

NON-INSTITUTIONAL CORRECTION

PENOLOGY defined:

- The study of punishment for crime or of criminal offenders. It includes the study of control and prevention of crime through punishment of criminal offenders.
- The term is derived from the Latin word "POENA" which means pain or suffering.
- Penology is otherwise known as Penal Science. It is actually a division of criminology that deals with prison management and the treatment of offenders, and concerned itself with the philosophy and practice of society in its effort to repress criminal activities.
- Penology has stood in the past and, for the most part, still stands for the policy of inflicting punishment on the offender as a consequence of his wrongdoing.

Penal Management:

- Refers to the manner or practice of managing or controlling places of confinement as in jails or prisons.

CORRECTION defined:

- A branch of the Criminal Justice System concerned with the custody, supervision and rehabilitation of criminal offenders.
- It is that field of criminal justice administration which utilizes the body of knowledge and practices of the government and the society in general involving the processes of handling individuals who have been convicted of offenses for purposes of crime prevention and control.
- It is the study of jail/prison management and administration as well as the rehabilitation and reformation of criminals.
- It is a generic term that includes all government agencies, facilities, programs, procedures, personnel, and techniques concerned with the investigation, intake, custody, confinement, supervision, or treatment of alleged offenders.

Correction as a Process:

- Refers to the reorientation of the criminal offender to prevent him or her from repeating his deviant or delinquent actions without the necessity of taking punitive actions but rather the introduction of individual measures of reformation.

Correctional Administration:

- The study and practice of a systematic management of jails or prisons and other institutions concerned with the custody, treatment, and rehabilitation of criminal offenders.

Probation - A term coined by John Augustus, from the Latin verb "probare" – which means to prove or to test.

Probation is a procedure under which the court releases a defendant found guilty of a crime without imprisonment subject to the condition imposed by the court and subject to the supervision of the probation service.

Matthew Davenport Hill – Father of probation in England

John Augustus, the "Father of Probation in USA"

Act 4221 - on 7 August 1935 – first probation law

PD 968 – Probation Law of the Philippines – July 24 1976

January 3, 1978 – probation law become operational

PAROLE AND PROBATION ADMINISTRATION OMNIBUS RULESON PROBATION METHODS AND PROCEDURES

Section 4. Definition of Terms.

- As used in these Rules, unless the context provides otherwise, the following terms shall be construed, thus:
 - (a) "Probation" a disposition under which a defendant, after conviction and sentence, is released subject to conditions imposed by the Trial Court and to the supervision of a Probation Officer;
 - (b) "Petitioner" - a convicted defendant who files an application for probation;
 - (c) "Probationer" - a person who is placed under probation

(d) "Probation Officer" - public officer like the Chief Probation and Parole Officer(CPPO), Supervising Probation and Parole Officer (SPPO),Senior Probation and Parole Officer (SrPPO), Parole and

Probation Officer II (PPOII), or Parole and Probation Officer I (PPOI), who investigates for the Trial Court a referral for probation or supervises a probationer or does both functions and performs other necessary and related duties and functions as directed;

(e) "Trial Court" - refers to the Regional Trial Court (RTC) of the Province or city Municipal Court which has jurisdiction of the case.

(f) "Probation Office" - refers either to the Provincial or City Probation Office directed to conduct investigation or supervision referrals as the case may be;

(g) "Probation Order" - order of the trial court granting probation. The appearance of the above-mentioned Parole and Probation Administration (PPA) officials, upon written invitation or order of the Trial Court, may be on issues on probation services only not on legal questions, the latter issue being within the province of the courts to decide or resolve.

Section 5. Amicus Curiae

- Upon written invitation by the Trial Court, the Administrator and/or Deputy Administrator, for the Agency Level, Regional Director, for the Regional Level, Chief Probation and Parole Officers for the City or Provincial Level may appear as amicus curiae on any probation investigation and supervision issue, concern or matter.

II. APPLICATION FOR PROBATION

Section 6. Filing.

Application for probation shall be filed with the Trial Court which has jurisdiction over the case.

Section 7. Time for Filing

The applicant shall file his application with the Trial Court at any time after conviction and sentence but within the period for perfecting his appeal as provided by the Rules of Court.

Section 11. Referral to Proper Probation Office.

If the Trial Court finds that the application is in due form and the applicant appears to be qualified for the grant of probation, it shall order the City or Provincial Parole and Probation Office within its jurisdiction to conduct a Post-Sentence Investigation (PSI) on the applicant and submit the Post-Sentence Investigation Report (PSIR) within sixty (60) days from receipt of the order of said court to conduct such investigation with findings and recommendation as stated in PD 968, as amended.

Section 12. Docket Book

All court orders for PSI, copies of which were received by the Probation Office, shall be numbered consecutively in the order received by said Office and recorded in its Docket Book for the purpose, indicating therein, among others, the date of receipt thereof, court, its branch and address, applicant's name, criminal case number, description/designation of the offense, penalty imposed, and other related data and information. Corollary to this, the Trial Court may direct the applicant to report to the proper Probation Office within seventy-two (72) hours from his receipt of such order.

Section 13 Effects of Filing and Receipt.

Suspension of the execution of sentence

Section 16. Scope and Extent.

