**CRIMINAL JUSTICE SYSTEM**

**CRIMINAL JUSTICE SYSTEM**

is the practices and institutions of government directed at upholding social control, deterring and mitigating crime and sanctioning those who violates laws with criminal penalties and rehabilitation efforts.

Since this a community pillar activity, it is significant to share the prevailing notions that guide the thinking of the people regarding the workings of CJS.

**CRIMINAL JUSTICE SYSTEM (CJS)**

is the machinery which society uses in the prevention and control of crime. The process is the totality of the activity or activities of the law enforcer, prosecutor, defense lawyers, judges and correctional personnel, as well as those of the mobilized community in the **CRIME PREVENTION** and **CONTROL**.

* **JANUARY 21, 1901** – The department of public instruction was created. This DPI becomes the basis for the United States to create the Western Police District (WPD)to police the Manila.
* **July 31, 1901** – Act No. 183 was passed. This act is the law that created the WPD. The first chief of police for Western Police District is CAPT. GEORGE EASTMAN CURREY.
* **March 20, 1917** – The Revised Administrative Code of the Philippines was approved. Under Sec. 2275, Book III
* **January 2, 1942** – WPD was captured and re-named METROPOLITAN CONSTABULARY by the Japanese Imperial Army.
* **1944** – The Philippines was liberated. All police forces were again under the leadership of COL. MARCUS ELLIS JONES.
* **RA 541** – A law that created to improve the Police Service by the Congress.
* **RA 4864** – The Police Act 1966
* **Proclamation 1081** – Martial Law
* **PD 765** – The Integrated National Police (INP) Law
* **RA 6975** – The Philippine National Police (PNP) Law
* **RA 8551** – The PNP Reorganization and Reform Law
* **RA 9708** – Embodies further amendments to RA 6975 and RA 8551

**THE POLICE AS FIRST PILLAR OF CJS**

* + **Prevention of crimes;**
  + **Enforcement of laws, Decrees and Ordinances**
  + **Protection of life and property from criminal attack**
  + **Preservation of peace and order**
  + **Safeguarding the rights of other**

**The prosecutor** (formerly known as fiscal)

Occupies a unique position in the CJS. Serving as the lawyer of the state/government in criminal cases, the prosecutor is automatically considered an officer of the court:

**Agencies and Offices Comprising the Philippine CJS “Prosecution”**

* National Prosecution service (NPS-DOJ)
* Office of the Special Prosecutor (OSP)
* Office of the Ombudsman
* Judge Advocate General’s Office (JAGO)

**THE COURT PILLAR**

* Situated between the prosecution and correction, the court is the CENTERPIECE of the CJS. As such, the court performs, perhaps the most important role in the administration of the criminal justice because:
  + It is the court that anyone turns for justice;
  + It is responsible for applying criminal law against the offender who commits crime, at time protecting the law violators from the violations of their rights by criminal justice agents.
* Judicially, as the third pillar of CJS, the court is looked upon as:
  + The final arbiter for justice;
  + The front line defender of democracy, freedom and human dignity;
  + The only institution capable of identifying and maintaining the proper balance between conflicting rights of individual and of the state & society.
* Agencies and Offices Comprising the Philippine CJS “Court”
* Supreme Court
* Court of Appeals
* Sandigang bayan
* Regional Trial Court
* Metropolitan Trial Court
* Municipal Circuit Trial court
* Court of tax Appeals

**CORRECTION PILLAR**

* The fourth pillar takes over once the accused, after having been found guilty, is meted out the penalty for the crime he committed. He can apply for probation or he could turn over to non-institutional correction agency or facility for custodial treatment and rehabilitation. The offender could avail of the benefits of parole or executive clemency once he has the minimum period of sentence.
* When the penalty is imprisonment, the sentence is carried out either in municipal/city, provincial, or national penitentiary depending on the length of the sentence meted out.

**PURPOSE OF CORRECTIONS**

* PUNISHMENT
* DETERRENCE
* ISOLATION
* REHABILITATION
* REINTEGRATION

**TYPES OF CORRECTIONS**

* **CONTEMPORARY CORRECTIONS**
  + **Bureau of Jail Management and Penology (BJMP**)

For prisoners whose sentence are (1) day to (6) months

* + **Provincial Jail** – For prisoners whose sentence are more than six (6) months but not more than (3) years.
  + **National Prison (NEW BILIBID PRISON or NBP)** under the **Bureau of Corrections (BUCOR)** – for those prisoners whose sentence are more than three (3) years and above. This includes executions of all prisoners sentenced to death.

**COMMUNITY BASED- CORRECTIONS**

* This is more known as Non- Institutional type of correction. This type of correction is being carried out by virtue of the following laws:
  + PD 603 (The Child and Youth Welfare Code)
  + PD 968 (The Adult Probation Law)

*Note: The above two Laws pertains to suspension of sentence for minor and adult offenders.*

**Agencies and Offices Comprising the Philippine CJS “Correction”**

* Bureau of corrections (BUCOR)
* Parole and Probation administration (PPA)
* Board of pardons and Parole (BPP)
* Bureau of Jail Management and Penology(BJMP)
* Provincial Rehabilitation Center (PRC-DILG)
* City/Municipal Rehabilitation Center (C/MRC-BJMP)
* Regional Youth Rehabilitation Center (RYRC-DSWD)

**COMMUNITY**

The fifth pillar has a two-fold role. First, it has the responsibility to participate in law Enforcement activities by being partners of the peace Officers in reporting the crime incident, and helping in the arrest of the offender. Second, it has the responsibility to participate in the promotion of peace and order through crime prevention or deterrence and in the rehabilitation of convicts and their reintegration to society.

**After convicts have passed through the Correction Component – either unconditionally (as by f ull service of the term of imprisonment imposed on them), or by parole, or by pardon – they revert to the COMMUNITY and either lead normal lives as law-abiding citizen in their barangays or regrettably commit other crimes and thus go back through the same stages of the Criminal Justice System.**

**THE CITIZEN’S ARREST**

Arrest may be effected WITH or WITHOUT WARRANT. Warrant less arrest may be effected by peace officers as well as private individual in any of the following circumstances:

* + When in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense;
  + When an offence has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it;
  + When the person to be arrested is a prisoner who has escaped from a penal institution or is temporarily confined during the pendency of the case, or has escaped while being transferred from one confinement facility to another.

**POLICE ETHICS**

**VALUES**

*Concept and ideas within each of us that we deem important. It serves as our guide that determines our behaviors and assists us in our decisions in life. They help us decide right from wrong and help us define who we are and what we stand for.*

**ORGANIZATIONAL VALUES**

*Every organization has values that are important to the group. It will help the organization to survive. Organizations develop values much the same as each individual has developed values.*

**The PNP will be an effective organization only if it develops good values.**

**1. Honesty and integrity**

**2. Respect for human rights**

**3. Professionalism**

**4. Strong sense of justice**

**5. Desire to help and serve others**

**6. Patriotism**

**7. Selflessness**

**ETHICS**

*It is defined as the “standards of conduct and moral requirements” necessary to function effectively within an organization or profession. In the law enforcement context, means honest and honorable service to the community rather than working for personal gain or individual profit.*

**Challenges to Police Ethical Behavior**

**1. *Individual character challenges***

These difficulties arise from personal defects where personnel engage in acts of dishonesty, greed, brutality, or individual acts of corruption.

**2. Organizational challenges**

The organization has adopted unethical and unprofessional police standards. It has already permitted or has participated in various forms of police misconduct such as extortion, solicitation of bribes, collection of unauthorized payments, police brutality and even homicide to maintain power.

**GUIDING PRINCIPLES ON POLICE ETHICS**

**Section 1, Art XI (Philippine Constitution)**

*“Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives.”*

**UNCODE OF CONDUCT FOR LAW ENFORCEMENT OFFICIALS   
(UN Res 35/169, 1979)**

Article 1

Law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving and protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession.

Article 2

In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons.

Article 3

Law enforcement may use force only when strictly necessary and to the extent required for the performance of their duty.

Article 4

Matters of a confidential nature in the possession of law enforcement official shall be kept confidential, unless the performance of duty or the needs of justice strictly requires otherwise.

Article 5

No law enforcement or any act official may inflict, instigate or tolerate any act of torture or other cruel, inhuman or degrading treatment or punishment, nor may any law enforcement official invoke superior orders…as justification of torture or other cruel, inhuman or degrading treatment or punishment

Article 6

Law enforcement officials shall ensure the full protection of the health of the persons in their custody and, in particular, shall take immediate action to secure medical attention whenever required.

Article 7

Law enforcement officials shall not commit any act of corruption. They shall rigorously oppose and combat all such acts.

Article 8

Law enforcement officials shall respect the law and present Code. They shall also, to the best of their capability, prevent and rigorously oppose any violation of them

**PNP Police Professional Conduct**

1. Commitment to Democracy

They shall commit themselves to the democratic way of life and values and maintain the principle of public accountability.

2. Commitment to public interest

They shall always uphold public interest over and above personal interest.

3. Non-partisanship

They shall provide services to everyone without discrimination.

4. Physical Fitness and Health

They shall strive to be mentally fit and in good health at all times.

5. Secrecy Discipline

They shall guard the confidentiality of classified information against unauthorized disclosure.

6. Social awareness

They and their immediate family members shall be encouraging to actively get involved in religious, social and civic activities without affecting their official duties.

7. Non-solicitation of Patronage

They shall seek self-improvement through career development and shall not directly or indirectly solicit influence or recommendation from politicians, high ranking government officials, prominent citizens, persons affiliated with civic or religious organizations with regards to their assignment, promotions and transfer.

8. Proper care and Use of Public Property

They shall promote and maintain a sense of responsibility in the protection, proper care and judicious disposition and use or entrusted to their care and custody.

9. Respect for Human Rights

They shall respect and protect human dignity and uphold human rights of all persons.

10. Devotion to Duty

They shall perform their duties with dedication thoroughness, efficiency enthusiasm, determination and manifest concern for public welfare and shall refrain from engaging in any activity which shall be in conflict with their duties as public servants.

11. Conservation of Natural Resources

They shall help in the development and conservation of our natural resources for ecological balance and posterity.

12. Discipline

They shall conduct themselves properly at all times in keeping with the rules and regulations.

13. Loyalty

They shall be loyal to the Constitution and the police service

14. Obedience to Superiors

They shall obey lawful orders of and be courteous to superior officers and other appropriate authorities within the chain of command.

15. Command Responsibility

They shall be responsible for the effective supervision, control and direction of their personnel.

**ETHICAL AND LEGAL LAW ENFORCEMENT CONDUCT**

Essential principles in the use of any Power and Authority:

*1. Legality*

*2. Necessity*

*3. Proportionality*

***PNP ADMINISTRATIVE MACHINERY***

**SESSIONS:**

1. PNP Disciplinary Law and Order general provisions

Definition of terms:

* + *Answer* – a pleading in which a respondent or other adverse party sets forth the negative and affirmative defenses upon which he relies;
  + *Appellate Bodies* – shall refer to the Regional Appellate Board (RAB) and National Appellate Board (NAB) of the other Commission; and Secretary of the Internal and Local Government (SILG)
  + *Breach of Internal Discipline* – any offense committed by a member of the PNP involving minor offense affecting the order and discipline within the police organization;
  + *Citizen’s Complaint* – a formal charge initiated by a natural or juridical person or his/its duly authorized representative or guardian on account of an injury damage or disturbance sustained as a result of an irregular or illegal act or omission of a PNP member;
  + *Commission* – shall refer to the National Police Commission as constituted pursuant to Republic Act No. 6975 as amended;
  + *Complaint* – a written or sworn statement regarding a wrong, grievance or injury sustained by a person.
  + *Complainant* – one who initiates a complaint against a uniformed member of the PNP, either as complaining witness or as a concerned government agency or office;
  + *Conduct Unbecoming of a Police Officer* – any act or behavior of a police officer irrespective of rank done in his official or private capacity which, in dishonoring or disgracing himself as a police officer, seriously compromising his character and standing in the PNP in such a manner as to indicate vitiated or corrupt state of moral character which shows his unworthiness to remain in the police service;
  + *Decision* – the written disposition of the disciplinary authority or appellate body stating clearly the facts and the law upon which it is based;
  + *Disciplinary Authorities* – shall refer to the city or municipal mayors; chiefs of police or equivalent supervisors; provincial directors or equivalent supervisors; regional directors or equivalent supervisors; People’s Law Enforcement Board (PLEB); Chief of the PNP; National Police Commission En Banc (NAPOLCOM);
  + *Equivalent Supervisors* – PNP Officers occupying positions/ designations equivalent to that of Chief of Police, Provincial Director and Regional Director who are vested with disciplinary authority over personnel of their respective offices, charged with minor offenses involving breach of internal discipline as provided under Section 41 of R.A. 6975, as amended;
  + *Finality of Decision* – there is finality of decision when upon the lapse of ten (10) days from receipt, or notice of such decision, no motion for reconsideration or appeal has been filed in accordance with these Rules;
  + *Formal Charge* – a complaint initiated before any of the disciplinary authorities or IAS after finding the existence of probable cause;
  + *Forum Shopping* – the filing of several complaints arising from one and the same cause of action involving the same parties asking for the same relief with the different administrative disciplinary authorities, the Internal Affairs Service and Office of the Ombudsman;
  + *Jurisdiction* – the authority vested by law to hear and decide a case;
  + *Minor Offenses* – any act or omission not involving moral turpitude, but affecting the internal discipline of the PNP, and shall include but not limited to simple misconduct; negligence; insubordination; frequent absences and tardiness; habitual drunkenness; and gambling prohibited by law;
  + *Moral Turpitude* – includes everything which is done contrary to justice, honesty, modesty, or good morals;
  + *Newly Discovered Evidence* – that evidence which could not have been discovered and produced during the hearing of the case despite due diligence, and if presented, would probably alter the decision;
  + *Pending Case* – refers to a case when the respondent had been formally charged before any of the disciplinary authorities or IAS; or an appeal is pending with any of the appellate bodies;
  + *Recidivist* – a person who has been previously penalized for a grave offense and is again charged of another or the same grave offense;
  + *Reglementary Period* – the period required by law or these Rules to perform a specific act;
  + *Repeatedly Charged* – when a police officer was formally charged administratively for at least three (3) times and was found culpable in any one of them and meted a penalty not lower than (60) days suspension;
  + *Serious Charge* – refers to a complaint involving an offense where the maximum imposable penalty is dismissal from the service;
  + *Subpoena Ad Testificandum* – a process directed to a person requiring him to appear and testify in an investigation or hearing;
  + *Subpoena Duces Tecum* – a process directing a person to appear and bring with him books, documents or things under his control in an investigation or hearing;
  + Substantial *Evidence* – such relevant evidence as reasonable mind might accept as adequate to support a conclusion;
  + *Summary Hearing Officer* – and officer designated by the disciplinary authority or IAS to conduct the formal hearing, and to submit a report of investigation;
  + *Summary Proceeding* – an expeditious administrative proceeding conducted consistent with due process to determine the culpability or innocence of the respondent; and
  + *Summons* – is a written notice informing the respondent that he is charged with an offense and directing his to file his Answer.

