
- i) Making improper use of a flag of truce, of the flag or the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions or other protective signs under International Humanitarian Law, resulting in death, serious personal injury or capture;
- j) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives. In case of doubt whether such building or place has been used to make an effective contribution to military action, it shall be presumed not to be so used;
- k) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind, or to removal of tissue or organs for transplantation, which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his/her interest, and which cause death to or seriously endanger the health of such person or persons;

- l) Killing, wounding or capturing an adversary by resort to perfidy;
- m) Declaring that no quarter will be given;
- n) Destroying or seizing the enemy's property unless such destruction or seizure is imperatively demanded by the necessities of war;
- o) Pillaging a town or place, even when taken by assault;
- p) Ordering the displacements of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
- q) Transferring, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
- r) Committing outrages upon personal dignity, in particular, humiliating and degrading treatments;
- s) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions or a serious violation of common Article 3 to the Geneva Conventions;
- t) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
- u) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions and their Additional Protocols;
- v) In an international armed conflict, compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;

- w) In an international armed conflict, declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
 - x) Committing any acts such as conscripting, enlisting or recruiting children under the age of fifteen (15) years into the national armed forces; and conscripting, enlisting or recruiting children under the age of eighteen (18) years into an armed force or group other than the national armed forces; and using children under the age of eighteen (18) years to participate actively in hostilities;
 - y) Employing means of warfare which are prohibited under international law, such as poison or poisoned weapons; asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices; bullets which expand or flatten easily in the human body, such as bullets with hard envelopes which do not entirely cover the core or are pierced with incisions; and weapons, projectiles and material and methods of warfare which are of the nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict.
- 4. Any Acts of "genocide" stet with intent to destroy, in whole or in part, a national, ethnic, racial, religious, social or any other similar stable and permanent group as such: killing members of the group; causing serious bodily or mental harm to members of the group; deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; imposing measures intended to prevent births within the group; and forcibly transferring children of the group to another group.
 - 5. Any person who directly and publicly incite others to commit genocide.
 - 6. Other Crimes against Humanity means any acts of a widespread or systematic attack directed against any civilian population, with knowledge of the attack such as willful killing; extermination; enslavement; arbitrary deportation or forcible transfer of population; imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law; torture; rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any

other form of sexual violence of comparable gravity; persecution against any identifiable group or collectively on political, racial, national, ethnic, cultural, religious, gender, sexual orientation or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime defined in this Act; enforced or involuntary disappearance of persons; apartheid; and other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

7. Other analogous acts

c. What is the evidence needed to file a case for crimes against international humanitarian law, genocide, and other crimes against humanity?

1. Testimonial Evidence – affidavit of the complainant and witnesses
2. Documentary Evidence – contract of employment/business permits, photographs, videos, publications, records, police records, forensic reports, medical records and other pertinent documents
3. Object Evidence – computers, electronic devices, weapons and instruments used perpetrating violence and means to control the woman and child victims
4. Other evidence relevant

5.29 ANTI-HAZING ACT

a. What law punishes violations of the Anti-Hazing Act?

- Republic Act No 8094

b. What are the acts in violation of the Anti-Hazing Act?

1. The hazing or initiation rites in any form or manner by a fraternity, sorority or organization were done without prior written notice to the school authorities or head of organization.
2. Any person subjected to hazing or other forms of initiation rites was recruited through force, violence, threat, intimidation or deceit or the recruit, neophyte or applicant initially consents to

join but upon learning that hazing will be committed on his person, is prevented from quitting or the recruit, neophyte or applicant having undergone hazing is prevented from reporting the unlawful act to his parents or guardians, to the proper school authorities, or to the police authorities, through force, violence, threat or intimidation;

3. Hazing is committed outside of the school or institution; or
4. The victim is below twelve (12) years of age at the time of the hazing.
5. The victim of hazing suffers any physical injury or dies as a result thereof or death, rape, sodomy or mutilation results there from or the victim shall become insane, imbecile, impotent or blind or the victim shall have lost the use of speech or the power to hear or to smell, or shall have lost an eye, a hand, a foot, an arm or a leg or shall have lost the use of any such member shall have become incapacitated for the activity or work in which he was habitually engaged or the victim shall become deformed or shall have lost any other part of his body, or shall have lost the use thereof, or shall have been ill or incapacitated or
6. Other analogous acts

c. What is the evidence needed to file a case for violations of the Anti-Hazing Act?

1. Testimonial Evidence – affidavit of the complainants and witnesses
2. Documentary Evidence – Certification of non- issuance of hazing permit, police records and Medico - legal Results of the victim
3. Object Evidence - Instruments used in hazing
4. Other relevant evidence

5.30 ANTI-TORTURE ACT OF 2009

a. What law punishes violation of the Anti-Torture Act?

- Republic Act No 9745

- b. What are the acts that constitute violation of the Anti-Torture Act?
 - 1. Physical torture - A form of treatment or punishment inflicted by a person in authority or agent of a person in authority upon another in his/her custody that causes severe pain, exhaustion, disability or dysfunction of one or more parts of the body.
 - 2. Mental/Psychological Torture - Refers to acts committed by a person in authority or agent of a person in authority which are calculated to affect or confuse the mind and/or undermine a person's dignity and morale.
 - 3. Secret detention – Places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried out with impunity.
 - 4. Other analogous acts
- c. What is the evidence needed to file a case for violations of the Anti-Torture Act?
 - 1. Testimonial Evidence – affidavit of the complainant and witnesses
 - 2. Documentary Evidence - Medical and Psychological Results of the Victim, Photographs of the tortured body of the victims and police records
 - 3. Object Evidence – weapons/instrument used in torture, if there is any
 - 4. Other evidence relevant

5.31 URBAN DEVELOPMENT AND HOUSING ACT OF 1992

- a. What law punishes violations of the Urban Development and Housing Act?
 - Republic Act No. 7279
- b. What are the acts that constitute violations of the Urban Development and Housing Act?

1. Any person or groups of persons engaged in the business of squatter housing for profit or gain.
2. Any person or groups who occupy lands without the express consent of the landowner and who have sufficient income for legitimate housing.
3. Any person who have previously been awarded home lots or housing units by the Government but who sold, leased or transferred the same to settle illegally in the same place or in another urban area, and non-bona fide occupants and intruders of lands reserved for socialized housing.
4. Any public official who tolerates or abets the nefarious and illegal activities of professional squatters and squatting syndicates.
5. Other analogous acts.

c. What is the evidence needed to file a case for violations of the Urban Development and Housing Act?

1. Testimonial Evidence – affidavit of the complainant and witnesses
2. Documentary Evidence – contracts, receipts, records, police reports, court orders of eviction and demolition, photographs, maps and other pertinent documents
3. Other evidence relevant

NOTE:

The term “**Squatting Syndicates**” refers to groups of persons engaged in the business of squatters and squatting syndicates

The following analogous acts may be considered under the provision of the law:

- a) Any person who knowingly bought rights for a parcel of land from another person who has no title or rights over the same; and
- b) Non-bonafide beneficiary who is defined as an individual not qualified to avail of socialized government housing program or a bona fide beneficiary who refused to

comply with the terms and conditions of the housing program but continues to occupy the property reserved for the same.

5.32 PHILIPPINE PASSPORT ACT 1996

- a. What law punishes the violations of the Philippine Passport Act?
 - Republic Act No. 8239
- b. What are the acts that violate the Philippine Passport Act?
 1. Acting or claiming to act in any capacity of office under the Republic of the Philippines, without lawful authority, grants, issues or verifies any passport or travel document to any or for any person.
 2. Being a diplomatic or consular official authorized to grant, issue, amend or verify passports, knowingly and wilfully grants, issues, amends or verifies any such passport to any person not owing allegiance to the Republic of the Philippines, whether citizen or not.
 3. Being a diplomatic officer knowingly and wilfully grants and issues to, amends or certifies to the authenticity of any passport or travel documents for any person not entitled thereto, or knowingly and wilfully issues more than one passport to any person.
 4. Offences Relating to False Statements. Any person who wilfully and knowingly:
 - a) Makes any false statement in any application for passport with the intent to induce or secure the issuance of a passport under the authority of the Philippine Government, either for his own use or the use of another;
 - b) Uses or attempts to use any passport which was secured in any way by reason of any false statements; and
 - c) Travel and recruitment agencies whose agents, liaison officers or representatives are convicted of offences relating to false statements shall in addition to the fines and penalties above-mentioned have their license revoked with all deposits, escrow accounts or guarantee

funds deposited or made as a requirement of their business forfeited in favor of the government without prejudice to the officials of the branch office or of the agency being charged as accessories to the offence and upon conviction barred from engaging in the travel agency business.

5. Offences Relating to Forgery. Any person who:

- a) Falsely makes, forges, counterfeits, mutilates or alters any passport or travel documents or any supporting document for a passport application, with the intent of using the same; and
- b) Wilfully or knowingly uses or attempts to use or furnishes to another for use any such false, forged, counterfeited, mutilated or altered passport or travel document or any passport validly issued which has become void by the occurrence of any condition therein.

6. Offences Relating to Improper Use. Any person who wilfully and knowingly:

- a) Uses or attempts to use, any passport issued or designed for the use of another or any supporting documents for a passport application which belongs to another; or
- b) Uses or attempts to use any passport or supporting documents in violation of the conditions or restrictions therein contained, or of the rules prescribed pursuant thereto; or
- c) Furnishes, disposes, or delivers a passport to any person, for use by another or other than the person for whose use it was originally issued or designed; or
- d) Defaces or destroys a Philippine passport, shall be punished by a fine of not less than Sixty thousand pesos (P60,000) nor more than One hundred fifty thousand pesos (P150,000) and imprisonment of not less than six (6) years nor more than fifteen years.

7. Offences Relating to Multiple Possessions. No person or individual may hold more than one valid passport.

c. What is the evidence needed to file a case of violation of the Philippine Passport Act?

1. Testimonial Evidence – affidavit of the complainant and witnesses
2. Documentary Evidence – contracts, receipts, records, police reports, court orders of eviction and demolition, photographs, maps and other pertinent documents
3. Other evidence relevant

5.33 PASSPORT / VISA RACKET INVESTIGATION

a. PASSPORT EXAMINATION GUIDE

1. Cover examination
 - a) Correct spelling of text
 - b) Texture, thickness, evenness of the top and bottom edges, shape and cut of corners
 - c) Holding the passport closed, the cover and interior pages should be evenly aligned

NOTE: Any discrepancies in spelling, texture, cut of edges and corners, or misalignment of the passport cover and pages may be evidence the passport is fraudulent, or the passport has been disassembled and interior pages substituted

2. Examine paper covering inside of front and back cover
 - a) Normally, when the passport is bound, one sheet of paper is glued to the inside front and back cover.
 - b) Handwritten entries on the inside sheet should be made in the same color ink and all the entries should be made in the same style of handwriting.
 - c) The passport bearer's signature may legitimately be made in a different color ink.
 - d) The first through the last page should be examined individually and collectively. Collectively, all the pages

should be the same size and color, have the same background style designs, printing and watermark.

- e) If the passport text, page numbers or headings on any one or all pages are indistinct and lack detail, it could be evidence that the whole passport or some pages are fraudulent.

3. Introductory page

- a) If the passport is being used by an impostor, the name of the original owner may have been skillfully changed and the paper surface beneath the bearer's name should be carefully studied for fiber disturbance.
- b) The document is taken to a window with good north lighting and the page containing the alteration held at eye level facing the light. Then the page is examined by slowly rotating and shifting the document. The paper surface should be uniformly smooth and free from fiber disturbance. Natural north light is the best light for revealing evidence not obvious under conventional light sources.

4. Photograph page

- a) Every passport has a page containing a photograph of the passport bearer.
- b) The passport photo usually measures 2 ½" x 2 ½" in size and is attached to the page with adhesive glue or metal grommets.
- c) The photo page should be examined in the following manner:
 - 1) The page should be aligned with the other pages of the passport and the edges and corners should be guillotine-cut.
 - 2) The laminate should be examined near the binding for a line, excess glue or the presence of a second layer of laminate.
 - 3) Examine the laminate page for jagged or enlarged stitching holes and the presence of a cut line.

- 4) Examine the area beneath the laminate for numerous air bubbles and excessive wrinkling.
- 5) Examine the dry seal and check the area around the photograph and on the opposite page for excess gluing, paper damage, and unusual staining.
- 6) If the photo page contains a signature appearing on the photo and page, examine it to see that the signature portions are made with the same ink. Also no part of the signature should appear beneath the photograph. In passports where a signature tab is used, it is usually placed on top of the photograph.

5. Fraudulent page substitution

a) Disassemble the Passport

- 1) Remove the original page and substitute a genuine page from another passport or substitute a counterfeit page.
- 2) Sometimes the forgers remove a genuine VISA page from a passport and print the data found on the biographical data or photo page. This fraudulently printed page is then substituted for the genuine pages.

b) Cut the Genuine Page out of the Passport

- 1) Cut passport along the binding.
- 2) Glue a fraudulent or counterfeit substitute page back into the passport.
- 3) To detect page substitutions, examine ALL passports pages using natural and side lighting to see that all the pages have the same coloration, watermark pattern of the paper.
- 4) Examine the stitching between the first page and last page and also the stitching in the center of the passport for loose stitches and enlarged or extra stitching holes.

6. Modus Operandi

Some applicants will be provided with fake passport (Baklas), a passport of another person but with the picture of the unsuspecting applicants in cahoots with some unscrupulous personnel in their port of exit.

The suspect/s who systematically and for Profit produce fraudulent documents for clients to obtain visas and passports illegally by;

- a) Making any false statements in any application for passport either for his own use or the use of another
- b) Falsely makes, forges, counterfeits, mutilates or alters any passport or travel documents.
- c) Furnishes disposes or delivers a passport to any person, for use by another or other than the person for whose use it was originally issued or designed (Names Substitution)
- d) Scanning of Visas
- e) The most commonly falsified documents required by the legitimate issuing authority to issue travel documents includes the following;
 - 1) Birth certificate
 - 2) Baptismal certificate
 - 3) Driving licenses
 - 4) Social security cards
 - 5) Employment records
 - 6) Bank records
 - 7) Land titles
 - 8) Vehicle titles
 - 9) Reference letters

10) School Credentials (Transcript-Diploma)

7. Investigative Procedures

- a) The Desk Officer shall entertain all walk-in complainant/s for fraudulent passport and visa investigation.
- b) The Desk Officer, after a brief interview with the complainant/s, shall record the incident in the Police Blotter and refer them to the duty investigator.
- c) The duty investigator shall require the complainant/s to fill up the complaint sheet provided for detailing the nature of their complaint.
- d) The duty investigator, after examining the accomplished complaint sheet, shall take the sworn statements of the complainant/s and asked for any receipt or essential documents relative to their complaint.
- e) Request authentication of documents from the DFA or the issuing office/agency, and if fraudulent, secure a certification to this effect.
- f) To arrest the source of the falsified documents thru an entrapment operation or apply for a Search Warrant for target location.

NOTE: If the operation is by virtue of Search Warrant, Confine yourself to the limits set under the SW, particularly the place to be searched and the things to be seized.

- g) Bring the seized articles and documents to the investigating office. Seized articles and documents must be surrendered, duly receipted to the records and evidence section. If too bulky, they must be kept in a secure place, locked and protected from loss.
- h) Return the search warrant as soon as possible. Usually the return is made with a petition for retention of the articles and documents seized.
- i) Bring officials and employees of the agency to the investigating office for documentation and identification, fingerprinting and the standard front, side view, whole

body and back view photographs. Apprise them of their Constitutional Rights as provided for and those specifically mentioned in RA 7438. Take their sworn statements, if they are willing, in the presence and with consent of their counsel.