After accomplishing the Post-Sentence Investigation Work Sheet and the Waiver-Cum-Authorization, the same shall be immediately submitted to the Probation Office. The investigating Probation Officer on case or CPPO shall conduct a thorough investigation on the antecedents, mental and physical condition, character, socio-economic status, and criminal records, if any, of the applicant and the institutional and community resources available for his rehabilitation. In case applicant has a criminal record(s), such should be verified with the proper government agency/ies as to its disposition/resolution which has/have to be properly reflected in the PSIR. For the sake of obtaining additional information or clarify conflicting data, the investigating Probation Officers on case may conduct further investigation and interview to avoid discrepancies of facts/information. The investigating Probation Officer on case or CPPO shall assess and recommend or prescribe the suitable probation treatment and supervision program upon the applicant, if granted probation.

Section 17. Collateral Information.

During the conduct of the PSI, collateral information must be gathered from those persons who have direct personal knowledge of the applicant, offended party, family member, and/or their relatives, including barangay officials and disinterested persons.

Section 18. Subsequent or Further Interviews.

To obtain additional data, countercheck, or clarify discrepancy/ies between the information received from the applicant and those secured from other sources, the Investigating Probation Officer on case or CPPO may conduct subsequent or further interviews on the applicant and/or other persons as deemed appropriate.

Section 19. Nature of Interview.

The data and information gathered from the interview of the applicant and/or other persons and from other collateral informants, as well as law enforcement agencies, shall be strictly privileged and confidential in

nature. During such interview and information-gathering processes, the applicant does not necessarily need to be represented and assisted by counsel.

Section 20. Confidentiality of Post-Sentence Investigation Information

The investigating Probation and Parole Officer on case or CPPO shall inform the applicant of the confidential nature of the information taken during the PSI and the limited scope and extent, whereby said information, may be disclosed only to some statutorily designated authorities and entities pursuant to Section 17 of PD 968, as amended, and Section 64 of these Rules.

Section. 21. Absconding Applicant.

If the applicant whose application for probation has been given due course by the proper court has failed to present himself/herself to the proper office within seventy two (72) from his/her receipt of the probation order or reasonable time there from.

Section 25. Nature of Recommendation.

The entire PSIR submitted to the Trial Court is recommendatory in nature and the final recommendation contained on the last page of the PSIR is persuasive in character addressed to the sound discretion of the Trial Court considering that the denial or grant of probation is a judicial function.

V. FULL BLOWN COURTESY INVESTIGATION AND TRANSFER OF CONDUCT OF REFERRAL INVESTIGATION

Section 27. Its Nature and Coverage

Full Blown Courtesy Investigation (FBCI) is a General Courtesy Investigation (GCI) from another City or Provincial Parole and Probation Office which requests for a complete PSIR on a petition for probation pending referral investigation in the Probation Office of origin. It shall take place when upon initial investigation it is gathered that, (a) Applicant for probation is a transient offender in the place of commission of the crime and/or a permanent resident of another place; (b) He spent his pre-adolescent and/or adolescent life in the province or city of origin; (c) He attended and/or finished his education thereat; and (d) His immediate family members, collateral informants or disinterested persons and officials who can best authenticate the inter-family relationship, upbringing, behaviour of the applicant for probation in the community are residents of the place of his origin.

Section 28 Transfer of Referral Investigation

When proper under the immediately preceding section and warranted under the circumstances, a FBCI, may be brought to the attention of the Trial Court to transfer the conduct of the referral investigation to the Probation Office of the province or city of origin of applicant for probation.

Section 29. Transfer to the Executive Judge

In case of the suitability for probation of the applicant for probation, it shall be recommended in the PSIR by the Probation Office, that simultaneous with the grant of probation, the control over the applicant and his probation rehabilitation program be transferred to the Honorable Executive Judge of the RTC of the Province or City of origin subject to the actual visitation and supervision of the Probation Officer of said province or city.

VI. PROBATION ORDER

Section 31. Period to Resolve the Application for Probation

The application for probation shall be resolved by the Trial Court not later than fifteen (15) days from the date of its receipt of the PSIR.

Section 32. Nature of Probation: Effect of the Grant of Probation.

(a) Probation is but a mere privilege and as such, its grant or denial rests solely upon the sound of discretion of the Trial Court. After its grant it becomes a statutory right and it shall only be cancelled or revoked for cause and after due notice and hearing. (b) The grant of probation has the effect of suspending the execution of sentence. The Trial Court shall order the release of the probationer's cash or property bond upon which he was allowed temporary liberty as well as release the custodian on ROR from his undertakings.

Section 33. Effectivity of Probation Order.

A probation order shall take effect upon its issuance, at which time the court shall inform the offender of the consequence thereat and explain that upon his failure to comply with any of the conditions prescribed in the said order or his commission of another offense under which he was placed on probation Upon receipt of the Probation Order granting probation the same shall be entered in a Docket Book for proper recording. An order of denial shall be docketed as well.

VII. TERMS AND CONDITIONS OF PROBATION

Section 35 Mandatory Conditions

A Probation order shall require the probationer: (a) to present himself to the Probation Office for supervision within 72 hours from receipt of said order; and (b) to report to the assigned SPPO,

SrPPO, PPOII or PPOI on case at least once a month during the period of probation at such time and place as may be specified by the Probation Office.

Section 41 Outside Travel

- (a) a probation officer may authorize a probationer to travel outside his area of operational/territorial jurisdiction for a period of more than ten (10) days but exceeding thirty (30) days.
- (b) a probationer who seeks to travel for up to thirty (30) days outside the operational/territorial jurisdiction of the Probation Office shall file at least five (5) days before the intended travel schedule a Request for Outside Travel (PPA Form 7) with said Office properly recommended by the Supervising Probation Officer on case and approved by the CPPO.
- (c) If the requested outside travel is for more than thirty (30) days, said request shall be recommended by the CPPO and submitted to the Trial Court for approval.
- (d) Outside travel for a cumulative duration of more than thirty (30) days within a period of six (6) months shall be considered as a courtesy supervision.