**CRIMINAL INVESTIGATION**

**SESSIONS:**

1. **Definition of Criminal Investigation (ILP)**

Criminal Investigation is the collection of facts in order to accomplish the three-fold aims

1. to identify the guilty party;
2. to locate the guilty party; and
3. to provide evidence of his (suspect) guilt
4. **The Anatomy of Crime**
5. motive
6. instrumentality.
7. opportunity;

For any crime to happen, there are three elements or ingredients that must be present at the same time and place. These are the Motive, the Instrumentality and the Opportunity.

**A. Motive** refers to the reason or cause why a person or group of persons will perpetrate a crime. Examples are dispute, economic gain, jealousy, revenge, insanity, thrill, intoxication, drug addiction and many others.

**B. Instrumentality** is the means or implement used in the commission of the crime. It could be a firearm, a bolo, a fan knife, an ice pick, poison or obnoxious substance, a crow bar motor vehicle, etc. Both the Motive and Instrumentality belong to and are harbored and wielded respectively by the criminal.

**C. Opportunity** consists of the acts of omission and/or commission by a person (the victim) which enables another person or group of persons (the criminal/s) to perpetrate the crime. Illustrative examples include leaving one’s home or car unattended for a long time, walking all alone in a well-known crime prone alley, wearing expensive jewelries in slum area, readily admitting a stranger into one’s residence and the like. Opportunity is synonymous with carelessness, acts of indiscretion and lack of crime prevention-consciousness on the part of the victim.

1. **Four (4) Reasons Why Crime Should Be Investigated**
2. **Future deterrence of Offenders**

* The identification and punishment of a criminal offender will hopefully deter him from other misconduct in the future.

1. **Deterrence to Others**

* Identification and punishment of an offender may likewise deter others from engaging in similar undesirable activities.

1. **Community Safety**

* The investigative process also promotes public safety by identifying and bringing to court persons who pose a serious threat to the safety of the community due to violent or otherwise strong anti-social behavior.

1. **Protection of the innocent**

* Finally, accurate investigations help to insure that only conduct which is in fact criminal is punished, and the innocent parties will not be subjected to prosecution.

**4.** **Two (2) Types of Criminal Investigation**

1. **Investigation while the suspect is under arrest and detention;**

**General Rule;** A person arrested by virtue of warrant of arrest is not covered by criminal investigation and must not be placed under custodial interrogation for obvious reason that he is already held accountable to that particular crime before the court of justice.

**Exemption to the Rule:**

1. When the person arrested by virtue of a warrant of arrest is likewise being held for a separate distinct criminal complaint which is the subject matter of another criminal investigation.
2. When the person arrested by virtue of a warrant of arrest is charge in court as “Jhon Doe” or “Richard Doe”, and for which criminal investigation is a necessary incident to establish his real identity, name surname through cartographic sketches and available witnesses.
3. A person placed under arrest as an incident to the execution and implementation of a search warrant found in possession of recently stolen articles.
4. **Investigation while the suspect is “at large” (Meaning- not under arrest and detention, as distinguished from: - “fugitive from justice”)**

The term “at large” is not synonymous to “fugitive from justice”, the former not being a wanted person in the eyes of the law, and therefore cannot be lawfully arrested without a warrant. The latter is necessarily an escapee from detention or an escaped prisoner while serving sentence by virtue of a final judgment rendered by a court of competent jurisdiction that can be legally arrested (par. [c], Sec. 5, Rule 113, Rules of Court without the necessity of the court.

**5. Police Operation distinguished from Police Investigation**

**A. Police Operation** is a lawful clandestine intelligence and detective networking to gather information and evidences to determine with certainty the commission of a crime, the identity of the perpetrators thereof, and as may be necessary, to arrest the culprits under those instances as authorized by law.

The action whereby a person is subjected to:

1. A warrantless arrest “in flagrante delicto”; or
2. A warrantless arrest in “fresh (hot) pursuit”; or
3. A warrantless arrest as an incident to the execution of a search warrant; or,
4. A warrantless search as an incident to a lawful arrest; or
5. An arrest by virtue of a warrant of arrest; or,
6. The arrest of escaped prisoner while serving sentence or temporarily confined while his case is pending; or
7. While being transferred from one confinement to another.

**B.**  **Police Investigation** - is the action of initiating a meticulous inquiry to a formal complaint filed by the private aggrieved party or public complainant after the fact of the incident, but no arrest can be legally effected against the suspect as the circumstances attendant thereto are not those specifically allowed by law, is what is called**.**

**6. Phases of Investigations**

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

**A.** PHASE I - identify the suspect/s through ***(1. Confession 2. Admission 3. Eye witnesses 4. Circumstantial evidences 5. Associative evidences.)***

**1. Confession**, as defined in Section 29, Rule 130, Rules of Court, is: “The declaration of an accused expressly acknowledging his guilt of the charged, may be given in evidence against him.”

” **Voluntary**”, for purposes of confession, means that the accused speaks of his free will and accord, without inducement of any kind, and with a full and complete Knowledge of the nature and consequences of the confession, and when the speaking is so free from influences affecting the will of the accused, at the time the confession was made, that it renders it admissible in evidence against him (Wharton’s Criminal Evidence, Sec. 631[a], as cited in page 222, Evidence, by RJ. Francisco).

**2. Admission** – an admission is a voluntary acknowledgement in express terms or by implication, by a party in interest or by another whose statement he is legally bound, against his interest, of the existence or truth of a fact in dispute material to the issue.

Admission may either be express or implied. Admission may also be classified as judicial admission or extra judicial admission.

Express admission is one made in express terms in definite, certain and unequivocal language. Implied admission is those who may be inferred from the acts, declaration or omission of a party.

Judicial admission are admissions made in a judicial proceeding. Thus, Sec 4, Rule 129, of the Revised Rules of Court, expressly provides: - “An admission, verbal or written made by a party in the course of the proceedings in the same case does not require proof”

**3. Eyewitness testimony** – the ideal identification is made by an objective person who is familiar with the appearance of the accused and who personally witness the commission of the crime.

**4. Circumstantial evidence** - in the absence of a confession and eyewitness, the identification of criminal may be established indirectly by proving other facts or circumstances from which, either alone or in connection with other facts, the identity of the perpetrator can be inferred. Evidence of this nature, usually falls into the following circumstances.

**a. Motive** – can be defined as some inner drive, impulse, intention, etc., that causes a person to do something or act in a certain way. It may be inferred from circumstances and from the statement of witnesses that the suspect could have been motivated by a desire for revenge or personal gain, or jealousy.

**b. Opportunity** – is a circumstance which made it possible physically for the suspect to commit the crime; or in other words, being in a position to commit the offense. He must have the access to the scene of the crime, or have been in the vicinity and have the means available to commit the crime.

**c. Intent** – is the accomplishment of the act and where it is an element in the commission of an offense, it must always be proved. To show the identity of the criminal, intent must establish that the criminal is aware of the consequences of his acts.

**5. Associate evidence** – the physical evidence found at the scene of the crime and during the course of the investigation may serve to identify the criminal by means of clue materials, personal property, or the characteristic pattern of procedure deduced from the arrangement of objects at the crime scene.

(Sec.1, Rule 130, Rules of Court, as amended), explained. Object (real) evidence or Physical evidence is the evidence of the highest order. It speaks more eloquently than a hundred witnesses (People vs. Parcilla, 167 SCRA 722). This is the best form of evidence.

**6. The handgun** - used in killing the victim is the best evidence in a case of homicide or murder. In a case of robbery, the force upon things like forced entry to the window shown by broken jealousy or the recovered stolen articles found in the possession of the suspect are the best physical evidence.

**B. Phase II - Locate and apprehend suspect/s**

The second phase of Investigation is concerned with locating and apprehending the offender. This is not only frustrating but dangerous on the part of the investigator. Locating and apprehending the suspect/s can be done through the use of informants, by conducting surveillance, and by conducting undercover assignments.

**C. 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 physical evidence must be appropriately identified. The investigator must know by heart the elements of a specific crime.

**7. 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**- information gathered from records and files of the Police, other law enforcement agencies, Company records, Public Hospital records and others.

**2. Private records**- information gathered from cultivated sources such as paid informants, bartenders, taxi drivers, and vendors and from the internet such as Facebook, and others.

**3. Modus Operandi file**- information gathered from a CCTV camera, witnesses, and arrested suspect/s, and from Police and other law enforcement files.

An effective criminal investigation requires accurate information. Information is required about the characteristics and peculiarities of previous cases similar to the one under current investigation; guidance towards suspect identification, development of leads. Of the three tools of investigation, Information is the most important since it answers the question- **“WHO IS THE VICTIM?”** If identified, and **“WHO DID IT?”** so as to the identity of the suspect.

**B. Interview** – Skillful questioning of witnesses and suspects.

Interview in crime investigation is very important as the person interviewed usually gives his account of an incident under investigation or offers information concerning a person being investigated in his own manner and words.

In planning an interview, an investigator as a general rule, select a place which will provide him with a psychological advantage. He should conduct the questioning as soon as possible after the occurrence.

**Characteristics of an effective investigator**

**A. Intellectual characteristics** - Investigator must try and apply it to their work. They must know the elements of crime understand and be able to apply investigative techniques and be able to work with many different types of people. Exceptional intelligence is not a requisite trait of an effective investigator; objectively common sense is more important.

**B. Psychological characteristics** - Effective investigators are emotionally well balance, detached, inquisitive, suspecting, discerning, self-disciplined and persevering. Investigation is highly stressful and involves many decisions. Therefore, it requires emotional stability.

**C. Physical characteristics** - Effective investigators are physically fit and have a good vision and hearing. Good health and high energy level are beneficial because the hours spent performing investigative duties can be long and demanding. In addition to being physically fit, investigators are aided by keen vision and hearing. If uncorrected, color blindness, and farsightedness may impair investigative effectively. Hearing is especially important when darkness limit vision. Keen hearing helps estimate the nearness of a suspect, the movement of people, the direction of gunfire and detonations. In addition, the investigators may have to listen to words to hear a weak voice from a seriously wounded or dying person.

**10. Functions of the Investigators**

**A. Provide emergency assistance** - If an injured person is on the scene, arrange for medical attention, identification and removal.

**B. Secure the crime scene** - If the scene is not fully protected, ensure its protection by using other policemen or other responsible persons to keep witnesses, suspects and victim(s) who are present from disturbing the scene

**C. 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.

**D**. **Search for, obtain and process physical 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 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 location 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. The investigator must collect physical evidence with adequate sampling considering the quantity available at the crime scene and the amount needed for the laboratory test. He must also endeavor to collect standards or known samples for purposes of comparison with those other physical evidences collected. The evidence and the physical evidence collected must possess the integrity as evidence and that it must not come in contact with other substances to avoid contamination.

**E. 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.

**F. Taking Sworn Statement/s of the Witnesses**

1. Sworn Statement of Affidavit of complainant/s and witnesses must be taken immediately by the investigator - on - case.

2. Affidavit of arrest of arresting officer must be taken immediately not later than 24 hours.

3. In inquest cases, the investigator –on- case and the arresting officer/s shall observe Art.125 of the Revised Penal Code.

**G. Preparation of Reports and Filing of Charges**

The Investigator- On- Case shall submit the following:

1. Spot Report within 24 hrs. to Higher Headquarters;

2. Progress Report;

3. After Operation Report;

4. Final report after the case is filed before the Prosecutor’s office or court; &

5. Accomplishment Report.

**H. 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.

**I**. **Testify in court** - The investigator shall endeavor to ensure their attendance during court hearings. The appearance of the investigator as a witness before a court of law is the final most severe test of his efficiency. The preparation of the case is made with the goal of ultimate presentation before the judge constantly in view.

**D. 1987 Philippine Constitution**

The State values the dignity of every human person and guarantees full respect for human rights. (Sec. 11, Art. II, Philippine Constitution)

**Section 17** – creation of **Commission on Human Rights**

**Section 19** - The Congress may provide for other cases of violations of human rights that should fall within the authority of the Commission, taking into account its recommendations.

**E. Bill of Rights** (Article III, Bill of Rights, 1987 Philippine Constitution)

**Section 1 -** No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

**Section 2** - The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.

**Section 3**

1. The privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law.

2. Any evidence obtained in violation of this or the preceding section shall be inadmissible for any purpose in any proceeding.

**Section 4 -** No law shall be passed abridging the freedom of speech, of expression, or of the press, or the right of the people peaceably to assemble and petition the government for redress of grievances.

**Section 5 -** No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.

**Section 6 -** The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law.

**Section 7 -** The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to such limitations as may be provided by law.

**Section 8 -** The right of the people, including those employed in the public and private sectors, to form unions, associations, or societies for purposes not contrary to law shall not be abridged.

**Section 9 -** Private property shall not be taken for public use without just compensation.

**Section 10 -** No law impairing the obligation of contracts shall be passed.

**Section 11 -** Free access to the courts and quasi-judicial bodies and adequate legal assistance shall not be denied to any person by reason of poverty.

**Section 12**

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. The law shall provide for penal and civil sanctions for violations of this section as well as compensation to the rehabilitation of victims of torture or similar practices, and their families.

**Section 13 -** All persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law. The right to bail shall not be impaired even when the privilege of the writ of habeas corpus is suspended. Excessive bail shall not be required.

**Section 14**

1. No person shall be held to answer for a criminal offense without due process of law.

2. In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf. However, after arraignment, trial may proceed notwithstanding the absence of the accused: Provided that he has been duly notified and his failure to appear is unjustifiable.

**Section 15 -** The privilege of the writ of habeas corpus shall not be suspended except in cases of invasion or rebellion, when the public safety requires it.

**Section 16 -** All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.

**Section 17 -** No person shall be compelled to be a witness against himself.

**Section 18**

1. No person shall be detained solely by reason of his political beliefs and aspirations.

2. No involuntary servitude in any form shall exist except as a punishment for a crime whereof the party shall have been duly convicted.

**Section 19**

1. Excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the Congress hereafter provides for it.

**Section 20 -** No person shall be imprisoned for debt or non-payment of a poll tax.

**Section 21 -** No person shall be twice put in jeopardy of punishment for the same offense. If an act is punished by a law and an ordinance, conviction or acquittal under either shall constitute a bar to another prosecution for the same act.

