



**2016 REVISED PUBLIC  
ATTORNEYS OFFICE  
OPERATIONS MANUAL**

## 2016 REVISED PAO OPERATIONS MANUAL

### CHAPTER I PURPOSE

ARTICLE 1. *Purpose*. This Manual sets forth, defines and consolidates the policies, rules, issuances<sup>1</sup> and procedures to be observed by PAO lawyers and employees in the handling, recording and reporting of cases and in rendering other forms of legal services to indigents and other persons qualified for free legal assistance.

### CHAPTER II CLIENTELE

ARTICLE 1. *Persons Qualified for Legal Assistance.*- Pursuant to Book IV, Title III, Chapter 5, Section 14 of the Administrative Code of 1987, as amended by Republic Act 9406, in relation to Presidential Decree No. 1 and Republic Act No. 6035, the Public Attorney's Office is mandated to represent, free of charge, indigents, and other persons qualified for legal assistance in all civil, criminal, labor, administrative and other quasi-judicial cases where, after due evaluation, it is determined that the interest of justice will be served thereby.

In the exigency of the service, the PAO may be called upon by the proper government authorities to render such service to other persons, subject to existing laws, rules and regulations. Other persons refer to non-indigents who have a case or cases which:

- a.) entail national interest and security as may be determined by the Chief Public Attorney, pursuant to his/her authority under Republic Act No. 9406;
- b.) urgent cases that may need immediate action to avoid injustice.

ARTICLE 2. *Merit Test.* - A case shall be considered meritorious, if an assessment of the law and evidence on hand, discloses that the legal services of the office will assist, be in aid of, or be in the furtherance of justice, taking into consideration the interests of the party and those of the society. In such cases, the Public Attorney should agree to represent the party concerned. *A contrario*, a case is deemed unmeritorious, if it appears that it has no chance of success, is intended merely to harass or injure the opposite party, or to work oppression or wrong. In such situations, the Public Attorney must decline the case.

However, if the indigent client is the defendant or respondent in a civil or administrative case already filed in any court or quasi-judicial agency, notwithstanding the determination as to the merit of the case, the Public Attorney shall still represent or extend legal assistance to the client, in order to protect his rights.

A Public Attorney may represent an indigent client even if his cause of action is adverse to a public officer, government office, agency or instrumentality, provided the case is meritorious. Caution should, however, be exercised that the office be not exposed to charges of harassment, unfairness or haste in the filing of suits.

In criminal cases, the accused enjoys the constitutional presumption of innocence until the contrary is proven; hence, cases of defendants in criminal actions are always considered meritorious.

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<sup>1</sup> PAO issuances post August 27, 2010 – effectivity of the PAO Operations Manual

ARTICLE 3. **Indigency Test.** – Taking into consideration recent surveys on the amount needed by an average Filipino family to (a) buy its “food consumption basket” and (b) pay for its household and personal expenses, the following shall be considered indigent persons:

1. If residing in Metro Manila, whose individual net income does not exceed **P14,000.00** a month;
2. If residing in other cities, whose individual net income does not exceed **P13,000.00** a month; and
3. If residing in all other places, whose individual net income does not exceed **P12,000.00** a month.

The term **income shall not include the pension** received by retirees<sup>2</sup>.

The term “**net income**” as herein employed, shall be understood to refer to the basic income of the litigant less statutory and authorized deductions.

“**Statutory deductions**” shall refer to withholding taxes, GSIS, SSS, PAG-IBIG, Health Insurance and PhilHealth premiums; and, other loan amortizations duly supported by written contracts.

**Authorized deductions** shall be understood to include all deductions as reflected in the pay slip, other deductions with the expressed written consent of the employee and in agreement with the employer<sup>3</sup>, and all other deductions that can be substantiated by the employee.

For purposes of this Section, ownership of land shall not, per se, constitute a ground for disqualification of an applicant for free legal assistance, in view of the ruling in *Juan Enaje vs. Victorio Ramos, et al.* (G.R. No. L-22109, January 30, 1970), that the determinative factor for indigency is the income of the litigant and not his ownership of real property.

To ensure that only those qualified shall be extended free regular representation in court and quasi-judicial bodies, and to aid in determining the nature of the deductions, the applicant shall be required to execute an Affidavit of Indigency and submit ANY of the following documents:

1. Latest Income Tax Return or Payslip, or other proofs of net income; or,
2. Certificate of Indigency from the Department of Social Welfare and Development, City Social Welfare and Development Office, or the Municipal Social Welfare and Development Office having jurisdiction over the residence of the applicant; or,
3. Certificate of Indigency from the Punong Barangay/Barangay Chairman having jurisdiction over the residence of the applicant.

Public Attorneys and personnel shall exercise diligence in ascertaining the indigency qualification of said applicant/s.

ARTICLE 4. **Cases Which May Be Provisionally Accepted.** – Public Attorneys may accept or handle cases provisionally, pending verification of the applicant’s indigency and evaluation of the merit of his/her case in the following instances:

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<sup>2</sup> Memorandum Circular No. 002 Series of 2016, dated February 26, 2016 Re: Exclusion of Pension in the Determination of Indigency Qualification of Applicants for PAO Legal Services

<sup>3</sup>PAO Legal Opinion dated 12 August 2016

1. When a warrant of arrest has been issued, and assistance is needed in filing a Motion to Post Bail Bond or Reduction thereof for his/her provisional liberty;
2. When a person is arrested and/or detained, and appropriate immediate legal action is necessary to protect his/her rights;
3. When a pleading has to be filed immediately or an appeal has to be perfected to avoid adverse effects to the applicant;
4. When the Public Attorney is appointed by the court as *counsel-de-oficio* to represent the defendant during the trial of the case, provided, however, that if a subsequent investigation discloses that the client is not indigent, the lawyer should request the court to relieve him/her by filing a Motion for Withdrawal of Appearance from the case;
5. Where the Public Attorney is designated on the spot as *counsel de oficio* for the purpose only of arraignment, pre-trial or promulgation of decision;
6. In cases involving violence against women and their children under Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004), where immediate preparation and filing of pleading/s is necessary to avoid adverse effects to the victims, except, where there is conflict of interest. Non-indigent women and their children may seek PAO's assistance;
7. In cases involving Children in Conflict with the Law (CICL), where there is an immediate need of counsel;
8. In cases involving credit card holder/s considered as "delinquent" by the credit card company, and immediate action is necessary; and,
9. Cases which require provisional assistance, pursuant to Section 3 of R.A. 9406 (Section 14-A Chapter 5, Title III, Book IV of Executive Order No. 292, otherwise known as the "Administrative Code of 1987") to wit:

Sec. 14-A. Powers and functions. – the PAO shall independently discharge its mandate to render, free of charge, legal representation, assistance and counseling to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases. **In the exigency of the service, the PAO may be called upon by the proper government authorities to render such service to other persons, subject to existing laws, rules and regulations.**” (*emphasis supplied*)

10. Other similar urgent cases.

**ARTICLE 5. *Persons/Entities Qualified for Legal Assistance Pursuant to Memoranda of Agreement/Understanding, Department of Justice Directives and special laws, as follows:***

1. Department of Agrarian Reform lawyers against whom criminal and/or administrative complaints have been filed for acts committed in connection with the performance of their official duties (Direction of the Minister of Justice);
2. Farmer-beneficiaries of the Agrarian Reform Law, in:
  - a. agrarian-related civil or criminal cases pending before the courts; and,
  - b. cases against farmer-beneficiaries pending before the courts or the Department of Agrarian Reform Adjudication Board (DARAB), where one of the parties is already represented by a lawyer from the Department of Agrarian Reform (Memorandum of Agreement dated May 8, 1991, between DAR and DOJ).
3. Indigent laborers in meritorious labor cases (Memorandum Order of the Secretary of Justice dated May 19, 1988);
4. Indigent aliens (2<sup>nd</sup> Indorsement of the Undersecretary of Justice dated March 25, 1974);
5. Qualified Overseas Contract Workers in all cases within the original and exclusive jurisdiction of the Philippine Overseas Employment Administration (Memorandum of Agreement between PAO and DOLE, POEA, NLRC, OWWA and some NGOs, dated April 2, 1993);
6. Barangay Health Workers (Section 16, Rule II and Part 5, Rule VII of the Implementing Rules and Regulations of Republic Act No. 7883 – Barangay Health Workers’ Benefits and Incentives Act of 1995);
7. Department of Social Welfare and Development in the filing of petitions for involuntary commitment of minors, as well as petitions for the declaration that a child is abandoned or neglected (Directive of Minister of Justice Neptali Gonzales dated February 10, 1987);
8. Members of the Association of Local Social Welfare and Development Officers of the Philippines, Incorporated (ALSWDOPI), in criminal and administrative complaints/cases related to, or in connection with the exercise of their profession or performance of duties, unless there is a conflict of interest, or when a member does not qualify under the PAO’s Indigency Test, in which case, provisional assistance shall be afforded to him/her (Memorandum of Agreement between the ALSWDOPI and PAO dated August 27, 2009);
9. Qualified Print and Broadcast Media Practitioners, as well as their staff and crew, who, by reason of, or in connection with the performance of their profession, are harassed with suits and complaints intended to hamper the freedom of the press and suppress their individual liberties (Memorandum Circular No. 01, S. 2009, dated January 5, 2009 in relation to Memorandum of Agreement between the National Press Club [NPC] and PAO dated May 29, 2009);
10. Dangerous Drugs Board (DDB), its authorized representatives and drug offenders in the filing of Petitions for voluntary confinement, except when there is conflict of interest (Memorandum of Agreement between DDB and PAO dated July 15, 2008, as reinforced by MOA dated August 22, 2016);

11. Complaints of Filipinos against foreigners for violation of immigration, alien registration and other local laws; respondent foreigners in deportation cases; Bureau of Immigration (BI) clients in connection with the Notarization of applications; and such other legal services that may be assigned by the Commissioner (Memorandum of Agreement between the BI and PAO dated February 4, 2009);
12. Members of the Press Photographers of the Philippines (PPP) under investigation for a complaint, or on trial, including inquest proceedings, relating to, or in connection with, the exercise of profession or performance of duties; and the families of PPP members who are victims of media killings (Memorandum of Agreement between the PPP and PAO dated May 25, 2009);
13. Officials of the Philippine National Police (PNP) holding the ranks of Police Officer I (PO1) to Senior Police Officer IV (SPO4), when sued in the performance of their duties (DOJ Department Order No. 106 dated February 25, 2009, and PAO Memorandum dated March 19, 2009; and DOJ Department Circular No. 78 dated October 26, 2009, and PAO Memorandum dated November 9, 2009)<sup>4</sup>;
14. Torture victims pursuant to the Anti-Torture Act<sup>5</sup> of 2009 (R.A. 9745) [Note: the Public Attorney's Office has the authority to conduct an independent investigation in cases involving torture per R.A. 9745];
15. Philippine Statistics Authority Census Personnel with respect to Notarization of their Contracts of Service<sup>6</sup>;
16. Qualified Taiwanese Nationals upon Notice by the Legal Aid Foundation, Taiwan (Memorandum of Agreement between PAO and the Legal Aid Foundation, Taiwan, dated October 27, 2014);
17. Qualified constituents of member municipalities of the League of Municipalities of the Philippines (Memorandum of Agreement dated June 30, 2011 between the League of Municipalities of the Philippines and the PAO);
18. The Office for Competition (OFC) and/or its members and the sector regulators and/or its officials in cases proscribed by the mandate of the Office of the Solicitor General (OSG) through the specially constituted PAO Task Force<sup>7</sup>;
19. Qualified refugees and displaced peoples within the Philippines (Memorandum of Understanding between the PAO and the UNHCR, dated January 8, 2013);
20. Asylum seekers, refugees and stateless persons in the Autonomous Region of Muslim Mindanao (ARMM) (Memorandum of Understanding between the PAO, the Regional Human Rights Commission [RHRC], and the United Nations High Commission for Refugees [UNHCR], dated June 21, 2013);

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<sup>4</sup> DOJ Department Order No. 106 dated February 25, 2009, and DOJ Department Circular No. 78 dated October 26, 2009 were issued by the late Secretary of Justice Raul M. Gonzalez and the former Secretary of Justice Agnes VST Devanadera, respectively. PAO Memoranda dated March 19, 2009 and November 9, 2009, which transmitted the said DOJ issuances, were both issued by Chief Public Attorney Persida V. Rueda-Acosta.

<sup>5</sup> Section 1, R.A. 9745

<sup>6</sup> Memorandum Circular No. 003 Series of 2015 dated June 8, 2015

<sup>7</sup> Guidelines On Legal Representation for the Office for Competition (OFC) and Sector Regulators, clause 1.5 Exemption to the Authority for Legal Representation by the OSG and clauses 2.2 and 2.3 Scope of Representation; the PAO through the PAO Task force shall assist the OFC and or its members and sector regulators and/or its officials in relation to the exercise of their official duties in handling competition-related matters in criminal and administrative cases.

21. Public school teachers who are appointed as Board of Election Inspectors (BEI) and are being sued in relation to the said function (Memorandum of Agreement between the PAO, the Department of Education [DepEd], and the Commission on Election [COMELEC], dated April 29, 2016);
22. Individuals or Presidential Commission for the Urban Poor (PCUP)-accredited Urban Poor Organization indorsed by the PCUP, subject to PAO rules and regulations (Memorandum of Agreement between the PAO and PCUP dated December 23, 2011);
23. Newly committed inmates and other qualified inmates of the Bureau of Jail Management and Penology (BJMP) facilities (Memorandum of Agreement between PAO and BJMP dated May 31, 2016).