Section 43. Absconding Probationer

- (a) A probationer who has not reported for initial supervision within the prescribed period and/or whose whereabouts could not be found, located or determined despite best diligent efforts within reasonable period of time shall be declared by the proper Office as an absconding probationer

IX. VIOLATION OF PROBATION CONDITION

Section 46. Concept.

A probationer's specific act and/or omission(s) constitutive of a violation of probation condition(s) set forth in the original, modified or revised Probation Order shall be reported to the Trial Court, taking into account the totality of the facts and surrounding circumstances and all possible areas of consideration.

Section 47 Fact-Finding Investigation

Based on reasonable cause reported by a reliable informant or on his own findings, the SPPO, SrPPO, PPOII, PPOI concerned or the CPPO himself shall conduct or require the Supervising Probation Officer on case to immediately conduct a factfinding investigation on any alleged or reported violation of probation condition (s) to determine the veracity and truthfulness of the allegation.

XI. PROBATION AIDES

Section 58 Appointment: Term of Office

(a) Probation Aides shall be appointed by the Probation Administrator or through authority delegated to the Regional Directors within their respective areas of responsibility upon the recommendation of the CPPOs.

(b) Probation Aides so appointed may hold office during good behavior for a period of two (2) years, renewable at the end of each period; provided, that, the appointing authority may at any time terminate the services of Probation Aides for unsatisfactory performance for at least two (2) consecutive semesters as determined by the proper Offices and/or for other lawful and valid cause(s). Thereafter, his reinstatement shall be determined by his display of good behavior as determined by collateral informants and the appointing authority.

Section 59. Caseload

(a) In assigning probation supervision caseload(s) to the Probation Aides, the Probation Offices shall duly consider their respective qualifications, length of service, work accomplishments, and other related criteria. And, as to maximum supervision caseload to be given to them, the Probation Office should, exercise utmost prudence and caution. (b) The maximum supervision caseloads of a Probation Aide at any given time, shall be ten (10) probationers on minimum case classification or three (3) probationers on maximum case classification in addition to other duties.

XII. TERMINATION OF THE PROBATION SUPERVISION CASE

Section 60 Grounds.

The probation supervision period may be terminated on any of the following grounds: (a) successful completion of probation; (b) probation revocation for cause under Section 49 (a-c) of these Rules; (c) death of the probationer; (d) early termination of probation; or (e) other analogous cause(s) or reason(s) on a case-to-case basis as recommended by the probation Office and approved by the trial court.

Section 61 Termination Report

The City and Provincial Parole and Probation Office shall submit to the Trial Court a Probation Officer's Final Report (PPA Form 9) thirty (30) days before the expiration of the period of probation embodying, among others, the following: (a) brief personal circumstances of the probationer; (b) brief criminal circumstances about his case (i.e. criminal case number, court, branch, period of probation, initial and last date of probation) (c) prescribed probation treatment and supervision program; (d) probationer's response to the

treatment plan/program;(e)recommendation to discharge the probationer from probation and the restoration of all his civil rights.(f)such other relevant and material facts and information which may be required by the Trial Court

Section 62 Final Discharge

After expiration of the original or extended probation period and based on due consideration of the POs final report, the Trial Court may order the final discharge of the probationer upon finding that he has fulfilled the probation terms and conditions and, thereupon, the probation supervision case is deemed terminated.

Section 63. Legal Effects of Final Discharge: Termination Order

(a)The final discharge of a probationer shall operate to restore to him all civil rights lost or suspended as a result of his conviction and to fully discharge his liability for any fine imposed as to the crime or offense for which probation was granted without prejudice to his civil liability. It is hereby understood that, the probationer's political rights are not lost or suspended even during the probation period.(b)The probationer and the probation office shall be promptly furnished with copies of such final discharge or Termination Order.

PAROLE SYSTEM

The Board of Parole should be vested by law wide latitude of powers, which include the following:

1. To set terms of parole.
2. To decide who shall be released on parole from among all inmates eligible.
3. To determine the date of release.
4. To decide revocation of actions.
5. To administer the agency responsible for parole supervision sometimes.

The Pre-Board Summary - This document is prepared by the institutional parole officer. It a brief summary of the inmate's case, including his case history and the salient points, which are considered necessary whether or not, parole is to be granted.

The Parole Referral Summary - This document is prepared by the prison's classification committee for the use of the parole bureau. The purpose of this summary is to indicate to the field (parole) workers what the staff of the prison considers to be essential for the best interest of the parolees and the protection of the society. It contains an appraisal of the prisoner's personality and his needs for adjustment upon return to society.

Pre-release Progress Report - the institutional Classification Committee also prepares this document. In this report, the professional contributions of the Reception-Guidance Center and of the institution are brought together for greatest usefulness at pre-release. The pre-release progress report is used by the Parole Board as guide in determining the prisoner's eligibility for parole and in preparing his parole program. It outlines the treatment program of the parolee. While the report contains certain suggestions on the prisoner's program during the remaining weeks of his stay in prison, special emphasis is given to his program when he leaves the institution in terms of success after release. The parole officers use it as reference and guide when the inmate is brought in for personal appearance to formulate with the parole officer a program for parole.