- j) Coordinate with the PNP Crime Lab for “Dusting” of marked money to be used during the entrapment operation.
- k) If the subject is arrested, prepare the letter of transmittal and bring the same to Inquest Prosecutor having jurisdiction over the case. To be attached as annexes are:
 - 1) Sworn statement taken
 - 2) Certificate from the DFA or the affected agencies
 - 3) Booking sheets and Affidavit of arrest
 - 4) Receipts of payment made by applicants
 - 5) Seized articles/items recovered duly receipted
 - 6) PNP Crime Laboratory Report
 - 7) Pictures or video coverage of the operation conducted, if any
- l) If bail is fixed during inquest, bring subjects to jail for temporary confinement until they are turned over to the city jail or local or provincial jails. This should be done immediately.
- m) Ordinary filing before the prosecutors’ office when the subject is at large.

8. Additional guidelines to be undertaken by the Investigator

Gather documents before conducting a formal investigation of subjects.

- a) Passport on file with the Record Section, Passport and Visa Division, Consular Affairs Office

- 1) Checklist for Processing Application
 - 2) Passport application (Form 1)
 - 3) Information Sheet
 - 4) Sworn Statement for Passport Application
- b) Supporting Documents
- 1) Birth Certificate or certificate of loss together with birth affidavit
 - 2) Marriage Contract
 - 3) Income Tax Certificate
 - 4) Affidavit of Support
- c) Determine from the checklist the identity of the the DFA officer who processed the application and the person who filed the same (whether the applicant himself or the travel agent).
- d) Determine the travel agent who filed the application or the agency for which the travel agent works. NOTE: SOP of DFA requires the stamp of the travel agents appear on the upper right hand corner of the application for passport.
- e) The name of witness who attested that the statements of the applicant are true.
- f) Who identified the affiant?
- 1) The notary public or administering officer who notarized the Application.
 - 2) Check the name of the travel agent who filed the application.
 - 3) Check with Licensing DFA whether or not the travel agency is licensed or blacklisted.
 - 4) Secure certifications:

- (a) From the consular Affairs Office, the number and date of issue of the passport to the applicant.
 - (b) From the Embassy concerned, the date and type of visa issued to the applicant.
- 5) Get the Sworn Statement of the Applicant.
 - (a) Did he/she personally fill up the application for passport and visa?
 - (b) Did he personally appear for interview at the Embassy concerned?
 - (c) Get the official receipts issued by the travel agent or agency, which filed the application.
 - (d) Did he/she personally furnish the supporting documents to the application?
 - (e) Other pertinent matters you believe material to your investigation, especially those relative to the identification of subject, and the extent of involvement of other persons in the case.
- g) Gather documentary evidence linking subject to the falsification of the passport or visa, such as receipts, etc.
- h) Document or reduce in writing statements of persons whose testimonies are needed to complete the picture of the case.
- i) Submit to the Questioned Documents Division, Crime Laboratory all documents which were falsified together with specimen standards gathered.
- j) Submit to the Chemistry Division of the Crime Laboratory the passport and visa to determine the alleged alterations or falsifications.
- k) Follow up new leads that might have been discovered by the travel agents.

CHAPTER VI

TERRORISM AND ORGANIZED CRIMES

“There is strength in numbers” and *“The More, the Merrier”*. These are only some of the fundamental truths associated with the trend of organized crimes anywhere in the world. By organizing, the underworld elements benefit from more resource-base, greater number of membership, more firepower, more notoriety and better access to technology used for criminal purposes. Terrorism is the offshoot of lack of strong and powerful army of combatants, or component elements to carry out missions and ideology. Terrorism is the weapon of the weak against the more powerful and stronger military force or political power.

Despite their destructive implications in society, culture and environment, both organized crime groups (OCGs) and terrorist organizations are prosecuted only on the criminal elements of their offenses and no special penal provision for the heinous aspect of their acts. Hence, whenever police actions are wanting for the purpose of delivering social justice to the victims, the more they become notorious and fearsome; the more the public loses trust and confidence to the law enforcement bodies.

The process of revising the investigation manual of the PNP is a welcome and most appropriate development. This paves way for the updating of the systems and procedures, rules and regulations governing the conduct of investigation and other related police operations, so that current developments on the ground are put into consideration and recognized towards the solution of cases committed by OCGs and terrorist groups.

The PNP, for one, is faced with demands and challenges in terms of technology, innovation, and new modus operandi employed by OCGs and local terrorists in the commission of their crime. We have to be knowledgeable not only about the current technology but also the laws and technical aspects of job performance to address and keep abreast with the level of modernity employed by the OCGs and terrorists.

6.1 Forms of Terrorist Tactics/Methods of Attack

- a. Bombing
- b. Arson
- c. Hijacking
- d. Ambush
- e. Assassination
- f. Kidnapping
- g. Hostage-taking

6.2 CRIMINAL CHARGES AND PENAL PROVISIONS FOR ACTS OF TERRORISM

Prior to the enactment of Republic Act 9372, otherwise known as the Human Security Act, crimes constituting terrorism had been penalized only for violations under the Revised Penal Code and/or special laws to include, among others, arson, hijacking, kidnapping, murder, and rebellion. With the passage of the above law, the circumstances constituting the crime of terrorism have been unequivocally defined giving emphasis to the effect generated on the populace.

6.3 ESSENTIAL CHARACTERISTICS OF A TERRORIST ACT

- a. The act is unlawful;
- b. Involves use of collective violence or those directed at many potential victims at one time;
- c. Targets humans, properties or environment;
- d. Designed to coerce government or target entities either to stop doing something to which the terrorist is opposed or to pressure it to do something which the terrorist demands to be done.
- e. Political, ethnic/religious, or ideological objectives.
- f. Usually with a warning prior to or after the commission of the terrorist attack.

Presence or combination of all of the foregoing elements/characteristics indicates the commission of a major terrorist attack.

a. Organized Crime Group - A group composed of two (2) or more persons collaborating, confederating or mutually helping one another in the commission of any crime and sometimes enjoying the protection of people in the government or public service (EO 3 and EO 8).

b. Forms of Criminal Acts Perpetrated by OCGs. The following are most common criminal acts perpetrated or committed by Organized Crime Groups and/or Syndicated Crime Groups:

1. Drug Trafficking
2. Carnapping
3. Kidnap-for-Ransom

4. Robbery/Hold-up
 5. Counterfeiting
 6. Bank Fraud;
 7. Large-Scale Swindling
 8. Gunrunning
 9. Falsification
 10. Illegal Logging
 11. Piracy
 12. Film Piracy
- c. Essential Characteristics/Features of an OCG
1. Capability
 2. Organizational structure
 3. Composition – highly structured and complex
 4. Disposition – members have infiltrated a vast variety of legitimate businesses that circumvent government controls
 5. Resources
 - a) high profile strength
 - b) highly sophisticated logistical support
 - c) highly specialized training and indoctrination
 6. Networking/Connections
 - a) well-entrenched and fluid network
 - b) tight operating linkages and influence with law enforcement and other government agencies
 - c) initiated and maintained through bribery and corruption of public officials

7. Modus Operandi

- a) high profile
- b) difficult to counter
- c) violence and intimidation

8. Personalities

Attained high level or criminal prominence, influence and linkages not only in their AOR but also outside of its boundaries

9. Motive

Organizational profit, notoriety, influence and advantage

10. Nature of criminal activity

Crimes that are high profile, sensational, large-scale, diversified and have major impact on the economy and national security.

11. Time, duration and frequency

- a) Long-term goals
- b) Regularized operations
- c) Widespread, transcends provincial, regional, national or even international political boundaries

6.4 SPECIFIC INVESTIGATIVE PROCEDURES

a. When dealing with walk-in/referred cases

- 1. Desk Officer shall conduct initial interview.
- 2. Upon completion of the interview, the complainant shall be referred to the Investigator by the Duty Desk Officer.
- 3. Investigator shall cause the Accomplishment of the Complaint Sheet.

b. When Handling Terrorist/OCG Information

Step 1: Gathering and Validation of Intel Information

1. Based on Agent's reports, prepare a Summary of Information (SOI).
2. Refer to current Target List for case linkage.
3. Validation of Agent's reports using other sources.

Step 2: Conduct Document Exploitation as follows:

1. Investigation Reports
2. Rogues Gallery
3. Modus Operandi File
4. Transmittals to Prosecutor's Office
 - a) Booking Sheets
 - b) Sworn Statements
 - c) Coordinations with Government/Non-government Offices

Step 3: Identification of Target Personalities by

1. Preparation of Affidavits of Complaining Victims and Witnesses;
2. Gathering of suspects' photographs from Rogues Gallery.
3. Preparation of Artist's Sketch of Suspect from victims/witnesses accounts.

Step 4: Case Build-up

1. Through gathering of information about previous cases;
2. Gathering of information about current/ongoing cases;
3. Determination, record check on standing warrants of arrest.

Step 5: Negation Phase/Counter-action

1. The Team Leader shall prepare and submit Pre-Operations Clearance to the Operations and Management Division (OMD);
 2. The Duty Desk Officer shall record in the Police Blotter the Dispatch of Personnel *stating* therein the Time, Date and Place of Operation (TDPO), the name of personnel, and type of vehicle/s, involved;
 3. In addition, the Team Leader shall likewise prepare and submit Coordination Form to Local Police Units indicating therein the name of Team Leader, names of personnel involved, type of vehicle used and the duration and area of operation;
 4. A briefing shall be conducted by the Team Leader prior to dispatch.
- c. When police operations result in arrest of suspects
1. The Operating Team shall bring the arrested person/s, together with the evidence/s confiscated, without delay to the Office for disposition;
 2. Desk Officer to conduct frisking of suspects to search for any other hidden weapons;
 3. Desk Officer to likewise get personal details/identification of suspect/s (names, age, occupation, civil status, address, next of kin, etc.) and other personal circumstances;
 4. Upon completion of the foregoing, the Duty Desk Officer shall turn-over the suspect and evidence to the Investigation Section for disposition.
 5. However, when operations yield negative result, the Team Leader shall submit a written report addressed to SMD stating therein the facts and circumstances surrounding the said results.

d. Investigation Section

1. The Investigator-On-Case shall conduct the routine procedures (*mug shot, fingerprint, medical check, record check, tactical interrogation, etc.*)
2. He shall likewise prepare Affidavits of victims/witnesses.
3. In addition he must prepare a Complaint Sheet for referral to the Prosecutor's Office.
4. Finally, the Investigator-on-Case shall prepare all the necessary reports (Spot Report, Progress Report, After-Operation Report, Investigation Report, etc.).

e. Follow-Up Section

1. A Follow-up Team shall conduct follow-up operation based on the results of the Preliminary Investigation conducted;
2. The Follow-up Team Leader shall ensure that all leads are explored.
3. The Team Leader must ensure that all additional evidences gathered are processed and evaluated;
4. Linkages to other crimes are examined

Profiling – overall examination of case to get distinct leads

Method of Operation (MO) – habitual method or procedure; e.g. terrorist group's specific method of operation or function. This is Important for linking with other cases.

Intelligence process – This is another method of linking cases together.

f. When police operations result in injuries or death

1. Immediate evacuation of injured shall be made to the nearest hospital;
2. In case of death and, if possible, depending on the availability of an Inquest Prosecutor, an inquest-on-site shall be made.

3. The Team Leader shall designate an investigator-on-case who shall be assisted by the SOCO to process the crime scene;
4. The Team Leader shall prepare Complaint Sheet and Transmit to Prosecutor's Office/DOJ without delay.
5. When an Officer is injured or killed in action, the Chief of Office takes the responsibility of informing the personnel's family and facilitates compliance with all necessary requisites for proper handling of the personnel's hospitalization and other needs.

*"Wisdom is better than weapons of war,
but one sinner destroyeth much good."
(Ecclesiastes 9:18)*

CHAPTER VII

SELECTED SUPREME COURT RULINGS AND JURISPRUDENCE

7.1 PROBABLE CAUSE

Webb v De Leon, G.R. # 121234, August 23, 1995 (63 SCAD 917)

Unlike proof of probable cause for a warrant of arrest, probable cause for search warrant for things need not point to specific offender.

20th Century Fox Films v Court of Appeals, 55 SCAD 864; SCRA 367 (1994)

In application for a search warrant for contraband video tapes, the presentation of the master tapes of copyrighted films from which copies are alleged to have been made is essential, "x x x the court cannot presume that duplicate or copied tapes were necessarily reproduced from the tapes that (the complainant) owns."

7.2 PARTICULARITY OF DESCRIPTION

Columbia Pictures v Flores G.R. #L-78631, June 29, 1993; (42 SCAD 764)

A 1993 case offers another example of an insufficient description during the conduct of a search: "television sets, video cassettes recorders, rewinders, tape head cleaners, accessories, equipment and other machines used or intended to be used in the unlawful reproduction, sale, rental/lease, distribution of the above-mentioned video tapes which she is keeping and concealing in the premises above-described."

7.3 WARRANTLESS ARREST UNDER RULE 112

Espiritu v Lim G.R. #85727, October 3, 1991 (see also dissent)

For the arrest of one in *flagrante delicto* to be valid under Rule 112, Section 5(a), the law tilts in favor of authority. Thus, speech which in an officer's estimation is criminally seditious can justify warrantless arrest in *flagrante delicto* even if upon prosecution the officer is proved wrong. The criminal character of speech is something that is not easily determined and must await court estimation.

People v Mengote G.R. 87059, June 22, 1992

What the surveillance team of people saw were two men "looking from side to side," and one of them holding his abdomen. When approached, the two men ran away but were caught. When searched, they yielded a .38 caliber Smith and Wesson

revolver to the police who used it as evidence in a prosecution for possession of an unlicensed firearm.

The court ruled the evidence inadmissible saying that no offense was involved in “looking from side to side” and holding the abdomen. Regarding Section 5(b), it is not enough that there is reasonable ground to believe that the person has committed a crime.

Go v Court of Appeals, 206 SCRA 138, 150 (1992).

A crime must in fact or actually have been committed first. That a crime has been committed is an essential precondition. The arresting officer must have personal knowledge of the commission of the crime. Thus, a police officer who learns about the recent commission of the crime merely from a report does not possess the “personal knowledge” needed to justify a warrantless arrest.

People v Manlulu, 50 SCAD 71; 231 SCRA 701 (1994). See also People v Rodriguez, 205 SCRA 791, 796-797 (1992) and People v Enrile, 41 SCAD 767, 222 SCRA 586 (1993)

Moreover, an arrest made nineteen hours after the offense has been committed cannot be of one whose crime “in fact just been committed.”

7.4. EXCLUSIONARY RULE

Ramirez v Court of Appeals 25 G.R. #93833, September 28, 1995

This case was a conviction under Section 3 of RA 4200, the Anti-Wiretapping Law for a tape recording of a private conversation in an office. The evidence was excluded but the constitutional aspect was not touched.

7.5. PERSON PROTECTED

Navallo v Sandiganbayan, 53 SCAD 294; 234 SCRA 175 (1994)

The rights enumerated are not available before police investigators undergoing audit because an audit examiner is not a law enforcement officer.

People v Taylaran, 108 SCRA 373, 378-9 (1981)

These rights are also not available in a situation where a person, not under investigation, presents himself to the police and in the process makes his admissions.

People v Caguioa 95 SCRA 29 1980

The accepted rule, moreover, following Escobedo and Miranda, was from the start, that the rule covered only situations when the person was already in custody, for which reasons Escobedo had referred to them as right under custodial investigation. Significantly, however, the Court, in Galman v Pamaran

138 SCRA 294, August 30, 1985 departed from this rule. The Court sustained the contention of General Ver that the provision covered even persons not yet in custody but already under investigation because the 1973 text did not speak of “custodial” investigation.