**ARTICLE 6. *Other persons qualified for assistance.* –**

1. Except in election related cases, immediate members of the family, and relatives within the 4<sup>th</sup> civil degree of consanguinity or affinity of the Public Attorney, may avail of his/her services regardless of qualification under the indigency test, subject to the approval of the Chief Public Attorney, upon the recommendation of the Regional Public Attorney or Service Head, as the case may be. The lawyer concerned shall submit an Affidavit of Kinship, file a leave of absence during hearings, and submit a monthly status report on the case (Sec. 4 [a] of the Implementing Rules and Regulations of R.A. 9406);
2. Public Attorneys and PAO employees may avail of the services of the Public Attorney's Office in criminal cases, provided the Office is not the adverse party (Sec. 4[b] of the Implementing Rules and Regulations of R.A. 9406);
3. Public Attorneys and PAO employees may also avail of the services of the PAO in any case filed against them in courts, tribunals, quasi-judicial agencies and other offices in relation to the performance of duties, provided the Office is not the adverse party and upon approval of the Chief Public Attorney.

**ARTICLE 7. *Persons not qualified for legal assistance.* – Public Attorneys and employees are prohibited from assisting the following:**

1. Juridical person/s and private/stock corporations; except juridical entities which are non-stock, non-profit organizations, whose individual members will pass the indigency test of the Office. In cases involving land disputes, the PAO can represent said juridical person/s provided they are not the lessor/s thereof;
2. Parties who do not pass the Indigency Tests, unless appointed as *counsel de officio* in criminal cases, and only under existing laws, rules and regulations, or pursuant to the 2<sup>nd</sup> paragraph of Article 2, Chapter II, hereof;
3. Qualified parties represented by de parte counsels, unless said counsels had withdrawn their services;
4. Landlords or lessors of residential and commercial lands and/or buildings, with respect to the filing of collection or unlawful detainer suits against their tenants or lessees; and,

5. Political candidates and parties in all election related matters.

ARTICLE 8. *Cases Not To Be Handled.* – Public Attorneys shall not extend legal assistance<sup>8</sup> in the following cases:

- A. Where they would be representing conflicting interests;
- B. Cases involving violations of Batas Pambansa No. 22 (B.P. 22), otherwise known as the Anti-Bouncing Checks Law”, unless the Public Attorney is appointed by the court as counsel de officio, subject to Paragraph 5, Article 4, Chapter II of this Manual<sup>9</sup>.
- C. Prosecution of Criminal Cases, except in the following instances where there exists no conflict of interest and the accused is not a client of the Public Attorney's Office in the subject case, to wit<sup>10</sup>:
  - 1. When the Public Attorney's Office assisted the offended party/complainant during the preliminary investigation stage in the Prosecutor's Office, on first-come-first-served basis, and the case is on appeal or certiorari before the courts<sup>11</sup>;
  - 2. When there is a directive from the Secretary of Justice or other government authorities to assist the Prosecutor(s) assigned to prosecute the criminal case in court<sup>12</sup>; and
  - 3. Complaints for BP 22 cases arising from an existing case for money claims being handled by the PAO where check payment was made but bounced or insufficient to satisfy the money claim.
- D. Adoption cases, except in instances where the adopter is the biological parent or the step-parent of the adoptee, subject to the indigency test.

ARTICLE 9. *Denial of Services, Forms.* Where the Public Attorney denies service to an applicant pursuant to the foregoing provisions, he/she shall issue to the applicant a Denial/Disqualification Form (PAO-FOSS-12).

### **CHAPTER III HANDLING OF CRIMINAL CASES PURSUANT TO THE PROVISIONS OF THE SPEEDY TRIAL ACT AND ITS IMPLEMENTING RULES**

ARTICLE 1. *Cases Covered By The Rules On Summary Procedure*– Upon learning of the filing of an Information against a client, the Public Attorney shall:

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<sup>8</sup> Office Order No. 124, Series of 2011

<sup>9</sup> Ibid

<sup>10</sup> Ibid

<sup>11</sup> Ibid

<sup>12</sup> Ibid



- A. **Motion To Quash/Dismiss.**– File a Motion to Quash/Dismiss the information against the accused within the ten-day (10) period for filing the counter-affidavit, where appropriate, and only on the following two grounds:
1. lack of jurisdiction over the subject matter; and,
  2. lack of referral to the barangay conciliation process.
- B. **Counter-Affidavit.** – File the requisite counter-affidavit of the accused and the affidavit/s of his/her witnesses, as well as documentary evidence in support thereof, if any, where none of the above grounds for a Motion to Quash/Dismiss is present, within ten (10) days from the time that the accused received a copy of the subpoena/summons.

ARTICLE 2. **Cases Under Regular Procedure.** – When a walk-in-client or a detained person avails of the services of the Office or a Public Attorney is appointed as counsel de oficio for the accused, the Public Attorney shall:

- A. Immediately secure a copy of the Information and affidavit of the complainant and his/her witnesses and other documentary evidence against the accused;
- B. Interview the accused, focusing on:
  1. the legality of the arrest, the nature of the charge and his/her rights under existing laws, including his/her right to demand trial;
  2. the theory of defense, his/her witnesses and his/her documentary evidence, if any; and,
  3. the plea of the accused, or the possibility of plea bargaining.
- C. Move for a preliminary investigation/reinvestigation within five (5) days from learning of the filing of the information<sup>13</sup>, if beneficial to the accused, and if he/she is entitled thereto. In case of an adverse resolution, the Public Attorney may file a Motion for Reconsideration or appeal the same to the Regional Prosecutor’s Office<sup>14</sup>/Secretary of Justice;
- D. Determine the existence of a ground for a Motion to Quash or Dismiss, and where applicable, the Public Attorney shall file the same prior to arraignment<sup>15</sup>, except when to do so would not work to the advantage of the accused.

ARTICLE 3. **Duties Where Accused is Detained.** – If the Public Attorney knows that a person charged of a crime is detained, either because he/she is charged of a bailable crime but has no means to post bail; is charged of a non-bailable crime; or is serving a term of imprisonment in any penal institution, the Public Attorney shall:

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<sup>13</sup> Section 7, Rule 112, Rules of Court. *When the Accused Lawfully Arrested Without a Warrant.* – x x x. After the filing of the complaint or information in court without a preliminary investigation, the accused may within five (5) days from the time he learns of its filing, ask for a preliminary investigation with the same right to adduce evidence in his defense as provided in this Rule.

<sup>14</sup> Changed to reflect the change in the nomenclature for the National Prosecution Service

<sup>15</sup>Section 1. *Time to move to quash.* — At any time before entering his plea, the accused may move to quash the complaint or information.

- a. File a Motion manifesting that the detainee/prisoner demands arraignment/trial and, for this purpose, that the custodian of the detainee/prisoner be ordered to bring the detainee/prisoner to the court, from time to time, as ordered;
- b. Upon receipt of notice from the custodian that he/she has in his/her custody a detainee/prisoner who demands trial, the Public Attorney shall file a Motion that said detainee/prisoner be brought to court for arraignment/trial.

For an accused who desires to post bail, where the case has not been raffled to a regular branch of the court, the Public Attorney shall file a Motion to Fix Amount of Bail before the Executive Judge<sup>16</sup>.

Where the bail initially fixed by the judge to whom the case is raffled is outside the financial ability of the accused, the Public Attorney may move for its reduction<sup>17</sup>.

**ARTICLE 4. *Duties on Arraignment.*** – The Public Attorney shall:

- A. Ascertain the schedule for the arraignment of the accused. Should there be none, he/she shall immediately file a Motion to Set Case for Arraignment of the accused:
  1. Within thirty (30) days from the time the court acquired jurisdiction over the person of the accused;
  2. Within ten (10) days from the date of the raffle<sup>18</sup> or from receipt of the information if the accused is a detention prisoner.
- B. Immediately after arraignment, move either in open court or in writing that pre-trial be scheduled:
  1. Within thirty (30) days from the time the court acquired jurisdiction over the person of the accused<sup>19</sup> who is out on bail; or,
  2. Within ten (10) days after the arraignment if the accused is a detention prisoner<sup>20</sup>.

**ARTICLE 5. *Duties on Pre-trial.*** – During Pre-trial, the Public Attorney shall:

- A. Ensure that the agreements or admissions made or entered into during the preliminary and/or pre-trial conference are faithfully and accurately reflected in the written form before signing the transcription, to the end that the accused shall be bound only by the admission/s made by him/her, and by the agreement/s that he/she actually entered into<sup>21</sup>;

<sup>16</sup> Section 2 of A.M. No. 12-11-2-SC – Guidelines for Decongesting Holding Jails by Enforcing the Rights of Accused Persons to Bail and to Speedy Trial.

<sup>17</sup> Section 3, A.M. 12-11-2-SC and Office Order No. 086 dated May 28, 2014, providing the sample forms for Motion for Release on Recognizance and Motion for Bail, pursuant to A.M.No. 12-11-2-SC.

<sup>18</sup> Section 1(e) Rule 116 Rules of Court. When the accused is under preventive detention, his case shall be raffled and its records transmitted to the judge to whom the case was raffled within three (3) days from the filing of the information or complaint. The accused shall be arraigned within ten (10) days from the date of the raffle. The pre-trial conference of his case shall be held within ten (10) days after arraignment.

<sup>19</sup>Section 1, Rule 118, Rules of Court. *Pre-trial; mandatory in criminal cases.* — In all criminal cases x x x, the court shall after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, unless a shorter period is provided for x x x.

<sup>20</sup>Section 1(e) Rule 116 Rules of Court

<sup>21</sup>R.A. 8493, Section 3. *Pre-trial Agreement.* – All agreements or admissions made or entered into during the pre-trial conference shall be reduced to writing and signed by the accused and counsel, otherwise the same shall not be used in evidence against the accused. x x x.

- B. In compliance with the Judicial Affidavit Rule (A.M. 12-8-8-SC) in applicable cases<sup>22</sup>, and/or to expedite the proceedings, and if favorable to the accused, the Public Attorney shall/may prepare judicial affidavits, within the period/s provided therefor<sup>23</sup>; subject to additional direct examination, in case of clear necessity and in the interest of speedy disposition of the case;
- C. Determine if the Pre-trial Order is an accurate reflection of the actions taken, the facts stipulated and the pieces of evidence marked. Should there be errors or inaccuracies, move for the same to be rectified, prior to the agreed/scheduled initial presentation of evidence<sup>24</sup>;
- D. Thereafter, move for the setting of the case for trial to commence, with at least fifteen (15) days to prepare for the same, but likewise making sure that the initial presentation of evidence be set within thirty (30) days from receipt of the Pre-trial order<sup>25</sup>;
- E. In the event that the pre-trial has already been scheduled and the complainant fails to appear despite due notice, move for the termination of the pre-trial and the setting of the case for trial.

ARTICLE 6. *Time Limit for Trial.* – When the case is set for trial by the Court, the Public Attorney shall take note and see to it that the case is set for continuous trial on a weekly or other short term trial calendar at the earliest possible time, EXCEPT for cases falling under the Rules of Summary Procedure.

The entire trial period shall not exceed one hundred eighty (180) days from the first day of trial for cases tried under regular procedure, and sixty (60) days<sup>26</sup> for cases tried under the Judicial Affidavit Rule, EXCEPT when the trial court is authorized in writing by the Chief Justice or by the Court Administrator.

ARTICLE 7. *When the Accused Enters a Plea of Not Guilty.* – If the accused enters a plea of not guilty, the Public Attorney has at least fifteen (15) days to prepare for trial, which shall commence within thirty (30) days from receipt of the pre-trial order.

ARTICLE 8. *Exclusions.* – The Public Attorney shall take note of the period set forth in R.A. 8493 for the Speedy Trial and/or Resolution of cases, and shall see to it that only the allowable periods of delay<sup>27</sup> as provided in Section 10 thereof be excluded from computing the time within which trial must commence.

<sup>22</sup> Section 9. Application of rules to criminal actions. – (a) This rule shall apply to all criminal action: (1) where the maximum of the imposable penalty does not exceed six years; (2) where the accused agrees to the use of judicial affidavit irrespective of the penalty involved; or (3) with respect to the civil aspect of the actions, whatever the penalties involved are.

<sup>23</sup> Section 2 (a) and 9 (b) and (c) A.M. 12-8-8-SC (Judicial Affidavit Rule) -

<sup>24</sup>Section 2. Rule 118, Rules of Court. *Pre-trial agreement.* — All agreements or admissions made or entered during the pre-trial conference shall be reduced in writing and signed by the accused and counsel, otherwise, they cannot be used against the accused. The agreements covering the matters referred to in section 1 of this Rule shall be approved by the court.