- a. **"Board"** refers to the Board of Pardons and Parole;
- b. **"Executive Director"** refers to the Executive Director/Secretary of the Board;
- c. **"Administration"** refers to the Parole and Probation Administration;
- d. **"Administrator"** refers to the Administrator of the Parole and Probation Administration;
- e. **"Regional Director"** refers to the Head of the Parole and Probation Administration in the region;
- f. **"Probation and Parole Officer"** refers to the Probation and Parole Officer undertaking the supervision of the client;
- g. **"Director"** refers to the Director of the Bureau of Corrections;
- h. **"Penal Superintendent"** refers to the Officer-In-Charge of the New Bilibid Prison, the Correctional Institution for Women and the prison and penal farms of the Bureau of Corrections;
- i. **"Warden"** refers to the Officer-In-Charge of the Provincial, City, Municipal or District Jail;
- j. **"Carpeta"** refers to the institutional record of an inmate which consists of his mittimus or commitment order issued by the Court after conviction, the prosecutor's information and the decisions of the trial court and the appellate court, if any; certificate of non-appeal, certificate of detention and other pertinent documents of the case;
- k. **"Prison Record"** refers to information concerning an inmate's personal circumstances, the offense he committed, the sentence imposed, the criminal case number in the trial and appellate courts, the date he commenced serving his sentence, the date he was received for confinement, the place of confinement, the date of expiration of the sentence, the number of previous convictions, if any, and his behavior or conduct while in prison;
- l. **"Parole"** refers to the conditional release of an offender from a correctional institution after he has served the minimum of his prison sentence;
- m. **"Executive Clemency"** refers to Reprieve, Absolute Pardon, Conditional Pardon with or without Parole Conditions and Commutation of Sentence as may be granted by the President of the Philippines;
- n. **"Reprieve"** refers to the deferment of the implementation of the sentence for an interval of time; it does not annul the sentence but merely postpones or suspends its execution;
- o. **"Commutation of Sentence"** refers to the reduction of the duration of a prison sentence of a prisoner;

- p. **"Conditional Pardon"** refers to the exemption of an individual, within certain limits or conditions, from the punishment which the law inflicts for the offense he had committed resulting in the partial extinction of his criminal liability;
- q. **"Absolute Pardon"** refers to the total extinction of the criminal liability of the individual to whom it is granted without any condition. It restores to the individual his civil and political rights and remits the penalty imposed for the particular offense of which he was convicted;
- r. **"Petitioner"** refers to the prisoner who applies for the grant of executive clemency or parole;
- s. **"Parolee"** refers to a prisoner who is released on parole;
- t. **"Pardonee"** refers to a prisoner who is released on conditional pardon;
- u. **"Client"** refers to a parolee/pardonee who is placed under supervision of a Probation and Parole Officer;
- v. **"Release Document"** refers to the Conditional Pardon/Absolute Pardon issued by the President of the Philippines to a prisoner or to the "Discharge on Parole" issued by the Board;
- w. **"Parole Supervision"** refers to the supervision/surveillance by a Probation and Parole Officer of a parolee/pardonee;
- x. **"Summary Report"** refers to the final report submitted by the Probation and Parole Officer on his supervision of a parolee/pardonee as basis for the latter's final release and discharge;
- y. **"Progress Report"** refers to the report submitted by the Probation and Parole Officer on the conduct of the parolee/pardonee while under supervision;
- z. **"Infraction Report"** refers to the report submitted by the Probation and Parole Officer on violations committed by a parolee/pardonee of the conditions of his release on parole or conditional pardon while under supervision.

SEC. 3. National Prisoner Confined in a Local Jail - The Board may not consider the release on pardon/parole of a national prisoner who is serving sentence in a municipal, city, district or provincial jail unless the confinement in said jail is in good faith or due to circumstances beyond the prisoner's control.

A national prisoner, for purposes of these Rules, is one who is sentenced to a maximum term of imprisonment of more than three (3) years or to a fine of more than five thousand pesos; or regardless of the length of sentence imposed by the Court, to one sentenced for violation of the customs law or other laws within the jurisdiction of the Bureau of Customs or enforceable by it, or to one sentenced to serve two (2) or more prison sentences in the aggregate exceeding the period of three (3) years.

SEC. 5. Filing of Petition - A formal petition for executive clemency addressed as follows shall be submitted to the Board before the question of said clemency will be considered:

"The President of the Philippines
Thru: The Chairman
Board of Pardons and Parole
DOJ Agencies Bldg., NIA Road cor. East Avenue
Diliman, Quezon City"

Petitions for parole shall be addressed to the Chairman or to the Executive Director of the Board. However, the Board may, motuproprio, consider cases for parole, commutation of sentence or conditional pardon of deserving prisoners whenever the interest of justice will be served thereby.

SEC. 8. Referral of Petition for Absolute Pardon to a Probation and Parole Officer - Upon receipt of a petition for absolute pardon, the Board shall refer the petition to a Probation and Parole Officer who shall conduct an investigation on the conduct and activities, as well as the social and economic conditions, of the petitioner prior to his conviction and since his release from prison and submit a report thereof within fifteen (15) days from receipt of the referral.

SEC. 9. Referral of Petition for Executive Clemency/Parole to Other Government Agencies - A petition for executive clemency shall be referred by the Board to the Secretary of National Defense for comment and recommendation if the crime committed by the petitioner is against national security or public order or law of nations. In case of violation of election laws, rules and regulations, a petition for executive clemency/parole shall be referred to the Commission on Elections for favorable recommendation, provided, however, that regardless of the crime committed, a petition for executive clemency/parole may be referred for a pre-parole/executive clemency investigation to a Probation and Parole Officer who shall submit a report on the behaviour, character antecedents, mental and physical condition of the petitioner within thirty (30) days from receipt of referral, to include the results of the National Bureau of Investigation records check. In case of an alien, the petition shall be referred to the Department of Foreign Affairs for comment and recommendation.