**Section 22 -** No ex post facto law or bill of attainder shall be enacted.

Definition of Terms

**Arrest** – an act of apprehending a person for the alleged commission of an offense or by the action of an authority.

**Detention** –deprivation of personal liberty except as a result of conviction for an offense.

**Detainee** – person deprived of his/her liberty pending trial (not yet convicted).

**Prisoner** – person deprived of his/her liberty as a result of conviction for an offense (convicted).

**CRIMINAL INVESTIGATION COURSE**

**SESSIONS:**

**Definition of terms:**

1. **Public Information –** Information that may be of interest to the general public about policy, procedures and events involving the PNP or such other newsworthy information that is not legally protected, does not unduly interfere with the mission of the PNP, ongoing investigation, infringe upon the rights of an individual or compromise the legitimate safety and /or privacy interest of officers, victims, witnesses or others.
2. **News Media Representative –** An individual employed by agencies of the media wires to gather information and report on a newsworthy event.
3. **Accredited** – A media representative duly recognized by the PNP, through its PIO.
4. **News –** It is the reporting of current events by the mass media. To be considered news, an event usually must have broad interest due to such news values as impact, timeliness and revelation (*is there significant new information, previously unknown?*).
5. **Press Release –** It is the official statement issued by the PNP to the media.
6. **Public Information Officer (PIO) –** The official authority who serves as a central source of information for release by the PNP and responds to requests for information by the news media and the community.
7. **Spokesperson –** The officially-designated authority who acts as the mouthpiece of the PNP and usually speaks in behalf of the C, PNP. The public information officer also usually becomes the spokesperson.
8. **Limit of Disclosure** – The term “limit of disclosure” applies only to limits set by legal requirements (i.e. the rights of the accused).
9. **Crisis** – A crucial or decisive point or situation in the course of anything. It could also mean as an unstable condition, as in political, social, or economic affairs, involving an abrupt or decisive change.
10. **Criminal Intelligence Information –** Refers to any information with respect to an identifiable person or group of persons collected by a police unit/department as part of the PNP effort to anticipate, prevent, or monitor the occurrence of a possible major criminal activity, most especially terrorist acts.

A. ABC’s of writing

* 1. *Accuracy -* False story undercuts public trust. Check numbers, spelling of names,

who said what, and the other basic facts a story can be creative and compelling, but if it contains errors, it is worthless

* 1. *Brevity*

Each word in your story should do a job. If not, take it out Get to the point. Say it just once. Don’t be redundant. (Example: Don’t say “8 a.m. in the morning,” since 8 a.m. is in the morning. Just say 8 a.m. Or say 8 in the morning.)

* 1. *Clarity -* starts with complete, competent reporting, understand your subject so

completely that your story leaves it crystal-clear in the reader’s mind the story should leave no questions unanswered explain anything that wouldn’t be obvious to the average person

**SESSIONS:**

**Definition of Terms:**

**a.** **Information and Communications System** refers to a system for generating, sending, receiving, storing, or otherwise processing electronic documents or in which data is recorded and any procedures related to the recording of electronic document.

**b.** **Cyber Crime** is hacking or crackling which refers to unauthorized access into a computer system/server 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 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.

**c.** **Electronic data message** refers to information generated, sent, received or stored by electronic, optical or similar means.

**d.** **Addressee** refers to a person who is intended by the originator to receive the electronic data message or electronic document, but does not include a person acting as an intermediary with respect to that electronic data message or electronic data document

**e.** **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

**f.** **Electronic document** refers to 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 may be prove and affirmed, which is receive, recorded, transmitted, stored, processed, retrieved or produced electronically.

**g.** **Electronic key** refers to a secret code which secures and defends sensitive information that crossover public channels into a form decipherable only with a matching electronic key.

**h.** **Intermediary** refers to a person who in behalf of another person and with respect to a particular electronic document sends, receives and/or stores provides other services in respect of that electronic data message or electronic document.

**i.** **Originator** refers to a person by whom, or on whose behalf, the electronic document purports to have been created, generated and/or sent. The term does not include a person acting as an intermediary with respect to that electronic document.

**j.** **Service provider** refers to a provider of online services or network access or the operator of facilities therefore including entities offering the transmission, routing, or providing of connections for online communications, digital or otherwise, between or among points specified by a user, of electronic documents of the user's choosing; or

**k.** **Computer** refers to any device or apparatus singly or interconnected which, by electronic, electro-mechanical, optical and/or magnetic impulse, or other means with the same function, can receive, record, transmit, store, process, correlate, analyze, projects, retrieve, and/or produce information, data, text, graphics, figures, voice, video, symbols or other modes of expression or perform any one or more of these functions.

1. **E-mail** is the exchange of computer-stored messages by telecommunication. E-mail messages are usually encoded in ASCII text.

**SESSIONS:**

**Definition of terms:**

a. Contamination – the act or process of contaminating something or becoming contaminated, or the unclean or impure state that results from this.

b. Cordon – a line of Police Officers or soldiers, or their vehicles surrounding an area to control access to it.

c. Crime Scene – a venue or place where the alleged crime/incident/event has been committed.

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

e. Evidence – the means sanctioned by the Rules of Court, of ascertaining in a judicial preceding 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.

f. First Responder – 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.

g. Venue – venue 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.

h. Suspect or suspects – individual(s) who is/are pointed to be by victim(s) and witness(‘s) 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.

i. Investigator-On-Case – the person responsible for and in charge of the investigation of a case.

j. SOCO – Scene of the Crime Operatives, specialist of the Crime Laboratory group where request is addressed if the evidence encountered needs special processing due to significant or sensational cases.

k. Dying Declaration: 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;

ii. At the time of the declaration, the declarant must be conscious of impending death;

iii. The declarant must be competent as a witness; and,

The declaration must be offered in a criminal case for homicide, murder, or parricide in which the declarant was the victim.

**Duties of First Responder and Investigator-on-case (IOC)**

1. What to do when crime is reported:

• Record date, time and place of crime reported

• Name of Complainant/reporter and the victim

• Other details to complete 5 W’s & 1 H

• Record the weather condition

• Verify the veracity of the report

• Inform the superior officer or the duty officer

1. What to do upon arrival at the crime scene:

• Secure/cordon the crime scene with police line

• Evacuate injured persons to the nearest hospital

• Prepare to take the dying declaration of the severely injured victim/s

• Prevent entry/exit of any persons on the cordoned area

• Look for witnesses and immediately conduct initial interview

• Take note of important facts for future reference

• Prepare to brief the investigator/s of the incident upon their arrival

1. What to do if the suspect/s still at the crime scene:

• The team leader will affect the arrest of the suspect/s if he is still at the crime scene

• Inform superior office or duty officer and request for reinforcement

• Negotiate for the suspect/s to surrender

• Upon arrest the suspect/s will be secured and separated from other witnesses

1. What to do if the suspect/s had already fled:

• Inform superior or duty officer

• Obtain description of any getaway vehicle (take note of the type, brand, model, color, etc.)

• Flash alarm for the possible route of escape and the identity of the suspect/s

• Conduct hot pursuit operations

**3. Procedure in the proper turn-over of crime scene to the Investigators and SOCO:**

• The team leader upon arrival at the crime scene will received briefing from the first responder regarding the incident

• The team Leader shall immediately establish a command post ideally located adjacent to the crime scene where the evidence custodian stays and receives pieces of evidence turned over to him

• Initiation of preliminary survey, documentation of the crime scene (photographs or use of video camera, crime scene sketches) and conduct of final survey.

• Detailed search should be done in the proper collection of physical evidences. Other evidence collector shall put their initial, location and date of collection of the item and turn it over to the evidence custodian for documentation and safekeeping

• In cases where the evidence encountered needs special processing due to significant or sensational cases, the Scene of the Crime Operation (SOCO) specialists of the Crime Laboratory Group shall be requested

• The team leader will release the crime scene if he is satisfied that all the pieces of evidence have been recovered

**4. Temporary Release/Turn-Over of Crime Scene to the Chief of Police:**

• In case where a CRIME SCENE needs further continuing processing, the crime scene shall be temporarily turned-over to the COP with jurisdiction sealed and secured until its re-entry and final turn-over to the Investigator-on-case.

**5. Final Release/Turn-Over of Crime Scene to the Investigator-on Case:**

• Ensure that appropriate inventory has been provided

• Release is accomplished only after completion of the final survey and proper documentation

• Released the Crime Scene in writing with the notion that there is only one chance to perform job correctly and completely.

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**UNIFORM RULES OF PROCEDURE BEFORE THE ADMINISTRATIVE**

**DISCIPLINARY AUTHORITIES AND THE INTERNAL AFFAIRS SERVICE (IAS)**

**OF THE PHILIPPINE NATIONAL POLICE**

**(NAPOLCOM Memo Circular No 2007-001).**

* **Scope of Application** – These rules shall apply to all administrative cases filed against uniformed member of the PNP before the different administrative disciplinary authorities and the internal affairs service (IAS). (Sec 2).
* **Nature of Proceedings – The investigation and hearing shall be Summary in nature and shall not strictly adhere to the technical rules of procedure and evidence applicable in judicial proceedings. The provisions of Civil Service Law, Rules and Regulation as well as the Revised Rules of Court shall be suppletorily applicable.**
* **Answer** – A pleading in which a respondent or other adverse party sets forth the negative and affirmative defenses upon which he relies.
* **Breach of Internal Discipline** – any offense committed by a member of the PNP involving minor offense affecting the order and discipline within the police organization.
* **Complaint** – a formal charge initiated by a natural or judicial person or his/its duly authorized representative or guardian on account of an injury damage or disturbance sustained as a result of an irregular or illegal act or omission of a PNP member.
* e) **Decision** – the written disposition of the disciplinary authority or appellate body stating clearly the facts and the law upon which it is based.
* f) **Disciplinary authorities** – the City or Municipal Mayors, Chiefs of police or equivalent supervisor, provincial directors or equivalent superiors, RDs or their equivalent supervisors, PLEB, C, PNP, NAPOLCOM en banc.
* g) **Equivalent supervisors** – PNP officers occupying position/designations equivalent to that of the COP, PD and RD who are vested with disciplinary authority over personnel of their respective offices, charged with minor offenses involving breach of internal discipline.
* **Forum Shopping** – the filing of several complaints arising from one and the same cause of action involving the same parties asking for the same relief with different administrative disciplinary authorities, the IAS and the office of the ombudsman.
* **Jurisdiction** – the authority vested by law to hear and decide a case.
* **Minor offense** – any act or omission not involving moral turpitude, but affecting the internal discipline of the PNP, and shall include but not limited to simple misconduct, negligence, insubordination, frequent absences and tardiness, habitual drunkenness and gambling prohibited by law.
* **Moral Turpitude** – includes everything which is done contrary to justice, honesty, modesty, or good moral.
* **Newly discovered evidence** – that evidence which could not have been discovered and produced during the hearing of the case despite due diligence, and if presented, could probably alter the decision.
* **Pending case** – refers to a case when the respondent had been formally charged before any of the disciplinary authorities or IAS or an appeal is pending with any of the appellate bodies
* **Recidivist** – a person who has been previously penalized for a grave offense and is again charged of another or the same grave offense
* **Reglementary period** – the period required by law or these rules to perform a specific act. In the computation of a period of time, the first day shall be excluded and the last day shall be included unless it falls on a Saturday, Sunday or a legal holiday, in which case the last day shall fall on the next working day.
* **Repeatedly charged** – when a police officer was formally charged administratively for at least three (3) time and was found culpable in anyone of them and a penalty not lower than sixty (60) days suspension.
* **Serious charge** – refer to a complaint involving an offense where the maximum imposable penalty is dismissal from the service.
* **Substantial evidence** – such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.
* **Summary Hearing Officer** – an officer designated by the disciplinary authority or IAS to conduct the formal hearing, and to submit a report of investigation
* **Summary proceeding** – an expeditious administrative proceeding conducted consistent with due process to determine the culpability or innocence of the respondent
* **Effect of Forum Shopping (Rule 2, Section 4)**
* - Shall be a ground for the dismissal of the case *motu proprio* or upon motion of the respondent
* **INTERNAL AFFAIRS SERVICE (IAS) – Rule 6: Powers and Functions:**

a) pro-actively conduct inspection and audits on PNP personnel and units:

b) Investigate complaints and gather evidence in support of an open investigation;

c) Conduct Summary Hearings on PNP member facing Admin charges;

d) Submit periodic report on the assessment, analysis, and evaluation of the character and behavior of PNP personnel and units to the C, PNP and the commission;

e) File appropriate criminal cases against PNP members before the court as evidence warrants and assist in the prosecution of the case; and

f) Provide assistance to the office of the Ombudsman in case involving the personnel of the PNP.

* **REGIONAL APPELLATE BOARD (RAB)-(Rule 7):**

**What are appealable**?

a) Decision of the PLEB where the penalty imposed is demotion or dismissal from the service;

b) Decisions of the PNP Regional Director or ES, where the penalty is demotion or dismissal; and

c) Decision of City or Municipal Mayors in cases falling within their respective jurisdictions;

* **NATIONAL APPELLATE BOARD (NAB)- (Rule 8):**

**What are appealable?**

* Decision of the C, PNP (demotion or Dismissal);
* Disciplinary recommendations of the IG, IAS that were not acted by the C, PNP within 30 days;
* **Decision of the IG, IAS affirming the Resolution of the RIAS dismissing the complaint for lack of probable cause.**
* **Peoples Law Enforcement Board (PLEB) - (Rule 11):**

**Functions, Powers and Duties**

- Hear and decide citizen complaints within its jurisdiction filed against any member of the Municipal Police Stations or City Police Station/Office.

* **VENUE (Rule 12)**
* Complaint against PNP member shall be filed before the DA or IAS having territorial jurisdiction where the offense was committed, except citizen complaints falling under Rule 3, Section 1 (d).
* For cases/offenses falling within the jurisdiction of the NAPOLCOM committed within Metro Manila, complaint could be filed before the NAPOLCOM Central Office through its Inspection, Monitoring and Investigation Section (IMIS) or its National Capital Region Office. In other cases, the same shall be filed with the Regional Office having territorial jurisdiction where the offense was committed.
* The preliminary evaluation, the designation of the SHO and the conduct of summary hearing shall be undertaken by the Regional office, and thereafter submit report of investigation to the commission en banc.
* **Transfer of Venue (Section 2, Rule 12)**
* -The NAPOLCOM en banc, the C, PNP or the IG, IAS may upon motion of either party, order a change of venue for administrative cases pending before their respective offices on the following grounds:

a) When any of the parties is exerting efforts to harass, intimidate, coerce or unduly influence the other party, his witnesses or immediate members of the family to withdraw the complaint or retract their statements;

b) When there is an imminent and direct threat to the life and limb of any of the parties so as to frustrate the successful investigation of the administrative case;

c) When any of the parties is harmed the cause of which or the motive is closely related to the pending case; and

d) To better serve the ends of justice.

* **COMMENCEMENT OF COMPLAINT (Rule 13)**

-By filing a written and sworn statement before any disciplinary authority or the IAS, accompanied by affidavits of witnesses if any, and other pieces of evidence in support thereof.