<sup>25</sup>Section 1. Rule 119, Rules of Court. *Time to prepare for trial.* — After a plea of not guilty is entered, the accused shall have at least fifteen (15) days to prepare for trial. The trial shall commence within thirty (30) days from receipt of the pre-trial order. (sec. 6, cir. 38-98)

<sup>26</sup>The court shall terminate the regular trial within one hundred eighty (180) days, or the trial by judicial affidavits within sixty (60) days, reckoned from the date trial begins, minus the excluded delays or postponements specified in Rule 119 the Rules of Court and the Speedy Trial Act of 1998. [A.M. 12-11-2-SC, Sec. 8(e)]

<sup>27</sup> Section 10. *Exclusions.* The following periods of delay shall be excluded in computing the time within which, trial must commence:

- (a) Any period of delay resulting from other proceedings concerning the accused, including but not limited to the following:
  1. Delay resulting from the examination of the physical and mental condition of he accused;
  2. Delay resulting from proceedings with respect to other criminal charges against the accused;

ARTICLE 9. *Time Limit Following an Order for New Trial.* – If there is an order for the accused to be tried again, the Public Attorney shall see to it that the trial shall commence within thirty (30) days from notice of the order; except when witnesses are unavailable, or other factors make trial within thirty (30) days impractical; in which case, the period may be extended, but such extension shall not exceed one hundred eighty (180) days from notice of the order for new trial<sup>28</sup>.

ARTICLE 10. *Remedy Where the Accused is Not Brought to Trial Within the Time Limit.* – If an accused is not brought to trial within the time limit required by Section 7<sup>29</sup> of R.A. 8493, the Public Attorney shall move to dismiss the charge/information on the ground of the denial of his/her right to speedy trial. The Public Attorney shall prove the violation of the time limits set by the Act, and rebut that the delay is attributable to any allowed exclusion from the period set by law.

Where the accused is detained and the time limits are not observed, the Public Attorney should move to have the case dismissed on the ground of denial of the right to speedy trial<sup>30</sup>.

Where the delays and non-observance of the time limits arise out of the absence of an essential witness, under such conditions as laid out in Sec. 10, A.M. -12-11-2-SC, the Public Attorney may move for the provisional dismissal of the case, with the express consent of the accused<sup>31</sup>.

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3. Delay resulting from extraordinary remedies against interlocutory orders;
  4. Delay resulting from pre-trial proceedings; provided, that the delay does not exceed thirty (30) days;
  5. Delay resulting from orders of inhibition, or proceedings relating to change of venue of cases or transfer from other courts;
  6. Delay resulting from a finding of the existence of a prejudicial question; and,
  7. Delay reasonably attributable to any period, not to exceed thirty (30) days, during which any proceeding concerning the accused is actually under advisement.

(b) Any period of delay resulting from the absence or unavailability of the accused or an essential witness.

**For purposes of this subparagraph, an accused or an essential witness shall be considered absent when his/her whereabouts are unknown and, in addition, he/she is attempting to avoid apprehension or prosecution or his/her whereabouts cannot be determined by due diligence. An accused or an essential witness shall be considered unavailable whenever his/her whereabouts are known but his/her presence for trial cannot be obtained by due diligence or he/she resists appearing at or being returned for trial.**

(c) Any period arising from the fact that the accused is mentally incompetent or physically unable to stand trial;

(d) If the information is dismissed upon motion of the prosecution and thereafter a charge is filed against the accused for the same offense, or any offense required to be joined with that offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

(e) A reasonable period of delay when the accused is joined for trial with a co-accused over whom the court has not acquired jurisdiction, or as to whom the time for trial has not run and no motion for severance has been granted.

(f) Any period of delay resulting from a continuance granted by any justice or judge motu proprio or on motion of the accused or his/her counsel or at the request of the public prosecutor, if the justice or judge granted such continuance on the basis of his/her findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. No such period of delay resulting from a continuance granted by the court in accordance with this subparagraph shall be excludable under this Sec. unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the accused in a speedy trial.

<sup>28</sup>Section 5, Rule 119, Rules of Court

<sup>29</sup>*Time Limit Between Filing of Information and Arraignment and Between Arraignment and Trial.* - The arraignment of an accused shall be held within thirty (30) days from the filing of the information, or from the date the accused has appeared before the justice, judge or court in which the charge is pending, whichever date last occurs. Thereafter, where a plea of not guilty is entered, the accused shall have at least fifteen (15) days to prepare for trial. Trial shall commence within thirty (30) days from arraignment as fixed by the court. x x x.

<sup>30</sup> Section 9, A.M. 12-11-2-SC - The case against the detained accused may be dismissed on the ground of denial of the right to speedy trial in the event of failure to observe the above time limits."

<sup>31</sup> Section 10, A.M. 12-11-2-SC. (a) When the delays are due to the absence of an essential witness whose whereabouts are unknown or cannot be determined and, therefore, are subject to exclusion in determining if, compliance with the prescribed time limits which caused the trial to exceed one hundred eighty (180) days, the court shall provisionally dismiss the action with the express consent of the detained accused.

An essential witness is one whose testimony dwells on the presence of some or all of the elements of the crime and whose testimony is indispensable to the conviction of the accused<sup>32</sup>.

The Motion to Dismiss on the ground that the accused was not brought to trial within the time limit shall be filed by the Public Attorney prior to the trial or entry of a plea of guilty; otherwise, such failure to so move shall constitute a waiver of the right of dismissal under Section 13, R.A. 8493.

**ARTICLE 11. *Duty of Public Attorney Where the Accused Has Served the Minimum Imposable Penalty.*** – Where the accused has been detained for a period at least equal to the minimum of the penalty for the offense charged against him, without the court having *motu proprio* ordered his release, the Public Attorney shall file a motion for the release of the accused on his own recognizance<sup>33</sup>.

#### **CHAPTER IV LEGAL ASSISTANCE TO CHILDREN IN CONFLICT WITH THE LAW (CICL)**

**ARTICLE 1. *Scope of Legal Assistance.*** – Legal assistance that the Public Attorneys shall provide to qualified CICLs includes the following:

- a) Appearing as counsel for the CICL on initial contact or during custodial investigation, and before the courts, prosecutor's office, and other quasi-judicial bodies;
- b) Preparing pleadings, affidavits, sworn statements, and the like, necessary in the defense of the CICL;
- c) Coordinating with the Department of Social Welfare and Development, the Local Social Welfare Officers in the Local Government Units, and other concerned agencies to procure the immediate release of the CICL under detention, or who is otherwise deprived of liberty, to demand the prompt submission of discernment report and intervention or rehabilitation programs for the CICL, and to prevent any delay in the diversion case before the barangay level; and,
- d) Such other action/s relative to the foregoing.

#### **ARTICLE 2. *Legal Assistance to CICL.***

Public Attorneys shall provide legal assistance to CICLs in the following instances:

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(b) When the delays are due to the absence of an essential witness whose presence cannot be obtained by due diligence though his whereabouts are known, the court shall provisionally dismiss the action with the express consent of the detained accused provided:

(1) the hearing in the case has been previously twice postponed due to the non-appearance of the essential witness and both the witness and the offended party, if they are two different persons, have been given notice of the setting of the case for third hearing, which notice contains a warning that the case would be dismissed if the essential witness continues to be absent; and

(2) there is proof of service of the pertinent notices of hearings or subpoenas upon the essential witness and the offended party at their last known postal or e-mail addresses or mobile phone numbers.

(c) For the above purpose, the public or private prosecutor shall first present during the trial the essential witness or witnesses to the case before anyone else. An essential witness is one whose testimony dwells on the presence of some or all of the elements of the crime and whose testimony is indispensable to the conviction of the accused.

<sup>32</sup> As defined in Paragraph (c), Section 10 of A.M. No. 12-11-2-SC

<sup>33</sup> Rule 114, Section 16, paragraph 3 and Section 5, R.A. 10389 (Recognizance Act of 2012)

- a) When placed under detention or otherwise deprived of liberty, and is in immediate need of counsel;
- b) When placed under custodial investigation without the assistance of counsel;
- c) When the Public Attorney is designated as *counsel de officio* for purposes of arraignment, pre-trial, or promulgation of decision and suspension of sentence; and,
- d) Other cases of similar nature.

**ARTICLE 3. *Stages in the Rendition of Legal Assistance.* –**

**Section 1. – On Initial Contact.**

**When the CICL is Qualified for Legal Assistance.** – In the course of his/her regular visitation in police stations, jails and other detention centers, or upon receipt of the information that a CICL has been arrested, or is in the custody of the Police, the Public Attorney shall determine if the CICL is represented by counsel. If he/she is not represented by a counsel, the Public Attorney shall, as soon as possible:

- a) Conduct the initial interview of the CICL, advising him/her of his/her rights under the existing laws, and exert efforts to ascertain his/her actual age, through his/her parents, guardians or the social worker concerned;
  - a.1. In ascertaining the age of the CICL, the Public Attorney shall request the production of the birth certificate, baptismal certificate, or other pertinent documents. The age of the CICL may also be determined from the testimonies of other persons, his/her physical appearance, his/her medical or dental records, and other available relevant evidence.
  - a.2. If the age of the CICL is contested prior to the filing of the Information in any appropriate court, the Public Attorney shall file a summary proceeding case before the Family Court, or in its absence, before the appropriate Regional Trial Court.
- b) Demand for the immediate release of the CICL and refer his/her case to the local social welfare officer for the conduct of an intervention program, in case he/she is fifteen (15) years of age, or below the age of criminal responsibility at the time of the commission of the offense.

In accordance with Section 58 of Republic Act No. 9344, the Public Attorney shall also demand the immediate release of the CICL who is charged, and/or arrested for the following acts:

- I. Prostitution under Article 202 of the Revised Penal Code;
- II. Mendicancy under Presidential Decree No. 1563;
- III. Sniffing of rugby under Presidential Decree 1619; and,
- IV. Violation of curfew ordinances and other status offenses.

- c) Ensure that the CICL is detained separately from adults;
- d) Ascertain the due execution by the enforcement officer of the duties imposed under Sections 21 and 22 of Republic Act No. 9344, in the conduct of the initial investigation.

In case of violation, the Public Attorney shall immediately make representation or file the appropriate administrative action before the proper forum.

Maintain a checklist to be attached to the Case History (PAO Form No. 4), for immediate determination of due compliance with the said duties, to curtail the infringement of the rights of the CICL;

- e) Ensure that the taking of the statement of the child shall be conducted in his/her presence, the child's parents, guardian or nearest relative, and the local social worker.

In the absence of the child's parents, guardian or nearest relative, and the local social welfare and development officer, the Public Attorney shall make sure that the initial investigation shall be conducted in the presence of a representative of a non-government organization, religious group, or member of the Barangay Council for the Protection of Children (BCPC);

- f) Require the referral, in proper cases, of the CICL for diversion before the barangay under Sections 23 and 24 of Republic Act No. 9344; and,
- g) Secure from the DSWD or the local social welfare and development officer or court-appointed social worker, a copy of the case study report on the CICL, if one is available.

## Section 2. *Compliance with Executive Order No. 633 dated July 16, 2007.*

The Public Attorney, duly notified thereof, shall immediately file the necessary "MOTION FOR IMMEDIATE RELEASE PURSUANT TO R.A. 9344 IN RELATION TO E.O. NO. 633" of children who are fifteen (15) years of age and below, at the time of the commission of the crime, who are detained in prison facilities of the Bureau of Jail Management and Penology, Bureau of Corrections, provincial jails, and other detention cells, in cases pending trial before the courts, or while undergoing inquest investigation before the Prosecutor's Office.

For prisoners who are detained by reason of final judgment, and who were fifteen (15) years of age and below at the time of the commission of the crime, the Public Attorney concerned shall file a "PETITION FOR IMMEDIATE RELEASE PURSUANT TO R.A. 9344 IN RELATION TO E.O. NO. 633" on behalf of such inmates before the appropriate court which last disposed of the case.

## Section 3. *During Custodial Investigation.*—

- 3.1. ***Representation of the CICL*** - Upon information of the taking of a CICL into custody, the Public Attorney shall, at all times, be present when the CICL is under investigation by the authorities, and shall assist in the protection of his/her rights under Section 2 of Republic Act No. 7438 (An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof).
- 3.2. ***Remedies In Case Of Violation.*** - In case of any violation by the investigating officer in the conduct of the custodial investigation, the Public Attorney shall immediately make proper manifestation before the concerned office to which the

erring investigating officer belongs, and/or file the necessary appropriate civil, criminal or administrative action against said officer.

Section 4. ***During Inquest Proceedings and Preliminary Investigation.*** –

4.1. ***Claim of torture or ill-treatment. Action to be taken.*** – During the conduct of inquest proceedings or preliminary investigation, where an alleged torture or ill-treatment was made at the time of the arrest or detention of the CICL, the Public Attorney shall immediately make the proper manifestation and recommend the investigation of the same to the prosecutor.

a. ***Responsibilities during inquest proceedings or preliminary investigation*** – In the event that diversion proceedings fail, and the prosecutor conducts inquest proceedings or preliminary investigation because (a) the CICL does not qualify for diversion; (b) when the CICL, his/her parents or guardian do not agree to diversion as specified under Sections 27 and 28 of Republic Act No. 9344; and (c) when the prosecutor, after considering the assessment and recommendation of the social worker, determines that diversion is not appropriate for the CICL, the Public Attorney, upon having been informed of the service of the subpoena and the accompanying documents, shall:

- I. Obtain copy of the records and other documents relevant to the case;
- II. Prepare the counter-affidavit and affidavit/s of his/her witness/es, and other supporting documents;
- III. Obtain a copy of the birth certificate of the CICL from the Civil Registrar of the locality where the child was born, or the Philippine Statistics Authority (PSA);
- IV. Assist in the preparation of the Waiver required under Article 125 of the Revised Penal Code, when the circumstances surrounding the case and the defense of the CICL justify the conduct of a preliminary investigation;
- V. Make immediate and constant verification from the handling prosecutor of the status of the case, in order that it be given preferential attention in its resolution;
- VI. Ensure the observance of procedural requirements during the investigation; and,
- VII. Appear as counsel for the CICL during clarificatory conference, if necessary, to ensure the protection of his rights.