III. EXECUTIVE CLEMENCY

SEC. 10. Review of Cases for Executive Clemency - Petitions for executive clemency may be reviewed if the prisoners meet the following minimum requirements :

- A. For Commutation of Sentence -

1. the prisoner shall have served at least one-third (1/3) of the minimum of his indeterminate and/or definite sentence or the aggregate minimum of his indeterminate and/or definite sentences.
2. at least ten (10) years for prisoners sentenced to Reclusion Perpetua or Life imprisonment for crimes or offenses committed before January 1, 1994.
3. at least twelve (12) years for prisoners whose sentences were adjusted to a definite prison term of forty (40) years in accordance with the provisions of Article 70 of the Revised Penal Code, as amended.
4. at least fifteen (15) years for prisoners convicted of heinous crimes as defined in Republic Act No. 7659 and other special laws committed on or after January 1, 1994 and sentenced to one or more Reclusion Perpetua or Life imprisonment
5. at least twenty (20) years in case of one (1) or more Death penalty/penalties, which was/were automatically reduced or commuted to one (1) or more Reclusion Perpetua or Life imprisonment;

B. For Conditional Pardon, the prisoner shall have served at least one-half (1/2) of the minimum of his original indeterminate and/or definite sentence. However, in the case of a prisoner who is convicted of a heinous crime as defined in Republic Act No. 7659 and other special laws, he shall have served at least one-half (1/2) of the maximum of his original indeterminate sentence before his case may be reviewed for conditional pardon.

For Absolute Pardon, after he has served his maximum sentence or granted final release and discharge or court termination of probation. However, the Board may consider a petition for absolute pardon even before the grant of final release and discharge under the provisions of Section 6 of Act No. 4103, as amended, as when the petitioner: (1) is seeking an appointive/elective public position or reinstatement in the government service; (2) needs medical treatment abroad which is not available locally; (3) will take any government examination; or (4) is emigrating.

SEC. 11. Prisoners not Eligible for Executive Clemency - Prisoners who escaped or evaded service of sentence are not eligible for executive clemency for a period of one (1) year from the date of their last recommitment to prison or conviction for evasion of service of sentence.

SEC. 12. Transmittal of Carpeta and Prison Record - In executive clemency/parole cases, the Director or Warden concerned shall forward the prison record and carpeta of a petitioner at least one (1) month prior to the eligibility for review as specified in Sections 10 and 13 of these Rules. The Director or Warden concerned shall also furnish the Board and the Administration on or before the fifth day of every month, a list of prisoners whose minimum sentences will expire within ninety (90) days and those who may be considered for executive clemency.

IV. PAROLE

SEC. 13. Review of Cases for Parole - Unless otherwise disqualified under Section 15 of these Rules, a case for parole of a prisoner shall be reviewed upon a showing that he is confined in prison or jail to serve an indeterminate sentence, the maximum period of which exceeds one (1) year, pursuant to a final judgment of conviction and that he has served the minimum period of said sentence.

SEC. 14. Grant of Parole - A prisoner may be granted parole whenever the Board finds that there is a reasonable probability that if released, he will be law-abiding and that his release will not be incompatible with the interest and welfare of society.

SEC. 15. Disqualification for Parole - The following prisoners shall not be granted parole:

- a. Those convicted of an offense punished with Death penalty, Reclusion Perpetua or Life imprisonment;
- b. Those convicted of treason, conspiracy or proposal to commit treason or espionage;
- c. Those convicted of misprision of treason, rebellion, sedition or coup d'etat;
- d. Those convicted of piracy or mutiny on the high seas or Philippine waters;
- e. Those who are habitual delinquents i.e. those who, within a period of ten (10) years from the date of release from prison or last conviction of the crimes of serious or less serious physical injuries, robbery, theft, estafa and falsification, are found guilty of any of said crimes a third time or oftener;
- f. Those who escaped from confinement or evaded sentence;
- g. Those who were granted Conditional Pardon and violated any of the terms thereof;
- h. Those whose maximum term of imprisonment does not exceed one (1) year or those with definite sentence;
- i. Those suffering from any mental disorder as certified by a government psychiatrist/psychologist;
- j. Those whose conviction is on appeal;
- k. Those who have pending criminal case/s.

SEC. 16. Deferment of Parole When Safety of Prisoner/Victim/Relatives of Victim/Witness Compromised - If, based on the Pre-Parole Investigation Report conducted on the prisoner, there is a clear and convincing evidence that his release on parole will endanger his own life and those of his relatives or the life, safety and well-being of the victim, his relatives, his witnesses and the community, the release of the prisoner shall be deferred until the danger ceases.

SEC. 21. Factors to be Considered in Petition for Conditional Pardon, Commutation of Sentence or Parole - The following factors may be considered by the Board in the grant of conditional pardon, commutation of sentence or parole:

- a. the age of the petitioner, the gravity of the offense and the manner in which it was committed, and the institutional behavior or conduct and previous criminal record, if any;
- b. evidence that petitioner will be legitimately employed upon release; c. a showing that the petitioner has a place where he will reside;
- c. availability of after-care services for the petitioner who is old, seriously ill or suffering from a physical disability;
- d. attitude towards the offense and the degree of remorse; and,
- e. the risk to other persons, including the victim, his witnesses, his family and friends, or the community in general, the possibility of retaliation by the victim, his family and friends.