-Complaint shall be accompanied by certificate of non-forum shopping. If not accompanied by certificate of non-forum shopping, the complainant shall be required to submit the same within five (5) days from notice. Otherwise, the complaint shall be dismissed.

-However, if the complaint is verbally, made with the C, PNP, IAS or NAPOLCOM, the concerned agency shall assist the complainant in preparing his complaint-affidavit and other documents in support thereof.

-Letter-complaint which is neither under oath nor based on official reports, the evaluator shall require the complainant and witnesses to affirm their signatures and to execute affidavits to substantiate the complaint. Such complaint shall likewise be accompanied by a certificate of non-forum shopping.

-Anonymous complaint may be the basis of a formal complaint provided that the material allegations contained therein may be validated.

* **FILING AND ASSIGNMENT OF CASES FOR FORMAL HEARING (Rule 15)**

**When deemed filed**? (Section1, Rule 15)

* **Upon receipt and entry of the same in the official docket of the DA or IAS. The office tasked to maintain the docket of Admin cases shall inform the DIDM of the pending case, as well as the PNP unit where the respondent is assigned.**
* **Assignment of Hearing Officers (Section 2, Rule 15)**
* Except in cases filed before the PLEB, the DA or the IAS shall within five (5) days from receipt and docketing of the complaint, assign and transmit the same to a hearing officer.

**Motion for Reconsideration (Sec 23, Rule 17)**

* + -The party adversely affected may file MR within ten (10) days from receipt of decision on the following grounds:
  + a) Newly discovered evidence which, if presented, would materially affect the decision rendered; or
  + b) Errors of Law or irregularities have been committed prejudicial to the substantial rights and interest of the movant.
  + -The filing of the MR shall stay the execution. Only **one (1) MR** shall be allowed to be resolved by the DA within fifteen (15) days from receipt.

**Memorandum on Appeal (MA)** shall be submitted in three (3) legible copies NLT fifteen (15) days from the filing of notice of Appeal, copy furnished the other party. However, MA may be submitted together with NA.

**Dismissal of the Appeal (Sec 3, Rule 20)**

Failure of the appellant to comply with the requirements in Sections 1 and 2 above shall be sufficient ground for the dismissal of the appeal.

**Transmittal of Records: (Sec 4, Rule 20)**

Within 15 days from receipt of NA, the DA shall forward the complete original records of the case to the Appellate body.

The transmittal of the records shall be ministerial duty and failure to forward constitutes “**SERIOUS NEGLECT OF DUTY**.”

**Period to Act on Appeal (Sec 6, Rule 20)**

**RAB** and **NAB** – **within 60 days** from receipt of complete records of the case.

Failure of RAB to decide within 60 days shall render the decision of the DA final without prejudice to the filing of an Appeal by the aggrieved party to the SILG.

**Withdrawal of Appeal (Sec 7, Rule 20):**

At any time before the Appellate body renders its decision finally resolving the appeal, the appellant, as a matter of right, can withdraw the same; which shall consequently, render the appealed decision final and

**Offenses punishable: (Sec 1, Rule 21)**

* Neglect of duty;
* Irregularities in the performance of Duty or Misfeasance;
* Misconduct or Malfeasance;
* Incompetence;
* Oppression;
* Dishonesty;
* Disloyalty to the government

**Classification of Offenses: (Sec 2, Rule 21)**

1. **Light Offenses:**
   1. Simple Neglect of Duty;
   2. Simple Irregularity in the performance of duty;
   3. Slight or Simple misconduct;
2. **Less Grave Offenses:**
   1. Less grave neglect of duty;
   2. Less grave Irregularities in the performance of duties;
   3. Less grave misconduct;
3. **Grave Offenses:**

1. Serious Neglect of Duty;

2. Serious Irregularities in the performance of Duties;

3. Grave Misconduct;

4. Oppression;

5. Gross Incompetence;

6. Disloyalty to the government;

7. Dishonesty

**MODULE 2 (book one)**

**TRAINING OBJECTIVES:**

At the end of this lesson, the students will be able to:

1. **Know the effectivity of the Revised Penal Code (RPC), its scope of application and the two books that mainly consists of the same;**
2. **-** Effectivity and scope of application

The Revised Penal Code consists of two books, namely: (1) Book One, and (2) Book Two. Book One consists of two parts: (a) basic principles affecting criminal liability (Arts. 1-20), and (b) the provisions on penalties including criminal and civil liability (Arts. 21-113). Further, the said RPC took effect on January 1, 1932.

The provisions of the RPC shall be enforced not only within the Philippine archipelago, but also outside of its jurisdiction in certain cases (Art. 2, RPC).

The five paragraphs of Art. 2 treat of the application of the RPC to acts committed in the air, at sea, and even in a foreign country when such acts affect the political or economic life of the nation.

1. **Know the five exceptions on the Doctrine of Territoriality adopted in our criminal law;**

**-** *Exception:* 5 instances enumerated in Art. 2, RPC.

Art. 2. *Application of its provisions*. — Except as provided in the treaties and laws of preferential application, the provisions of this Code shall be enforced not only within the Philippine Archipelago, including its atmosphere, its interior waters and maritime zone, but also outside of its jurisdiction, against those who:

1. Should commit an offense while on a Philippine ship or airship

2. Should forge or counterfeit any coin or currency note of the Philippine Islands or obligations and securities issued by the Government of the Philippine Islands;

3. Should be liable for acts connected with the introduction into these islands of the obligations and securities mentioned in the presiding number;

4. While being public officers or employees, should commit an offense in the exercise of their functions; or

5. Should commit any of the crimes against national security and the law of nations, defined in Title One of Book Two of this Code.

1. **Define Crime and Criminal Law;**
2. **-** Criminal law, defined

Criminal Law is that branch or division of law which defines, treats of their nature, and provides for their punishment.

1. Crime defined

Crime is an act committed or omitted in violation of a public law forbidding or commanding it.

1. **Know the three characteristics of our criminal law;**
2. **-** General

Criminal law is binding on all persons who live or sojourn in the Philippine territory. No foreigner enjoys in this country extra-territorial right to be exempted from its laws and jurisdiction, with the exception of heads of states and diplomatic representatives who, by virtue of the customary law of nations, are not subject to the territorial jurisdiction (*People vs. Galacgac*).

1. Territorial

Criminal laws undertake to punish crimes committed within Philippine territory. The principle of territoriality means that as a rule, penal laws of the Philippines are enforceable only within its territory.

1. Prospective

A penal law cannot make an act punishable in a manner in which it was not punishable when committed. Crimes are punished under the laws in force at the time of their commission (Art. 366, RPC).

*Exception:* Whenever a statute dealing with crime establishes conditions more lenient or favorable to the accused, it can be given a retroactive effect.

1. **Define Felony and know its elements;**
2. **-** Felonies defined

Felonies are acts or omissions punishable by the Revised Penal Code.

1. Elements of felonies
2. There must be an act or omission;
3. The act or omission must be punishable by the Revised Penal Code; and
4. The act is performed or the omission incurred by means of *dol*o or *culpa*. (*People vs. Gonzales, 183 SCRA 309*).
5. **Know the legal meaning of the word “act”, “omission” and “punishable by law” found in the definition of felony;**
6. **-**Meaning of the word “omission”

By omission is meant inaction, the failure to perform a positive duty which one is bound to do. There must be a law requiring the doing or performance of an act.

1. Meaning of the word “act”

By act must be understood any bodily movement tending to produce some effect in the external world xxx (see *People vs. Gonzales*, *supra*). But the act must be one which is defined by the Revised Penal Code as constituting a felony; or at least, an overt act of the felony, that is, an external act which has direct connection with the felony intended to be committed (see Art. 6, RPC).

1. Meaning of the phrase “Punishable by law”

The phrase “punished by law” should be understood to mean “punished by the Revised Penal Code” and not by a special law. The term “felony” means acts and omissions punished in the Revised Penal Code, to distinguished it from the words “crime” or “offense” which are applied to infractions of the law punished by special statutes.

1. **Know the classification of felonies (a) according to manner or mode of execution, (b) according to stage of execution, and(c) according to gravity;**
2. **-** Classification of felonies

1) According to manner or mode of execution (Art.3)

a) Intentional felonies

1. Culpable felonies

2) According to stage of execution (Art. 6)

a) Consummated

b) Frustrated

1. Attempted

3) According to gravity (Art. 9)

a) Grave felonies

b) Less Grave felonies

c) Light felonies

1. **Distinguish Intentional and Culpable felonies;**

***-*** In intentional felonies, the act or omission of the offender is malicious. The offender, in performing the act or in incurring the omission, has the intention to cause an injury to another.

On the other hand, in culpable felonies, the act or omission by the offender is not malicious. The injury caused by the offender is unintentional (*People vs. Sara, 55 Phil. 939*). As stated in Art. 3, the wrongful act results from imprudence, negligence, lack of foresight or lack of skill.

1. **Define Grave, Less Grave, and Light felonies;**

**-** Grave felonies are those to which the law attaches the capital punishment or penalties which in any of their periods are afflictive in accordance with Art. 125 of the Revised Penal Code.

Example: Rape, Parricide

Less grave felonies those which the law punishes with penalties which in their maximum period are correctional.

Example: Attempted Homicide, Illegal Discharge of Firearm

Light felonies are those infractions of law for the commission of which the penalty of *arresto menor* or fine not exceeding Php 200, or both, is provided.

Example: Slight Physical Injuries, alarm and Scandal under Art. 155.

1. **Define Consummated,Frustrated and Attempted felonies;**

1.) Consummated felony is when all the elements necessary for its execution and accomplishment is present.

2)Frustrated felony is when the offender performs all the acts of execution which would produce the felony as a consequence but which nevertheless do not produce it by reason of cause independent of the will of the perpetrator.

3) Attempted felony is when the offender commences the commission of a felony directly by overt acts, and does not perform all the acts of execution which should produce the felony by reason of some cause or accident other than his own spontaneous desistance.

1. **Know the requisites ofjustifying circumstances of Self-defense, Defense of relatives, Defense of strangers, Avoidance of greater evil or injury, Fulfillment of duty or lawful exercise of right or office, and Obedience to an order issued for some lawful purpose;**
   * + - 1. **-**Self-defense (Par. 1, Art. 11)

* Requisites

1. Unlawful aggression as an indispensable requisite, explained;

Unlawful aggression is a statutory and doctrinal requirement that for the justifying circumstance of self-defense to be effective, an unlawful aggression on the part of the victim must be present*.* There can be no self-defense, complete or incomplete, unless the victim has committed an unlawful aggression against the person defending himself (*People vs. Sazon*).

For the right of defense to exist, it is necessary that we be assaulted or that we be attacked, or at least that we be threatened with an attack in an immediate and imminent manner, as, for example, brandishing a knife with which to stab us or pointing a gun to discharge against us.

If there is no unlawful aggression, there is nothing to prevent or repel it. Thus, the second requisite of self-defense will have no basis.

1. **Know the two (2) kinds of Aggression;**

* **-** Two kinds of Aggression, explained

There are two kinds of aggression, namely: (1) Lawful, and (2) Unlawful. Significantly, however, the first requisite of defense says that the aggression must be unlawful.

Corollarily, the fulfillment of a duty or the exercise of a right in a more or less violent manner is an aggression, but it is lawful.

Unlawful aggression is equivalent to assault or at least threatened assault of an immediate and imminent kind (*People vs. Alconga, 78 Phil. 366*). There is unlawful aggression when the peril to one’s life, limb or right is either actual or imminent. There must be actual physical force or actual use of weapon (*People vs. Crisostomo, 108 SCRA 288*).

1. **Know the “Battered Woman Syndrome” as a defense;**

* Battered Woman Syndrome as a defense

Under R.A. 9262 otherwise known as Anti-Violence Against Women and their Children Act of 2004, it is providing that – “Sec. 26. Battered Women Syndrome as a Defense. – Victim-survivors who are found by the courts to be suffering from battered women syndrome do not incur civil and criminal liability notwithstanding the absence of any of the elements for justifying circumstances of self-defense under the Revised Penal Code.

In the determination of the state of mind of the woman who was suffering from battered woman syndrome at the time of the commission of the crime, the court shall be assisted by expert psychiatrists or psychologists.”

1. **Know the list of relatives that can be defended;**
   * + - 1. **-** Relatives that can be defended

i. Spouse

ii. Ascendants

iii. Descendants

iv. Legitimate, natural or adopted brothers and sisters, or relatives by affinity in the same degrees

v. Relatives by consanguinity within the fourth civil degree

* + - * 1. Relatives by affinity because of marriage

i. Parents-in-law

ii. Son or daughter-in-law

iii. Brother and sister-in-law

* + - * 1. Requisites of defense of relatives

i. Unlawful aggression;

ii. Reasonable necessity of the means employed to prevent or repel it;

iii. In case the provocation was given by the person attacked, the one making a defense had no part therein (*People vs. Eduarte, G.R. No. 72976, July 9, 1990*).

*Note:* the first two requisites are the same as those of self-defense.

* Defense of stranger (Par. 3)

Requisites

i. Unlawful aggression;

ii Reasonable necessity of the means employed to prevent or repel it;

iii. The person defending not induced by revenge, resentment, or other evil motive.

*Note:* the first two requisites are the same as those of self-defense.

1. **Know the list of persons deemed strangers;**

**-**Persons deemed strangers

Any person not included in the enumeration of relatives mentioned in par. 2 of Art. 11 is considered stranger for the purpose of par. 3. Hence, even a close friend or a distant relative is a stranger within the meaning of par. 3.

* Avoidance of greater evil or injury (Par. 4)
* Fulfillment of duty or lawful exercise of right or office (Par. 5)
* Obedience to an order issued for some lawful purpose (Par. 6)
* Cases when the order is not for a lawful purpose

1. **Define Exempting Circumstances;**

**-** Exempting circumstances are those grounds for exemption from punishment because there is wanting in the agent of the crime any of the conditions which make the act voluntary or negligent. In exempting circumstances, the crime is committed but no criminal liability arises.

1. **Distinguish Justifying Circumstances from Exempting Circumstances;**

|  |  |
| --- | --- |
| **Justifying Circumstance** | **Exempting Circumstance** |
| It affects the act not the actor. | It affects the actor not the act. |
| The act is considered to have been done within the bounds of law; hence legitimate and lawful in the eyes of the law. | The act complained of is actually wrongful, but the actor is not liable. |
| Since the act is considered lawful, there is no crime. | Since the act complained of is actually wrong, there is a crime the actor acted without voluntariness, there is no *dolo* or *culpa.* |
| Since there is no crime or criminal, there is no criminal liability nor civil liability. | Since there is a crime committed though there is no criminal, there is civil liability. |

1. **Know the legal meaning of “imbecility” and “insanity” as exempting circumstances;**

An insane person is not so exempt if it can be shown that he acted during a lucid interval. On the other hand, an imbecile person is exempt in all cases from criminal liability (Art 12, Par. 1).