4.2. ***Dismissal of the case in the absence of criminal responsibility.*** – When proper, the Public Attorney shall move for the dismissal of the case for which the CICL is undergoing inquest proceedings or preliminary investigation, under Sections 6 and 58 of Republic Act No.9344.

Section 5. ***Diversion.*** –

5.1. ***Diversion when the case is not yet filed in court.*** – Where the CICL is above fifteen (15) years of age, and the imposable penalty for the crime for which the CICL is charged is not more than six (6) years of imprisonment, and the case is undergoing investigation before the prosecutor's office, the Public Attorney shall, with the consent of the CICL's parents/guardian, move for the referral of the case to the Katarungan Pambarangay or the local social welfare and development



office for the conduct of diversion proceedings. The system of diversion, as provided under Section 23 (a) and (b) of Republic Act No. 9344 shall apply, and the Public Attorney shall explain the same to the CICL and his/her parents/guardian, in the dialect known and understood by them.

- 5.2. ***Diversion when the case is filed in court.*** – Where the CICL is above fifteen (15) years of age, and he/she acted with discernment and the imposable penalty for the crime for which he/she is charged exceeds six (6) years but not more than twelve (12) years of imprisonment, regardless of the fine or fine alone, regardless of the amount, and before arraignment, the Public Attorney shall file a motion before the court for the holding of diversion proceedings. In all hearings conducted by the diversion committee, the Public Attorney shall be present to safeguard the rights of the CICL.

Section 6. ***Filing of the Complaint or Information in Court.*** –

- 6.1. ***Standard Procedures in the Initial Stages of the Case.*** –

In all criminal cases where a CICL is involved, the Public Attorney, after examination of the records of the case, shall:

- a) Ensure the immediate and prompt assignment of the case to a Family Court;
- b) Move for the quashal or dismissal of the case, if the CICL is exempt from criminal responsibility under Sections 6 and 58 of Republic Act No. 9344;
- c) File a motion for psychiatric evaluation of the CICL if at any time, the Public Attorney is convinced, through the manifestation of the CICL, that he/she is not fit to stand trial;
- d) Move for the immediate release of the CICL on recognizance to his/her parents or other suitable persons;
- e) Before arraignment, file a motion to refer the case for diversion proceedings when the imposable penalty of the offense for which the CICL is charged, is imprisonment of not more than twelve (12) years, regardless of the fine which may be imposed or the fine alone, regardless of the amount; and,
- f) Move for the setting of the case for arraignment, which shall be scheduled not later than seven (7) days from the time of the filing of the information, in accordance with Section 27 of the rules on Juveniles in Conflict with the Law.

- 6.2 ***Arraignment of the CICL.*** – When the case of the CICL is called for arraignment, the Public Attorney shall:

- a) Manifest for the conduct of the arraignment on the chambers of the presiding judge, or in the court sala with the exclusion of the public;
- b) Move for the setting of the pre-trial conference at the earliest available date possible in the calendar of the court, when a plea of not guilty is entered by the CICL; and,
- c) Invoke all available mitigating circumstances, when a plea of guilty was made by the CICL for the appreciation of the court in the imposition of the penalty.

- 6.3. ***Pre Trial.*** -The Public Attorney shall afford protection to the rights of the CICL during plea-bargaining, and shall make certain that there is full comprehension on the part of the CICL and his parents or guardian, of the consequences and results of any agreement or compromise that they may enter into.

6.4. **Trial.**- In all proceedings and hearings conducted on the case of the CICL, the Public Attorney shall afford protection to the rights of the CICL, most importantly, his right to privacy and to demand confidentiality of his records in accordance with Section 12 of Republic Act No. 8369 (An Act Establishing Family Courts, Granting them Exclusive Original Jurisdiction over Child and Family Cases, amending Batas Pambansa Bilang 129, as amended, otherwise known as the Judiciary Reorganization Act of 1980, Appropriating Funds Therefor and for Other Purposes). The Rule on Examination of a Child Witness shall also be observed by the Public Attorney when the CICL will testify in court.

6.5. **Promulgation of Judgment.** – During the promulgation of judgment, the Public Attorney shall:

- a) Move for the holding of the promulgation of judgment in the chambers of the presiding judge, or in the court sala with the exclusion of the public, and that no media coverage shall be permitted;
- b) Move for the presence of the parents/guardian of the CICL and a local social welfare and development officer or a court-appointed social worker during promulgation, whenever possible;
- c) Demand for the automatic suspension of sentence, or when applicable, for probation, when a verdict of conviction is meted against the CICL, in accordance with Presidential Decree No. 603 (Child and Youth Welfare Code); and,
- d) When suspension of sentence is not possible and while awaiting resolution on his petition for probation, coordinate with a local social welfare and development officer, or a court-appointed social worker, for his commitment to a suitable youth rehabilitation center or youth detention home, and to this end, make proper representation in court for the transfer of the CICL.

6.6. **Discharge of the CICL.** – Upon favorable recommendation of a local social welfare and development officer or court-appointed social worker, or in cases of CICL proceeded against for violation of Republic Act No. 9165 (Comprehensive Dangerous Drugs Act of 2002), upon favorable recommendation of the Dangerous Drugs Board, the Public Attorney shall file with the Family Court a motion to dismiss the case and for immediate issuance of an Order of Final Discharge in favor of the CICL, who has been issued disposition measures<sup>34</sup>. However, if the CICL failed to comply therewith, or has not been rehabilitated, and whenever practicable, before the execution of judgment, the Public Attorney shall make representation for another opportunity to be afforded to the CICL to comply with the disposition measures, or to undergo rehabilitation.

After the lapse of two (2) years from the date of the Closure Order, or the Final Discharge of the CICL, and there is no pending case involving moral turpitude filed against him during the said period, the Public Attorney shall move for the permanent sealing of his records in court, and in all other offices and agencies that dealt with the case.

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<sup>34</sup> The phrase “before he has reached 18 years of age” was removed because it is a surplusage. A CICL who has undergone a disposition program and is discharged presupposes that the CICL meets/has met the age requirement.

Section 7. **Recording and Reporting of Cases.** –

7.1. **Office Logbook and recording system for cases involving CICL.** – Each PAO District Office shall maintain a separate logbook and recording system for cases involving CICLs. The logbook and recording system shall serve as a directory for these kind of cases handled by the Office. At the same time, it shall also be a guide/reference for Public Attorneys in accepting or declining a case involving a CICL, due to conflict of interest.

The Public Attorney shall cause to be entered in the Logbook the following data:

Entry No.  
Date Received  
Name and Address of the CICL  
Date and Place of Birth  
Gender  
Name and Address of the Plaintiff/Complainant  
Name and Address of the Parents/Guardian  
Offense Charged  
Assistance Given/Remarks

7.2 **Reporting of Cases.** – The Public Attorney shall include in his/her monthly performance report, the termination of the case involving the CICL at the time of the promulgation of judgment or suspension of sentence, but the records of the case shall remain active in a SPECIAL FILE for this purpose, until the permanent sealing of the records has been ordered by the Court.

**CHAPTER V**  
**LEGAL ASSISTANCE TO WOMEN AND THEIR CHILDREN**  
**SUBJECTED TO VIOLENCE UNDER REPUBLIC ACT NO. 9262**  
**AND OTHER RELATED LAWS**

ARTICLE 1. **Legal Basis.** -The Public Attorney's Office shall extend legal assistance to victims of violence against women and their children regardless of the indigency requirement.

Pursuant to the provisions of Sections 13 and 35 of Republic Act No. 9262, the woman or victim may avail of the services of PAO in the filing of an application/petition for protection order and/or civil action for damages. Where the applicant is already represented by a counsel de parte, PAO may represent the other party.

ARTICLE 2. **Legal Assistance to Women and Children Subjected to Abuse.** – The assistance of the Public Attorney's Office to women and children who are victims of violence under RA No. 9262 shall be limited to the following services:

- a) Legal advice or consultation;
- b) Conduct of pre-litigation/mediation conference between the parties in cases involving economic abuse, with the express consent of the victim and where there is no imminent danger to her life and limb and those of her children;

- c) Preparation of affidavits and other pertinent papers necessary to the filing of the complaint for violence against women or children, petition/application for protection order and/or civil action for damages;
- d) Filing of petition/application for protection order;
- e) Representation in courts in cases of petition for protection order and/or civil action for damages.

ARTICLE 3. **Handling of Cases** - In the handling of cases involving violence to women and their children, the *First Come-First Served Policy* shall be strictly observed.

ARTICLE 4. **Procedure in Extending Legal Assistance to Women and Children Subjected to Violence.**

Section 1. **Walk-In-Clients**- For clients who seek the services of the Office, or who visit the same for consultation, the following procedures shall be observed:

- a. When a victim visits the Office to seek legal advice for a problem concerning violence against women and their children, he/she shall be referred to a Public Attorney for immediate action.

In filing the application/petition for protection order, the Public Attorney shall prepare the pleadings, as well as the affidavits of the applicants and the witnesses in support thereof.

- b. If the person does not qualify for free legal assistance due to conflict of interest, he/she should be referred to other public and/or free legal aid organization, and/or be duly advised to seek the legal assistance of a counsel of his/her own choice;
- c. The Public Attorney shall cause the entry in the Logbook for Cases of Violence Against Women and Their Children the following data:

Entry No.  
Date Received  
Name & Address of Victim/Complainant  
Name & Address of Parents/Guardian of the victim  
Name & Address of Respondent  
Assistance Given  
Remarks

Each PAO District Office shall maintain a separate logbook for cases involving violence against women and children. The logbook shall serve as a directory for cases handled by the Office. At the same time, it shall also be a guide/reference for Public Attorneys in accepting or refusing a case by reason of conflict of interest;

- d. In an application/petition for protection order, the appearance and assistance of PAO shall extend up to the final resolution of the case; and,
- e. In the event a criminal Information is filed in court against the accused, as a result of PAO's assistance to the complainant at the prosecutor's Office, the active prosecution of the criminal case in court shall immediately be turned over to the public prosecutor.

Section 2. *Where Appearance of PAO is Through Court Appointment.*

Where an application/petition for protection order is filed in court through the assistance of any person mentioned in Section 9 of RA 9262, and the Public Attorney is appointed by the court to appear for the applicant/petitioner, he shall accept such appointment.

In case of conflict of interest, the handling Public Attorney shall withdraw his appearance, and refer the applicant to other public and/or free legal aid organization or advise him/her to retain the services of a counsel of his/her own choice.

**CHAPTER VI  
LEGAL ASSISTANCE TO POLICE OFFICERS  
PURSUANT TO DOJ DEPARTMENT CIRCULAR NO. 78 DATED OCTOBER 26, 2009**

ARTICLE 1. *Coverage.* - This Article shall apply to members of the Philippine National Police holding the ranks of Police Officer I (PO1) to Senior Police Officer 4 (SPO4), in all cases where these officials are sued in connection with the performance of their respective police duties and official functions. For this purpose, the provisions on Indigency Test shall not apply.

ARTICLE 2. *Legal Assistance.* - The legal assistance that the Public Attorney shall extend includes, but is not limited to, the following:

- a) Legal advice and documentation;
- b) Preparation of written explanation or any responsive pleading;
- c) Legal representation in judicial, quasi-judicial and other administrative bodies.

ARTICLE 3. *Procedure in Extending Legal Assistance.*—

Section 1. *Duties of a Public Attorney* - When a police officer seeks legal assistance, the Public Attorney shall:

- a) Determine whether the officer issued in connection with the performance of his official duties.
  - a.1. If in the affirmative, the Public Attorney shall determine which district office shall provide legal assistance and consider the following:
    - a.1.a. If the case is filed within the territorial jurisdiction of the said district, the Public Attorney shall handle the case.
    - a.1.b. If otherwise, the same shall be referred to the district office having territorial jurisdiction over the same;
  - a.2. If in the negative, Article 3 Chapter II hereof shall apply.
- b) Require the police officer to submit the following:
  - b.1. Proof of his rank;
  - b.2. Copy of the Complaint, Information, or Charge Sheet and such other documents in connection therewith; and
  - b.3. Evidence in support of his defense.

**CHAPTER VII**  
**LEGAL ASSISTANCE TO DELINQUENT CREDIT CARD HOLDERS**

ARTICLE 1. *Legal Assistance.* – The legal assistance that the Public Attorneys shall extend includes, but is not limited to, the following:

- a) Legal advice and documentation;
- b) Preparation of written explanation or any responsive pleading; and,
- c) Legal representation in judicial, quasi-judicial and other administrative bodies.

ARTICLE 2. *Provisional Legal Assistance* - Pending qualification on the Merit and Indigency Tests, Public Attorneys shall provide legal assistance to credit card holders in accordance with Section 4, Article II of this Manual.