SEC. 22. Special Factors - The Board may give special consideration to the recommendation for commutation of sentence or conditional pardon whenever any of the following circumstances are present:

- a. youthful offenders;
- b. prisoners who are sixty (60) years old and above;
- c. physical disability such as when the prisoner is bedridden, a deaf mute, a leper, a cripple or is blind or similar disabilities;
- d. serious illness and other life-threatening disease as certified by a government physician;
- e. those prisoners recommended for the grant of executive clemency by the trial/appellate court as stated in the decision;
- f. alien prisoners where diplomatic considerations and amity between nations necessitate review;
- g. circumstances which show that his continued imprisonment will be inhuman or will pose a grave danger to the life of the prisoner or his co-inmates; and,
- h. such other similar or analogous circumstances whenever the interest of justice will be served thereby.

VI. PAROLE SUPERVISION

SEC. 27. Parole Supervision - After release from confinement, a client shall be placed under the supervision of a Probation and Parole Officer so that the former may be guided and assisted towards rehabilitation. The period of parole supervision shall extend up to the expiration of the maximum sentence which should appear in the Release Document, subject to the provisions of Section 6 of Act No. 4103 with respect to the early grant of Final Release and Discharge.

SEC. 28. Form of Release Document - The form of the Release Document shall be prescribed by the Board and shall contain the latest 1"x1" photograph and right thumbprint of the prisoner.

SEC. 29. Transmittal of Release Document - The Board shall send a copy of the Release Document to the prisoner named therein through the Director of Corrections or Warden of the jail where he is confined who shall send a certification of the actual date of release of prisoner to the Probation and Parole Officer.

SEC. 30. Initial Report - Within the period prescribed in his Release Document, the prisoner shall present himself to the Probation and Parole Officer specified in the Release Document for supervision. If within forty five (45) days from the date of release from prison or jail, the parolee/pardonee concerned still fails to report, the Probation and Parole Officer shall inform the Board of such failure, for appropriate action.

SEC. 31. Arrival Report - The Probation and Parole Officer concerned shall inform the Board thru the Technical Service, Parole and Probation Administration the date the client reported for supervision not later than fifteen (15) working days therefrom.

SEC. 32. Mandatory Conditions of Supervision - It shall be mandatory for a client to comply with the terms and conditions appearing in the release document.

SEC. 33. Review and Modification of Conditions - The Board may, upon the recommendation of the Probation and Parole Officer, revise or modify the terms and conditions appearing in the Release Document.

SEC. 34. Transfer of Residence - A client may not transfer from the place of residence designated in his Release Document without the prior written approval of the Regional Director subject to the confirmation by the Board.

SEC. 35. Outside Travel - A Chief Probation and Parole Officer may authorize a client to travel outside his area of operational jurisdiction for a period of not more than thirty (30) days. A travel for more than 30 days shall be approved by the Regional Director.

SEC. 36. Travel Abroad and/or Work Abroad - Any parolee or pardonee under active supervision/surveillance who has no pending criminal case in any court may apply for overseas work or travel abroad. However, such application for travel abroad shall be approved by the Administrator and confirmed by the Board.

SEC. 37. Death of Client - If a client dies during supervision, the Probation and Parole Officer shall immediately transmit a certified true copy of the client's death certificate to the Board recommending the closing of the case. However, in the

absence of a death certificate, an affidavit narrating the circumstances of the fact of death from the barangay chairman or any authorized officer or any immediate relative where the client resided, shall suffice.

VII. INFRACTION/VIOLATION OF THE TERMS AND
CONDITIONS OF THE RELEASE DOCUMENT

SEC. 38. Progress Report - When a parolee/pardonee commits another offense during the period of his parole surveillance, and the case filed against him has not yet been decided by the court, a Progress Report should be submitted by the Probation and Parole Officer to the Board.

SEC. 39. Report of Parole Infraction/Violation - Any violation of the terms and conditions appearing in his Release Document or any serious deviation or non-observance of the obligations set forth in the parole supervision program shall be immediately reported by his Probation and Parole Officer to the Board. The report shall be called Infraction Report when the client has been subsequently convicted of another crime.

SEC. 40. Arrest of Client - Upon receipt of an Infraction Report, the Board may order the arrest or recommitment of the client.

SEC. 41. Effect of Recommitment of Client - The client who is recommitted to prison by the Board shall be made to serve the remaining unexpired portion of the maximum sentence for which he was originally committed to prison.

SEC. 42. Cancellation of Pardon/Parole - The Board may recommend the cancellation of the pardon or cancel the grant of parole of a client if it finds that material information given by said client to the Board, either before or after release, was false, or incomplete or that the client had willfully or maliciously concealed material information from the Board.

SEC. 43. Review of Case of Recommitted Parolee - The Board may consider the case of a recommitted parolee for the grant of a new parole after the latter shall have served one-fourth (1/4) of the unserved portion of his maximum sentence.

VIII. TERMINATION OF PAROLE AND
PARDON SUPERVISION

SEC. 44. Certificate of Final Release and Discharge - After the expiration of the maximum sentence of a client, the Board shall, upon the recommendation of the Chief Probation and Parole Officer that the client has substantially complied with all the conditions of his parole/pardon, issue a certificate of Final Release and Discharge to a parolee or pardonee. However, even before the expiration of maximum sentence and upon the recommendation of the Chief Probation and Parole Officer, the Board may issue a certificate of Final Release and Discharge to a parolee/pardonee pursuant to the provisions of Section 6 of Act No. 4103, as amended. The clearances from the police, court, prosecutor's office and barangay officials shall be attached to the Summary Report.