The text in the 1987 Constitution has preserved the phrase “*person under investigation*” without the word “*custodial*.” Moreover, the discussions on the floor of the 1986 Constitutional Commission manifest intent, in the light of experience during martial law, to expand the coverage of the right to situation when a person is not yet in custody but is already a suspect.

Jurisprudence under the 1987 Constitution, however, has consistently held, following Escobedo, the stricter view, that the rights begin to be available only when the person is already in custody. As Justice Regalado emphasized in People v Marra 55 SCAD 418; 236 SCRA 565, 573 (1994): Custodial investigation involves any questioning initiated by law enforcement officers after a person has been taken into custody or otherwise deprived of his freedom of action in any significant way. It is only after the investigation ceases to be a general inquiry into an unsolved crime and begins to focus on a particular suspect, the suspect is taken into custody, and the police carry out a process of interrogations that lends itself to eliciting incriminating statements that the rule begins to operate.

In an obiter and writing for a division in People v Maqueda G.R. # 112983, March 22, 1995 (59 SCAD 794), Justice Davide, who like Justice Regalado was a member of the 1986 Constitutional Commission, adverted to the view in the Constitutional Commission that the rights are available even to one who is not yet in custody.

There are, however, investigatory situations where Section 12 (1) does not apply. Subjection to paraffin test is one because it does not ask for communicative action or testimonial compulsion. 59 (**People v Gamboa G.R. # 91374, February 25, 1991**). Similarly, one placed in a police line-up does not enjoy Section 12 (1) rights. Unless there is a move on the part of investigators to elicit admissions or confessions.” 60 (**People v Frago, 51 SCAD 497, 232 SCRA 653 1994; People v 1992; People v Casinilio, 213 SCRA 777 1992; Gamboa v Judge Cruz, 162 SCRA 642 1988**), but see dissent of Chief Justice Yap and Justice Sarmiento). But a person already under custodial investigation who is place in a police line-up is entitled to Section 12 rights.” 61(**People v Macam, 56 SCAD 737, 238 SCRA 566 1994**).

7.6 RIGHT TO COUNSEL

The specification of the duty of the state to furnish the detainee with counsel is meant to put emphasis on the duty of the state. Jurisprudence on this subject, however, has been on the side of erratic. Thus, for instance, where an extrajudicial confession was made in the absence of counsel but where at the closing stage of the interrogation counsel arrived and has the opportunity to read the statement and discuss it with the client who subsequently signed it, the Court said that there had been substantial compliance.” 62 (Estacio v Sandiganbayan, G.R. # 75362, March 6, 1990). This however, and a similar case.” 63 (People v Rous G.R. # 103803-04, March 27, 1995 60 SCAD 46). Was corrected in People v Lucero.” 64(G.R.# 97936, May 29, 1995 (61 SCAD 410). Also, People v de Jesus, G.R. # 91535, September 2, 1992 and People v Bandula, 51 SCAD 416, 232 SCRA 566, 1994). Where in the same middle of the investigation the lawyer had left to attend a wake, came back when the accused had already signed his statement and affirmed that he did it voluntarily. The Court ruled that a right to counsel was a right to effective counsel from the moment of questioning and all throughout.

7.7 COERCED CONFESSION OR ADMISSIONS

Justice Narvasa was referring to the same matter when he said that Section 12 (1) does not apply to persons under preliminary investigation or already charged in Court for a crime.” 66 (People v Ayzon, 175 SCRA 216, 232 (1989). In **People v Maqueda, GR# 112983, March 22, 1995, 59 SCAD 794**, another division consideration the view too restrictive and, relying on the generous rule in **Pamaron and Morales v Enrile (121 SCRA at 554)** said that the right exist at anytime before arraignment. The Maqueda argumentation, however, is not persuasive. For these were already under supervision of a court.

Conceivably, however, even after charges are filed, the police might still attempt to extract confessions or admissions from the accused outside or judicial supervision. In such situation, Section 12(1) would still apply. But outside of such situation, the applicable provisions are Section 14 and Section 17. It is for this reasons that an extrajudicial confession sworn to before a judge even without assistance of counsel enjoys the mark of voluntariness.” 67 (People v Pamon, 217 SCRA 501 (1993); **People v Baello, 43 SCAD 32, 224 SCRA 218 (1993)**; **People v Parajinog 203 SCRA 673 (1993)** **People v Marcos, 147 SCRA (1987).**

The 1987 text covers, both “confessions” and “admissions” the difference between confession and admission is found in Rule 130 of the Rules of Court. Admission is the “Act, declaration of omission of party as to a relevant fact” (Rule 130, Section 26) whereas confession is the “declaration of an accused acknowledging his guilt of the offense charge, or of any offense necessarily included therein.” (Rule 130, Section 33).

Confession or admissions covered by the provision, however, need not be explicit; they can be merely implicit in any evidence that is communicative in nature. Thus, the signature of an accused on a receipt for seized property.” **68 (People v de Guzman, GR# 86172, March 4, 1991; People v de las Marinas, GR # 87215, April 30, 1991; People v Bandin, 44 SCAD 684, September 10, 1993)** or marijuana cigarettes where the accused wrote his name,” **69 (People v Enriquez, Jr., GR # 90738, December 8, 1991)**. But where an accused is not being prosecuted for possession of marked bills, there is no self-incrimination if the marked bills are presented. **People v Linsangan, (GR# 88589, April 16, 199) is not admissible of guild but only of the fact or booking and arrest.” 70 (People v Bandin, 44 SCAD 684, September 10, 1993).**

Against whom are illegal confessions and admissions inadmissible? The text makes them inadmissible “against him”, that is, against the source of the confession of admission. And it is alone who can ask for exclusion”. **71 (People v Balisteros, 56 SCAD 1215, 237 SCRA 499 1994)**. They are, however, admissible against the person violating the constitutional prohibition”. **72 (Session of November 27, 1972, 1972 Constitutional Convention.)** to the extent that admissibility is allowed by the ordinary rules on evidences.” **73 (I RECORD OF 1986 CONSTITUTIONAL COMMISSION 685-6,734-6.)**

7.8 RIGHT TO BAIL

The person claiming the right must be under actual detention or custody of the law. One is under the custody of the law either when he has been arrested or has surrendered himself to the jurisdiction of the court, as in the case where through counsel petitioner for bail who was confined in a hospital communicated her submission to the jurisdiction of the court.” **74 (Paderanga v Court of Appeals, GR # 115407, August 28, 1995).**

A distinction must be made between the penalty of “life imprisonment” and reclusion perpetua. (1) Life imprisonment is a penalty in special laws while reclusion perpetua is imposed by the Revised Penal Code; (2) Life imprisonment does not carry accessory penalties, whereas reclusion perpetua does; (3) life imprisonment is indefinite, whereas reclusion perpetua is for 30 years after which the convict is eligible for pardon. The distinction is important because under the 1985 Rules of Criminal Procedure a person charged with an offense punishable by “life imprisonment” was entitled to bail as a matter of right. However, effective October 1, 1994, Rule 114 was amended placing “life imprisonment” on the same level as death and reclusion perpetua.” **75 (Cardines v Rosete, 59 SCAD 788, 242 SCRA 557, 562, 1995).**

7.9 WARRANTLESS ARRESTS

(Sec 5, Rule 113, Rules of Court). A peace officer or even a private person may effect an arrest without a warrant:

a. When the person to be arrested has committed, is actually committing, or is attempting to commit an offense in his presence.

1. In *UMIL v RAMOS*, 187 SCRA 311, the Supreme Court held that rebellion is a continuing offense. Accordingly, a rebel may be arrested at any time, with or without a warrant, as he is deemed to be in the act of committing the offense at any time of day or night. See also the Resolution on Motion for Reconsideration in *Umil v Ramos*, 202 SCRA 251.
2. In *PEOPLE v SUCRO*, 195 SCRA 388, it was held that when a police officer sees the offense, although at a distance, or hears the disturbances created thereby, and proceeds at once to the scene thereof, he may effect an arrest without a warrant. The offense is deemed committed in the presence of within the view of the officer.
3. In *PEOPLE v RODRIGUEZ*, 205 SCRA 791, the police officer, acting as a poseur-buyer in a “buy-bust operation”, instead of arresting the suspect and taking him into custody after the sale, returned to headquarters and filed a report on his purchase. It was only in the evening of the same day that the police officer, without a warrant, arrested the suspect at the latter’s house where dried marijuana leaves were found and confiscated. The Supreme Court ruled that both arrest and seizure of the marijuana were unlawful. (*People v Enrile* 222 SCRA 586).
4. The discovery of marked money on the person of the accused did not mean that he was caught in the act of selling marijuana. The marked money was not prohibited per se. Even if it were, the fact alone would not retroactively validate the warrantless search and seizure (*People v Enrile* 222 SCRA 586).

b. When an offense had just been committed and he has personal knowledge of facts indicating that the person to be arrested has committed it;

1. In *Go v Court of Appeals*, 206 SCRA 138, six days after the shooting as petitioner presented himself before the San Juan

Police Station to verify news reports that he was being hunted, the police detained him because an eyewitness had positively identified him as the gunman who shot Maguan. The Court held that there was no valid arrest; it cannot be considered as within the meaning of “the offense had just been committed” inasmuch as six days had already elapsed; either did the policemen have personal knowledge of facts that Go shot Maguan.

2. But in *People v Gerente*, 219 SCRA 756, where the policemen saw the victim dead at the hospital and when they inspected the crime scene, they found the instruments of death and the eyewitnesses reported the happening and pointed to Gerente as one of the killers, the warrantless arrest of Gerente only three hours after the killing was held valid, since the policemen had personal knowledge of the violent death of the victim and of the facts indicating that Gerente and two others had killed the victim. Further, the search of Gerente’s person and the seizure of the marijuana leaves were valid as an incident to a lawful arrest.

c. When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another.

d. Add: When the right is voluntarily waived.

1. The posting of a bail constitutes a waiver of any irregularity attending the arrest. (*Callanta v Villanueva* 77 SCRA 377; *Bagcal v Villaranza*, SCRA 525).
2. Appellant is stopped from questioning the illegality of his arrest when he voluntarily submits himself to the jurisdiction of the court by entering a plea of not guilty and by participating in the trial (*PEOPLE v DE GUZMAN*, 224 SCRA 93, *PEOPLE V LOPEZ*, 245 SCRA 95).

The illegality of the arrest is cured when the accused files a petition for bail (*PEOPLE v DURAL*, 223 SCRA 207).

7.10 WARRANTLESS SEARCHES

a. When the right is voluntary waived.

1. Note that for the valid waiver of a constitutional right, it must appear first that the right exists; secondly, and that the person involved had knowledge, either actual or constructive of the existence of such right; and thirdly, that the said person had an actual intention to relinquish the right (De Gracia v Locsin, 65 Phil 689).
2. In People v Omawing, 213 SCRA 462, the accused, driving a vehicle, was stopped at a checkpoint, and when the vehicle was inspected, the soldiers asked permission to see the contents of a bag which was partially covered by a spare tire. The accused consented, and upon inspection, the bag was found to contain marijuana. The court ruled that there was valid waiver.
3. But in ANIAG v. COMELEC, 237 SCRA 424, the Supreme Court said that, in the face of 14 armed policemen conducting the operation, driver Arellano, being alone and a mere employee of the petitioner, could not have marshaled the strength and the courage to prest against the extensive search conducted on the vehicle. “Consent” given under intimidating or coercive circumstances is not consent within the purview of the constitutional guarantee.
4. In PEOPLE v. EXALA, 221 SCRA 494, the right was deemed waived because the accused did not object to the admissibility of the evidence during the trial, and the submissive stance after the discovery of the bag and the absence of any protest which thus confirmed their acquiescence. There was also a valid arrest because it was effected upon the discovery of the prohibited drug in the possession of the accused.
5. In PEOPLE v. RAMOS, 222 SCRA 557, the Supreme Court said that the evidence for the prosecution clearly disclosed that Ramos voluntarily allowed himself to be frisked, and that he gave the gun to the police voluntarily; thus, there was a valid waiver. See also PEOPLE v. FERNANDEZ, 239 SCRA 174.
6. However, in PEOPLE v. BARROS, 231 SCRA 557, the silence of the accused during the warrantless search was not construed as consent. Rather, it was a “demonstration of regard for the supremacy of the law.” In this case, the warrantless search was declared invalid, because there was no showing of any circumstances which constituted probable cause for the peace officers to search the carton. Neither did

the peace officers receive any information or “tip-off” from an informer. They also did not contend that they detected the odor of dried marijuana.

7. In *VEROY v. JUDGE LAYAGUE*, 210 SCRA 97, it was held that where permission to enter a residence is given to search for rebels, it is illegal to search the rooms therein and seize firearms without a search warrant.
8. In *PEOPLE v. DAMASO*, 212 SCRA 457, PC officers sent to verify the presence of CPP/NPA members in Dagupan City, reached a house suspected to be rented by a rebel. Outside the house, they saw one Luz Tanciangco (who turned out to be a helper of the accused). The PC officers told Luz that they already knew that she was a member of the NPA, and requested that they be allowed to look around. Luz consented. Inside the house, the team found subversive materials and firearms, which Luz identified as belonging to the accused. The Court held that the constitutional rights against unreasonable searches and seizures, being a personal one, cannot be waived by anyone except the person whose rights are invaded, or one who is expressly authorized to do so in his behalf. Here, there was no evidence that the accused had given Luz authority to open his house in his absence. Thus, the search and seizure were illegal.
9. But in *LOPEZ v. COMMISSIONER OF CUSTOMS*, 68 SCRA 320, there was deemed to be valid waiver where, upon a warrantless search of a hotel room, consent and voluntary surrender of papers belonging to the registered but absent occupant was given by a woman identified as the wife of the occupant but who in fact was a “mere manicurist”.

b. As an incident to a lawful arrest, provided that the search is made contemporaneous to the arrest and within a permissible area of search.

1. Sec. 12, Rule 126, as clarified in the 1985 Revised Rules on Criminal Procedure provides that “a person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof of the “commission of an offense, without a search warrant.”
2. The warrantless search and seizure, an incident to a lawful arrest, may extend beyond the person of the one arrested to include the premises or surroundings under his immediate control. Object in the “plain view” of an officer who has the

right to be in the position to have the view are subject to seizure and may be presented as evidence. But the “plain view” doctrine may not be used to launch unbridled searches and indiscriminate seizures, nor to extend to a general exploratory search made solely to find evidence of defendant’s guilt. The “plain view” doctrine is usually applied where a police officer is not searching for evidence against the accused, but nonetheless inadvertently comes upon an incriminating object (People v Musa, 217 SCRA 597).

3. In POSADAS v. COURT OF APPEALS, 188 SCRA 288, the Court upheld the validity of a search made by police officers on one who confronted by the police because “he was acting suspiciously”, ran away. But in PEOPLE v RODRIGUEZ, 232 SCRA 498, the arrest and consequently search of the accused, simply because “he was acting suspiciously” was held invalid.
4. In PEOPLE v TANGLIBEN, 184 220, where two policemen on surveillance, after receiving a tip from an informer, noticed a person carrying a red bag acting suspiciously, then confronted the person and found inside the bag marijuana leaves, the Supreme Court held that the seizure was valid, as “an incident to a lawful arrest”. The court said that the matter presented urgency; when the informer pointed to the accused as one who was carrying marijuana, the police officers, faced with such on-the-spot information, had to act quickly. There was enough time to secure a search warrant. In PEOPLE vs MALSMTEDET, 198 SCRA 401, where, soldiers manning a checkpoint (set up because of persistent report that vehicles were transporting marijuana and other prohibited drugs) noticed a bulge on the accused’s waist and the pouch bag was found to contain hashish, the search was deemed valid as an incident to a lawful arrest (as the accused was then transporting prohibited drugs) – and there was sufficient probable cause for the said officers to believe that the accused was then and there committing a crime.
5. In PEOPLE v CATAN, 205 SCRA 235, where a “buy-bust operation” was made at the house of the accused, and immediately after the purchase, the accused was arrested and a search made of the premises, the Court ruled that the search was validly made. Contemporaneous to the arrest. (NOTE: Possession of marijuana is absorbed in the sale of marijuana only with respect to the marijuana delivered to the buyer, not to marijuana found in the seller’s possession which

are not subject of the sale and which are probably intended for some other purpose).