ARTICLE 3. *Stages in the Rendition of Legal Assistance.* –

Section 1. *Where Creditor has sent a Formal Demand for Payment*

1. Duties of the Public Attorney - When a credit card holder seeks legal advice after receiving a demand letter to pay, the public attorney shall:
  - a) Interview the credit card holder regarding his/her qualification to avail of the services of the PAO and instruct him/her to provide proof of indigency;
  - b) Require the credit card holder to present a copy of the credit card agreement, the statements of account/billing statement and other pertinent documents, such as receipts, bank transfers or other documents evidencing payment;
  - c) The Public Attorney shall acquaint himself/herself with the specifics of the credit card obligation of the holder; such as:
    1. The credit limit applied for and amount granted to the client;
    2. The application of credit card extension, if any;
    3. The total credit card receivables or amount due;
    4. The “*Minimum Amount Due*” or “*Minimum Payment Required*;”
    5. The total finance charges and interests applied to the account;
    6. The total amount of purchases of the client using the credit card;
    7. The demand letter, if any;
    8. The amount paid by the client; and,
    9. Such other pertinent information regarding the obligation.
  - d) Consider and discuss with the holder possible means and terms of payment or settlement of the credit card obligation;
  - e) Where advisable, draft, sign and serve a reply to the creditor, and consider applicable jurisprudence, provisions of the Civil Code, Republic Act No. 3765 (An Act to Require the Disclosure of Finance Charges in Connection with Extension of Credit), such other applicable laws and government policies. The Public Attorney shall, as far as practicable, incorporate in the reply a fair and feasible offer/proposal for settlement;

- f) Where there is an agreement between the credit card issuer and the holder regarding the settlement of the obligation, discuss with the holder, the terms thereof, and its effects/consequences; and,
  - g) Where the holder is insolvent, said fact and its legal effects shall be raised in the reply.
2. Latest Jurisprudence as Guide- In giving advice, drafting of reply and discussing the practicability and terms of the proposal/offer of settlement, the Public Attorney should be guided by the principles enunciated by the latest jurisprudence as regards excessive and unconscionable interest rates.

Section 2. *When a case for collection is already filed in Court.* –

- 1. For claims not in excess of Php 200,000.00<sup>35</sup> and the Rules of Procedure for Small Claims is applicable. – The Public Attorney shall assist the credit card holder in making a reply or the drafting of the Verified Answer, ensuring that all the necessary documents are attached thereto, and that said responsive pleading is seasonably filed.
- 2. When the ordinary Rules of Procedure Apply. – The Public Attorney shall prepare and file the necessary Answer to the complaint. When grounds exist, Counterclaims shall be pleaded in the answer. The Public Attorney shall, likewise, include in the Counterclaim, the allowable claims for Attorney’s Fees pursuant to the PAO Law (R.A. 9406); and,
- 3. When the credit card holder is insolvent. – In every case of collection filed against the credit card holder who is insolvent, the said fact shall be raised as a defense and proof of such insolvency shall be attached and made an integral part of the Answer.

Section 3. *When the Credit Card Holder is Criminally Prosecuted.* –When a complaint is filed before the Prosecutor’s Office, or an Information is filed in Court against a credit card holder for a credit card related offense, the provisions of the Speedy Trial Act shall be observed.

**CHAPTER VIII**  
**STANDARD OFFICE PROCEDURES TO BE OBSERVED IN THE SERVICE OF**  
**SUMMONS**  
**UPON ADVERSE PARTIES PURSUANT TO A.M. NO. 11-10-03-O AND R.A. 9406**

**ARTICLE 1**  
**PURPOSE AND APPLICABILITY**

Section 1. *Purpose.* - This Memorandum Circular<sup>35a</sup> is issued for the purpose of setting forth and defining the guidelines and procedures to be observed by the Public Attorney’s Office personnel in the service of summons upon the adverse party in civil cases filed by public attorneys in behalf of qualified PAO clients, in light of the En Banc Resolution of the Supreme Court in Administrative Matter No. 11-10-03-O in relation to Sec. 6 of R.A. 9406 (PAO Law) and Section 3 Rule 14 of the Rules of Court, to the end that the constitutional mandate that no person shall be denied access to the courts by reason of poverty be effected, fully served and realized.

<sup>35</sup> Section 2 of the 2016 Revised Rules of Procedure for Small Claims Cases, effective February 1, 2016

<sup>35a</sup> Memorandum Circular No. 001 Series of 2014, effective May 22, 2014

Section 2. *Applicability.* – This Memorandum Circular shall only be applicable to civil cases instituted by the Public Attorney’s Office for and in behalf of qualified PAO Clients who cannot afford to pay the sheriff’s expenses.

## **ARTICLE 2 DEFINITION OF TERMS**

Section 1. *Definition of terms.* – For the purposes of this Memorandum Circular, the following terms shall mean:

- a. Summons – The writ by which a defendant is summoned. A notice to the person that an action against him has begun, and that judgment will be taken against him if he fails to answer within a given date<sup>36</sup>;
- b. Filing Attorney – The public attorney who makes, signs and files the complaint;
- c. Resident Attorney – The public attorney who is permanently assigned to appear before and handle all the cases involving qualified PAO clients before a particular branch of the court;
- d. Territorial limits of the district or sub-district office – The geographic coverage of a district or sub-district office;
- e. Reasonable time – “so much time as is necessary under the circumstances for a reasonably prudent and diligent man to do, conveniently, what the contract or duty requires that should be done, having a regard for the rights and possibility of loss, if any, to the other party”<sup>37</sup>;
- f. Personal service on defendant – actual delivery or tender of summons to the defendant personally<sup>38</sup>;
- g. Residence – the terms “dwelling house” or “residence” are generally held to refer to the time of service; hence, it is not sufficient “to leave a copy at defendant’s former dwelling house, residence or place of abode, as the case may be, after his removal therefrom. They refer to the place where the person named in the summons is living at the time when the service is made, even though he may temporarily be out of the country at the time”<sup>39</sup>;
- h. Office or regular place of business – refer to the office or place of business of the defendant at the time of service<sup>40</sup>;
- i. A person of suitable age and discretion – one who has attained the age of full legal capacity (18 years old) and is considered to have enough discernment to understand the importance of a summons and has the ability to make decisions representing a responsible choice and understands what is lawful, right or wise. Such person must know how to read and understand English to comprehend the import of the summons, and fully realize the need to deliver the summons and complaint to the defendant at the earliest possible time for the person to take appropriate action, and must have the “relation of confidence” to the defendant, ensuring that

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<sup>36</sup> Philippine Legal Encyclopedia, Jose Agaton R. Sibal, Central Lawbook Publishing Company Incorporated, Quezon City, Philippines, 1986, page 1017

<sup>37</sup> Ma. Imelda Manotoc vs. Hon. Court of Appeals and Agapita Trajano, G.R. No.130974, August 16, 2006, citing Far Eastern Realty Investment, Inc. v. CA, G.R. No. L-36549, October 5, 1988, 166 SCRA 256

<sup>38</sup> Page 9, A Handbook for Sheriffs, Philippine Judicial Academy, October 2003

<sup>39</sup> Page 10, Id

<sup>40</sup> Ibid



the latter would receive or at least be notified of the receipt of the summons<sup>41</sup>;

- j. Domestic private juridical entity – a corporation, partnership or association organized under the laws of the Philippines;
- k. Public corporations – those formed or organized for the government of a portion of the state<sup>42</sup>; and,
- l. Foreign private juridical entity – one formed, organized or existing under any laws other than those of the Philippines and whose laws allow Filipino citizens and corporations to do business in its own country or state<sup>43</sup> and which has transacted business in the Philippines.

### **ARTICLE 3 DUTIES OF THE PUBLIC ATTORNEY**

#### **Section 1. *Duties of the filing Public Attorney***

- A. Attach a written request in the complaint or petition (Annex A).
- B. Ascertain where case is raffled and make the necessary coordination and transfer of the case to the resident Public Attorney of the said court.
- C. Should a defendant or any of the defendants in a case reside outside the territorial jurisdiction of the PAO district office which filed the complaint, the filing Public Attorney shall include in the written request (Annex A), duly noted/approved by the District Public Attorney, that the summons will be served by another district office or offices.

#### **Section 2. *Duties of the resident Public Attorney.***

- A. After the turn-over of the case, the resident Public Attorney shall coordinate with the Clerk of Court for the issuance of the summons.
- B. Upon receipt of the summons together with the copy of the complaint and its attachments, the resident Public Attorney shall immediately turn over the same to the process server for immediate service to the adverse party.
- C. In cases referred to in Title 3, Section 1.C., the original of the summons and copies of the same shall be transmitted to the concerned district office together with an indorsement letter duly noted/approved by the District Public Attorney. The expenses incurred in the said transmittal shall be duly documented and the receipts for the same shall be included in the report of expenses incurred in the service, as set forth in No. 4, Section 2 of Title 4 of this Memorandum Circular.

### **ARTICLE 4 SERVICE OF SUMMONS BY THE PAO PROCESS SERVER**

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<sup>41</sup> Ma. Imelda Manotoc vs. Hon. Court of Appeals and Agapita Trajano, G.R. No.130974, August 16, 2006

<sup>42</sup> Section 3, Act No. 1459, The Corporation Law

<sup>43</sup> taken from Section 123, BP Blg. 68, Corporation Code

Section 1. ***Designation of PAO Process Server.*** – Upon the recommendation of the Regional Public Attorney/OIC and the approval of the Chief Public Attorney, one (1) personnel of the District Office shall be designated as the process server of the said district.

The designated process server of the PAO district/sub-district shall have completed at least two (2) years of college education, has at least one (1) year of relevant experience, and shall have at least four (4) hours of relevant training<sup>44</sup>.

Section 2. ***Duties of the PAO Process Server.*** – The PAO process server for each district/sub-district shall have the following functions:

1. Receive the copy of the summons from the resident Public Attorney and acknowledge receipt of the same, indicating the date and time of receipt;
2. Serve a copy of the summons to the defendant/s;
3. Make a return of the service of the summons within five (5) days therefrom<sup>45</sup> and submit the same to the Clerk of Court of the branch where the case is raffled, copy furnished the resident Public Attorney; and in cases where the summons was served by another district office, the process server shall transmit the same to the district office of origin, duly noted by his District Public Attorney/OIC, for appropriate action.
4. Keep a complete record of the expenses incurred in the service of the summons, with all the supporting documents, and submit the same to the Branch Clerk of Court, using the attached form Annex “B”, with a request that they be attached to the records of the case, copy furnished the resident Public Attorney.

Section 3. ***Service in person on defendant/s.*** – As much as practicable, the PAO process server shall serve summons upon the defendant/s in a civil action by handing a copy thereof to the defendant/s in person, or, if he refuses to receive or sign for it, by tendering it to him<sup>46</sup>.

In actions *in personam*, the service upon the defendant, who is actually in the Philippines need not be effected at his actual residence at the time of the service of summons. It is enough that a copy of the summons be handed personally to the defendant wherever in the country he may be found<sup>47</sup>.

The defendant who was served a copy of the summons shall be made to sign the original of the summons to be returned to the court. Should the defendant refuse to receive the summons or sign the original, the said fact shall be noted by the process server in the return of service of summons.

After the process server shall have successfully served a copy of the summons upon the defendant/s, he shall within five (5) days<sup>48</sup> submit a return of the summons to the Court, specifying which papers were served, for which purpose, he shall use the form, Process Server’s Return of Summons, Annex “C” of this Memorandum Circular.

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<sup>44</sup> based on a footnote in page 5 of A Handbook for Sheriffs, Philippine Judicial Academy, October 2003

<sup>45</sup> Section 4, Rule 14 of the Rules of Civil Procedure

<sup>46</sup> Section 6, Rule 14

<sup>47</sup> *Sansio Phils., Inc. vs. Sps. Alicia & Leodegario Mogol, Jr.*, G.R. No. 177007, July 14, 2009, citing several cases. “It is well-established that summons upon a respondent or a defendant must be served by handing a copy thereof to him in person or, if he refuses to receive it, by tendering it to him. Personal service of summons most effectively ensures that the notice desired under the constitutional requirement of due process is accomplished. The essence of personal service is the handing or tendering of a copy of the summons to the defendant himself, wherever he may be found; that is, wherever he may be, provided he is in the Philippines.

<sup>48</sup> Section 4, Rule 14

Section 4. ***Substituted service.*** – If, for justifiable causes, the defendant cannot be served within a reasonable time as provided for in Section 6 of Rule 14 of the Rules, service may be effected (a) by leaving copies of the summons at the defendant’s residence with some person of suitable age and discretion then residing therein, or (b) by leaving copies at the defendant’s office or regular place of business with some competent person in charge thereof<sup>49</sup>.

Personal service of summons should and always be the first option<sup>50</sup>. Substituted service of summons shall only be resorted to in the event that despite making three (3) attempts to serve summons in person to the defendant on at least two (2) different dates, and after the exercise of due care, utmost diligence and reasonable promptness and speed, with the process server using resourcefulness, perseverance and canniness, personal service remains unsuccessful<sup>51</sup>.

Section 5. ***Substituted service at residence of defendant, how made.*** – The substituted service of the summons at the residence of the defendant shall be made by leaving a copy of the same upon a person of suitable age and discretion then residing therein<sup>52</sup>.