Sec. 45. Effect of Certificate of Final Release and Discharge - Upon the issuance of a certificate of Final Release and Discharge, the parolee/pardonee shall be finally released and discharged from the conditions appearing in his release document. However, the accessory penalties of the law which have not been expressly remitted therein shall subsist.

SEC. 46. Transmittal of Certificate of Final Release and Discharge - The Board shall forward a certified true copy of the certificate of Final Release and Discharge to the Court which sentenced the released client, the Probation and Parole Officer who has supervision over him, the client, the Bureau of Corrections, the National Bureau of Investigation, the Philippine National Police and the Office of the President.

RESOLUTION NO. 24-4-10

RE: Amending and Repealing Certain Rules and Sections of the Rules on Parole and Amended Guidelines for Recommending Executive Clemency of the 2006 Revise Manual of the Board of Pardons and Parole

WHEREAS, Section 19, Article VII of the 1987 Philippine Constitution provides that the President, except in cases of impeachment or as otherwise provided therein, may grant reprieves, communications and pardons, and remit fines and forfeitures, after conviction by the final judgment;

WHEREAS, in accordance with the above-cited constitutional provision, the President has the plenary power to grant executive clemency, except on the following three (3) constitutional limitations to wit:

1. In cases of impeachment;
2. In cases involving of election laws, rules and regulations as provided for in Section 5, Paragraph C, Article IX of the 1987 Philippine Constitution without the favorable recommendation of the Commission on Elections; and
3. In cases where the conviction is on appeal or has not become final and executor;

WHEREAS, the eight (8) disqualifications or exceptions enumerated and provided for in Section 5 of the Amended Guidelines for Recommending Executive Clemency of the 2006 BPP Revised Manual are not in consonance with the provisions of Section 19, Article VII of the 1987 Philippine Constitution, constitute as limitations on the pardoning power of the President, and violate the time-honored principle of equal protection of the laws enshrined in the Bill of Rights, thus defeating the primary purpose of restorative justice;

WHEREAS, Section 5, Paragraph a, b, c, d, e, f, g, and h of the Amended Guidelines for Recommending Executive Clemency discriminates against certain criminal offenders and denies them equal opportunity for executive clemency;

WHEREAS, under Section 3 of Republic Act No. 9346, otherwise known as "An Act Prohibiting the Imposition of Death Penalty in the Philippines", enacted on June 24, 2006, persons convicted of offenses punished with reclusion perpetua, or whose sentences were reduced to reclusion perpetua by reason of this Act shall not be eligible for parole under Act No. 4103, otherwise known as "The Indeterminate Sentence Law", as amended;

WHEREAS, under Executive Order No. 83 dated January 11, 1937, the Board of Pardons and Parole is mandated to assist the President in exercising the power of executive clemency; and

WHEREAS, pursuant to the mandate of the law to redeem and uplift valuable human resources and prevent excessive deprivation of liberty, there is a need to provide opportunities to qualified and deserving inmates in order to ease congestion now plaguing the correctional institutions.

WHEREFORE, premises considered, the Board resolves, as it is hereby Resolved, to AMEND and REPEAL the following provisions of the Rules on Parole and the Amended Guidelines for Recommending Executive Clemency of the 2006 BPP Revised Manual:

I. Rule 2.1. of the Rules on Parole is hereby AMENDED to read as follows:

"RULE 2.1. Eligibility for Review of A Parole Case - an inmate's case may be eligible for review by the board provided:

- a. Inmate is serving an indeterminate sentence the maximum period of which exceeds one (1) year;
- b. Inmate has served the minimum period of the indeterminate sentence;
- c. Inmate's conviction is final and executor;

In case the inmate has one or more co-accused who had been convicted, the director/warden concerned shall forward their prison records and carpetas/jackets at the same time.

- d. Inmate has no pending criminal case; and
- e. Inmate is serving sentence in the national penitentiary, unless the confinement of said inmate in a municipal, city, district or provincial jail is justified.

A national inmate, for purposes of these Rules, is one who is sentenced to a maximum term of imprisonment of more than three (3) years or to a fine of more than five thousand pesos; or regardless of the length of sentence imposed by the Court, to one sentenced for violation of the customs law or other laws within the jurisdiction of the Bureau of Customs or enforceable by it, or to one sentenced to serve two (2) or more prison sentences in the aggregate exceeding the period of three (3) years."

II. Rule 2.2, Paragraphs i to l of the Rules on Parole are hereby DELETED for being inconsistent with the provisions of Section 2 of the "Indeterminate Sentence Law", as amended. Further, said Rule is hereby AMENDED to read as follows:

"RULE 2.2. Disqualifications for Parole - Pursuant to Section 2 of Act No. 4103, as amended, otherwise known as the "Indeterminate Sentence Law", parole shall not be granted to the following inmates:

- a. Those convicted of offenses punished with death penalty of life imprisonment;
- b. Those convicted of treason, conspiracy or proposal to commit treason or espionage;
- c. Those convicted of misprision treason, rebellion, sedition or coup d' etat;
- d. Those convicted of piracy or mutiny on the high seas or Philippine waters;

- e. Those who are habitual delinquents, i.e., those who, within a period of ten (10) years from the date of release from prison or last conviction of the crimes of serious or less serious physical injuries, robbery, theft, estafa, and falsification, are found guilty of any of said crimes a third time or oftener;
- f. Those who escaped from confinement or evaded sentence;
- g. Those who having been granted conditional pardon by the President of the Philippines shall have violated any of the terms thereof;
- h. Those whose maximum term of imprisonment does not exceed one (1) year or those with definite sentence;
- i. Those convicted of offenses punished with reclusion perpetua, or whose sentences were reduced to reclusion perpetua by reason of Republic Act No. 9346 enacted on June 24, 2006, amending Republic Act No. 7659 dated January 1, 2004; and
- j. Those convicted for violation of the laws on terrorism, plunder and transnational crimes."