6. In PITA v COURT OF APPEALS, 178 SCRA 362, it was held that the respondents had not shown the required proof to justify a ban and to warrant confiscation of the magazines; they were not possessed of a lawful court order (i) finding the materials to be pornographic and (ii) authorizing them to carry out a search and seizure. To justify a warrantless search as an incident to a lawful arrest, the arrest must be on account of a crime having been committed. Here, no party has been charged, nor are any charges being pressed against any party. The Supreme Court outlines the procedure to be followed, thus: a criminal charges must be brought against the person/ for purveying the pornographic materials; an application for a search and seizure warrant obtained from the judge (who shall determine the existence of probable cause before issuing such warrant); the materials confiscated brought to court in the prosecution of the accused for the crime charges; the court will determine whether the confiscated items are really pornographic, and the judgment of acquittal or conviction rendered by the court accordingly.
7. In PEOPLE v SUCRO, 195 SCRA 388, the Supreme Court held that a warrantless search and seizure can be effected without necessarily being preceded by an arrest, provided that the same is effected on the basis of probable cause.
8. While it is conceded that in a buy-bust operation, there is seizure of evidence from one's person without a search warrant, inasmuch as the search is an incident to a lawful arrest, there is no necessity for a search warrant (People v Dela Cruz, 184 SCRA 416). Thus, in a "buy-bust" operation, when he was frisked by operatives who found marked money which was used to buy two sticks of marijuana cigarettes and 17 more marijuana cigarettes, the search was deemed valid as an incident to a lawful arrest. Likewise, in People v Musa, supra., it was held that in a buy-bust operation, the law enforcement agents may seize the marked money found on the person of the pusher immediately after the arrest, even without an arrest or search warrant. However, in People v Zapanta, 195 SCRA 200, where, as an incident to a "buy-bust" entrapment operation, a raid of the house under the mat, the Supreme Court said that apart from the uncertainty among the witnesses as to how many marijuana cigarettes, if any, were found in Zapanta's possession during the raid, the search was

made without a warrant, therefore, the marijuana cigarettes seized in such raid were inadmissible in evidence.

9. In *VALDEZ v PEOPLE*, 538 SCRA 611, the legality of an arrest affects only the jurisdiction of the court over the person - his warrantless arrest cannot, in itself, be the basis of his acquittal. At the outset, we observe that nowhere in the records can we find any objection by petitioner to the irregularity of his arrest before his arraignment. Considering this and his active participation in the trial of the case, jurisprudence dictates that petitioner is deemed to have submitted to the jurisdiction of the trial court, thereby curing any defect in his arrest. The legality of an arrest affects only the jurisdiction of the court over his person. Petitioner's warrantless arrest therefore cannot, in itself, be the basis of his acquittal.
10. *PEOPLE v. NAVARRO*, 535 SCRA 645, since appellant was arrested in flagrante delicto while selling a sachet of shabu to the poseur-buyer, his arrest without warrant was legal. On the warrantless search on appellant's body during which he was found to be in possession of a sachet of shabu, the same was legal too, it having been done during a lawful arrest.

c. Searches of vessels and aircraft for violation of immigration and customs laws.

1. A fishing vessel found to be violating fishery laws may be seized without a warrant on two grounds: firstly, because they are usually equipped with powerful motors that enable them to elude pursuit, and secondly, because the seizure would be an incident to a lawful arrest. (*Roldan v Arca*, 65 SCRA 361).
2. In *People v Aminnudin*, 163 SCRA 402, where the accused was searched and arrested upon disembarkation from a passenger vessel, the Court held that there was no urgency to effect a warrantless search, as it is clear that the Philippine Constabulary had at least two days (from the time they received the tip until the arrival of the vessel) within which they could have obtained a warrant to search and arrest the accused. Yet, they did nothing; no effort was made to comply with the law.
3. The situation in *People v Saycon*, 236 SCRA 325, is different, because the NARCOM agents received the "tip" in the early morning of July 8, 1992, and the boat on which the accused

boarded was due to arrive at 6:00 am on the same day. Furthermore, there was probable cause consisting of two parts: firstly, the agents conducted a “buy-bust” operation; and secondly, they received confidential information that the boat was due to leave soon.

d. Searches of automobiles at borders or “constructive” borders for violation of immigration or smuggling laws.

1. Warrantless search of vehicles made within interior of territory justified only if there is probable cause, See: *Papa v Mago*, 22 SCRA 857; *People v CFI of Rizal*, 101 SCRA 86. In *People v Balingan* 241 SCRA 277, the search and seizure of the luggage of a passenger in a bus after the team had tailed the bus for 15 to 20 minutes (because of a tip received by the team) was held to be valid. This reiterates the ruling of *People v Lo Ho Wing*, 193 SCRA 122, where the Court gave approval to a warrantless search done on a taxicab which eventually yielded shabu.
2. In *Valmonte v De Villa*, 178 SCRA 211, the Supreme Court upheld the validity of “checkpoints”. To enable the NCRDC to pursue its mission of establishing effective territorial defense and maintaining peace and order for the benefit of the public. In its resolution on the motion for reconsideration (185 SCRA 665), the Supreme Court stressed that the warrantless search is not violative of the Constitutional for as long as the inspection is limited to a visual search, and neither the vehicle itself nor the occupants are subjected to a search. An extensive search is allowed only if the officers conducting the search had probable cause to believe before the search that either the motorist was a law offender or that they would find evidence pertaining to the commission of a crime in the vehicle to be searched. This is reiterated in *Aniag v Comelec*, supra.
3. In *Bagalihog v Fernandez*, 198 SCRA 615, where respondent Roxas confiscated and impounded petitioner’s motorcycle which was believed one of the vehicles used by the killers of Rep. Moises Espinosa, the Supreme Court ruled that the confiscated, without warrant, was unlawful. The constitutional provision protects not only those who appears to be innocent but also those who appear to be guilty but are nevertheless presumed innocent until the contrary is proved. The necessity for the immediate seizure of the motorcycle had not been

established, either can the vehicle be detained on the ground that it is a prohibited article.

e. Inspection of buildings and other premises for the enforcement of fire, sanitary and building regulations. (But see *Camara v Municipal Court*, 387 U.S. 523, where the U.S. Supreme Court reversed the conviction of a person who refused a warrantless entry into his residence by municipal officers who wanted to make a routine annual inspection of premises for possible violations of the San Francisco House Code.)

f. Where prohibited articles are in plain view “open to eye and hand,” they may be seized even without warrant. See: *Chia v Acting Collector of Customs*, 177 SCRA, and as clarified in *People v Musa*, 217 SCRA 597

g. In *Guazon v De Villa*, 181 SCRA 623, the Supreme Court upheld, as a valid exercise of the military powers of the President, the conduct of “aerial target zoning” or “saturation drive/s”. (NOTE: In this case, the validity of the search was not directly questioned; what was raised in issued was the alleged abuse/s committed by the military who conducted the “saturation drives” in the absence of complaints and complaints against specific actions, no prohibition could be issued. However, the Court temporarily restrained the alleged banging of walls, kicking of doors, herding of half-naked men for examination of tattoo marks, the violation of residence, even if these are humble shanties of squatters and the other alleged acts which are shocking to the conscience. The Supreme Court remanded the case to the trial court for reception of evidence on the alleged abuses.

h. In *People v De Garcia*, 233 SCRA 716, considering the circumstances obtaining at the time of the raid of Eurocar Sales Office at the height of the December 1989 coup d’etat. Military operatives had reasonable ground to believe that a crime was being committed, and they had no opportunity to apply for a search warrant from the courts as the latter were closed. Under such urgency and exigency, a search warrant could lawfully be dispensed with.

i. *Quelnan v People* 526 SCRA 653, nowhere in Section 4, Rule 126 or any other provision of the Revised Rules of Criminal Procedure is it required that the search warrant must name the person who occupies the described premises. – Nowhere in said rule or any other provision in the Revised Rules of Criminal Procedure is it required that the search warrant must name the person who occupies the described premises. In *Uy v Bureau of Internal Revenue*, 344 SCRA 36 (2000), the Court has definitively ruled that where the search warrant is issued for the search of specifically described premises only and not for the search of a person, the failure to name the owner or occupant of such property in the affidavit and search warrant does not invalidate the warrant; and where the name of the owner of the premises sought to be searched is incorrectly inserted in the search warrant, it is not a fatal defect if the legal description of the

premises to be searched is otherwise correct so that no discretion is left to the officer making the search as to the place to be searched.

1. Sec. 12, Rule 126, as clarified in the 1985 Revised Rules on Criminal Procedure provides that “a person lawfully arrested may be searched for dangerous weapons or anything which may be used as proof of the “commission of an offense, without a search warrant.”
2. The warrantless search and seizure, an incident to a lawful arrest, may extend beyond the person of the one arrested to include the premises or surroundings under his immediate control. Object in the “plain view” of an officer who has the right to be in the position to have the view are subject to seizure and may be presented as evidence. But the “plain view” doctrine may not be used to launch unbridled searches and indiscriminate seizures, nor to extend to a general exploratory search made solely to find evidence of defendant’s guilt. The “plain view” doctrine is usually applied where a police officer is not searching for evidence against the accused, but nonetheless inadvertently comes upon an incriminating object. (People v Musa, 217 SCRA 597).
3. In POSADAS v. COURT OF APPEALS, 188 SCRA 288, the Court upheld the validity of a search made by police officers on one who confronted by the police because “he was acting suspiciously”, ran away. But in PEOPLE v RODRIGUEZ, 232 SCRA 498, the arrest and consequently search of the accused, simply because “he was acting suspiciously” was held invalid.
4. In PEOPLE v TANGLIBEN, 184 220, where two policemen on surveillance, after receiving a tip from an informer, noticed a person carrying a red bag acting suspiciously, then confronted the person and found inside the bag marijuana leaves, the Supreme Court held that the seizure was valid, as “an incident to a lawful arrest”. The court said that the matter presented urgency; when the informer pointed to the accused as one who was carrying marijuana, the police officers, faced with such on-the-spot information, had to act quickly. There was enough time to secure a search warrant. In PEOPLE vs MALSMTEDT, 198 SCRA 401, where, soldiers manning a checkpoint (set up because of persistent report that vehicles were transporting marijuana and other prohibited drugs) noticed a bulge on the accused’s waist and the pouch bag was found to contain hashish, the search was deemed valid as an

incident to a lawful arrest (as the accused was then transporting prohibited drugs) – and there was sufficient probable cause for the said officers to believe that the accused was then and there committing a crime.

5. In PEOPLE v CATAN, 205 SCRA 235, where a “buy-bust operation was made at the house of the accused, and immediately after the purchase, the accused was arrested and a search made of the premises, the Court ruled that the search was validly made. Contemporaneous to the arrest. (NOTE: Possession of marijuana is absorbed in the sale of marijuana only with respect to the marijuana delivered to the buyer, not to marijuana found in the seller’s possession which are not subject of the sale and which are probably intended for some other purpose).
6. In PITA v COURT OF APPEALS, 178 SCRA 362, it was held that the respondents had not shown the required proof to justify a ban and to warrant confiscation of the magazines; they were not possessed of a lawful court order (i) finding the materials to be pornographic and (ii) authorizing them to carry out a search and seizure. To justify a warrantless search as an incident to a lawful arrest, the arrest must be on account of a crime having been committed. Here, no party has been charged, nor are any charges being pressed against any party. The Supreme Court outlines the procedure to be followed, thus: a criminal charges must be brought against the person/ for purveying the pornographic materials; an application for a search and seizure warrant obtained from the judge (who shall determine the existence of probable cause before issuing such warrant); the materials confiscated brought to court in the prosecution of the accused for the crime charges; the court will determine whether the confiscated items are really pornographic, and the judgment of acquittal or conviction rendered by the court accordingly.
7. In PEOPLE v SUCRO, 195 SCRA 388, the Supreme Court held that a warrantless search and seizure can be effected without necessarily being preceded by an arrest, provided that the same is effected on the basis of probable cause.
8. While it is conceded that in a buy-bust operation, there is seizure of evidence from one’s person without a search warrant, inasmuch as the search is an incident to a lawful arrest, there is no necessity for a search warrant (People v Dela Cruz, 184 SCRA 416). Thus, in a “buy-bust” operation,

was frisked by operatives who found marked money which was used to buy two sticks of marijuana cigarettes and 17 more marijuana cigarettes, the search was deemed valid as an incident to a lawful arrest. Likewise, in *People v Musa*, supra, it was held that in a buy-bust operation, the law enforcement agents may seize the marked money found on the person of the pusher immediately after the arrest, even without an arrest or search warrant. However, in *People v Zapanta*, 195 SCRA 200, where, as an incident to a “buy-bust” entrapment operation, a raid of the house under the mat, the Supreme Court said that apart from the uncertainty among the witnesses as to how many marijuana cigarettes, if any, were found in Zapanta’s possession during the raid, the search was made without a warrant, therefore, the marijuana cigarettes seized in such raid were inadmissible in evidence.

9. In *VALDEZ v PEOPLE*, 538 SCRA 611, the legality of an arrest affects only the jurisdiction of the court over the person - his warrantless arrest cannot, in itself, be the basis of his acquittal. At the outset, we observe that nowhere in the records can we find any objection by petitioner to the irregularity of his arrest before his arraignment. Considering this and his active participation in the trial of the case, jurisprudence dictates that petitioner is deemed to have submitted to the jurisdiction of the trial court, thereby curing any defect in his arrest. The legality of an arrest affects only the jurisdiction of the court over his person. Petitioner’s warrantless arrest therefore cannot, in itself, be the basis of his acquittal.
10. *PEOPLE v. NAVARRO*, 535 SCRA 645, since appellant was arrested in flagrante delicto while selling a sachet of shabu to the poseur-buyer, his arrest without warrant was legal. On the warrantless search on appellant’s body during which he was found to be in possession of a sachet of shabu, the same was legal too, it having been done during a lawful arrest.