The PAO process server must accomplish the Return, and the same shall describe the following<sup>53</sup>:

1. On the failure of personal service:
  - a. facts and circumstances surrounding the attempted personal service;
  - b. the efforts made to find the defendant;
  - c. a clear and detailed narration of the reasons behind the failure;
  - d. the dates and times, and the number of the attempts on personal service;
  - e. the inquiries made to locate the defendant;
  - f. the name/s of the occupants of the alleged residence or house of defendant;
  - g. all other acts done, though futile, to serve the summons on defendant; and,
  - h. the reasons for failure of personal service and its impossibility;
2. On the person on whom substituted service was made at residence of defendant:
  - a. name;
  - b. the person’s relationship to the defendant; and,
  - c. whether the said person comprehends the significance of the receipt of the summons and his duty to immediately deliver the same to the defendant, or at least inform the latter of the former’s receipt of the summons.

Section 6. ***Substituted service at the defendant’s office or regular place of business, how made.*** – If the PAO process server makes substituted service of summons at the defendant’s office, he must make sure that the summons will be served on a competent person in charge of the place, either the one managing the office or business of defendant, such as the president or manager; and such individual must have sufficient knowledge to understand the obligation of the defendant in the summons, its importance, and the prejudicial effects arising from inaction on the summons. The details regarding the person on whom substituted service is made must be stated in the return.

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<sup>49</sup> Section 7, Rule 14

<sup>50</sup> Constantino Pascual vs. Lourdes S. Pascual, G.R. No. 171916, December 4, 2009

<sup>51</sup> Constantino Pascual vs. Lourdes S. Pascual, G.R. No. 171916, December 4, 2009, citing Manotoc vs. Court of Appeals

<sup>52</sup> Section 7, Rule 114

<sup>53</sup> Ma. Imelda Manotoc vs. Hon. Court of Appeals and Agapita Trajano, G.R. No.130974, August 16, 2006, citing Domagas vs. Jensen, G.R. No. 158407, January 17, 2005, 448 SCRA 663, 677, citing *Lam v. Rosillosa*, G.R. No. L-3595, May 22, 1950, 86 Phil. 447

Section 7. ***Service upon entity without juridical personality.*** – When persons associated in an entity without juridical personality are sued under the name by which they are generally or commonly known, service may be effected upon all the defendants by serving upon any one of them, or upon the person in charge of the office or place of business maintained in such name<sup>54</sup>.

Section 8. ***Service upon domestic private juridical entity.*** – When the defendant is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, or in-house counsel<sup>55</sup>.

Section 9. ***Service upon foreign private juridical entities.*** – When the defendant is a foreign private juridical entity which has transacted business in the Philippines, service may be made on its resident agent designated in accordance with law for that purpose, or, if there be no such agent, on the government official designated by law to that effect, or on any of its officers or agents within the Philippines<sup>56</sup>.

Section 10. ***Service upon public corporations.*** – When the defendant is the Republic of the Philippines, service may be effected on the Solicitor General; in case of a province, city or municipality, or like public corporations, service may be effected on its executive head, or on such other officer or officers as the law or the court may direct<sup>57</sup>.

Section 11. **Return to be under oath.** – The return to be accomplished by the PAO process server shall be under oath<sup>58</sup>.

Section 12. The provisions of Rule 14 of the Rules of Court shall be suppletorily applied to this Standard Operating Procedure.

## **CHAPTER IX JUDICIAL AND QUASI-JUDICIAL CASES**

ARTICLE 1. ***Procedure in Accepting Cases*** - The following shall be observed in the acceptance of judicial and quasi-judicial cases:

1. ***Interview.***– Persons seeking legal assistance shall be interviewed by a lawyer or assigned personnel to ascertain if he is qualified. In addition to the required data in the Interview Sheet, the applicant shall submit a copy of his latest income tax return, or other proofs of income; or a Certificate of Indigency issued by the local office of the Department of Social Welfare and Development, or by the Barangay Chairman having jurisdiction over the residence of the applicant; and execute the Affidavit of Indigency printed at the back of the Interview Sheet.

- 1.1. ***Control Number.***- If the applicant is found to be qualified for legal assistance, the case shall be assigned a control number. The numbering shall be consecutive, starting from January to December of every year. The control number shall indicate the Regional Office and District Office handling the case.

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<sup>54</sup> taken from Section 8, Rule 14

<sup>55</sup> taken from Section 11, Rule 14

<sup>56</sup> taken from Section 12, Rule 14

<sup>57</sup> taken from Section 13, Rule 14

<sup>58</sup> Section 18, Rule 14 which requires that if service is done by other than the sheriff or his deputy, the return has to be sworn to

In the Central Office the numbering shall be undertaken by the Service Officer concerned, i.e., FOS Service or SAC Service.

Example:

PAO Form No. 3 – Interview Sheet

<u>Region</u>	: <u>Dist. Office</u>	: <u>Year</u>	: <u>Month</u>	: <u>Number</u>
III	: San Fdo.	: 2010	: March	: 298

ARTICLE 2. **Court Assignments.** - Public Attorneys shall be given specific court assignments by the Regional Public Attorney or District Public Attorney. They are not allowed to handle cases or appear in other courts without the approval of the District Public Attorney, if within the district, or by the Regional Public Attorney, if the case is outside the district but within the region.

In cases where the client is residing in a place other than the venue of the case, the initiatory pleadings shall be prepared by the district office having jurisdiction over the client's residence. Thereafter, the records shall be transmitted to the district office where the case is pending for the handling of the case.

In cases involving national interest and security as determined by the Chief Public Attorney, the District Head and the resident Public Attorney of a particular court where PAO clients are party litigants shall be automatically designated as members of the Special Public Attorney's Team created for such purpose.<sup>59</sup>

ARTICLE 3. **Handling of Cases.** - The following policies shall be observed:

Section 1. **First Come-First Served** - Where both the complainant and respondent apply for legal assistance and both are qualified, the first to seek assistance shall be given preference.

Section 2. **Conflict of Interest** -Where the PAO is precluded from accepting the case under the conflict of interest rule, the applicant shall be duly informed and advised to seek the services of a private counsel or legal aid organization.

Section 3. **Official Business of Lawyers and Personnel** -PAO lawyers and personnel who leave the office during office hours to attend to cases, and/or other official business, must secure written permission, as follows:

- a) Lawyers and personnel in the Central Office shall secure prior written permission from their Service Head for travel within Metro Manila, and from the Chief Public Attorney for travels outside Metro Manila.
- b) Field lawyers and personnel shall secure prior written permission from their District Public Attorney for travels within the district, from their Regional Public Attorney for travels outside the district but within the region, and from the Chief Public Attorney for travels outside the region.
- c) A District Public Attorney shall secure prior written permission from the Regional Public Attorney, for travels outside the territory of his district but within the region, and from the Chief Public Attorney, for travels outside the region.

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<sup>59</sup>Office Order No. 026 series of 2015

- d) Service Heads and Regional Public Attorneys shall secure the prior written permission of the Chief Public Attorney for their travels outside Metro Manila, and their regions, respectively.

Section 4. **Authority to Travel abroad** - All lawyers and personnel who wish to travel outside the country shall secure an Authority to Travel abroad from the Chief Public Attorney. The application with complete attachments shall be received by the Central Office at least thirty (30) days before the intended travel date, except in emergency cases.

Section 5. **Signature on Pleadings.** - All complaints, petitions, answers, replies and other important pleadings to be filed in the lower courts, quasi-judicial bodies and other offices, must be signed by the lawyer handling the case and co-signed:

- a) In the District Offices – by the District Public Attorney
- b) In the Regional Offices – by the Regional Public Attorney, or any senior lawyer in that Office designated by him; and,
- c) In the Central Office – by the Service Head or the senior lawyer designated by the former.

Section 6. **Transfer of Cases.** – Transfer of cases from one Public Attorney to another shall be effected only upon approval of the Officer-in-Charge/District Public Attorney/Service Head/Regional Public Attorney.

ARTICLE 4. **Withdrawal of Representation.** – A Public Attorney may, on justifiable instances, withdraw representation of a client’s cause, upon approval of his superior, and through a proper motion filed in Court.

Withdrawal may be warranted in the following situations:

1. In cases provisionally handled, where it is subsequently ascertained that the client is not qualified for PAO services;
2. Where the client’s income or resources improve, and he no longer qualifies for continued assistance;
3. When adequate proof is subsequently submitted, showing that the client’s allegation of indigency is false or incorrect;
4. When the client subsequently engages a de parte counsel, or is provided with a de officio counsel;
5. When, despite proper advice from the Public Attorney, the client cannot be restrained from doing things which the lawyer himself ought not to do, particularly with reference to their conduct towards the courts, judicial officers, witnesses, and litigants (Canons of Professional Ethics), or the client insists in having control of the trial, theory of the case, or strategy in procedure, which would tend to result in incalculable harm to the interests of the client; and
6. When it becomes apparent that the representation of the client’s cause will result in conflicting interests, as where the adverse party had previously engaged the services of the

PAO, and the subject matter of the litigation is directly related to the services rendered to the adverse party.

**ARTICLE 5. *Mediation, Arbitration and Conciliation*<sup>60</sup>. —**

Section 1. **Definition of Terms** – for purposes of this Memorandum Circular, the following terms shall mean:

- a) **Conciliation/Mediation** - the process whereby a Public Attorney to whom a dispute is referred, calls the parties thereto for a conference to discuss their differences and assists them in developing mutually agreeable and beneficial solutions to their dispute.
- b) **Notice of Conciliation/Mediation** - a written notice from a Public Attorney addressed to the parties in a dispute calling them to a conference before the Public Attorney at a specific place, date and time to discuss and find solutions thereto.
- c) **Compromise Agreement** - a written agreement by which, in consideration of mutual concessions, the parties terminate a controversy under such terms and conditions they agreed upon.

Section 2. **Coverage.** – The Public Attorney’ s Office shall extend legal assistance to an indigent requesting party or parties involved in a dispute for the purpose of mediation/conciliation.

Section 3. **Subjects of Mediation/Conciliation.**- All disputes except those already filed in courts.

**ARTICLE 6. MEDIATION/CONCILIATION PROCEDURE**

Section 1. **Initial Interview.** – The initial interview of the requesting party or parties shall be conducted by the staff, or in his/her absence, by the Public Attorney to determine if qualified under the Indigency Test.

Section 2. **Referral to the Public Attorney.** – The requesting party or parties shall be referred to the Public Attorney who shall determine if the matter is proper for conciliation/mediation. If appropriate, the Public Attorney shall issue a Notice of Mediation/Conciliation to the parties indicating therein the place, date and time for the conduct of the same.

Section 3. **Personal Appearance of Parties.** – The Mediation/Conciliation shall be conducted with both parties present. However, the parties may appear through their duly authorized representative if justified by the circumstances.

In case the adverse party appears with counsel, the latter shall be informed that he can only serve or act as his adviser for purposes of protecting his rights.

The Mediation/Conciliation shall be set at least three (3) times and if the adverse party shall not appear without any justifiable cause, the appropriate action/petition may be filed before the proper court of quasi-judicial body having jurisdiction over the subject matter of the dispute or complaint, provided that the requesting party’s cause of action is meritorious and supported with sufficient evidence.

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<sup>60</sup> PAO Revised Standard Procedure in Mediation and Conciliation, MC No. 001 Series of 2012

Unless an extension of time has been requested by either party on reasonable grounds, the Public Attorney rendering mediation/conciliation services shall terminate the proceedings not later than three (3) months from the acceptance of the case.

**Section 4. Effect of a Party's Failure to Appear.**

- a) **Requesting Party/Complainant** – The failure of the requesting party/complainant to appear in the first scheduled Mediation/Conciliation shall cause the setting of the case for another conference. If said failure was without justifiable reason, the handling Public Attorney shall consider the case closed and terminated for lack of interest.
- b) **Adverse Party/ Respondent** – In case the adverse party/respondent fails to appear for three (3) consecutive scheduled Mediation/Conciliation without justifiable reason, the Public Attorney shall evaluate the complaint and file the appropriate action in court or the proper forum, if warranted.

Section 5. **Conduct of the Mediation/Conciliation Proceedings.** – During the Mediation/Conciliation, the Public Attorney shall explain to the parties the importance and benefits of the same and shall encourage them to come to an amicable settlement or compromise agreement not contrary to law, public policy, customs and good morals. The Public Attorney shall, at all times, avoid impropriety in the conduct thereof.

The Public Attorney conducting the mediation/conciliation shall record or cause the recording of the material facts that transpired during the meeting and shall be signed by him and the parties and attached to the folder of the case.

**Section 6. Termination of the Mediation/Conciliation Proceedings. –**

- a. When the parties agree to a settlement, the handling Public Attorney shall, in their presence, prepare a Compromise Agreement stating therein the terms and conditions agreed upon. Before the parties and their witnesses affix their signature on the document, the handling Public Attorney shall read and explain its contents, in a language or dialect known and understood by them, giving emphasis to their corresponding duties and obligations as well as the consequence for non-compliance therewith.
- b. If no agreement is reached by the parties, the handling Public Attorney shall determine whether or not a case should be filed in court or before a proper forum with the approval of the District Head, if applicable.

**ARTICLE 7. RECORDING AND REPORTING CASES**

Section 1. **Office Logbook and Recording System for Mediation/Conciliation.** - A separate logbook and recording system shall be maintained by the office conducting mediation/conciliation.