1. **Know the two tests of insanity;**
2. Test of cognition – complete deprivation of intelligence in committing the crime.
3. Test of volition – total deprivation of freedom of will in committing the crime.
4. **Know the legal meaning of “discernment” in relation to minority as an exempting circumstance;**

**-** Discernment means the mental capacity of a minor which fully appreciate the consequences of his unlawful act. Discernment may be shown by a) the manner the crime was committed, or b) the conduct of the offender after its commission.

If the child acts with discernment, he is NOT exempt from criminal liability. It is presumed that a minor under 15 years of age acts without discernment. It is incumbent upon the prosecution to prove that such minor, over 9 and under 15 years of age, acted with discernment.

1. **Enumerate the four periods of criminal responsibility;**

* **-** Four periods of criminal responsibility

|  |  |
| --- | --- |
| Absolute irresponsibility | 9 years and below |
| Conditional responsibility (when he acted with discernment) | Between 9 and 15 |
| Full responsibility | 18 or over 70 |
| Mitigated responsibility | - Over 9 and under 15  -15 or over or less than 18 over 70 |

1. **Define “accident” in relation to exempting circumstances;**

**-** An accident is something that happens outside the sway of our will, and although it comes about through some act of our will, lies beyond the bounds of humanly foreseeable consequences (Albert).

An accident presupposes lack of intention to commit the wrong done. It contemplates a situation where a person is in the act of doing something legal, exercising due care, diligence and prudence but in the process, produces harm or injury to someone or something not in the least in the mind of the actor – an accidental result flowing out of a legal act (*People vs. Gatela, 17 SCRA 1047*).

1. **Enumerate the elements of “accident” being an exempting circumstance;**

* **-** A person who, while performing a lawful act with due care, causes injury by mere accident without fault or intention of causing it (Par. 4, RPC)

Elements:

i. A person is performing a lawful act

ii. with due care

iii. he causes injury to another by mere accident

iv. without fault or intention of causing it

1. **Know the elements of the exempting circumstances of “A person who acts under the compulsion of an irresistible force”;**

* **-** A person who acts under the compulsion of an irresistible force (Par. 5).

Elements:

i. That the compulsion is by means of physical force;

ii. That the physical force must be irresistible; and

iii. That the physical force must come from a third person.

1. **Explain “irresistible force”;**

**-** The irresistible force can never consist in an impulse or passion or obfuscation. It must consist of an extraneous force coming from a third person. The force must be irresistible to reduce the actor to a mere instrument who acts not only without will but against his will. The duress, force, fear or intimidation must be present, imminent and impending and of such nature as to induce a well-grounded apprehension of death or serious bodily harm if the act is not done. A threat of future injury is not enough. The compulsion must be of such a character as to leave no opportunity to the accused for escape or self-defense in equal combat (*People vs. Loreno, 130 SCRA 311*).

1. **Know the elements and requisites of the exempting circumstances of “A person who acts under the impulse of uncontrollable fear of an equal or greater injury”;**
2. **-** Elements

i. That the threat which causes the fear is of an evil greater than or at least equal to that which he is required to commit; and

ii. That it promises an evil of such gravity and imminence that the ordinary man would have succumbed to it.

1. Requisites

i. Existence of an uncontrollable fear;

ii. The fear must be real and imminent; and

iii. The fear of an injury is greater than or at least equal to that committed (*People vs. Petenia, 143 SCRA 361*).

1. **Distinguish “irresistible force” from “uncontrollable fear”;**

|  |  |
| --- | --- |
| **Irresistible Force** | **Uncontrollable Fear** |
| Offender uses violence or physical force to compel another person to commit a crime. | Offender employs intimidation or threat in compelling another to commit a crime. |

1. **Know the elements and requisites of the exempting circumstance of “A person who fails to perform an act required by law, when prevented by some lawful or insuperable cause’’**

**-** A person who fails to perform an act required by law, when prevented by some lawful or insuperable cause (Par. 7)

1. Elements

i. That an act is required by law to be done;

ii. That a person fails to perform such act; and

iii. That his failure to perform such act was due to some lawful or insuperable cause.

1. Absolutory causes, defined

Absolutory causes are those where the act committed is a crime but for reasons of public policy and sentiment there is no penalty imposed.

1. **Distinguish instigation and entrapment;**

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| --- | --- |
| **ENTRAPMENT** | **INSTIGATION** |
| The criminal design originates from and  is already in the mind of the lawbreaker even before the entrapment | The idea and design to bring about the  commission of the crime originated  and developed in the mind of the law  enforcers |
| The law enforcers resort to ways and  means for the purpose of capturing the  lawbreaker in *flagrante delicto* | The law enforcers induce, lure or incite  a person who is not minded to commit a crime and would not otherwise commit it, into committing the crime |
| This circumstance is no bar to prosecution and conviction of the lawbreaker | This circumstance absolves the accused from criminal liability (*People vs. Marcos 185 SCRA 154*) |

1. **Define and enumerate the classes of mitigating circumstances;**

**-** Mitigating circumstances are those which, if present in the commission of the crime, do not entirely free the actor from criminal liability, but serve only to reduce the penalty. Further, the same are based on the diminution of either freedom of action, intelligence, or intent, or on the lesser perversity of the offender.

* Classes of mitigating circumstances

1. Ordinary mitigating

- those enumerated in subsections 1 to 10 of Article 13, RPC, except that of minority. Those mentioned in subsection 1 of Art. 13 are ordinary mitigating circumstances, if Art. 69, for instance, is not applicable.

1. Privileged mitigating

* see Arts. 68, 69 and 64 of the RPC.

1. Ordinary mitigating and privileged mitigating circumstance, distinguished
2. **Distinguish ordinary mitigating and privileged mitigating circumstance;**

|  |  |  |
| --- | --- | --- |
|  | **Ordinary Mitigating**  **Circumstance** | **Privileged Mitigating**  **Circumstance** |
| As to the nature of the consequence | It can be offset by an  aggravating circumstance | It can never be offset by any aggravating circumstance. |
| As to the effect | If not offset, it will operate to reduce the penalty to the min. period, provided the penalty is a divisible one. | It operates to reduce the penalty by one or two degrees depending upon what the law provides. |

1. **Legal effects of various ages of offender;**

* **-** Legal effects of various ages of offender

|  |  |
| --- | --- |
| **Under 9 years of age** | **Exempting circumstance** |
| Over 9 and under 15 years of age, acting  without discernment | Exempting circumstance |
| Minor delinquent under 18 years of age | Sentence may be suspended |
| Under 18 years of age | Privileged mitigating circumstance |
| 18 years or over | Full criminal responsibility. |
| 70 years or over | Mitigating circumstance, no imposition of death penalty, exclusion of death sentence if already imposed is suspended and commuted |

1. **Know the requisites of Provocation and Vindication of grave offense;**

**-** Provocation is understood as any unjust or improper conduct or act of the offended party, capable of exciting, inciting, or irritating any one.

* Requisites

i. That the provocation must be sufficient

ii. That it must originate from the offended party

iii. That the provocation must be immediate to the act, i.e., to the commission of the crime by the person who is provoked.

1. Vindication of grave offense (Par. 5)

* Requisites
  + 1. That there be a grave offense done to the one committing the felony, his spouse, ascendants, descendants, legitimate, natural or adopted brothers or sisters, or relatives by affinity within the same degrees and;
    2. That the felony is committed in vindication of such grave offense. A lapse of time is allowed between the vindication and the doing of the grave offense.

1. **Distinguish “provocation” from “vindication”;**

* **-** Provocation and Vindication distinguished

|  |  |  |
| --- | --- | --- |
|  | **Provocation** | **Vindication** |
| As to whom it is made | Provocation is made directly to the person committing the felony. | The grave offense may also be committed against the offender’s relatives mentioned bylaw. |
| As to its nature | The provocation need not be a grave offense. | The offended party must have done a grave offense to the offenders or his relatives. |
| As to the lapse of time | It is necessary that the provocation or threat immediately preceded the  act, i.e., that there be no interval of time between the provocation and the commission of the crime | The vindication of the grave offense may be proximate, which admits of an interval of time between the grave offense done by the offended party and the commission of the crime by the accused. |

1. **Know the requisites of “passion or obfuscation”;**
2. **-** Passion or obfuscation (Par. 6)

* Requisites

i. The accused acted upon an impulse; and

ii. The impulse must be so powerful that it naturally produced passion or obfuscation in him.

1. **Distinguish Passion or Obfuscation from Provocation;**

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| --- | --- |
| **Passion & Obfuscation** | **Provocation** |
| Passion and obfuscation is produced by an impulse which may be caused by provocation. | Provocation comes from the injured party |
| The offense which engenders perturbation of mind need not be immediate. It is only required that the influence there of lasts until the moment the crime is committed. | Provocation must immediately precede  the crime |
| The effect is loss of reason and self-control on the part of the offender. | The effect is loss of reason and self-control on the part of the offender. |

1. **Distinguish Passion or Obfuscation from Irresistible Force;**

|  |  |
| --- | --- |
| **Passion & Obfuscation** | **Irresistible Force** |
| Mitigating circumstance | Exempting circumstance |
| Cannot give rise to irresistible force | Requires physical force |
| Passion and obfuscation is within the offender himself | Irresistible force comes from a third person |
| Arise from lawful sentiments | Arise from unlawful sentiments |

1. **Know the requisites of “voluntary surrender “as a mitigating circumstance;**

* **-** Requisites of voluntary surrender

i. That the offender has not been actually arrested;

ii. That the offender surrendered himself to a person in authority or to the latter’s agent and

iii. That the surrender was voluntary.

1. **Define and enumerate the four (4) kinds of Aggravating Circumstances;**
2. Generic – those that can generally apply to all crimes.
3. Specific – those that apply only to a particular crime.
4. Qualifying – those that change the nature of the crime.
5. Inherent – those that must of necessity accompany the commission of the crime.
6. **Distinguish Generic from Qualifying Aggravating Circumstances;**

|  |  |
| --- | --- |
| **Generic Aggravating Circumstance** | **Qualifying Aggravating Circumstance** |
| Its effect, if not offset by any mitigating  circumstance, is to increase the penalty  which should be imposed upon the  accused to the maximum period, but without exceeding the limit prescribed by law. | It gives the crime its proper and exclusive name but also to place the author thereof in such a situation as to deserve no other penalty than that specially prescribed by law for said crime. |
| It can be compensated by a mitigating  circumstance | It cannot be offset by a mitigating  circumstance |

1. **Distinguish Reiteration from Recidivism;**

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| --- | --- |
| **Reiteration** | **Recidivism** |
| Offender shall have served out his sentence for the first offense. | It is enough that final judgment has been rendered in the first offense. |
| The previous and subsequent offense must not be embraced in the same title of the Code. | The offenses are required to be included in the same title of the Code. |
| Not always an aggravating circumstance. | Always taken into consideration in fixing the penalty to be imposed upon the accused. |

1. **Define Alternative Circumstances;**

**-** Alternative circumstances are those which must be taken into consideration as aggravating or mitigating according to the nature and effects of the crime and the other conditions attending its commission.

1. **Enumerate and explain the three (3) classes of Alternative Circumstances;**

**-**The alternative circumstance of relationship shall be taken into consideration when the offended party in the spouse, ascendant, descendant, legitimate, natural, or adopted brother or sister, or relative by affinity in the same degrees of the offender.

The intoxication of the offender shall be taken into consideration as a mitigating circumstances when the offender has committed a felony in a state of intoxication, if the same is not habitual or subsequent to the plan to commit said felony but when the intoxication is habitual or intentional, it shall be considered as an aggravating circumstance.

* 1. Instances when degree of instruction and education mitigating or aggravating
  2. Intoxication
* Intoxication is mitigating if not habitual, or not subsequent to the plan to commit a felony.

1. **Enumerate persons who would be criminally liable for grave and less grave felonies;**
   1. Principals
   2. Accomplices
   3. Accessories.
2. **Enumerate persons who would be criminally liable for light felonies;**

a. Principals

b. Accomplices.

1. **Know the three (3) kinds of principals and define each of them;**

a. Those who take a direct part in the execution of the act;

b. Those who directly force or induce others to commit it;

c. Those who cooperate in the commission of the offense by another act without which it would not have been accomplished.

1. **Know the requisites to consider one as a principal by direct participation;**

**-** Principal by direct participation is one who personally takes part in the execution of the act constituting the crime.

* + Requisites to consider one as a principal by direct participation

i. That they participated in the criminal resolution; and

ii. That they carried out their plan and personally took part in its execution by acts which directly tended to the same end.

1. **Know the two ways of becoming a principal by induction;**
   * **-** What are the two ways of becoming a principal by induction?

i. by directly forcing another to commit a crime, or

ii. by directly inducing another to commit a crime.

1. **Know the two ways of directly forcing another to commit a crime;**
   * 1. **-** By using irresistible force
     2. By causing uncontrollable fear
2. **Know the two ways of directly inducing another to commit a crime;**

**-** i. By giving price, or offering reward or promise

ii. By using words of command

1. **Know the requisites in order that a person may be convicted as a principal by inducement;**

**-** i. That the inducement be made directly with the intention of procuring the commission of the crime; and

ii. That such inducement is the determining cause of the commission of the crime by the material executor.

1. **Know what constitutes inducement;**

**-** To constitute inducement, there must exist on the part of the inducer the most positive resolution and the most persistent effort to secure the commission of the crime, together with the presentation to the person induced the very strongest kind of temptation to commit the crime (*US v Indanan, 24 Phil 203*).

1. **Distinguish Principal by inducement and the offender who made a proposal to commit a felony;**

|  |  |
| --- | --- |
| **Inducement** | **Proposal** |
| Existence of inducement to commit the crime | Existence of inducement to commit the crime |
| Becomes liable only if the crime is committed by the principal by direct participation | Becomes liable only if the crime is treason or rebellion; crime must not actually be committed |
| Involves any crime | Mere proposal is punishable only if it  pertains to treason or rebellion |

1. **Know the requisites in order that a person may be held liable as principal by indispensable cooperation;**

**-** i. Participation in the criminal resolution, that is, there is either anterior conspiracy or unity of criminal purpose an intention immediately before the commission of the crime charged;

1. Cooperation in the commission of the offense by performing another act, without which it would not have been accomplished.
2. **Know the requisites in order to hold a person liable as an Accomplice;**
   * + - 1. **-** That there be community of design; that is, knowing the criminal design of the principal by direct participation, he concurs with the latter in his purpose;
         2. That he cooperates in the execution of the offense by previous or simultaneous acts, with the intention of supplying material or moral aid in the execution of the crime in an efficacious way; and
         3. That there is a relation between the acts done by the principal and those attributed to the person charged as accomplice.
3. **Distinguish Conspirator from Accomplice;**

|  |  |
| --- | --- |
| **Conspirator** | **Accomplice** |
| They know and agree with the criminal design | They know and agree with the criminal design |
| Has knowledge of the criminal intention as they have decided upon the course of action | Has knowledge only of the intention after the principals have reached the decision and only then do they agree to cooperate in the execution |
| Decides the crime to be committed; authors of the crime | Merely concurs in what crime is to be  committed; merely assent to the plan and cooperates in its accomplishment |

1. **Know the specific acts of Accessories and its two (2) classes;**
2. **-** Specific acts of Accessories
3. By profiting themselves or assisting the offender to profit by the effects of the crime.
4. By concealing or destroying the body of the crime to prevent its discovery.
5. By harboring, concealing or assisting in the escape of the principal of the crime.
6. Two classes of Accessories contemplated under Par. 3 of Art 19
7. Public officers who acts with abuse of his public functions

* Requisites:
* Accessory is a public officer;
* He harbors, conceal or assists in the escape of the principal;
* He acts with abuse of his public functions; and
* Crime committed is any crime but not light felony.