CHAPTER 8

REPORT FORMATS AND FORMS

8.1 BASIC INVESTIGATION REPORTS

- a. Spot Reports
- b. Progress Reports
- c. After Operation Reports
- d. Final Reports

a. Sample format of Spot Report

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR :

FROM :

SUBJECT : Spot Report

DATE :

1. (Indicate briefly the date/time, and place of occurrence)
 2. (Brief facts of the case)
 3. (Other Facts)
 4. Requested/recommended actions from Hqs.
 5. Progress report will follow
-

b. Sample format of Progress Report

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR :

FROM :

SUBJECT : Progress Report

DATE :

1. Reference: (previous related Memos)
 2. (Indicate briefly the date/time and place of occurrence) example
 3. (Brief facts of the case)
 4. (Other Facts)
 5. Requested/recommended actions from Hqs.
 6. Disposition/ Action Taken
 7. Final Report will follow
-

c. Sample format of After Operation Report

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR :

FROM :

SUBJECT : After Operation Report

DATE :

- I Authority
- II Mission
- III Period Covered
- IV Area of Operations
- V Participating Elements
- VI Chronological Events
 - a. Background
 - b. Intelligence Build-up
 - c. Narrative account of operational activities
- VII Comments.
- VIII Assessment.

d. Sample Report for Final Report

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR :
FROM :
SUBJECT : Final Report
DATE :

1. Reference: (previous related Memos)
 2. (Indicated briefly the date/time, and place of occurrence)
 3. Background/Brief facts of the case
 4. Sequence of Events
 5. Summary of Action
 6. Recommendation/ Conclusion
 7. Disposition/findings
 8. For your information
-

8.2 Investigation Formats

- a. Case Referrals (Regular Filing and Inquest)
- b. Another Format of Case Referral
- c. Complaint Sheet (Carnapping)
- d. Complaint Sheet (Other Crimes)
- e. Investigation Report
- f. Sworn Statement (Question and Answer)
- g. Sworn Statement (Narrative)
- h. Alarm (Carnapping Incident)
- i. Alarm (Missing Person)
- j. Advance Information
- k. Crime Report
- l. Coordination Report
- m. Lifting of Alarm (Carnapping Incident)
- n. Turn-over of Crime Scene Formats (First Responder to Investigator)
- o. Turn-over of Crime Scene Formats (Investigator to SOCO)
- p. Technical Inspection
- q. Receipt/Inventory of Property Seized
- r. Impounding Receipt
- s. Evidence Custodian Report
- t. Certification of Orderly Search
- u. Compliance / Return of Search Warrants
- v. Booking and Arrest Report
- w. Explosive-Related Incident Report Form
(With Evidence Recovery Log/Custody Log)
- x. After Hearing/Promulgation Report
- y. Detainees Report
- z. Case Folder Guide

**a. Sample format of Case Referral
(Regular Filing and Inquest)**

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

(DATE)

The Honorable City Chief Prosecutor
Office of _____ Prosecutor
Justice Hall, _____

(Attn: Duty Inquest Prosecutor)

Greetings : _____

I have the honor to refer to your Office, the records of investigation relative to the case of (crime), committed at about _____ of _____ at _____.

COMPLAINANT : (Name, age, nationality, civil status and current address)

VICTIM : (Name, age, nationality, civil status and current address)

SUSPECT (ARRESTED/DETAINED) :
(Name, age, nationality, civil status and current address)

EVIDENCE RECOVERED :

FACTS OF THE CASE:

Investigation disclosed....

ENCLOSURES :

- a) Subscribed NPS Investigative Data Form
- b) SS of the complainant
- c) SS of witness
- d) SS of witness
- e) Joint Affidavit of Arrest of
- f) Medico-Legal Report
- g) As stated evidence recovered
- g) Death Certificate of the Victim
- i) Anatomical Sketch of the Victim
- j) Booking and Information of the suspect
- k) And others to be presented later.

This case will be presented to you by (Name of Investigator-on-Case) of this Office during the course of inquest proceedings. Further, request furnished this Office copy of resolution of the case and other proceedings.

For appropriate action and disposition.

Chief of Police

b. Another Sample Format of Case Referral

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

(Date)

Hon. Chief, State Prosecutor
Department of Justice,
Padre Faura, Manila

Sir/Madam:

Respectfully referred to your good office for inquest proceedings are the herein record of investigation relative to a case for Robbery committed as follows:

VICTIMS/COMPLAINANTS: _____

RESPONDENTS: _____

WITNESSES: _____

Date/Time and Place of Occurrence:

On _____ at about _____ along _____.

Evidences:

1. Sworn Statement of Complainant/s
2. Sworn Statement of Witnesses
3. Joint affidavit of Arresting Police Officers
4. Others to be presented later.

FACTS OF THE CASE:

(Complete brief narrative of the facts)

This case will be presented by (name of investigator-on-case).

Very truly yours,

(CHIEF OF OFFICE)

**c. Sample Format of Complaint Sheet
(Carnapping Incident)**

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

Date: _____

COMPLAINT SHEET

Name of Suspects: _____

Last Known Address: _____

Nature of Offense: _____

Place Where Offense was Committed: _____

Date/Time Offense was Committed: _____

Local Police Office First Reported: _____

Date Reported: _____

Witness: _____

Brief Statement of Complaint	Sketch

Description of the Motor Vehicle

Make/Type	Year Model	Color
Plate Number	Chassis Number	Engine Number
MV File Number	Registered Owner	Address

CERTIFICATION

I, _____, after having been duly sworn to in accordance to law do hereby depose and say:

That I am the complainant of the aforesaid complaint;

That I have read the essence and signed the same;

That all the allegations contained herein are true and correct to the best of my knowledge and hereby warrant under penalty of perjury and;

That I will immediately inform the PNP-HPG in case the above described motor vehicle is recovered (by us) so that alarm could be lifted.

Conformed By: _____
(Registered Owner) (Driver)

Address: _____

Tel/Cell No. _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, affiant exhibited to me his/her Residence Certificate No. _____ issued at _____ on _____.

(Notary Public)

Note: Person found guilty of perjury is liable under Art. 183 of the Revised Penal Code.

d. Sample Format of Complaint Sheet (Other Crimes)

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

COMPLAINT SHEET

Complaint No. _____

Date: _____

1. REPORTED THRU: <input type="checkbox"/> In Person <input type="checkbox"/> Telephone <input type="checkbox"/> Other		2. Previously Reported to other agency: <input type="checkbox"/> Yes <input type="checkbox"/> No If yes; a. To what agency _____ b. BY whom _____ c. Date/time _____			
3. Nature of Complaint/Info		4. Place of Occurrence/Incident		5. Date/time	
6. Name of Complainant/Informer		7. Address		8. Tel No.	
9. Name(s) of Victim(s)	10. Age	11. Sex	12. Address		13. Tel No.
14. Name(s) of Suspect(s)	15. Alias	16. Sex	17. Age	18. Address	
19. Name(s) of Witness(es)		20. Address			21. Tel No.

22. Brief facts/narrative of complaint (Use back page, if necessary)	
23. Remarks of the receiving officer (especially if reporter refused to be identified): a. Dialect (Accent): _____ b. Female/Male: _____ c. Possible Age: _____ d. Possible place where the caller is: _____ e. Intoxicated or not: _____ f. Others:: _____	
24. I certify that the details of the complaint/info stated above are true and correct to the best of my knowledge. _____ Printed Name & Signature of Complainant/Informer	25. SUBSCRIBED AND SWORN to before me this _____ day of April 2009 at Camp Crame, Quezon City.
26. Date/Time/Complaint/Info Received	27. Printed name/Signature of Receiving Officer
28. Assigned to:	29. Noted by:

CONFIDENTIAL

e. Sample Format of Investigation Report

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR :

FROM :

SUBJECT : Investigation Report on

DATE :

I AUTHORITY

1. Memo from that Office dated _____ re-investigation report on the above subject.
2. Inherent

II MATTERS TO BE INVESTIGATED

3. To determine the surrounding circumstances of the killing of the said police officer.
4. To possibly identify the suspects that will led to their apprehension and possible prosecution

III FACTS OF THE CASE

5. (D/T/P Occurrence and events)

IV INVESTIGATION/FINDINGS

6. etc.

V CONCLUSION**VI RECOMMENDATION/DISPOSITION**

Chief of Office

**f. Sample Format of Sworn Statement
(Question and Answer)**

MALAYA AT KUSANG LOOB NA SALAYSAY NI (Name and address of the Affiant) NA IBINIGAY SA PAGSISIYASAT NI (Name of the Investigator), DITO SA TANGGAPAN NG Name and address of the Office, NGAYON IKA- (Month, Date and Year), SA GANAP NA IKA- (Time) NG UMAGA/HAPON/GABI, SA HARAP NINA (Name of Witnesses-at least 2), SA PAMAMAGITAN NG MGA TANONG AT SAGOT.

(Ang nagsasalaysay ay pinahiwatigan o pinaalalahanan ng lahat ng kanyang mga karapatan alinsunod sa itinatadhana ng ating Bagong Saligang Batas).

MGA TANONG AT SAGOT

01.	TANONG -	Ginoong/Ginang _____, ikaw ba ay magsasabi ng buong katotohanan at pawang katotohanan lamang sa pagsisiyasat na ito?
	SAGOT -	
02.	TANONG -	Ikaw ba ay handang magbigay ng iyong malaya at kusang loob na salaysay?
	SAGOT -	
03.	TANONG -	Maaari mo bang sabihin sa pagsisiyasat na ito ang iyong tunay na pangalan at iba pang mapagkikilanlan sa iyong tunay na pagkatao?
	SAGOT -	
04.	T -	Ano naman ang dahilan at ikaw ay naririto sa aming tanggapan at nagbibigay ng iyong malaya at kusang loob na salaysay?
	S -	
05.	T -	Saan at kailan nangyari ang naturang insidente?
	S -	
06.	T -	Sinu-sino ang may kinalaman sa naganap na _____?
	S -	
07.	T -	Paano naman nangyari _____?
	S -	
08.	T -	Kilala mo ba itong mga biktima?
	S -	
09.	T -	Sa ikaliliwanag ng pagsisiyasat na ito, maaari mo bang isalaysay o sabihin kung ano ang tunay na nangyari sa naganap na _____?
	S -	
10.	T -	Sa iyong pagkakaalam, ilan sa mga _____ ang may mga dalang baril at anu-ano ang mga kalibre nito?
	S -	

Pahina 2. Karugtong ng malaya at kusang loob na salaysay ni _____, ngayong ika-____ ng _____, 20____.		
11.	T -	Bukod sa iyo, may mga alam ka bang mga tao na nakakita ng naturang _____?
	S -	
12.	T -	Ano naman ang iyong ginawa matapos mong masaksihan ang naturang insidente?
	S -	
13.	T -	Kung muli mo silang makita at makaharap, makikilala mo ba ang mga ito?
	S -	
14.	T -	Pansamantala ay wala na akong itatanong sa iyo, mayroon ka bang ibang ibig idagdag o bawasan sa salaysay mong ito?
	S -	
15.	T -	Ikaw ba ay tinakot, pinangakuan, o binigyan ng pabuya sa pagbibigay mo ng salaysay na ito?
	S -	
16.	T -	Handa mo bang lagdaan ang salaysay mong ito na binubuo ng (Number of Pages) pahina?
	S -	

WAKAS NG SALAYSAY: (Date and Time)

Nagsalaysay

SUBSCRIBED AND SWORN TO before me this (Date) at (Place)

Administering Officer

CERTIFICATION

I HEREBY CERTIFY THAT I have personally examined the herein affiant under oath and that I am fully satisfied that he/she voluntarily executed and understood his/her statement.

Administering Officer

g. Sample Format of Sworn Statement (Narrative)

Republika ng Pilipinas)
Lungsod ng Quezon,)S.S
X- - - - - X

SINUMPAANG SALAYSAY

AKO, si _____, Filipino, ____ taong gulang, walang asawa/may asawa, naninirahan sa _____, matapos na makapanumpa nang naayon sa saligang batas ng Pilipinas ay nagsasaad ng mga sumusunod:

Na, noong _____, isang nagngangalang _____ na taga _____ at/o may Agency na _____ na matatagpuan sa _____ ay nagpakilala sa akin na may kakayahan na mangalap ng mga manggagawa para sa ibang bansa partikularmente sa bansang _____ sa pamamagitan ng _____;

Na ako, sa buong pagtitiwala ay nag-aplay sa taong naturan bilang isang _____;

Na, ang taong nabanggit ay pinangakuan ako ng trabaho sa ibang bansa na bilang kapalit ako ay pinagbibigay/pinagbabayad na aking naman ibinigay/ibinayad ang mga sumusunod:

HALAGA/BAGAY	PETSA	LUGAR/TUMANGGAP
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Na, ang nasabing mga halaga/bagay ay tinanggap ni _____, at ang nasabing tao () NAGBIGAY () HINDI NAGBIGAY ng kaukulang resibo;

Na, sa kabuuan halaga ako ay nahingian at/o nagbigay ng pera sa taong naturan na umabot sa halagang humigit kumulang sa _____ () kasama na ang aking mga nagastos habang ako ay nag-aaplay () hindi pa kasama ang aking mga nagastos habang ako ay nag-aaplay sa kanya;

Na, noon _____, ako ay lumuwas patungong Maynila sakay ng _____ at ako ay dumiretso sa _____ bahay/agency na _____ matatagpuan sa _____;

Na, habang ako ay nag-aantay ng aking pag-alis, ako ay pansamantalang pinatira ng taong naturan sa kanyang bahay na matatagpuan sa _____. Ako tumuloy sa nasabing bahay sa loob ng _____. Habang ako ay nanunuluyan sa nasabing bahay ako ay pinagbabayad ng halagang _____ bawat araw/buwan para sa aking pagkain at iba pang gastusin para sa aking pansamantalang panunuluyan;

Na, habang ako ay pansamantalang nanunuluyan sa nasabing bahay, ako ay kanyang pinagawa
ng mga gawain bahay tulad ng
_____. Ito raw umano'y
ay parte ng aking training bilang isang _____;

Na, ang taong nabanggit () ay nabigo na maipadala ako sa ibang bansa. () ako'y
nakaalis papunta sa nasabing bansa bilang isang _____ upang magtrabaho noong
_____ at bumalik noong _____ sa kadahilanang

_____;

Na, ang taong nabanggit ay nabigo at/o ayaw ibalik ang aking pera/papeles sa kabila ng aking
paulit-ulit na kahilingan;

Na, aking natuklasan na ang taong naturan ay walang lisensya o karapatan na mangalap at
magpadala ng mga manggagawa sa ibang bansa;

Na, hanggang sa ngayon ang taong nabanggit ay pinapangakuan ako na matutuloy maka-alis
patungong ibang bansa at ako ay kanyang hinihingan ng dadag na bayad na nagkakahalaga sa
_____ kapalit ng aking diumano'y pag-alis;

Na, ang taong naturan ay naninirahan at/o maaaring mapasabihan sa
_____;

Na ginawa ko ang Sinumpaang Salaysay na ito upang ihabla si/sina
_____ ng illegal recruitment at/o estafa
at/o Human Trafficking;

Na, aking pinatutunayan na ako ay hindi naghain ng reklamong katulad nito sa mga taong
nabanggit sa iba pang ahensya o sangay ng pamahalaan maliban dito.

BILANG PATUNAY, ako ay lumagda sa ibabaw ng aking pangalan ngayon ika-_____ ng
_____, _____.

Lagda

SINUMPAAN AT PINATOTOHANAN sa harap ko ngayon ika _____ ng
_____, _____. Pinatutunayan ko na ang nagsalaysay ay aking nasiyasat at ako ay may sapat na
paniniwala na siya ay kusa at malayang nagsalaysay.