The logbook shall contain the following entries:

- Entry No.
- Date Received
- Name, Gender, Age, Ethnicity, Contact Number and Address of Requesting Party/Complainant



Name, Gender, Age, Ethnicity, Contact Number and Address of Adverse Party/Respondent  
Issue/s for Mediation/ Conciliation  
Date of 1<sup>st</sup> Notice/Mediation/Conciliation  
Date of 2<sup>nd</sup> Notice/Mediation/Conciliation  
Date of 3<sup>rd</sup> Notice/Mediation/Conciliation  
Recommendation  
Results

Section 2. **Reporting.**- The Public Attorney shall include in the monthly report the number of cases for conciliation/mediation received and the number of cases terminated.

## ARTICLE 8. FINAL PROVISIONS

Section 1. **Supplementary Application.** The provisions of Memorandum Circular No. 007, Series of 2010, otherwise known as the Code of Conduct for Public Attorneys and Employees, shall apply herein in a supplementary manner.

## CHAPTER X APPEALS

ARTICLE 1. **Decision to Appeal.**– All appeals must be made upon the request of the client himself, and only meritorious cases shall be appealed.

If the lawyer handling the case and his District Head find that there is no merit to the appeal, the client should be immediately informed thereof in writing, and the record of the case turned over to him, under proper receipt. However, if the client insists on appealing the case, the handling lawyer should perfect the appeal, before turning over the records of the case to him.

If the case is meritorious, and the remedy is ordinary appeal, the Notice of Appeal should be forthwith prepared and co-signed by the lawyer handling the case and his District Head. Where the District Office concerned is housed in the same building as the Regional Office, the Notice of Appeal should also be co-signed by the Regional Public Attorney.

Appeals by way of petitions under Rules 42, 43 and 45 of the 1997 Revised Rules of Court are effected by the SAC Service by filing a motion for extension of time to file petition with the proper appellate court.

Field lawyers shall not file any motion for extension of time to file petition, without prior consultation with the SAC Service.

ARTICLE 2. **Appeals to be Handled by the SAC Service (Central Office) and its Regional Special and Appealed Cases Units (RSACU).** –

The SAC Service (Central Office) shall handle:

- a) Appeals to the Office of the President;
- b) Appeals to the Court of Appeals (Manila); and
- c) Appeals to the Supreme Court (from all cases originating from the Court of Appeals, Manila).

The Regional Special and Appealed Cases Units (RSACU) stationed in Cebu City and Cagayan de Oro City shall handle all appeals to the Court of Appeals Cebu and Mindanao Stations, respectively, and the Supreme Court (from all cases originating from the Court of Appeals, Cebu City and Cagayan de Oro City).

The lawyer who handled the case in the lower court, shall be responsible in perfecting the appeal. Automatic appeals wherein capital penalties are imposed do not exist anymore (A.M. 00-503-SC, Oct. 15, 2004). In special proceedings and other cases where multiple appeals are allowed, he shall also file the Record on Appeal.

**ARTICLE 3. *Appeals to be Handled by Field Lawyers.* –**

The following appeals shall be handled by the field lawyers:

- a) Appeals from decisions of the Municipal Trial Courts, Municipal Circuit Trial Courts and Metropolitan Trial Courts, to the Regional Trial Courts. (to be handled by PAO resident lawyer of the RTC);
- b) Appeals from decisions, resolutions and final orders of Regional Offices, Bureaus and other offices to their Departments (to be handled by the originating District Office);
- c) Appeals to quasi-judicial bodies such as the Department of Agrarian Reform Adjudication Board (DARAB), National Labor Relations Commission, Housing and Land Use Regulatory Board (HLURB), Civil Service Commission, Employees' Compensation Commission, Social Security Commission and others (to be handled by the originating District Office);
- d) Petitions addressed to the Secretary of Justice, for the review of the resolution of a Prosecutor, or his order denying a motion for reconsideration, shall be prepared by the field lawyers on the case. The appeal must be in strict conformity with **Department Circular No. 70 dated July 3, 2000**;
- e) Appeals from the decisions of the Regional Trial Courts, for violations of the Anti-Graft Law (R.A. 3019), and other related legislations to the Sandiganbayan, shall be handled by the Quezon City District Office.

In instances where hearings are required before the appellate board/agency/office or tribunal, the handling Public Attorney shall coordinate with the Regional/District Office where such board/agency/office or tribunal is located for purposes of special appearance/s by the latter.

**ARTICLE 4. *Records to be Transmitted.* –** The complete records of the civil/criminal case elevated to the appellate court, should be forwarded to the SAC Service, upon receipt by the handling lawyer of the Order giving due course to the Notice of Appeal. The documents to be transmitted should comply with the SACS' prescribed transmittal/checklist form.

Material dates to show timeliness of the remedy should be included in the memorandum/transmittal of the case to the SACS.

In criminal cases, the indorsing lawyer must, likewise, indicate whether the accused is on bail, or detained at the local jail or the National Penitentiary.

Field lawyers shall forward the records of the case for purposes of appeal/petition, only upon the instance of the accused/petitioner.

Likewise, the District Public Attorney shall immediately forward all appellate court's resolutions and pleadings received from the adverse party, that were addressed to the district office, after the records of the case were forwarded to the SAC Service. If the court resolution provides a reglementary period to file a pleading and/or to comply with a certain requirement/directive, the DPA shall immediately transmit the same to the SAC Service, to ensure the latter's receipt thereof, before the expiration of the period.

**ARTICLE 5. *Immediate Transmittal of Records.***— The records shall be immediately transmitted to the SAC Service in the following cases:

1. Petitions for Review with the Court of Appeals of decisions of Regional Trial Courts in the exercise of its appellate jurisdiction;
2. Appeals in Special Civil Actions like petitions for certiorari, prohibition, or mandamus;
3. Petitions for Review on Certiorari of decisions of the Sandiganbayan.

**ARTICLE 6. *Habeas Corpus Cases.***— Petitions for the issuance of a Writ of Habeas Corpus shall be filed by the Public Attorney on the case, before the Family Court, or in the absence thereof, before the proper Regional Trial Court. Where there are extraordinary and very important reasons for filing it with the Court of Appeals, the case shall be endorsed to the SAC Service.

Where an appeal is to be interposed, it must be perfected within forty-eight (48) hours from notice of the judgment. The records of the case must be transmitted to the SAC Service immediately upon the filing of the notice of appeal.

**ARTICLE 7. *Appeals by the Adverse Party.***— Where the adverse party appeals, the records of the case shall be forwarded to the SAC Service immediately upon knowledge of the perfection of the appeal, or filing of the petition or appeal memorandum by the adverse party.

**ARTICLE 8. *SAC Service Responsibilities.*** — While the initial evaluation of the merit and propriety of an appeal are made at the District Office level, it is the SAC Service which shall finally decide if the appeal is justified, and whether the theory adopted, issues raised and mode of appeal availed of by the trial lawyer are proper.

If the SAC Service finds no merit in the appeal, or believes the course of action adopted is not proper, and can no longer be remedied, the corresponding recommendation to consider the case as terminated shall be submitted to the Chief Public Attorney for his/her approval.

The SAC Service shall only enter its appearance once it receives the complete records of the case. Such appearance in substitution of the trial lawyer will relieve the latter of responsibilities attendant to the case.

It is the duty of the SAC Service to furnish the field lawyer or his District Head with a copy of the decision the moment it receives the same from the Appellate Court.

**ARTICLE 9. *Monitoring of Compliance with Guidelines.*** — The SAC Service shall closely monitor compliance by field lawyers with this Chapter (Chapter X). Whenever necessary, their attention shall be called regarding requirements that have not been met, or any violations that may

have been committed. It shall apprise the Regional Public Attorney and the Chief Public Attorney of such violations or shortcomings.

ARTICLE 10. *Miscellaneous Provisions.*— PAO lawyers must not file a Notice of Appeal for an accused who jumped bail, escaped or who is a fugitive from justice, unless he surrendered or posted bail pending appeal. Proof of such surrender or posting of bail shall be attached to the records transmitted to the SAC Service. (People vs. Maria Luna Gonzales, CA-G.R. CR. NO. 08821, September 6, 1990, citing People vs. Patajo, 57718, November 20, 1988, en banc. Minute Resolution).

## CHAPTER XI NON-JUDICIAL SERVICES

ARTICLE 1. *Coverage.*— The following are classified as Non-Judicial Services:

Section 1. Instant Services:

- a. Legal counseling, and,
- b. Documentation and administering oaths

Section 2. Outreach Activities:

- a. Assistance to persons undergoing police interrogation or persons under detention and inquest proceedings;
- b. Jail visitations; and
- c. Barangay outreach programs.

ARTICLE 2. *Instant Services*

Section 1. *Counseling.*— Requests for legal advice or counseling by phone or in person should be acted upon immediately, unless the problem presented requires further study and research, in which case the clients should be advised to call back or return within three (3) working days<sup>61</sup> by which time, the lawyer on the case should be ready with his advice or opinion. Requests for advice or opinion shall not be subjected to the indigency test, but care should be taken that affluent persons do not avail of PAO services.

Section 2. *Documentation.*— Requests for the preparation of affidavits, notices, and other documents must be attended to immediately.

Included in this service is administering oaths pursuant to Republic Act 9406. Requests for documentation services shall not be subjected to the indigency test, and neither shall it be necessary to accomplish the Interview Sheet. Public Attorneys may administer oaths with respect to SPAs in relation to cases handled by the office or as part of instant services<sup>62</sup>. Again, care should be taken that documentation services are availed of only by indigents. Hence, requests for the preparation of deeds of sale of real properties and other commercial documents shall be denied.

Section 3. *Authority to Administer Oaths.*— Public Attorneys shall have the general authority to administer oaths in connection with the performance of their official duty free of charge.

- a. In administering oaths, the Public Attorney shall use the following format:

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<sup>61</sup>period is changed from the original five (5) days to be responsive to the mandate of CSC Memo Circ. No. 14, Series of 2016

<sup>62</sup> Memorandum to Atty. Jonathan P. Bosantog dated May 6, 2016

**NAME OF PAO LAWYER  
POSITION/DESIGNATION  
(Pursuant to R.A. 9406)**

- b. *Recording of Oaths Administered.*—Every Public Attorney shall maintain a separate record book as register of all the oaths administered, indicating the date thereof, brief description of the document, name of the swearing party, and witnesses, if any.
- c. *Reportorial Requirement.*— Every Public Attorney, exercising the authority to administer oath, shall submit a monthly report of the oaths administered, to the Field Operations and Statistic Service.

**ARTICLE 3. *Outreach Activities.***

**Section 1. Assistance To Persons Undergoing Police Interrogation Or Persons Under Detention And Inquest Proceedings<sup>63</sup>**

**A. Definition of Terms.** – The following terms shall be understood to mean:

- 1. **Custodial Investigation** – refers to the critical pre-trial stage when the investigation being conducted by the police or other law enforcement bodies is no longer a general inquiry into an unsolved crime but has begun to focus on a particular person as a suspect.
- 2. **Inquest Proceedings** – informal and summary investigation conducted by a public prosecutor in criminal cases involving persons detained without the benefit of the warrant of arrest issued by the court for the purpose of determining whether or not said persons should remain under custody and correspondingly be charged in court.

Section 2. **Coverage** – The PAO shall extend legal assistance to persons arrested, detained, under custodial investigation or inquest proceedings who cannot secure their own counsel pursuant to Memorandum Circular 002, Series of 2008 and Office Order No. 137, Series of 2010, otherwise known as PAO Operations Manual.

**Section 3. Duties and Responsibilities of Inquest Duty Lawyers, Inquest Assistants, Overall Coordinators, Coordinators, and Secretariat**

**A. Inquest Lawyers**

- 1. Inquest lawyers who are on duty shall render assistance during custodial interrogation and inquest investigation to persons who cannot secure their own counsel;
- 2. Inquest lawyers shall provide other legal services necessary for effective assistance to arrested indigent clients and phone callers seeking legal advice;
- 3. In case a Duty Inquest lawyer is unavailable to render inquest assistance, the inquest lawyer shall immediately and properly inform and make the necessary arrangement with the Team Leader for duty substitution;

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<sup>63</sup> Revised Standard Office Procedure in Extending Legal Assistance During Custodial Investigation and Inquest Proceedings, Memorandum Circular No. 002 Series of 2012

4. Upon request, the Inquest lawyer shall assist the suspect/respondent in the protection of his constitutional and statutory rights and in the observance of due process;
5. They shall perform such other duties as may be impliedly necessary for the effective performance of inquest duties.
6. They shall submit a report on the legal action taken on the case of the arrested indigent client and other legal services rendered.

**B. Inquest Assistants**

1. Inquest assistants shall perform steno-clerical functions in giving assistance to the Inquest Lawyers assigned in a specific station during the day;
2. They shall accompany the assigned Inquest Duty lawyer and record all inquest and legal assistance activities extended to arrested indigent clients and legal advice over the phone;
3. Inquest Assistance shall wear their Office Identification Card (ID Card) while on inquest duty;
4. They shall perform such other duties as may be impliedly necessary for effective performance of inquest duties.

**C. Over-all Coordinators and Coordinators**

1. Supervise and monitor the performance of Night Duty Lawyer and Night Duty staff;
2. Conduct spot/supervise inspection of the Night duty lawyers and Night Duty staff are performing their assigned duties and if they are at their work stations; and
3. Act as substitute whenever a Night Duty Lawyer or Night Duty staff is not available/absent.