1. Private person

* Requisites:
* Accessory is a private person;
* He harbors, conceals, assists in the escape of the offender; and
* Offender is convicted of either:
* Treason;
* Murder;
* Parricide;
* attempt to take the life of the President; or
* Known to be habitually guilty of some other crime.

1. **Explain what is Complex Crime;**

**-**In complex crimes, although two or more crimes are actually committed, they constitute only one crime in the eyes of the law as well as in the conscience of the offender. The offender has one criminal intent, hence, there is only one penalty imposed for the commission of a complex crime

1. **Know the two kinds of complex crimes and their requisites;**
2. **-** Two kinds of complex crimes

a) When a single act constitutes two or more grave or less grave felonies, otherwise known as COMPOUND CRIME.

* Requisites:
* that only a single act is performed by the offender;
* that the single act produces:
* two or more grave felonies, or
* one or more grave and one or more less grave felonies, or
* two or more less grave felonies.

b) When an offense is a necessary means for committing the other, otherwise known as the COMPLEX CRIME.

* Requisites:
* That at least two offenses are committed;
* That one or some of the offenses must be necessary to commit the other;
* That both or all of the offenses must be punished under the same statute.

1. **Distinguish Ordinary Complex Crime from Special Complex Crime;**

|  |  |  |
| --- | --- | --- |
|  | **ORDINARY COMPLEX**  **CRIME** | **SPECIAL COMPLEX**  **CRIME** |
| As to  concept | Made up of 2 or more crimes being punished in distinct provisions of the RPC but alleged in one Information either because they were brought about by single felonious act or because one offense in a necessary means for committing the other offense or offenses. They are alleged in one Information so that only one penalty shall be imposed | Made up of 2 or more crimes which are considered only as components of a single indivisible offense being punished in one provision in the RPC |
| As to  penalties | The penalty for the most serious crime shall be imposed and in its maximum period | Only one penalty is specifically prescribed for all the component crimes which are regarded as one indivisible offense. The component crimes are not regarded as distinct crimes and so the penalty for the most serious crime is not the penalty to be imposed nor in its maximum period. It is the penalty specifically provided for the special complex crime that shall be applied according to the rules on imposition of penalty. |

1. **Define Continuing Crime;**

**-** A continuing (continued or continuous) crime is a single crime consisting of series of facts but all arising from one criminal resolution.

A continuing offense is a continuous, unlawful act or a series of acts set on foot by a single impulse and operated by an un-intermittent force, however long a time it may occupy.

Although there is a series of acts, there is only one crime committed. Hence only one penalty shall be imposed.

1. **Know some examples of Continuing Crimes;**

**-** a) A thief who takes from the yard of a house two game roosters belonging to two different persons commits only one crime because there is a *unity of thought* in the criminal purpose of the offender. There is no series of acts here for the accomplishment of different purpose, but only one (purpose) which is consummated, and which determines the existence of only one crime (People vs. De Leon, 49 Phil. 437).

In getting hold of the two roosters, it is not done by a single act of taking, but by two separate acts. There is, however, a unity of thought and action in taking the two roosters.

1. **Differentiate continuing crime from transitory crime;**

A continuing, continued or continuous crime is different from a transitory crime in criminal procedure to determine venue. An example of transitory crime, also called a “moving crime”, is kidnapping a person for the purpose of ransom, by forcibly taking the victim from Manila to Bulacan where ransom was demanded. The offenders could be prosecuted and tried either in Manila or Bulacan.

When a transitory crime is committed, the criminal action may be instituted in the court of the municipality, city or province wherein any of the essential ingredients thereof took place. The singleness of the crime, committed by executing two or more acts, is not considered.

1. **Know the definitions, elements or requisites of commonly committed crimes against fundamental laws of the state.**

Art. 124. *Arbitrary detention.* — Any public officer or employee who, without legal grounds, detains a person, shall suffer;

Art. 125. *Delay in the delivery of detained persons to the proper judicial authorities*.

Art. 126. *Delaying release.* — The penalties provided for in Article 124 shall be imposed upon any public officer or employee who delays for the period of time specified therein the performance of any judicial or executive order for the release of a prisoner or detention prisoner, or unduly delays the service of the notice of such order to said prisoner or the proceedings upon any petition for the liberation of such person.

Art. 127. *Expulsion.* — The penalty of prison correctional shall be imposed upon any public officer or employee who, not being thereunto authorized by law, shall expel any person from the Philippine Islands or shall compel such person to change his residence.

Art. 128. *Violation of domicile.* — The penalty of prison correctional in its minimum period shall be imposed upon any public officer or employee who, not being authorized by judicial order, shall enter any dwelling against the will of the owner thereof, search papers or other effects found therein without the previous consent of such owner, or having surreptitiously entered said dwelling, and being required to leave the premises, shall refuse to do so.

If the offense be committed in the night-time, or if any papers or effects not constituting evidence of a crime be not returned immediately after the search made by the offender, the penalty shall be prison correctional in its medium and maximum periods.

Art. 129. *Search warrants maliciously obtained and abuse in the service of those legally obtained.* — In addition to the liability attaching to the offender for the commission of any other offense, the penalty of arrest mayor in its maximum period to prison correctional in its minimum period and a fine not exceeding P1,000 pesos shall be imposed upon any public officer or employee who shall procure a search warrant without just cause, or, having legally procured the same, shall exceed his authority or use unnecessary severity in executing the same.

Art. 130. *Searching domicile without witnesses*. — The penalty of arresto mayor in its medium and maximum periods shall be imposed upon a public officer or employee who, in cases where a search is proper, shall search the domicile, papers or other belongings of any person, in the absence of the latter, any member of his family, or in their default, without the presence of two witnesses residing in the same locality.

1. **Know the Classes of Arbitrary Detention;**
   * 1. **-** Arbitrary detention by detaining a person without legal ground (Art. 124, RPC);
     2. Delay in the delivery of detained persons to the proper judicial authorities. (Art. 125, RPC); and
     3. Delaying release. (Art. 126, RPC)
2. **Acts punishable in connection with search warrants;**
3. **-** Acts punishable in connection with search warrants

by procuring a search warrant without just cause; and

by exceeding his authority or by using unnecessary severity in executing a search warrant legally procured.

1. Elements

that the offender is a public officer or employee;

that he procures a search warrant; and

that there is no just cause.

1. Searching domicile without witness
2. **Distinguish Arbitrary Detention and Illegal detention;**

**-** In arbitrary detention, the principal offender must be a public officer. Civilians cannot commit the crime of arbitrary detention except when they conspire with a public officer committing this crime, or become an accomplice or accessory to the crime committed by the public officer; and the offender who is a public officer has a duty which carries with it the authority to detain a person.

While in illegal detention, the principal offender is a private person. But a public officer can commit the crime of illegal detention when he is acting in a private capacity or beyond the scope of his official duty, or when he becomes an accomplice or accessory to the crime committed by a private person. The offender, even if he is a public officer, does not include as his function the power to arrest and detain a person, unless he conspires with a public officer committing arbitrary detention.

1. **Distinguish Arbitrary Detention and Unlawful Arrest;**

**-** As to offender: In arbitrary detention, the offender is a public officer possessed with authority to make arrests while in unlawful arrest; the offender may be any person.

As to criminal intent: In arbitrary detention, the main reason for detaining the offended party is to deny him of his liberty while in unlawful arrest, the purpose is to accuse the offended party of a crime he did not commit, to deliver the person to the proper authority, and to file the necessary charges in a way trying to incriminate him. When a person is unlawfully arrested, his subsequent detention is without legal grounds.

1. **Know the meaning of “failure to deliver the person arrested to the proper judicial authorities”**

**-** The delivery to the proper judicial authority of a person arrested without warrant by a peace officer, does not consist in a physical delivery, but in making an accusation or charge or filing of an information against the person arrested with the corresponding court or judge, whereby the latter acquires jurisdiction to issue an order of release or of commitment of the prisoner, because the arresting officer cannot transfer to the judge and the latter does not assume the physical custody of the person arrested. (Sayo vs. Chief of Police of Manila, 80 Phil. 859)

1. **Enumerate the Acts punishable under Art. 126;**

**-** by delaying the performance of a judicial or executive order for the release of a prisoner;

by unduly delaying the service of the notice of such order to said prisoner; and

by unduly delaying the proceedings upon any petition for the liberation of such person.

1. **Acts punishable under Art. 127;**

**-** Expelling a person from the Philippines; and

Compelling a person to change his residence.

1. **Know the manner by which Violation of Domicile is committed;**

**-** It is committed by any public officer or employee who, not being authorized by judicial order, shall enter any dwelling against the will of the owner thereof, search papers or other effects found therein without the previous consent of such owner, or, having surreptitiously entered said dwelling, and being required to leave the premises, shall refuse to do so.

1. **Know the definitions, elements or requisites of commonly committed crimes Crimes Against Public Order**

**-**Art. 148. *Direct assaults*. — Any person or persons who, without a public uprising, shall employ force or intimidation for the attainment of any of the purpose enumerated in defining the crimes of rebellion and sedition, or shall attack, employ force, or seriously intimidate or resist any person in authority or any of his agents, while engaged in the performance of official duties, or on occasion of such performance, shall suffer the penalty of prision correccional in its medium and maximum periods and a fine not exceeding P1,000 pesos, when the assault is committed with a weapon or when the offender is a public officer or employee, or when the offender lays hands upon a person in authority. If none of these circumstances be present, the penalty of prision correccional in its minimum period and a fine not exceeding P500 pesos shall be imposed.

Art. 149. *Indirect assaults*. — The penalty of prision correccional in its minimum and medium periods and a fine not exceeding P500 pesos shall be imposed upon any person who shall make use of force or intimidation upon any person coming to the aid of the authorities or their agents on occasion of the commission of any of the crimes defined in the next preceding article.

1. Elements
2. that a person in authority or his agent is the victim of any of the forms of direct assault defined in Art. 148;
3. that a person comes to the aid of such authority or his agent; and
4. that the offender makes use of force or intimidation upon such person coming to the aid of the authority or his agent.

* Offended party may be a private person, any person who comes to the aid of a person in authority or his agent.

1. A private person may be the offended party in indirect assault

It will be noted that Art. 149 states that the use of force or intimidation must be made “upon any person coming to the aid of the authorities or their agents.” A private person who comes to the rescue of an authority or his agent enjoys the privileges of the latter, and any person who uses force or intimidation upon such person under the circumstances is guilty of atentado (assault) under Art. 149.

*Resistance and disobedience to a person in authority or the agents of such person.* — The penalty of arresto mayor and a fine not exceeding 500 pesos shall be imposed upon any person who not being included in the provisions of the preceding articles shall resist or seriously disobey any person in authority, or the agents of such person, while engaged in the performance of official duties.

When the disobedience to an agent of a person in authority is not of a serious nature, the penalty of arresto menor or a fine ranging from 10 to P100 pesos shall be imposed upon the offender.

1. Elements of resistance and serious disobedience
   * 1. that a person in authority or his agent is engaged in the performance of official duty or gives a lawful order to the offender;
     2. that the offender resists or seriously disobeys such person in authority or his agent; and
     3. that the act of the offender is not included in the provisions of Arts. 148, 149 and 150.

Art. 155. *Alarms and scandals.* — The penalty of arresto menor or a fine not exceeding P200 pesos shall be imposed upon:

* + - 1. Any person who within any town or public place, shall discharge any firearm, rocket, firecracker, or other explosives calculated to cause alarm or danger;
      2. Any person who shall instigate or take an active part in any charivari or other disorderly meeting offensive to another or prejudicial to public tranquility;
      3. Any person who, while wandering about at night or while engaged in any other nocturnal amusements, shall disturb the public peace; or
      4. Any person who, while intoxicated or otherwise, shall cause any disturbance or scandal in public places, provided that the circumstances of the case shall not make the provisions of Article 153 applicable.

1. **Distinguish Direct Assault and Resistance or Serious Disobedience;**

**-**

|  |  |
| --- | --- |
| **Direct Assault** | **Resistance or Serious Disobedience** |
| The person in authority or his agent must be engaged in the performance of official OR That he is assaulted by reason thereof | The person in authority or his agent must be in actual performance of his duties |
| Direct Assault (2ndform) is committed in 4 ways | Committed only by resisting or seriously disobeying a person in authority or his agent |
| Force is employed | Force is employed but the use of such force and resistance is not so serious, as there is no manifest intention to defy the law & the officers enforcing it. |

1. **Enumerate the ways of committing the crime of direct assaults;**
   * 1. **-** Without public uprising, by employing force or intimidation for the attainment of any purposes enumerated in defining the crimes of sedition and rebellion; and
     2. 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 official duties, or on the occasion of such performance.
2. **Cases when Direct Assault is qualified;**
3. **-** when the assault is committed with a weapon;
4. when the offender is a public officer or employee; or
5. when the offender lays hands upon a person in authority.
6. **Acts punished as alarms and scandals;**
7. **-** discharging any firearm, rocket, firecracker, or other explosive within any town or public place, calculated to cause (which produces) alarm or danger;
8. instigating or taking an active part in any charivari or other disorderly meeting offensive to another or prejudicial to public tranquility;
9. disturbing the public peace while wandering about at night or while engaged in any other nocturnal amusements; and
10. causing any disturbance or scandal in public place while intoxicated or otherwise, provided Art. 153 is not applicable.
11. **Know the elements or requisites of the Falsification of Documents;**

Art. 171. *Falsification by public officer, employee or notary or ecclesiastic minister.* — The penalty of prision mayor and a fine not to exceed P5,000 pesos shall be imposed upon any public officer, employee, or notary who, taking advantage of his official position, shall falsify a document by committing any of the following acts:

* + - 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 in an act or 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;
      7. Issuing in an authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such a copy a statement contrary to, or different from, that of the genuine original; or
      8. Intercalating any instrument or note relative to the issuance thereof in a protocol, registry, or official book.
      9. The same penalty shall be imposed upon any ecclesiastical minister who shall commit any of the offenses enumerated in the preceding paragraphs of this article, with respect to any record or document of such character that its falsification may affect the civil status of persons.