Administering Officer

h. Sample Format of Alarm Sheet (Carnapping Incident)

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

ALARM SHEET

Alarm No.	Date Reported	Time Reported	Date Lost	Time Lost
MOTOR VEHICLE DESCRIPTION				
Make	Series	Year Model	Body Type	
Classification <input type="checkbox"/> Private <input type="checkbox"/> For Hire <input type="checkbox"/> Government <input type="checkbox"/> Diplomat	Engine No.		<input type="checkbox"/> AUV <input type="checkbox"/> Jeepney <input type="checkbox"/> HSPUR <input type="checkbox"/> Car <input type="checkbox"/> Bus <input type="checkbox"/> 3 Wheeled <input type="checkbox"/> Wagon <input type="checkbox"/> Utility Van <input type="checkbox"/> Motorcycle <input type="checkbox"/> Pick Up <input type="checkbox"/> Truck <input type="checkbox"/> Others: _____ <input type="checkbox"/> Closed Van <input type="checkbox"/> Dropside	
Chassis No.				
Plate No.	Color	MV File No.	MVRR No.	CR No.
OWNER DESCRIPTION				
Registered Owner	Last Name	First Name	Middle Name	Telephone No.
				Land Line #
				Mobile #
Address			Type of ID presented	ID Number presented
Insurer			Tel No.	Classification <input type="checkbox"/> TPL <input type="checkbox"/> Comprehensive
CIRCUMSTANCES				
Mode of Loss <input type="checkbox"/> Seized at Gunpoint/Intimidation <input type="checkbox"/> Seized While Parked Unattended <input type="checkbox"/> Qualified Theft <input type="checkbox"/> Theft <input type="checkbox"/> Fraud <input type="checkbox"/> Estafa <input type="checkbox"/> Others _____		Brief Narration		
		_____ _____ _____ _____ _____ _____ _____ _____		
Place of Offense Committed:			<input type="checkbox"/> WITH SAFETY DEVICE <input type="checkbox"/> ACTIVATED <input type="checkbox"/> NOT ACTIVATED <input type="checkbox"/> MANUAL <input type="checkbox"/> ELECTRONIC <input type="checkbox"/> GSP <input type="checkbox"/> WITHOUT SAFETY DEVICE	
Reported By:				

<p>Investigated By:</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>Approved By:</p> <p>_____</p>	<p>2 x 3 Picture With signature and Thumb mark</p>	
---	--	--

i. Sample Format of Alarm Sheet (Missing Person)

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

MISSING/WANTED PERSON ALARM SHEET

1. ALARM NO.			
2. NATURE OF ALARM [] MISSING [] WANTED		3.. PLACE WHERE LAST SEEN	4. DATE/TIME
5 NAME OF SUBJECT		6. ALIAS (ES)	7. ADDRESS
8. DESCRIPTION: SEX NATIONALITY AGE COMPLEXION HEIGHT WEIGHT BUILD HAIR PECULIARITIES OTHER IDENTIFICATION DATA		9. PHOTO	
10 ADDITIONAL INFO ON SUBJECT			
11.COMPLAINANT/INFORMANT	12. ADDRESS	13. TEL NO.	
14. RELATIONSHIP OF COMPLAINANT/INFORMANT TO SUBJECT	15. REPORTED TO OTHER AGENCY [] YES [] NO If yes, what agency _____	16. DATE/TIME REPORTED	
17. REPORT RECEIVED BY	18. DATE/TIME	19. POSITION/DESIGNATION	
20. THIS IS TO CERTIFY that the above report/data are true and correct to the best of my knowledge.		21. SIGNATURE OF COMPLAINANT/INFORMER	
22. SUBSCRIBED AND SWORN TO before me this _____ day of _____ 19 _____		23. SIGNATURE OF ADMINISTERING OFFICER	

24. ISSUANCE OF ALARM REQUESTED BY	25. DATE/TIME	26. POSITION/DESIGNATION
27. ALARM ISSUED BY	28. DATE/TIME	29. POSITION/DESIGNATION
30. LIFTING OF ALARM REQUESTED BY	31. DATE/TIME	32. POSITION/DESIGNATION
33. ALARM LIFTED BY	34. DATE/TIME	35. POSITION/DESIGNATION
36. REASON FOR LIFTING ALARM <input type="checkbox"/> PERSON RECOVERED <input type="checkbox"/> PERSON RETURNED <input type="checkbox"/> OTHER <input type="checkbox"/> FALSE ALARM <input type="checkbox"/> PERSON ARRESTED		
37. SIGNATURE OF SUPERVISOR	38. DATE/TIME	39. POSITION/DESIGNATION

j. Sample Format of Advance Information

Republic of the Philippines
 Department of the Interior and Local Government
 PHILIPPINE NATIONAL POLICE

ADVANCE INFORMATION

NATURE OF CASE : _____
 VICTIM : _____
 (NAMES, PERSONAL CIRCUMSTANCES OF VICTIM)

 (IF INJURED, DIAGNOSIS OF THE ATTENDING PHYSICIAN
 AND NAME OF HOSPITAL)

DATE/TIME/PLACE : _____
 OF OCCURRENCE : _____
 SUSPECTS : _____
 (NAMES, PERSONAL CIRCUMSTANCES)

 RESIDENCE AND STATUS-WHETHER

 SUSPECTS ARE UNDER ARREST OR NOT

EVIDENCE : _____
 WITNESSES : _____

 FACTS OF THE CASE:

 NAME OF OFFICER-ON-CASE

 RANK PNP

 DESIGNATION

NOTED AND FORWARDED:

 CHIEF OF GROUP/UNIT

 RANK PNP

 DESIGNATION

k. Sample Format of Crime Report

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

CRIME REPORT

NATURE OF CASE	:	_____
COMPLAINANT/VICTIM	:	_____
		(NAMES, PERSONAL CIRCUMSTANCES OF COMPLAINANT)

		(IN RAPE CASES, ENCLOSE THE MEDICAL FINDING)
DATE/TIME/PLACE OF OCCURENCE	:	_____
SUSPECTS	:	_____
		(NAMES, PERSONAL CIRCUMSTANCES)

		ADDRESS, IF KNOWN, AND PHYSICAL

		DESCRIPTION, IF AT-LARGE
EVIDENCE	:	_____
WITNESSES	:	_____
		(NAMES AND ADDRESS)

FACTS OF THE CASE:

NAME OF OFFICER-ON-CASE	
_____	_____
RANK	PNP

DESIGNATION	

NOTED AND FORWARDED:

CHIEF OF GROUP/UNIT	
_____	_____
RANK	PNP

DESIGNATION	

I. Sample Format of Coordination Report

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

COORDINATION FORM

UNIT: _____

DATE/TIME: _____

PLACE OF OPERATION: _____

TEAM LEADER: _____

MEMBERS: _____

VEHICLE USED:

RECEIVED BY: _____

m. Sample Format of Lifting Of Alarm

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

REQUEST FOR LIFTING OF ALARM

Name of Applicant: _____

Address: _____

Registered Owner _____

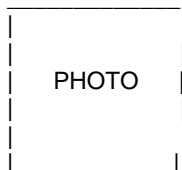
Address: _____

Description of Motor Vehicle:

Make/Type/Yr Model	:	_____
Color	:	_____
Motor Number	:	_____
Chassis Number	:	_____
Plate Number	:	_____

In connection with my request. I hereby submit the following:

- () Motor Vehicle for macro-etching examination
- () Alarm Sheet
- () Spot Recovery Report
- () Turn-Over/ Release Receipt of MV to owner by the covering PNP van. (if MV was recovered by other PNP Units)
- () Original Official Receipt (OR) & Certificate of Registration (CR) if Xerox/photo copy, it must be authenticated by C, Inves-OADI, investigator,/processing officer.
- () Deeds of Sale (If motor vehicle is not registered in the name of the applicant/ present owner)
- () Release of claim/subrogation/Deeds of Sale (if the applicant is an insurance company.
- () Special Power of Attorney (if applicant is a representative)
- () Affidavit of requesting Party/Owner that she/he is still the registered owner and she/ he has not made any claim with any insurance company re-loss of said MV
- () If MV was submitted/cited as evidence in a case filed in court, an order of release from court/ fiscal taking cognizance of the case.
- () Others



Signature

Print Name

Driver's License Number

**n. Sample Format of Turn-over of Crime Scene
(From First Responder to the Investigator)**

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

TURN-OVER OF CRIME SCENE

Date

This is to certify that the crime scene (State the particular incident and the date, time, place of occurrence) was turned over by the first responder to the duty investigator.

This further certifies that all the physical evidence found by the first responder at the crime scene are properly secured and preserved.

Received By : _____

Time/Date : _____

Turned over By: _____

Time/Date : _____

Witnessed By: _____

**o. Sample Format of Turn-over of Crime Scene
(From Investigator to SOCO Team Leader)**

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

TURN-OVER OF CRIME SCENE AND PHYSICAL EVIDENCE

Date

This is to certify that the crime scene and all the physical evidence (State the particular incident and the date, time, place of occurrence) were turned over by the duty the investigator to the SOCO Team Leader.

This further certify that all the physical evidence found and initially marked and inventoried by the investigator at the crime scene are properly listed and recorded in the investigator's Evidence Log Book.

Received By: _____

Time/Date : _____

Turned over By: _____

Time/Date : _____

Witnessed By: _____

p. Sample Format of Technical Inspection for Vehicle

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

Technical Inspection and Inventory Report for Recovered Motor Vehicle

Accomplished: _____

MOTOR VEHICLE DESCRIPTION				Inside Features		Engine Compartment	
Make/Type		Plate No.		Steering Wheel		Air-con Compressor	
Engine No.		Fuel		Shifting Rod with Knob		Radiator	
Chassis No.		Color		Hand Brake		Radiator Cover	
Registered Owner:				Ammeter		Radiator Inlet Hose	
Owner's Address				Oil Pressure Gauge		Radiator Outlet Hose	
OUTSIDE FEATURES FRONT				Temperature Gauge		Water Bypass Hose	
Bumper Front		Fog Lights		RPM Gauge		Ignition Coil	
Brand Emblem Marking		Headlights LR		Headlight Knob		High Tension Wire	
Radiator Grill		Windshield wiper		Parking/Hazard Knob		Distributor Cap	
Signal Lights L/R		Windshield Glass		Wiper Knob		Distributor Assembly	
Hazard Lights L/R		Windshield Wiper Blade		Dimmer Switch		Contact Point	
Headlights Guard		Windshield Wiper Motor		Directorial Level		Condenser	
Left Side Portion:				Speedometer		Air-con Condenser	
Right side Portion:				Fuel Gauge		Rotor	
Side Mirror		Side Mirror		Cars Seats Front		Advancer	
Wind Tunnel Glass		Wind Tunnel Glass		Car Seat Back		Oil Dipstick	
Window Glass Front Seat		Window Glass Front Seat		Car Seat Cover		Air-con Driver Belt	
		Weather/Window Strip		Floor Carpet		Carburettor Assembly	
Rear Back Portion:							

Luggage Compartment:					
Rear Bumper	Spare Tire	Floor Matting	Alternator		
Brand Emblem Marking	Spare Tire Mounting- Note: no spare tire cover.	Steering Wheel Computer Box	Alternator Voltage Regulator		
Plate Light	Floor Luggage Mat	Seat Adjustment Knob	Air Cleaner		
Tail Light Assembly	Mechanical Tools	ACCESSORIES:	Fuel Pump		
TIRES:		Air-condition Unit	Oil Filter		
Brand/Make:		Car Stereo	Steering Gear Box		
Size: 235/75 R15		Interceptor Cable	Water Pump Assembly		
Condition: Used		Stereo Speakers	Engine Fan		
Type		Twitters	Auxiliary Fan		
No. of Studs:		Car Radio	Fan Belt		
General Condition of the MV:		Equalizer	Spark Plugs		
Running		CD Changer	Battery		
Deadline		Lighter	Battery Cable		
REMARKS		Barometer	Battery Terminal		
		Fire Extinguisher	Horn Assembly		
		Antennae	Horn Relay		
		GENERAL APPEARANCE:	Accelerator Cable		
		Newly painted	Intake Manifold		
		Paint Discoloring	Exhaust Manifold		
		Good body shape	Engine Mounting		
		Body in Bad Shape	Ignition wiring		
		Body ongoing repair	Transmission		
		For Repainting	Suspension Assembly		
		Beyond Economical Repair and corrosion have set in which requires a major body repair.	Tie Rod End		
			Idler Arm		
			Front Coil Spring		
			Pitman Arm		
		Recovering Personnel:		WITNESS/OWNER/Barangay Official:	NOTED BY (HEAD OF OFFICE):
				<div style="border-bottom: 1px solid black; width: 100%;"></div>	
		Rank/Name			
Date:	Date:	Date:			

q. Sample Format of Inventory/Receipt of Property

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

Date: _____

INVENTORY SHEET/RECEIPT FOR PROPERTY / GOODS RECOVERED

Inventory Sheet of article/items seized from the premise/establishment of
_____ located at _____ by virtue of

ITEMS/ARTICLES

QUANTITY/UNITS

(Seizing Officer)

Witness by:

r. Sample Format of Impounding Receipt

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

Date: _____

IMPOUNDING RECEIPT

Description of the MV:

Make/Type : _____
Chassis No. : _____
Motor No. : _____
Plate No. : _____
Color : _____
CR/OR NO. : _____
LTO File No. : _____
Registered Owner: _____
Address : _____

VIOLATIONS:

1. _____
2. _____
3. _____

Subject MV was apprehended by Anti-Carnapping Operatives of this office for violation/s as stated above on _____ at about _____ along the vicinity of _____ and same was brought to HQS TMG, Camp Crame, Quezon City, for safekeeping subject for the investigation/verification and proper disposition.

Note: Subject MV shall only be released upon presentation of its pertinent original documents and upon notation/approval of the ADI.

APREHENDING OFFICERS:

Team Leader: _____

Conformed:

Owner/Driver/Possessor

s. Sample Format of Evidence Custodian Report

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

RECEIPT OF EVIDENCE CONFISCATED

THIS IS TO CERTIFY that the undersigned receiving Police Officer seized/ confiscated the following described properties/ items from the custody and control of _____, by virtue of Search Warrant No. _____ issued by _____ Honorable Judge _____, Executive/ Presiding Judge of Branch _____, RTC, _____ dated _____ for Violation of _____:

PROPERTIES/ ITEMS CONFISCATED

SIGNED IN THE PRESENCE OF:

1.) _____

2.) _____

(Evidence Custodian)

t. Sample Format of Certification of Legally, Peacefully and Orderly Execution of Search Warrant

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE

CERTIFICATION OF LEGALLY, PEACEFULLY AND ORDERLY

EXECUTION OF SEARCH WARRANT:

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that elements of _____
stationed at Camp Crame, Quezon City, have today _____,
200__conducted Search and Seizure in my residence/premises located at
_____, _____ by virtue of Search
Warrant No. _____ issued by Honorable Judge
_____, Executive/ Presiding Judge of Branch _____,
RTC, _____ dated _____:

That during the course of their search, they found and recovered the following
personal properties of mine which is the subject of the Search Warrant, to wit;

I FURTHER CERTIFY that the search was done in peaceful, appropriate and orderly manner and nothing were taken by the searching party aside from those enumerated above.

(Signature over printed name of owner)

SIGNED IN THE PRESENCE OF:

1.) _____ 2.) _____
(Signature over printed name) (Signature over printed name)

SEARCHING PARTY/TEAM LEADER:

Signature over printed name)

SUBSCRIBED AND SWORN to before me this ____ day of
____ 20____
at _____,
_____.

(Administering Officer)

u. Sample Format of Compliance/Return of Search Warrant

Republic of the Philippines
REGIONAL TRIAL COURT

Branch _____

PEOPLE OF THE PHILIPPINES
Plaintiff
Versus

Search Warrant no. _____

For violation of _____

Respondents

X ----- X

COMPLIANCE/RETURN OF SEARCH WARRANT

Comes now, the undersigned applicant, _____ of the _____ and unto this Honorable court, respectfully return the herein original copy of the **Search Warrant No.** _____ issued by the Honorable Presiding Judge _____, Branch _____, RTC _____ for violation of _____. **(Attached hereto as annex "A" is the original copy of Search Warrant No. _____) and manifest the following:**

That _____ at _____ about _____ of _____, elements _____ of the _____ led by the undersigned implemented the search warrant no. _____ at the premises of _____ located at _____.

That as a result thereof, the following items/articles which are subjects of the search warrant were confiscated/seized under proper receipt as follows;

That the raid was conducted in a legally, peacefully and orderly manner and in the presence of Two (2) Barangay Officials namely: Brgy Kagawad _____ and Brgy Executive Officer _____ both of _____. A corresponding receipt of the evidence confiscated was furnished to the representative of _____. The registered owner of _____, was not around during the raid, however, was represented by _____, the office administrator. **(Attached hereto as annex "B" is a copy of Receipt of Evidence Confiscated and a Certification of Orderly Execution of Search Warrant as annex "C")**

WHEREFORE, it is most respectfully prayed to this Honorable Court that the return of the Original Search Warrant No. _____ and its annexes together with the seized items be accepted.

LIKEWISE, it is respectfully prayed that the undersigned be authorized by this Honorable Court or grants the _____ to conduct Forensic Examination on the seized computers and other electronic devices for evidentiary purposes.