III. Rule 2.3 of the Rules on Parole is hereby AMENDED to read as follows:

"RULE 2.3. Review Upon Petition or referral by the correctional and/or other agencies - a parole case may be reviewed by the Board upon petition or referral by the correctional and/or other agencies if inmate is not otherwise disqualified under Rule 2.2."

IV. Section 1 of the Amended Guidelines for Recommending Executive Clemency is hereby AMENDED to read as follows:

SECTION 1. Plenary Power of the President to Grant Executive Clemency - Under Section 19 Article VII of the Constitution, except in cases of impeachment or as otherwise provided therein, the President may grant reprieves, commutations and pardons, and remit fines and forfeitures, after conviction by final judgment. Executive clemency rests exclusively within the sound discretion of the President, and is exercised with the objective of preventing a miscarriage of justice or correcting a manifest injustice. *1avvphi1*

These Guidelines are meant solely for the guidance of the Board of Pardons and Parole (hereafter the "Board") in the performance of its duty to assist the President in exercising the power of executive clemency pursuant to Executive Order No. 83 dated January 11, 1937. These Guidelines create no vested or enforceable rights in persons applying for executive clemency."

V. Section 3 of the Amended Guidelines for Recommending Executive Clemency is hereby AMENDED to read as follows:

"SECTION 3. Extraordinary Circumstances - The Board shall recommend to the President the grant of executive clemency when any of the following extraordinary circumstances are present:

- a. The trial court or appellate court in its decision recommended the grant of executive clemency for the inmate;
- b. Under the peculiar circumstances of the case, the penalty imposed is too harsh compared to the crime committed;
- c. Evidence which the court failed to consider, before conviction which would have justified an acquittal of the accused;
- d. Inmates who were over fifteen (15) years but under eighteen (18) years of age at the time of the commission of the offense;
- e. Inmates who are seventy (70) years old and above whose continued imprisonment is inimical to their health as recommended by a physician of the Bureau of Corrections Hospital and certified under oath by a physician designated by the Department of Health;
- f. Inmates who suffer from serious, contagious or life-threatening illness disease, or with severe physical disability such as those who are totally blind, paralyzed, bedridden, etc., as recommended by a physician of the Bureau of Corrections Hospital and certified under oath by a physician designated by the Department of Health;
- g. Alien inmates where diplomatic considerations and amity among nations necessitate review; and
- h. Such other similar or analogous circumstances whenever the interest of justice will be served thereby."

VI. Section 4 of the Amended Guidelines for Recommending Executive Clemency is hereby AMENDED to read as follows:

"SECTION 4. Other circumstances - When none of the extraordinary circumstances enumerated in Section 3 exist, the Board may nonetheless review and/or recommend to the President the grant of executive clemency to an inmate provided the inmate meets the following minimum requirements of imprisonment:

A. For Commutation of Sentence, the inmate should have served:

- 1. at least one-third (1/3) of the definite or aggregate prison terms;
- 2. at least one-half (1/2) of the minimum of the indeterminate prison term or aggregate minimum of the indeterminate prison terms;
- 3. at least ten (10) years for inmates sentenced to one (1) reclusion perpetua or one (1) life imprisonment, for crimes/offenses not punished under Republic Act No. 7659 and other special laws;

4. at least thirteen (13) years for inmates whose indeterminate and/or definite prison terms were adjusted to a definite prison term of forty (40) years in accordance with the provisions of Article 70 of the Revised Penal Code as amended;

5. at least fifteen (15) years for inmates convicted of heinous crimes/offenses as defined in Republic Act No. 7659 or other special laws, committed on or after January 1, 1994 and sentenced to one (1) reclusion perpetua or one (1) life imprisonment;

6. at least eighteen (18) years for inmates convicted and sentenced to reclusion perpetua or life imprisonment for violation of Republic Act No. 6425, as amended, otherwise known as "The Dangerous Drugs Act of 1972" or Republic Act No. 9165 also known as "The Comprehensive Dangerous Drugs Act of 2002", and for kidnapping for ransom or violation of the laws on terrorism, plunder and transnational crimes;

7. at least twenty (20) years for inmates sentenced to two (2) or more reclusion perpetua or life imprisonment even if their sentences were adjusted to a definite prison term of forty (40) years in accordance with the provisions of Article 70 of the Revised Penal Code, as amended;

8. at least twenty-five (25) years for inmates originally sentenced to death penalty but which was automatically reduced or commuted to reclusion perpetua or life imprisonment.

B. For Conditional Pardon, an inmate should have served at least one-half (½) of the maximum of the original indeterminate and/or definite prison term."

VII. Section 5 of the Amended Guidelines for Recommending Executive Clemency is hereby REPEALED.

VIII. Section 10 of the Amended Guidelines for Recommending Executive Clemency is hereby AMENDED to read as follows:

"SECTION 10. Notice to the Offended Party - In all cases when an inmate is being considered for executive clemency, the Board shall notify the offended party or, in the event that the offended party is unavailable for comment or otherwise cannot be located, the immediate relatives of the offended party. Said persons shall be given thirty (30) days from notice to comment on whether or not executive clemency may be granted to an inmate. Provided that, in matters of extreme urgency or when the interest of justice will be served thereby, such notice may be waived or dispensed with by the Board. In such a case, the Board shall explain the reason for the waiver of such notice in the Board resolution recommending executive clemency."