1. Elements
   * 1. that the offender is a public officer, employee or notary public;
     2. that he takes advantage of his official position;
     3. that he falsifies a document by committing any of the following acts:

* counterfeiting or imitating any handwriting, signature or
* causing it to appear that persons have participated in any act or proceeding when they did not in fact so participate;
* attributing to persons who have participated in an act or proceeding statements other than those in fact made by them;
* making untruthful statements in a narration of facts;
* altering true dates;
* making any alteration or intercalation in a genuine document which changes its meaning;
* issuing in authenticated form a document purporting to be a copy of an original document when no such original exists, or including in such copy a statement contrary to, or different from, that of the genuine original; and
* intercalating any instrument or note relative to the issuance thereof in a protocol, registry or official book; and
  + 1. When offender took advantage of his official position in falsifying a document
    2. When he has the duty to make or prepare or otherwise to intervene in the preparation of the document; or
    3. When he has the official custody of the document which he falsifies (*People v. Santiago Uy, 53 OG 7236*).

1. **Ways of committing falsification under paragraph 1 and 2 of Art. 171;**

**-** counterfeiting by imitating any handwriting, signature or rubric; and

feigning by simulating a signature, handwriting or rubric out of one which does not in fact exist.

1. **Know the requisites of counterfeiting;**

**-** that there be an intent or an attempt to imitate; and

that the two signatures or handwritings, the genuine and the forged, bear some resemblance to each other (*US v. Rampas, 20 Phil.189*)

1. **Distinguish Falsification of public or official documents from Falsification of private documents;**

**-**

|  |  |
| --- | --- |
| **Falsification of Public/Official Documents** | **Falsification of Public/Official Documents Falsification of Private Documents** |
| The principal thing punished is the violation of public faith and the perversion of truth which the document solemnly proclaims, and for this reason, it is immaterial whether or not some prejudice has been caused to third persons | Prejudice to a third party is primarily taken into account so that if such damage is not apparent, or there is at least no intention to cause it, the falsification is not punishable |

1. **Know the definitions, elements or requisites of commonly committed Crimes Against Persons.**

**-**Art. 246. *Parricide*. — Any person who shall kill his father, mother, or child, whether legitimate or illegitimate, or any of his ascendants, or descendants, or his spouse, shall be guilty of parricide and shall be punished by the penalty of reclusion perpetua to death.

1. Elements
   * 1. That a person is killed;
     2. That the deceased is killed by the accused; and
     3. That the deceased is the father, mother or child (not less than 3 days old), whether legitimate or illegitimate, or a legitimate other ascendant or legitimate other descendant, or the legitimate spouse, of the accused.

Art. 247. *Death or physical injuries inflicted under exceptional circumstances*. — Any legally married person who having surprised his spouse in the act of committing sexual intercourse with another person, shall kill any of them or both of them in the act or immediately thereafter, or shall inflict upon them any serious physical injury, shall suffer the penalty of destierro.

If he shall inflict upon them physical injuries of any other kind, he shall be exempt from punishment.

These rules shall be applicable, under the same circumstances, to parents with respect to their daughters under eighteen years of age, and their seducer, while the daughters are living with their parents.

Any person who shall promote or facilitate the prostitution of his wife or daughter, or shall otherwise have consented to the infidelity of the other spouse shall not be entitled to the benefits of this article.

1. Requisites
2. That a legally married person or parent surprises his spouse or his daughter, the latter under 18 years of age and living with him, in the act of committing sexual intercourse with another person.
3. That he/she kills any or both of them or inflicts upon any or both of them any serious physical injury in the act or immediately thereafter (the discovery, the escape, the pursuit, and the killing must all form part of one continuous act).
4. That he has not promoted or facilitated to the prostitution of his wife or daughter, or that he and she has not consented to the infidelity of the other spouse.

Art. 248. *Murder*. — Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion temporal in its maximum period to death, if committed with any of the following attendant circumstances:

Murder is the unlawful killing of any person which is not parricide or infanticide, provided that any of the ff. circumstances is present:

Art. 249. *Homicide*. — Any person who, not falling within the provisions of Article 246, shall kill another without the attendance of any of the circumstances enumerated in the next preceding article, shall be deemed guilty of homicide and be punished by reclusion temporal

Homicide is the unlawful killing of any person, which is neither parricide, murder nor infanticide.

1. Infanticide defined

Infanticide is the killing of any child (must be born alive and fully developed, that is, it can sustain an independent life) less than 3 days of age, whether the killer is the parent or grandparent, or any other relative of the child, or a stranger

Art. 256. *Intentional abortion.* — Any person who shall intentionally cause an abortion shall suffer:

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 the death of the fetus.

Art. 262. *Mutilation*. — The penalty of reclusion temporal to reclusion perpetua shall be imposed upon any person who shall intentionally mutilate another by depriving him, either totally or partially, or some essential organ of reproduction.

Art. 263. *Serious physical injuries.* — Any person who shall wound, beat, or assault another, shall be guilty of the crime of serious physical injuries and shall suffer:

*Less serious physical injuries*. — Any person who shall inflict upon another physical injury not described in the preceding articles, but which shall incapacitate the offended party for labor for ten days or more, or shall require medical assistance for the same period, shall be guilty of less serious physical injuries and shall suffer the penalty of arresto mayor.

1. **Ways of Committing Abortion**
2. **-** By using violence upon the person of the pregnant woman.
3. By acting, but without using violence, without the consent of the woman (by administering drugs/beverages upon a pregnant without her consent).
4. By acting, with the consent of the pregnant woman (by administering drugs/beverages).
5. **The liability of the woman who consented to the abortion caused on her**

* **-** The liability of the woman who consented to the abortion caused on her

The woman is liable, not under Art. 256, but under Art. 258 (Abortion practiced by the woman herself or by her parents) if she consented to the abortion caused on her. If she did not consent to the abortion caused on her, she is not liable.

1. **Kinds of Mutilation;**
2. **-** Intentionally mutilating another by depriving him, either totally or partially of some essential organ for reproduction.
3. Intentionally making other mutilations, that is, by lopping or clipping off any part of the body of the offended party, other than the essential organ for reproduction, to deprive him of that part of his body.
4. **Ways of committing the crime of Serious Physical Injuries;**
5. **-** By wounding;
6. By beating;
7. By assaulting; and
8. iv. By administering injurious substance (Art. 264)
9. **Kinds of Slight Physical Injuries;** 
   * 1. **-** Physical injuries which incapacitated the offended party from one to nine days, or required medical attendance during the same period.
     2. Physical injuries which did not prevent the offended party from engaging in his habitual work or which did not require medical attendance
     3. Ill-treatment of another by deed without causing any injury

* When there is no evidence of actual injury, it is only slight physical injury.

1. **How rape is committed.**
2. **-** By a man who have carnal knowledge of a woman under any of the ff. circumstances:

* Through force, threat or intimidation
* When the offended party is deprived of reason or otherwise unconscious
* By means of fraudulent machinations or grave abuse of authority
* When the offended party is under 12 years of age or is demented, even though none of the circumstances mentioned above be present

1. By any person who, under any of the circumstances mentioned in par. 2 hereof, shall commit an act of sexual assault by inserting his penis into another person’s mouth, or anal orifice or any instrument or object, in to the genital or anal orifice of another person

**94. Know the definitions, requisites and elements of common Crimes Against Personal Liberty and Security.**

Art. 267. *Kidnapping and serious illegal detention.* — Any private individual who shall kidnap or detain another, or in any other manner deprive him of his liberty, shall suffer the penalty of reclusion perpetua to death:

* Elements

(1) that the offender is a private individual;

* if the offender is a public officer, the crime is arbitrary detention.

(2) that he kidnaps or detains another, or in any manner deprives the latter of his liberty;

(3) that the act of detention or kidnapping must be illegal; and

(4) that in the commission of the offense, any of the ff. circumstances is present

* that the kidnapping or detention lasts for more than 3 days.
* that it is committed simulating public authority.
* that any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made
* that the person kidnapped or detained is a minor, female or a public officer

Art. 268. *Slight illegal detention.* — The penalty of reclusion temporal shall be imposed upon any private individual who shall commit the crimes described in the next preceding article without the attendance of any of circumstances enumerated therein.

* Elements

(1) that the offender is a private individual;

* if the offender is a public officer, the crime is arbitrary detention.

that he kidnaps or detains another, or in any manner deprives the latter of his Liberty;

that the act of detention or kidnapping must be illegal; and

that in the commission of the offense, any of the ff. circumstances is present:

* that the kidnapping or detention lasts for more than 3 days.
* that it is committed simulating public authority.
* that any serious physical injuries are inflicted upon the person kidnapped or detained or threats to kill him are made.
* that the person kidnapped or detained is a minor, female or a public officer.

Art. 269. *Unlawful arrest.* — The penalty of arresto mayor and a fine not exceeding 500 pesos shall be imposed upon any person who, in any case other than those authorized by law, or without reasonable ground therefor, shall arrest or detain another for the purpose of delivering him to the proper authorities.

* Elements

1. that the offender arrests or detains another person.
2. That the purpose of the offender is to deliver him to the proper authorities.
3. That the arrest or detention is not authorized by law or there is no reasonable ground therefore.

**95. Define Ransom;**

Ransom is money, price, or consideration paid or demanded for redemption of a captured person or persons, a payment that releases from captivity.

1. **Distinguish unlawful arrest from Art. 125 and 126;**

**-** In the crime of delay in the delivery of detained person to the proper judicial authority (Art. 126), the detention is for some legal ground; in unlawful arrest, the detention is not authorized by law.

Under Art. 125, the crime is committed by failing to deliver such person to the proper judicial authority within a certain period of time; in unlawful arrest, it is committed by making an arrest not authorized by law.

1. **The elements & requisites of commonly committed Crimes Against Security;**

Art. 280. *Qualified trespass to dwelling*. — Any private person who shall enter the dwelling of another against the latter's will shall be punished by arresto mayor and a fine not exceeding 1,000 pesos.

* Elements

1. the offender is a private person;
2. that he enters the dwelling of another; and
3. that such entrance is against the latter’s will.

* If the offender is a public officer, the entrance into the dwelling against the will of the occupant is violation of domicile (Art. 128, RPC).
* Qualified if committed by means of violence/intimidation (which may take place immediately after the entrance).

Art. 282. *Grave threats.* — Any person who shall threaten another with the infliction upon the person, honor or property of the latter or of his family of any wrong amounting to a crime, shall suffer:

Art. 283. *Light threats.* — Any threat to commit a wrong not constituting a crime, made in the manner expressed in subdivision 1 of the next preceding article, shall be punished by arresto mayor.

* Elements

1. that the offender makes threat to commit a wrong;
2. that the wrong does not constitute a crime;
3. that there is a demand for money or that other condition is imposed even though not unlawful; and
4. that the offender has attained his purpose or, that he has not attained his purpose.

Art. 286. *Grave coercions.* — The penalty of arresto mayor and a fine not exceeding 500 pesos shall be imposed upon any person who, without authority of law, shall, by means of violence, prevent another from doing something not prohibited by law, or compel him to do something against his will, whether it be right or wrong.

If the coercion be committed for the purpose of compelling another to perform any religious act or to prevent him from so doing, the penalty next higher in degree shall be imposed.

* Elements
  + 1. that a person prevented another from doing something not prohibited by law, or that he compelled him to do something against his will, be it right or wrong; and
    2. that the prevention or compulsion be effected by violence, threats or Intimidation.

Art. 287. *Light coercions*. — Any person who, by means of violence, shall seize anything belonging to his debtor for the purpose of applying the same to the payment of the debt, shall suffer the penalty of arresto mayor in its minimum period and a fine equivalent to the value of the thing, but in no case less than 75 pesos.

Any other coercions or unjust vexations shall be punished by arresto menor or a fine ranging from 5 pesos to 200 pesos, or both.

* Elements
  + 1. That the offender must be a creditor;
    2. That he seizes anything belonging to his debtor;
    3. That the seizure of the thing be accomplished by means of violence or a display of material force producing intimidation; and
    4. That the purpose of the offender is to apply the same to the payment of the debt.

1. **Acts punishable as Grave Threats;**
2. **-** threatening another with the infliction upon his person, honor or property or that of his family any wrong amounting to a crime and demanding money or imposing any other condition, even though not unlawful, and the offender attaining his purpose.
3. by making such threat without the offender attaining his purpose.
4. threatening another with the infliction upon his person, honor, or property or that of his family any wrong amounting to a crime, the threat not being subject to a condition.
5. **The elements & requisites of commonly committed Crimes Against Property;**
6. **-**threatening another with the infliction upon his person, honor or property or that of his family any wrong amounting to a crime and demanding money or imposing any other condition, even though not unlawful, and the offender attaining his purpose.
7. by making such threat without the offender attaining his purpose.
8. threatening another with the infliction upon his person, honor, or property or that of his family any wrong amounting to a crime, the threat not being subject to a condition.

Art. 293. *Who are guilty of robbery?* — Any person who, with intent to gain, shall take any personal property belonging to another, by means of violence or intimidation of any person, or using force upon anything shall be guilty of robbery.

1. Robbery defined

Robbery is 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 (Art.293, RPC).

1. General elements of Robbery
   * 1. That there be personal property belonging to another;
     2. That there is unlawful taking of that property;
     3. That the taking must be with intent to gain; and
     4. That there is violence against or intimidation of any person.

Art. 294. *Robbery with violence against or intimidation of persons; Penalties.* — Any person guilty of robbery with the use of violence against or intimidation of any person shall suffer:

* Theft defined

Theft is the taking of personal property with intent to gain but without violence or intimidation of neither persons nor force upon things shall take the personal property of another without the latter’s consent commits theft (Art. 308).

* Elements

i. That there be taking of personal property;

ii. That said property belongs to another;

iii. That the taking be done with intent to gain;

iv. That the taking be done without the consent of the owner; and

v. That the taking be accomplished without the use of violence against or intimidation of persons or force upon things.

Art. 310. *Qualified theft.* — The crime of theft shall be punished by the penalties next higher by two degrees than those respectively specified in the next preceding article, if committed by a domestic servant, or with grave abuse of confidence, or if the property stolen is motor vehicle, mail matter or large cattle or consists of coconuts taken from the premises of the plantation or fish taken from a fishpond or fishery, or if property is taken on the occasion of fire, earthquake, typhoon, volcanic eruption, or any other calamity, vehicular accident or civil disturbance. (As amended by R.A. 120 and B.P. Blg. 71. May 1, 1980).

Art. 315. *Swindling (estafa)*. — Any person who shall defraud another by any of the means mentioned herein below shall be punished by:

General elements of Swindling/Estafa:

* 1. That the accused defrauded another by abuse of confidence or by means of deceit, which can be committed in three ways:
* With unfaithfulness or abuse of confidence
* By means of false pretenses or fraudulent acts
* Through fraudulent means

Art. 327. *Who are liable for malicious mischief*? — Any person who shall deliberately cause the property of another any damage not falling within the terms of the next preceding chapter shall be guilty of malicious mischief.