Other relief's just and equitable in the premises, are likely prayed for.

Done this _____ day of _____ 20____, City of _____, Philippines.

Applicant/Team Leader

SUBSCRIBED AND SWORN to before me this _____ day of _____ 20____ at City of Manila, Philippines.

Presiding Judge

v. Sample Format of Booking and Arrest Report

Republic of the Philippines
Department of the Interior and Local Government
PHILIPPINE NATIONAL POLICE



BOOKING AND ARREST REPORT

Picture
2x2

(Last Name) (First Name) (Middle Name) DATE: _____

ADDRESS : _____ Tel No. _____

PLACE & DATE OF BIRTH : _____

OCCUPATION : _____ MARITAL STATUS : _____

NATIONALITY : _____ SEX : _____ WEIGHT : _____ HEIGHT : _____

AGE : _____ EDUCATIONAL ATTAINMENT : _____

NAME OF SCHOOL : _____ LOCATION OF SCHOOL : _____

SCARS AND MARKS : _____ OTHER IDENTIFYING MARKS : _____

NAME & ADDRESS OF FATHER : _____

NAME & ADDRESS OF MOTHER : _____

NAME & ADDRESS OF RELATIVES : _____

OFFENSE CHARGE:

(NATURE OF OFFENSE) (CRIM/IS NO.)

ARRESTED BY: _____ UNIT: _____

WHERE ARRESTED: _____ DATE/TIME ARRESTED: _____

BOOKED BY : _____ BRANCH/SECTION: _____

SIGNATURE OF PERSON ARRESTED: _____

NAME OF ARRESTING OFFICER: _____

RIGHT HAND

THUMB	INDEX	MIDDLE	RING	LITTLE

LEFT HAND



w. Sample Format of Explosive-Related Incident Report (With Evidence Recovery Log and Custody Log)



Republic of the Philippines
 Department of the Interior and Local Government
 NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE INTELLIGENCE GROUP
PHILIPPINE BOMB DATA CENTER
 2nd Floor Maritime Building
 Camp Crame, Quezon City
 Tel. Nos. (02) 4120065 / 7230401 loc 4496 Email: do_pbdc@yahoo.com

EXPLOSIVE-RELATED INCIDENT REPORT FORM

BDC Incident Number		Date Received
Police Blotter Case Number		

Reporting PNP Unit		
Chief of Office		
Investigator-on-Case		
Unit Contact Details	Address	
	Phone	
	E-mail	
Bomb Squad Unit		
Team Leader		
Unit Contact Details	Address	
	Phone	
	E-mail	
SOCO Unit		
Unit Contact Details	Address	
	Phone	
	E-mail	
Date/Time of Incident		
Location		

Incident Category	<input type="checkbox"/> Bombing	<input type="checkbox"/> Theft	<input type="checkbox"/> Other
	<input type="checkbox"/> Attempted Bombing	<input type="checkbox"/> Recovery	

Casualties		Yes	No	Number:
Deaths		Yes	No	Number:

Pre-Incident Threat		Yes	No	Method of Threat:
Post-Incident Threat		Yes	No	Method of Threat:

Delivery Method	<input type="checkbox"/>	Delivered	<input type="checkbox"/> Buried <input type="checkbox"/> Other	
	<input type="checkbox"/>	Dropped		
	<input type="checkbox"/>	Thrown		
	<input type="checkbox"/>	Placed		
	<input type="checkbox"/>	Suicide		
Details				
Initiation Method			Time	
			Victim	
			Environmental	
			Command	
			Other	
Details				

Power Source	Battery
	Mains
Details	

Explosive Type	<input type="checkbox"/>	Commercial
	<input type="checkbox"/>	Military / Ordnance
	<input type="checkbox"/>	Improvised
	<input type="checkbox"/>	Other
	<input type="checkbox"/>	
Details		

Detonator Type	<input type="checkbox"/>	Commercial
	<input type="checkbox"/>	Military
	<input type="checkbox"/>	Improvised
	<input type="checkbox"/>	Other
	<input type="checkbox"/>	
Details		

Container Type	<input type="checkbox"/>	Plastic	<input type="checkbox"/> Wood <input type="checkbox"/> Other
	<input type="checkbox"/>	Metal	
	<input type="checkbox"/>	Carton	
	<input type="checkbox"/>	Bag	
	<input type="checkbox"/>	Cloth	
	<input type="checkbox"/>		
Details			

Motive	<input type="checkbox"/>	Vandalism	<input type="checkbox"/> Domestic Dispute <input type="checkbox"/> Experimentation <input type="checkbox"/> Extortion <input type="checkbox"/> Other
	<input type="checkbox"/>	Terrorist	
	<input type="checkbox"/>	Criminal	
	<input type="checkbox"/>	Religious	
	<input type="checkbox"/>		
Details			

Target	<input type="checkbox"/>	Government
	<input type="checkbox"/>	Commercial
	<input type="checkbox"/>	Private
	<input type="checkbox"/>	Other
	<input type="checkbox"/>	
Details		

Suspected Group:	Details:
------------------	----------

Device/Component Description

This box needs to include a device description and a components list. This requires as much information as possible.

Incident Details

Include information on injuries, property damage, motive and incident description, device location and any other relevant information.

Render Safe Procedure

List action taken by reporting unit and any information considered urgent for promulgation to other law enforcement agencies and first responders. e.g. Device rendered safe by remote approach utilizing disruptor.

Photographs/Media

List and describe any photos, diagrams attached to the report.

Signature _____

Date: / /

Name:

Note: Please transmit to PBDC-IG through fax or Email.

ADMINISTRATIVE LOG

Location:		Personnel Involved:	
Date:			
Case Identifier/Number:			
Preparer/ Assistants:			
Time	Pertinent Description / Information		

NARRATIVE DESCRIPTION

Location:
Date:
Case Identifier/Number:
Preparer/ Assistants:

PHOTOGRAPHIC LOG

Location:	Camera:
Date:	Type of film:
Case Identifier/Number:	
Preparer/ Assistants:	Remarks

Photo #	Description of Photographic Subject	Camera Settings and Lens Type	Distance	Use of Scale	Sketch (of Applicable)

CRIME SCENE DIAGRAM / SKETCH

Location:	Reference
Date:	Scale of Disclaimer
Case Identifier/Number:	Compass Orientation
Preparer/ Assistants	Evidence
	Fixed Objects
	Measurements
	Key / Legend

EVIDENCE RECOVERY LOG

Location:			Personnel Involved:				
Date:							
Case Identifier/Number:							
Preparer/ Assistants:							
Item #	Description of Item	Location	Recovered by:	Photo Log #	Marking Direct = D Indirect = I	Packaging Method	Comments

CUSTODY LOG

Item #		Case Number:	
	Delivered By:	Date	Time
	To:		
	Returned To:	Date	Time
	By		
	Delivered By:	Date	Time
	To:		
	Returned To:	Date	Time
	By		
	Delivered By:	Date	Time
	To:		
	Returned To:	Date	Time
	By		
	Delivered By:	Date	Time
	To:		
	Returned To:	Date	Time
	By		
	Delivered By:	Date	Time
	To:		
	Returned To:	Date	Time
	By		

BOMB SUMMARY CHART

Incident #	Incident Location	Bomb Container	Type Explosive	Pipe	Method Initiation

BOMB SUMMARY CHART

Battery	Wire	Tape	Glue	Switch	Clock	Contact Screw	Solder

R/C Devices #	Construction Similarities	Fingerprints	Remarks

x. Sample Format of Detainees Report

Republic of the Philippines
 Department of the Interior and Local Government
 NATIONAL POLICE COMMISSION
 PHILIPPINE NATIONAL POLICE
 CRIMINAL INVESTIGATION DETECTION GROUP
 CIDG DETENTION CENTER
 Camp Crame, Quezon City

CERTIFICATION

THIS IS TO CERTIFY that the undersigned Incoming Duty Jail Guards assumes the duties and responsibilities from the Outgoing Duty Jail Guards from _____ to _____ and received the following to wit:

DETAINEES REPORT

Name	Offenses	Arrest Unit	Date	Court	Remarks
Male					
1.					
2.					
Female					
1.					
2.					

Current Detainees... = 41

Female = 08

Total = 49

Actual Detainees... = 41

Female = 08

Total = 49

INCOMING DUTY JAIL GUARDS

OUTGOING DUTY JAIL GUARDS

TEAM LEADER _____
 DESK GUARD _____
 GATE GUARD _____

NOTED/INSPECTED:

NOTED/INSPECTED:

**y. Sample Format of After Case Hearing Report
(During Trial)**

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR :
FROM :
SUBJECT : After Case Hearing Reports
DATE :

1. This has reference to the Court Hearing which was attended today by the undersigned together with _____ relative to the case filed by _____ against _____ docketed under CC# _____ is scheduled for arraignment at the sala of _____.

2. However, said court hearing/arraignment was set because _____ counsel of the respondents submitted/filed a motion for reinvestigation of the case and was presented to City Prosecutor and after examining the motion, it was only approved by the court.

3. For information.

(CHIEF OF OFFICE)

**y. Sample Format of After Case Hearing Report
(During Promulgation)**

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR :
FROM :
SUBJECT : After Promulgation of Judgment Reports
DATE :

1. This pertains to the promulgation of Judgment in PP vs in CC.
2. On or about o' clock in the afternoon on even date, was found "guilty beyond reasonable doubt" on the said three (3) cases, to wit:

Case Number	Crime Committed	Sentence
_____	_____	_____

3. In addition to the following, the accused is also directed to pay the heirs of deceased _____ of the "Decision", twelve (12) pages are hereto attached.
4. According to the Provincial Jail Warden, accused will be transferred to National Penitentiary, Muntinlupa City as soon as the commitment order issued by the Judge.
5. Information.

(CHIEF OF OFFICE)

z. Sample Format of Case Folder

CASE FOLDER OF

ENCLOSURES OF CASE REFERRAL/TRANSMITTAL
(For Viol of _____)

TABLE OF CONTENTS

1. Sworn Statement of (Name of Complainant)	"A"
2. Sworn Statement of (Name of Witnesses)	"B"
3. Affidavit of Arrest (Name of Arresting Officers)	"C"
4. Documentary Evidence	"D"
a. Complaint Sheet of Complainant	"D-1"
b. Request and Certificate of POEA	"D-2"
c. Request and Result of Ultra Violet Powder	"D-3"
d. Summary of Information	"D-4"
e. Coordination	"D-5"
f. Request and Result of Physical Examination	"D-6"
g. Booking /Information Sheet of Suspect	"D-7"
h. Copies of Photographs and Sketch of Agency	"D-8"
i. Copies of Photographs during Entrapment Opn	"D-9"
j. Copies of Photographs of the Suspect	"D-10"
k. Copies of Photographs of the Pieces of Physical	"D-11"
l. Evidence Recovered and Seized	"D-12"
m. Reports about the Case	"D-13"
n. Others	"D-14"

Officer-on-Case

Noted By:

Chief of Office

8.3 Forensic Request Formats

- a. Sample Request Form for Medico-Legal Examination
 - 1. Autopsy
 - 2. Genital
 - 3. Physical/Medical
 - 4. Blood
 - 5. Semen
 - 6. DNA
- b. Sample Request Form for Firearms Identification
 - 1. Ballistic
 - 2. Cross-Matching
- c. Sample Request Form for Chemistry Examination
 - 1. Dangerous Drugs
 - 2. Drug Test
 - 3. Paraffin Test
 - 4. Explosives
 - 5. Macro-etching
 - 6. Trajectory
 - 7. Ultra-violet (Fluorescence Powder)
 - 8. Toxins
 - 9. Burned Debris and Flammable/Volatile Substances
 - 10. Chemical Analysis
- d. Sample Request Form for Fingerprint Examination
- e. Sample Request Form for Questioned Documents Examination
- f. Sample Request Form for Polygraph Examination
- g. Sample Request Form for the Conduct of SOCO

**a. Sample request Format of Medico-Legal Examination
(Autopsy)**

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory
FROM :
SUBJECT : Request for Autopsy Examination
DATE :

1. Request conducts medico-legal (autopsy) examination on the accompanying specimen to determine the cause of death.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of medico-legal examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

(Genital)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory
FROM :
SUBJECT : Request for Genital Examination
DATE :

1. Request conducts Genital Examination of the person
_____ residing at _____.
2. In connection with para 1 above, request furnish this office a copy of the initial result thereof for reference purposes.

(CHIEF OF OFFICE)

(Physical/Medical)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Physical/Medical Examination

DATE :

1. Request conducts Physical/Medical Examination of the person
_____ residing at _____.

2. In connection with para 1 above, request furnish this office a copy of the initial result thereof for reference purposes.

3. For consideration.

(CHIEF OF OFFICE)

(Blood Samples)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory
FROM :
SUBJECT : Request for Blood Examination
DATE :

1. Request conducts medico-legal (blood) examination on the accompanying specimen.
 - a) NATURE OF CASE :
 - b) VICTIM :
 - c) SUSPECT :
 - d) T D P O :
 - e) SPECIMEN SUBMITTED :
2. Further request that this Office be furnished a copy of medico-legal examination result for our reference.
3. For consideration.

(CHIEF OF OFFICE)

(Semen Samples)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory
FROM :
SUBJECT : Request for Semen Examination
DATE :

1. Request conducts medico-legal (semen) examination on the accompanying specimen.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of medico-legal examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

(DNA)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for DNA Examination

DATE :

1. Request conducts medico-legal (DNA) examination on the accompanying specimen.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of medico-legal examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

b. Sample request Format of Firearms Identification Examination**(Ballistics)**

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Ballistics Examination

DATE :

1. Request conducts ballistic examination on the accompanying specimen to determine whether the firearm described below was fired from the fired cartridge case or otherwise.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of ballistic examination result for our reference.

(CHIEF OF OFFICE)

(Cross-Matching)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Cross-Matching Examination

DATE :

1. Request conducts cross-matching examination on the accompanying specimen to determine whether the firearms described below was fired from the fired cartridge case or otherwise.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of cross-matching examination result for our reference.

(CHIEF OF OFFICE)

c. Sample request Format of Chemistry Examination**(Dangerous Drugs)**

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Dangerous Drugs Examination

DATE :

1. Request conducts dangerous drugs examination on the accompanying specimen to determine whether it contains dangerous drugs or otherwise.

- a) NATURE OF CASE :
- b) SUSPECT :
- c) T D P O :
- d) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of cross-matching examination result for our reference.

(CHIEF OF OFFICE)

(Drug Test)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Body Fluid Examination

DATE :

1. Request conducts drug test on the accompanying specimen to determine the presence of dangerous drugs.

- a) NATURE OF CASE :
- b) SUSPECT :
- c) T D P O :
- d) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of cross-matching examination result for our reference.

(CHIEF OF OFFICE)

(Paraffin Test)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Paraffin Test

DATE :

1. Request conducts paraffin test on the accompanying specimen to determine the presence of gunpowder nitrate.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

(Explosive Test)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Explosives Test

DATE :

1. Request conducts explosive examination on the accompanying specimen to determine the component explosive ingredient.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

(Macro-etching Test)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory
FROM :
SUBJECT : Request for Macro-etching Test
DATE :

1. Request conduct macro-etching examination on the motor vehicle described below:

- a) MAKE/TYPE :
- b) PLATE NO :
- c) COLOR :
- d) CHASSIS NO:
- e) ENGINE NO:

2. Further request that this Office be furnished a copy of examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

(Trajectory Test)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Trajectory Test

DATE :

1. Request conducts explosive examination on the accompanying specimen to determine the trajectory.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

(Ultra-violet Test)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Ultra-violet (Fluorescence Powder) Test

DATE :

1. Request conduct examination on the person of (name of arrested suspect), (age), (civil status), (occupation), and resident of _____ who was arrested during entrapment operation conducted at _____ about _____ (time) in the _____ evening at _____.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

(Toxins Examination)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Toxins Examination

DATE :

1. Request conducts toxins examination on the accompanying specimen to determine the poisonous ingredients.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

(Burned Debris/Flammable/Volatile Substances)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Flammable/Volatile Substances Test

DATE :

1. Request conducts examination on the accompanying specimen to determine the flammable/volatile substances.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

(Chemical Analysis)

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Chemical Analysis

DATE :

1. Request conducts chemical analysis on the accompanying specimen to identify the component chemical substance.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :
- e) SPECIMEN SUBMITTED :

2. Further request that this Office be furnished a copy of examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

d. Sample request Format of Fingerprint Examination

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Fingerprint Examination

DATE :

1. References:

- a.
- b.

2. Per above references, request conduct fingerprint identification/latent print lifting and identification/fingerprint comparison on the herein submitted specimen to that of the standard fingerprint taken from the suspect _____ to wit:

- a. Standard fingerprint specimen of _____; and
- b. Questioned latent prints placed in _____ with markings

3. Further request furnish this Division result thereof for our investigative reference.

(CHIEF OF OFFICE)

e. Sample request Format of Questioned Document Examination

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory

FROM :

SUBJECT : Request for Questioned Document Examination

DATE :

1. References:

- a.
- b.

2. Per above references, request conduct questioned document examination/comparison on the herein submitted standard handwritings specimen to that of alleged questioned document to determine whether it is authentic or not, to wit:

- c. Standard handwriting specimen consist of _____ pages with markings _____; and
- d. Alleged questioned document with markings _____

3. Further request furnish this Division result thereof for our investigative reference.

(CHIEF OF OFFICE)

f. Sample request Format of Polygraph Examination

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory
FROM :
SUBJECT : Request for Polygraph Examination
DATE :

1. Request conducts polygraph examination on the person of _____ (or following persons):
 - a) NATURE OF CASE :
 - b) VICTIM :
 - c) SUSPECT :
 - d) T D P O :
2. Further request that this Office be furnished a copy of examination result for our reference.
3. For consideration.

(CHIEF OF OFFICE)

g. Sample request Format for the Conduct of SOCO

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
PHILIPPINE NATIONAL POLICE

MEMORANDUM

FOR : Director, PNP Crime Laboratory
FROM :
SUBJECT : Request for SOCO
DATE :

1. Request for the presence of SOCO Team to process the crime scene located at _____.

- a) NATURE OF CASE :
- b) VICTIM :
- c) SUSPECT :
- d) T D P O :

2. Further request that this Office be furnished a copy of examination result for our reference.

3. For consideration.

(CHIEF OF OFFICE)

8.4 LEGAL FORMS

- a. Affidavit of Complainant
- b. Affidavit of Witnesses
- c. Affidavit of Arresting Officers
- d. Application for Search Warrant
- e. Deposition of Witness
- f. Complaint
- g. Memo for Preliminary Investigation
- h. Notice of Appeal
- i. Motion for Reconsideration

a. Sample of Affidavit of Complaint

Republic of the Philippines)
 _____, _____) s.s.
 X- -----X

AFFIDAVIT OF COMPLAINT

The **UNDERSIGNED**, _____, accuses _____, of
 _____, committed as follows, to wit:

That on or about _____, at about _____ in the
 _____, _____, Philippines, the said accused did then and
 there willfully, unlawfully, feloniously, and by means of _____, committed
 _____, upon the undersigned directly by overt acts to wit: (state the details
 how the crime was committed).

The undersigned executed this affidavit to attest the truthfulness of the foregoing
 facts and to support the filing of Criminal Cases against
 _____ for violations of _____.

_____, this _____ day of _____, _____.

Offended Party

SUBSCRIBED AND SWORN to before me this ____ day of _____ at
 _____. **I HEREBY CERTIFY** that I have personally examined the herein
 offended party and I am satisfied that they voluntarily executed and understood their
 given affidavit.

Judge

WITNESSES:

b. Sample of Affidavit of Witness

Republic of the Philippines)
 _____, _____) s.s.
 X- - - - -X

AFFIDAVIT OF WITNESS

I, _____, age, civil status, resident of _____, _____, after having sworn in accordance with law, do hereby depose and state THAT:

01. I was present and personally saw that accused, _____, committed the crime of _____ against the victim _____;
02. (State other circumstances and the relation either to the victim or accused or both);
03. (State the details of the acts committed by the accused against the victim.
04. (State the acts done by the witness and the reason thereof);

I executed this affidavit to attest the truthfulness of the foregoing facts and to support the filing of Criminal Cases against _____ for violations of _____.

AFFIANTS SAYETH NAUGHT.

IN WITNESS WHEREOF, I hereunto affixed my signature this ____ day of _____ at _____, _____.

Affiant

SUBSCRIBED AND SWORN to before me this ____ day of _____ at _____. **I HEREBY CERTIFY** that I have personally examined the herein affiants and I am satisfied that they voluntarily executed and understood their given affidavit.

Notary Public

c. Sample of Affidavit of Arresting Officers

Republic of the Philippines)
 _____) s.s.
 X- -----X

JOINT AFFIDAVIT OF ARREST

We, the **UNDERSIGNED Police Officers**, both members of the Philippine National Police, presently assigned at the _____, _____, _____, do hereby depose and state THAT:

01. We are among the members of the _____ who conducted entrapment operations at _____ located along _____, _____;

02. Said operation stemmed from the complaint of _____ for violation of _____ which was referred to our office by the _____ against _____, (age), (civil status), (nationality) and residing at No. _____, _____;

03. On the complaint dated _____, (state the act and the crime committed).

04. Upon receipt of their said complaint, our office planned out an entrapment operation against the suspect. At about _____ of _____, the undersigned together with the complainant proceeded at the pre-arranged pay off _____ located along _____, _____ to give the money being asked by the respondent;

05. Upon arrival thereat, complainants waited for the suspect to arrive while we the undersigned seated near the table of the complainants. At about _____, suspect arrived and approached the complainants and after few conversation, complainants handed over the marked money to the suspect that minutes of prompted the undersigned to immediately effect arrest;

06. Seized and recovered in the possession and control of the arrested person were the following, to wit:

a.) Marked Money, (state the denomination and serial numbers);

b.) (Name of documents promised);

c.) (type of CP and SIM Card); and

d.) Other evidence confiscated;

07. Suspect together with the seized and recovered evidence was brought to the _____, _____, _____ for booking and proper disposition. Likewise, the arrested person was apprised of their rights as provided for under the Constitution of the Philippines.

08. The report of the PNP Crime Laboratory Group Physical Identification Report No. _____ dated _____, revealed that suspect _____ was POSITIVE for the presence of Bright Yellow Ultraviolet Fluorescent powder on both palm and right dorsal portion of the hands.

We executed this joint affidavit to attest the truthfulness of the foregoing facts and to support the filing of Criminal Cases against _____ for violations of _____.

AFFIANTS SAYETH NAUGHT.

IN WITNESS WHEREOF, we hereunto affixed our signature this ____ day of _____ at _____.

Affiant

Affiant

SUBSCRIBED AND SWORN to before me this ____ day of _____ at _____. **I HEREBY CERTIFY** that I have personally examined the herein affiants and I am satisfied that they voluntarily executed and understood their given affidavit.

Administering Officer

d. Sample of Application for Search Warrant

REPUBLIC OF THE PHILIPPINES
REGIONAL TRIAL COURT
 NATIONAL CAPITAL JUDICIAL REGION
BRANCH _____, MANILA

PEOPLE OF THE PHILIPPINES
 Plaintiff

SEARCH WARRANT NO. _____

-versus-

FOR:

X-----X

APPLICATION FOR SEARCH WARRANT

The Applicant, _____ of the _____,
 _____, after having been duly sworn, states:

That on _____, _____ personally appeared to the office of
 _____ and reported that **SUBJECT OF S.W.**, located at
 _____ is engaged in the illegal operation of
 _____; **(See Photos and Sketch as Annex "A")**.

That relative to the said information, at around _____, the informer and
 _____ together with the undersigned conducted investigation and surveillance
 operation at _____, located at _____,
 _____. The undersigned together with _____ and _____
 inquires to the said office about _____.

That on the said occasions, **SUBJECT OF S.W.**, disclosed that they are (illegal
 activities). **(See photos & sketch and See Attached Calling Card, List of
 Requirements, Studio Romano Job Order Form & MTC Job Information as
 Annexes "B" - "C")**

(modus operandi).

Further, investigation conducted disclosed that _____.

On the ensuing investigation, **SUBJECT OF SW**, _____ found to be engaged in the operation of illegal activities;

That on the said investigation and surveillance operation the undersigned confirmed and believes that **SUBJECT OF SW** and/or any of its Officer, Agents, employees of _____, _____ is indeed engaged in _____ despite the fact that the said office is _____ and is not licensed to _____.

The properties, articles, objects and items which are used and/or intended to be used in the commission of the afore-stated offense in the possession of the **SUBJECT OF S.W** includes the following:

- a. Leads
- b.

The undersigned has personally verified the report thru surveillance and investigation activities together with _____ and _____, to ascertain the veracity thereof and found the same to be true and correct;

P R A Y E R

WHEREFORE, the Undersigned respectfully prays:

- a. that the Honorable Court include in the Search Warrant and express authority to conduct the raid of the above-mentioned premises at **any time of the day or night including SATURDAYS and SUNDAYS** considering that these are the days when the customer traffic are at its peak and to break open the premises to be searched should the owner thereof refuse entry in the premises or is absent therein.
- b. that this Honorable Court cause the immediate issuance of a Search Warrant commanding any Peace Officer to conduct a search on the above-described premises and to seize the above-described items to be dealt with as the law directs;

(Date), (Place).

Applicant

SUBSCRIBED AND SWORN TO before me this _____ day of _____, _____

Presiding Judge

CERTIFICATION AND VERIFICATION

I, THE UNDERSIGNED, under oath, depose and say that:

1. I am the applicant in the above-entitled application for Search Warrant;
2. I personally caused the preparation of the foregoing application for Search Warrant and have read its content and the allegations therein, which are true and correct to my own personal knowledge and belief.
3. I further certify that (a) I have not therefore commenced or filed any application for a Search Warrant involving the same issues in any court, tribunal or quasi-judicial agency and to the best of my knowledge, no such other application for Search Warrant is pending therein; (b) If there is such other pending Application for Search Warrant, I will therefore inform this Honorable Court of the present status thereof; (c) If I should thereafter learn that the same and similar application for Search Warrant has been filed or its pending , I shall report that fact within five (5) days there from to this Honorable Court, wherein the aforesaid application for Search Warrant has been filed.

Applicant

Date: _____

e. Sample of Deposition of Witness

Republic of the Philippines
REGIONAL TRIAL COURT

Branch _____, Quezon City

PEOPLE OF THE PHILIPPINES
Plaintiff

SEARCH WARRANT NO. _____

-versus-

For

Respondent
x-----x

DEPOSITION OF WITNESSES

We, _____ after having been duly sworn to testifies, as follow:

Q- What is your name and other personal circumstance?

A- We are _____ and _____ both of legal ages, and (civil status) and presently assigned with the _____;

Q- Do you know _____, the applicant for Search Warrant?

A-

Q- Do you know the premises of _____,

A-

Q- Do you have personal knowledge that in said premises the following properties are being kept, being used or intended to be used without proper documents, to wit: _____

A-

Q- Do you know who is or who is the person or persons who have or have control of him above-described properties?

A-

Q. How did you know that the said properties are kept in his/her premises which are subject of the offense?

A- We conducted discreet surveillance and it was confirmed that _____ is keeping _____ in his/her premises/ residence.

Affiant

Affiant

SUBSCRIBED AND SWORN to before me this _____ day of _____ 1999 at _____.

Judge

f. Sample of Complaint

Republic of the Philippines
Metropolitan Trial Court

People of the Philippines

Criminal Case No.

vs

Accused

x-----x

COMPLAINT

The undersigned, Chief of Police of _____, accuses _____In the municipality of _____, province of _____, Philippines, the said accused did then and there, willfully, unlawfully, and feloniously, with malice and aforethought, attacked _____ with _____, wounding the latter in the _____, producing wounds which are necessarily fatal, thereby causing the immediate death of said _____.

Contrary to law.

_____, _____, 20____.

Chief of Police of _____

SUBSCRIBED AND SWORN before me this _____th day of _____ 20_____ in the province of _____.

JUDGE

g. Sample of Memo for Preliminary Investigation

Republic of the Philippines
OFFICE OF THE CITY PROSECUTOR
Manila

Related to: _____
I.S No. _____
Prosecutor _____

I.S. No. _____
Prosecutor _____
Date Filed _____

MEMO OF PRELIMINARY INVESTIGATION**COMPLAINANT/S:**

1. _____

Address: _____

2. _____

3. _____

CHARGE: _____

Place of Commission _____

RESPONDENT/S

1. _____

Address: _____

2. _____

3. _____

4. _____

5. _____

Date _____ Time _____ (Use back hereof for add, accused)

Witness:

Name _____

Address _____

NOTE: 1. Has a similar complaint been filed before any other office? (YES OR NO)

2. Is this complaint in the manner of a counter-affidavit? _____ (YES OR NO)

3. Are all the above information true and correct _____ (YES OR NO)

THE ABOVE SHOULD BE FILLED UP BY COMPLAINANT OR COUNSEL

Investigation on _____ Postpone to _____

On relation of _____

(Signature of complainant or counsel)

TAKE NOTE: Sufficient copies of the affidavit

Of complainant and witnesses and other
Supporting document should be submitted.

ACTION TAKEN:

Investigation Prosecutor

IMPORTANT!

A complainant shall be required to file his complaint in the form of an affidavit to which must be appended affidavit of witnesses, annexes and other supporting documents. The statements of the complainant and his witnesses, shall be, far as practicable, be sworn to before the investigating Prosecutor. If sworn before any Officer authorized to administer oaths, the administering Officer shall CERTIFY THAT HE HAS PERSONALLY EXAMINED THE AFFIANT AND THAT HE VOLUNTARILY EXECUTED AND UNDERSTOOD HIS AFFIDAVIT.

Late resolution given to Stenographer

Investigating Prosecutor

Stenographer

h. Sample of Notice of Appeal

Republic of the Philippines

Complainant-Appellant,

-versus-

Accused-Appellee,

x-----x

Criminal Case No. _____

For

NOTICE OF APPEAL

COMES NOW the complain by the undersigned attorney and within the reglementary period prescribed by the Rules of Court hereby files this notice of appeal from the judgement of dismissal rendered by _____ of _____

_____, _____, _____.

(Attorney for the Complainant)

(Address)

Copy hereof received _____ this
_____ day of _____, _____

(Counsel for the Accused)

i. Sample of Motion for Reconsideration

Republic of the Philippines

Complainant,

-versus-

Accused.

X-----X

Criminal Case No. _____

For

MOTION FOR RECONSIDERATION

COMES NOW the complainant by the undersigned attorney and within the reglementary period prescribed by the Rules of Court hereby files this motion for reconsideration from the judgement of rendered by _____ of _____ by virtue of newly found evidence which was not obtained during the trial of this case and if produce will substantially affect the decision of the Honorable Court, to wit:

a. Newly found evidence

b. New vital witness

PRAYER

WHEREFORE, it is most respectfully prayed that the instant petition be considered by the Honorable Court and further grant the complaint other relief be granted as shall be deemed just and equitable in the premises

_____, _____, _____.

(Attorney for the Complainant)

(Address)

Copy hereof received _____ this
_____ day of _____, _____

(Counsel for the Accused)

(Prosecutor on Case)

EXPLANATION
(Proof of Service)

(Attorney for the Complainant)

(Address)

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