* Malicious mischief, defined

Malicious mischief is the willful damaging of another’s property for the sake of causing damage due to hate, revenge or other evil motive.

* Elements of malicious mischief
  + - 1. That the offender deliberately caused damage to the property of another;
      2. That such act does not constitute arson or other crimes involving destruction; and
      3. That the act of damaging another’s property be committed merely for the sake of damaging it.

1. **Persons guilty of Robbery**

Any person who, with intent to gain, shall take any personal property belonging to another, by means of violence or intimidation of any person, or using force upon anything shall be guilty of robbery (Art. 293, RPC).

1. **Know the classifications of Robbery;**
   * 1. **-** Robbery with violence against, or violence of persons (Art.294, 297,298, RPC)
     2. Robbery by use of force upon things (Art.299, 302, RPC)
2. **Define intent to gain;**

**-** Intent to gain or *animus lucrandi* is an internal act and is the usual motive to be presumed from all furtive taking of useful property pertaining to another, unless special circumstances reveal a different intent on the part of the perpetrator (People vs. del Rosario, G.R. No. 131036,20 June 2001).

1. **Distinguish Robbery with violence against or intimidation of persons and**

**Robbery with force upon things;**

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| --- | --- |
| **Violence Against or Intimidation of Person** | **Use of Force Upon things** |
| When such violence is used, the taking of personal property is always robbery. | The taking is robbery only if force is used either to enter the building or to break doors, wardrobes, chests, or any other kind of locked or sealed furniture or receptacle inside the building or to force them open outside after taking same from the building. |
| The value of the property is immaterial in determining the penalty to be imposed.  Penalty depends on:  a. result of violence used.  b. existence of intimidation only. | Penalty depends on:  a. value of the property taken.  b. whether or not the offenders carry arms. |

1. **Know the elements of Robbery with Homicide;**
   * 1. **-** The taking of personal property with the use of violence or intimidation against a person;
     2. Property belonging to another;
     3. The taking is characterized by *animus lucrandi;* and
     4. On the occasion of the robbery, or by reason thereof, the crime of homicide, which is used in the generic sense, has been committed.
2. **Know the elements of Robbery with Rape;**
   * 1. **-** The taking of personal property with the use of violence or intimidation against a person;
     2. property belonging to another;
     3. The taking is characterized by animus lucrandi;
3. **Distinguish Highway Robbery from Robbery Committed on a Highway;**

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|  |  |
| --- | --- |
| **Highway Robbery (PD No. 532)** | **Robbery Committed ona Highway** |
| The robbery is committed Indiscriminately against the persons who commute in such highways, regardless of the potentiality they offer | The robbery is committed only  Against predetermined victims |
| The offender is a brigand or one who roams in public highways and carries out his robbery in public highways as venue, whenever he opportunity to do so arises | It is ordinary Robbery under the RPC when the commission thereof in a public highway is not a brigand |
| There is frequency in the commission of the robbery in public highways and against persons traveling thereat | Ordinary Robbery in public highways is only occasional against a predetermined victim, without frequency in public highways |

1. **Persons liable for Theft;**

**-** Art. 308. *Who are liable for theft?* — Theft is committed by any person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another without the latter's consent.

1. **Distinguish Fence from an Accessory to Theft or Robbery;**

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| **Fence** | **Accessory to Theft or Robbery** |
| A fence is punished as a principal under  P.D. No. 1612 and the penalty is higher | An Accessory under the RPC is punished 2 degrees lower than the principal, unless he bought or profited from the proceeds of theft or robbery arising from robbery in Philippine Highways under P.D. No. 532 where he is punished as an accomplice, hence the penalty is one degree lower. |
| Fencing is *malum prohibitum* and therefore there is no need to prove criminal intent of the accused |  |

1. **The elements & requisites of commonly committed Crimes Against Chastity;**

Art. 333. *Who are guilty of adultery*? — Adultery is committed by any married woman who shall have 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.

Art. 334. *Concubinage.* — Any husband who shall keep a mistress in the conjugal dwelling, or shall have sexual intercourse, under scandalous circumstances, with a woman who is not his wife, or shall cohabit with her in any other place, shall be punished by prision correccional in its minimum and medium periods.

Art. 336. *Acts of lasciviousness.* — Any person who shall commit any act of lasciviousness upon other persons of either sex, under any of the circumstances mentioned in the preceding article, shall be punished by prision correccional.

* 1. Elements
     + 1. That the offender commits any act of lasciviousness or lewdness

1. That is done under any of the following circumstances;

* By using force or intimidation.
* When the offended party is deprived of reason or otherwise unconscious; or
* When the offended party is another person of either sex.

Art. 337. *Qualified seduction.* — The seduction of a virgin over twelve years and under eighteen years of age, committed by any person in public authority, priest, home-servant, domestic, guardian, teacher, or any person who, in any capacity, shall be entrusted with the education or custody of the woman seduced, shall be punished by prision correccional in its minimum and medium periods.

1. Elements
   * + 1. That the offended party is a virgin, which is presumed if she is unmarried and of good reputation;
       2. That she must be over 12 and under 18 years of age;
       3. That the offender has sexual intercourse with her; and
       4. That there is abuse of authority, confidence or relationship on the part of the offender

Art. 338. *Simple seduction.* — The seduction of a woman who is single or a widow of good reputation, over twelve but under eighteen years of age, committed by means of deceit, shall be punished by arresto mayor.

1. Elements
   * + 1. That the offended party is over and under 18 years of age;
       2. That she must be of good reputation, single, or widow;
       3. That the offender has sexual intercourse with her; and
       4. That it is committed by means of deceit.

Art. 342. *Forcible abduction.* — The abduction of any woman against her will and with lewd designs shall be punished by reclusion temporal.

The same penalty shall be imposed in every case, if the female abducted be under twelve years of age.

1. Elements
   * + 1. That the person abducted is any woman, regardless of her age, civil status, or reputation;
       2. That the abduction is against her will; and
       3. That the abduction is with lewd design.
2. Abduction defined

Abduction is the taking away of any woman from her house or the place where she may be for the purpose of carrying her to another place with intent to marry or to corrupt her.

Art. 343. *Consented abduction.* — The abduction of a virgin over twelve years and under eighteen years of age, carried out with her consent and with lewd designs, shall be punished by the penalty of prision correccional in its minimum and medium periods.

a) Elements

* + - * 1. That the offended party must be a virgin;
        2. That she must be over 12 and under 18 years of age;
        3. That the taking away of the offended party must be with her consent, after solicitation or cajolery from the offender; and
        4. That the taking away of the offended party must be with lewd designs.

1. **Know who the offenders of Adultery are;**

Art. 333. *Who are guilty of adultery*? — Adultery is committed by any married woman who shall have 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.

1. **Know the effect of death of an offended party in Adultery;**
2. **-** Effect of death of an offended party

The proceeding must continue. The theory that a man’s honor ceases to exist from the moment that he dies is not acceptable.

1. **Know the effect of death of the paramour;**
2. **-** Effect of death of the paramour

It will not bar prosecution against the unfaithful wife, because the requirement that both offenders should be included in the complaint is absolute only when the two

offenders are alive.

1. **Know who the offenders in the crime of Concubinage;**

The offender must be a married man. The woman becomes liable only when she knew him to be married prior to the commission of the crime.

1. **Define mistress in the crime of concubinage;**

**-** A mistress is a woman who is taken by the accused into the conjugal dwelling as a concubine.

1. **Define conjugal dwelling in the crime of concubonage;**

**-** Conjugal dwelling is the home of the husband and wife even if the wife happens to be temporarily absent on any account.

1. **Know the meaning of “sexual intercourse under scandalous circumstances”;**
2. **-** Sexual intercourse under scandalous circumstances, explained

The scandal produced by the concubinage of a married man occurs not only when he and his mistress live in the same room of a house, but also (1) when they appear together in public and (2) when they perform acts in sight of the community which give rise to criticism and general protest among the neighbors.

1. **Know the ways of committing Acts of Lasciviousness;**

**-** Ways of committing Acts of Lasciviousness

* + - 1. Compelling a girl to dance naked before men is an act of lasciviousness, even if the dominant motive is revenge, for her failure to pay a debt; and
      2. Embracing, kissing and holding girl’s breast is act of lasciviousness when prompted by lust or lewd designs.

1. **Distinguish Acts of Lasciviousness from Unjust Vexation;**

**-** Acts of Lasciviousness from Unjust Vexation, distinguished

When the accused merely kissed and embraced the complainant out of passion or other motive, touching the girl’s breast as a mere incident of the embrace, it is unjust vexation. But when the accused not only kissed and embraced the complainant, but fondled her breast with the particular design to independently derive vicarious pleasure there from, the element of lewd designs exist (People vs. Panopio, C.A., 48 O.G. 145).

1. **What makes the crime of Qualified Seduction and its two (2) classes;**
2. **-** What makes the crime of Qualified Seduction

The act would not be punished were it not for the character of the person committing the same, on account of the excess of power or abuse of confidence of which the offender availed himself (*US vs. Arlante, 9 Phil. 595*).

1. Two classes of Qualified Seduction
   * + - 1. iSeduction of a virgin over 12 years and under 18 years of age by certain person, such as, a person in authority, priest, teacher, etc.; and
         2. Seduction of a sister by her brother or descendants by her ascendants, regardless of her age and reputation.
2. **Offenders in Qualified Seduction;**
3. **-** Offenders in Qualified Seduction
   * + - 1. Those who abused their authority

* Person in public authority, Guardian, Teacher< person who in any capacity. Is entrusted with the education or custody of the woman seduced.
  + - * 1. Those who abused confidence reposed in them:
* Priest, House servant, Domestic.
  + - * 1. Those who abused their relationship:
* Brother who seduced his sister, ascendant who seduced his descendant.

1. **Distinguish Forcible Abduction from Corruption of Minors;**
2. **-** Forcible Abduction and Corruption of Minors, distinguished

Where a 13-years-old-girl was abducted by the accused without lewd designs on his part, but the purpose of lending her to illicit intercourse with others, the crime committed by the accused was held to be not abduction but corruption of minors (*US. v. Tagle, 1 Phil. 626*).

1. **Distinguish Forcible Abduction from Rape;**
2. **-** Forcible Abduction and Rape, distinguished

If there was abduction but the resistance of the woman to the alleged rape was not tenacious, the accused would be guilty only of abduction (*People v. Lopez*). Rape may absorb forcible abduction if the main objective was to rape the victim (*People v. Toledo*).

1. **Know the elements and requisites of commonly committed Crimes Against the Civil Status of Persons;**

Art. 349. *Bigamy.* — The penalty of prision mayor shall be imposed upon any person who shall contract 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.

1. Elements
   * + 1. That the offender has been legally married;
       2. That the marriage has not been legally dissolved or, in case his or her spouse is absent, the absent spouse could not yet be presumed dead according to the Civil Code;
       3. That he contracts a second or subsequent marriage; and
       4. That the second or subsequent marriage has all the essential requisites for validity.
2. **Define Bigamy;**

**-** Bigamy is a crime by which a person contracted a second 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 proper proceedings. THE FIRST MARRIAGE MUST BE VALID.

1. **Know the elements and requisites of commonly committed Crimes Against Honor;**

**-** Art. 353. *Definition of libel.* — A libel is public and malicious imputation of a crime, or of 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.

1. Elements
   * 1. That there must be an imputation of a crime, or of a vice or defect, real or imaginary, or any act, omission, condition status, or circumstance;
     2. That the imputation must be made publicly;
     3. That it must be malicious;
     4. That the imputation must be directed at a natural person or a juridical person, or one who is dead; and
     5. That the imputation must tend to cause the dishonor, discredit or contempt of the person defamed.
2. **Define Libel;**

**-** Libel is a public and malicious imputation of a crime, or 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 person or juridical person, or to blacken the memory of one who is dead.

1. **Define Publication;**

**-** Publication is the communication of the defamatory matter to some third person or Persons (*People v. Atencio, Dec. 14, 1954*). There is no crime if the defamatory imputation is not published

1. **Know the two kinds of slander;**
2. **-** Two kinds of slander
   * + 1. simple slander; and
       2. grave slander, when it is of a serious and insulting crime.
3. **Distinguish prescription of crime from prescription of penalty;**

**-** Prescription of the crime is the forfeiture or loss of the right of the State to prosecute the offender after the lapse of a certain time. Prescription of penalty is the loss or forfeiture of the right of the government to execute the final sentence after the lapse of a certain time.

1. **Know the conditions necessary in prescription of penalty;**
   * + - 1. **-** Conditions necessary in prescription of penalty
2. That there be final judgment; and
3. That the period of the time prescribed by law for its enforcement has elapsed.
   * + - 1. Prescription of crimes punishable by fines
4. **Know the prescription of crimes punishable by fines;**

**-** Crimes punishable by fines shall prescribe in 15 years, if the fine is afflictive; or in 10 years, if it is correctional; or in two months, if the fine is light. The subsidiary penalty for nonpayment of the fine should not be considered in determining the period of prescription of the crimes.

1. **Know the start of the running of prescription for violations penalized by special laws & ordinances;**
   * + - 1. **-** Start of the running of prescription for violations penalized by special laws and ordinances.

Prescription shall begin to run from the day of the commission of the violation of the law, and if the same be not known at the time, from the discovery thereof and the institution of judicial proceedings for its investigation and punishment (Sec. 2, Act No. 3326).

1. **Know the interruption or suspension of the prescription of crime;** 
   * + - 1. **-** Interruption or suspension of the prescription of crime:
     1. When a complaint is filed in a proper barangay for conciliation or mediation as required by chapter 7, LGC, but the suspension of such period is good only for 60 days;
     2. When criminal case is filed in the Fiscal’s Prosecutor’s Office, the prescription of the crime is suspended until the accused is convicted or proceeding is terminated for a cause not attributable to the accused;
     3. But where the crime is subject to Summary Procedure, the prescription of the crime will be suspended only when the information is already filed with the trial court. It is not the filing of the complaint but the filing of the information in the trial which will suspend the prescription of the crime.
2. **Know the commencement of the running of the period of prescription of crime; and**
   * + - 1. **-** Commencement of the running of the period of prescription of crime

The period of prescription of crime commences to run from the commission of the offense or its discovery (discovery of the crime), if the commission of the same was unknown. The prescriptive period of the crime or penalty, however, does not run when the offender is out of the Philippines.

1. **Know the effect of filing amended complaint or information upon period of prescription.**
   * + - 1. **-** Effect of filing amended complaint or information upon period of prescription

If the amendment is made after the prescriptive period, distinction must be made between the original complaint and the different act complained of. If it is merely a correction of a defect, the date of the original complaint or information should be considered (*LTB vs. Ramos, G.R. No. 41399, Aug. 9, 1934*).