**D. Secretariat (PAO – Central Office)**

1. The Secretariat shall receive, compile and record the reports submitted by the Inquest duty lawyer;
2. The Secretariat members, including the Secretariat Head and Assistant Head, shall also act as substitute whenever a Night Duty Staff is not available/absent. The Secretariat Head or Assistant Head shall assign who among themselves shall be the substitute; and
3. The Secretariat Head, Assistant Head, and members shall also conduct spot/surprise inspection if the Night Duty Lawyers/Staff are performing their assigned duties and if they are at their work station;
4. The Secretariat shall be responsible in monitoring the submission of said report and also the submission to the Over-all Coordinators of said list of Night Duty Lawyers who failed to comply.
5. They shall perform such other related functions as assigned by the Over-all Coordinators.

**Section 4. Procedure to be Observed During Custodial Investigations and Inquest Proceedings.**

1. Public Attorneys shall extend legal assistance to persons arrested, detained, under custodial investigation or inquest proceedings who cannot secure their own counsel;

2. The Public Attorney shall initially interview the arrested or detained person to determine his personal circumstance, the date, time and place of his arrest or detention and the circumstances surrounding his arrest;
3. Should the arrested/detained person appears to be 15 years old and below, the Public Attorney shall communicate this matter to the investigating officer and request him/her to refer the arrested/detained minor to the local DSWD for proper disposition pursuant to Republic Act (R.A.) No. 9344, otherwise known as Juvenile Justice and Welfare Act of 2006;
4. Where the arrested/detained person appears above 15 years but below 18 years old, the Public Attorney shall request the investigating officer to determine whether the minor acted with discernment and if found negative, to demand the immediate release of the arrested/detained minor;
5. The Public Attorney shall likewise determine whether the arrested/detained person appears to have been tortured and if in the affirmative, to demand that he be immediately brought to the nearest government medical practitioner or in the absence thereof, to a private physician for a thorough medical and physical examination pursuant to R.A. No. 9574 otherwise known as Anti-Torture Act of 2009 approved on November 10, 2009;
6. In case of custodial investigation, should the Public Attorney believe that the evidence in the hands of the arresting/investigating officers is insufficient to support the charge against the arrested/detained person, he shall demand the immediate release of the said person pending further investigation;
7. Should his request be denied, the Public Attorney shall demand the immediate transmittal of the records of the police investigation to the Inquest Prosecutor for inquest proceedings;
8. In case the arrested/detained person wishes to execute an extra-judicial confession, the assisting Public Attorney shall ensure that the affiant is given the full opportunity to make an informed and voluntary decision, the consequences of his execution of an extra-judicial confession and that he is under no compulsion to sign the same by uprising him of his Miranda Rights under the 1987 Constitution and pursuant to Republic Act (R.A.) No. 7438<sup>64</sup>;
9. Should the arrested/detained person insist on giving his extra-judicial confession after the Public Attorney has apprised him of his rights as stated in the immediately preceding paragraph, the Public Attorney shall:
  - a. Be present at all stages of the proceedings;
  - b. Ensure that the arrested/detained person is accorded his full rights as provided for in Section 2 of RA 7438; and,
    - c. Read and adequately explain to the arrested/detained person in a language and dialect known and understood by him the content of his extra-judicial confession before he signs or affixes his thumb mark thereon.
10. In case of inquest proceedings, the Public Attorney shall determine if the same is proper for inquest proceeding and if in the negative, to request the investigating prosecutor to immediately order the release of the arrested/detained person for further investigation, otherwise, the Public Attorney shall advise the arrested/detained person the best course of action under the circumstances to protect his rights. The Public Attorney shall likewise

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<sup>64</sup> An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation As Well As the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof.

assist the arrested/detained person in securing the approval of the reduction of his bail bond and in posting the same;

11. Should the arrested/detained person wish to invoke his right to a preliminary investigation, the Public Attorney shall assist him in the execution of his waiver of the provision of Article 125 of the Revised Penal Code;
12. Every District Public Attorney shall be responsible in designating lawyers and staff to respond to the requests for legal assistance of police station/precincts and jails, particularly during custodial interrogation, inquest investigation proceedings and jail visitation activity even beyond office hours and during holidays, Saturdays and Sundays;
13. District Public Attorneys and Regional Public Attorneys shall prepare the schedule of inquest duties of lawyers and their staff in advance and submit the same to the Regional Office and the Central Office at least ten (10) days before the beginning of the month;
14. All lawyers and staff shall perform inquest duties by way of legal assistance, whenever requested by the Police Station Commander or his duly authorized representative for purposes of inquest proceedings, and jail visitation outreach program even beyond office hours and during holidays, Saturdays and Sundays;
15. The Inquest duty lawyer and staff assigned at the Regional and District offices during holidays, Saturdays and Sundays shall render inquest duty from 8:00 a.m. to 5:00p.m., and those assigned in the evening shall render inquest duty from 5:00 p.m. to 10:00 p.m.;
16. Regional Public Attorneys shall lead and monitor compliance therewith by all lawyers and staff under their supervision in such a manner as to ensure the efficient rendition of services during inquest proceedings and the conduct of jail visitation outreach activity as herein required;
17. Regional Public Attorneys and District Public Attorneys shall ensure the availability of the office telephone lines during office hours and mobile phones at all times even beyond office hours and during holidays, Saturdays and Sundays to Station Commanders for efficient coordination and orderly referral of requests for inquest and custodial investigation assistance;
18. The duty lawyer and duty staff shall be “on call” to attend to the legal needs of suspects in the police station within the territorial jurisdiction of the district;
19. Swapping of scheduled duty may be allowed in cases of emergency situations (subject to the approval of the Regional Public Attorney or District Public Attorney concerned);
20. The Inquest duty lawyer and staff shall use their individual monthly Daily Time Record (DTR) card to record their attendance;
21. The night duty lawyer and night duty staff shall use the landline number of the field office as their communication line with the police precincts and the general public;
22. The night duty lawyer and night duty staff whose night duty schedule will fall on Sundays, Mondays, Tuesdays, Wednesdays and Thursdays shall continue to report for work the next day, unless the same is declared a non-working holiday. In such case, the Regional Public Attorney and District Public Attorney concerned shall coordinate with the Central Office for the arrangement of schedule of the night duty lawyer and night duty staff for such non-working holiday;
23. After the disposition of the case, the Public Attorney shall prepare his written report using PAO Inquest Form No. 1-1;
24. The duty lawyer, with the assistance of the duty staff, shall submit a report of his/her activities to the Regional Public Attorney and District Public Attorney concerned within



three (3) working days after his/her duty, in consonance with Memorandum Circular No. 002, Series of 2008;

25. The duty lawyer and duty staff shall use the existing Inquest Report form for the report;
26. Failure to submit the required report shall result in the temporary withholding of the lawyer's Representation and Transportation allowance (RATA); and
27. The Regional Public Attorney or District Public Attorney concerned shall be responsible in monitoring the submission of the said report and the submission to the PAO-Central Office of the list of duty lawyers and staff who failed to comply.
28. The Regional Public Attorney or Regional Officer-in-Charge shall prepare a consolidated report to be submitted to the Chief Public Attorney within the first five (5) days of the succeeding month for the determination of the personnel entitled to inquest allowance, subject to availability of funds, as well as the Department Budget and Management (DBM), Civil Service Commission (CSC) and Commission on Audit (COA) rules and regulations.

Section 5. **Suppletory Application.** – The provisions of Memorandum Circular No. 002, Series of 2008, Memorandum dated September 14, 2010, and Memorandum Circular No. 002, Series of 2011 shall apply herein in a suppletory manner.

#### ARTICLE 4. STANDARD OPERATING PROCEDURE DURING VISITATION IN JAILS AND HOLDING CENTERS<sup>65</sup>

##### Section 1. **Guidelines for Visitation** –

- a. Regional/district offices shall conduct jail visitation in their respective jurisdictions at least once a week.
- b. Before conducting jail visitations, all lawyers and staff shall secure the required authorization from the Regional Public Attorney or the District Head concerned.
- c. After said visit, PAO lawyers and staff shall secure the certificate [of] appearance from the jails/holding centers visited, which attendance shall be reflected in their daily time records.
- d. Lawyers and staff shall perform their respective regular and usual functions and shall discharge such other duties as may be assigned by the Chief Public Attorney, and/or undertake duties as may be impliedly necessary under the circumstances for the effective and orderly delivery of services.

Section 2. **Documentation** – The information to be gathered during the interview of the inmates while on jail visitation are, but not limited to, the following:

- i. Who among those detained are without legal counsel;
- ii. Who among them have been in custody beyond the period equal to or more than the maximum impossible penalty for the offense charged;
- iii. Who have been in custody for a period equal to or more than the minimum impossible principal penalty for the offense charged.

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<sup>65</sup> Memorandum Circular No. 003, Series of 2012

MOA with BJMP signed on May 31, 2016 under Par II. SPECIFIC RESPONSIBILITIES OF PAO a) Apprise the newly committed inmates of their constitutional rights and various modes of early releases through applicable laws during regular weekly orientation of newly committed inmates. b) xxxxxxxxxx c) Allot at least one day per week or as needed, for the execution of said forms in the presence of a Public Attorney during weekly orientation of newly committed inmates.

Those who have been in custody shall be informed that the services of the PAO could be availed of at no cost.

Those who have been detained for a period equal to, or more than the maximum imposable penalty for the offense charged, or for a period equal to, or more than the minimum of the imposable principal penalty should be informed that, through a proper motion, they could be released on a reduced bail, or on their own recognizance, as the case may be (Article 29, Revised Penal Code). In the interest of justice, the discovery of such a situation should be relayed to the counsel *de parte* of the detention prisoner, if he/she is so represented, otherwise, the PAO resident lawyer should be informed of this fact for immediate action;

- iv. Cases involving inmates who have not been arraigned within the required period prescribed under the Speedy Trial Act; and,
- v. Cases requiring the release of minors who are under custody pursuant to the provisions of Republic Act No. 9344 (Juvenile Justice and Welfare Act of 2006).

**Section 3. Recording and Reporting of Jail Visitation** – Jail visitation activities shall be recorded in the visitation interview sheet (VIS) for jails and holding centers reflecting the following data:

- a. Name of the detainee interviewed;
- b. Age;
- c. Date of confinement;
- d. Crime/offense charged;
- e. Court where pending;
- f. Handling PAO lawyer;
- g. Legal problems/findings;
- h. Recommendation; and,
- i. Other necessary/relevant information included in Paragraphs b and c, Section III hereof.

**Section 4. Action Taken/Accomplishment.** – The action taken/accomplishment shall be reflected on the Visitation Accomplishment Report (VAR) which shall contain the following information:

- a. Name of inmate/CICL interviewed;
- b. Interviewing lawyer;
- c. Date of interview;
- d. Resident Public Attorney;
- e. Recommendations/findings;
- f. Action taken;
- g. Date action taken; and,
- h. Signature of resident Public Attorney

**Section 5. Referral to Resident Public Attorney.** – Where the interviewing lawyer is not the resident Public Attorney of the court where the case is pending, he/she shall immediately refer the same to the concerned resident Public Attorney.

**Section 6. Duties of Resident Public Attorney.** – The resident Public Attorney shall submit a report to the District Public Attorney or the Regional Public Attorney on the action taken from the findings/recommendation contained in the VIS, within a period of five (5) working days from the date of the interview or referral.

Section 7. **Other Related Jail Activities.** – Whenever practicable, medical, dental and optical services, may also be conducted during the visitation in coordination with or the assistance of other government agencies, civic organizations or local government units.

Section 8. **Suppletory Application** – The provisions of Memorandum Circular No. 007, Series of 2010, otherwise known as the Code of Conduct for Public Attorneys and Employees, shall apply herein in a suppletory manner.

**ARTICLE 5. BARANGAY LEGAL INFORMATION DISSEMINATION AND OUTREACH PROGRAM<sup>66</sup>.**

Section 1. **Coverage.** This covers activities of the Public Attorney’s Office (PAO) involving information dissemination, legal consultation/counseling, lectures, and other instant services to be conducted at the barangay level.

The programs for barangay legal outreach activity shall include, but not limited to the following:

- A. Programs initiated by the Public Attorney’s Office
- B. Programs in coordination with other government departments and agencies/local government units/NGOs
- C. Lectures conducted upon invitation of other agencies/local government units/NGOs; and,
- D. Other related activities.

Section 2. **Procedure** –

a. **Procedure in the conduct of *Barangay Outreach Program*.** –

- i. As part of the legal information program of the PAO, the respective district offices of every region shall conduct barangay outreach programs at least once a month.
- ii. The District Public Attorney/OIC shall determine, in coordination with the respective *Punong Barangays* or any other government agencies/LGUs/NGOs, the desired topics, target audience, schedule, and all other related matters.
- iii. The District Public Attorney/OIC shall then assign lawyers and staff who shall undertake the outreach activity.

b. **Barangay Outreach subordinate to trial schedules** – The District Public Attorney/OIC shall not impair/hamper or cause any delay in the trial schedules of the Public Attorneys.

c. **When to conduct barangay outreach activity** – The barangay outreach activity may be conducted after the scheduled hearings during office hours or beyond regular working hours or even on weekends.

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<sup>66</sup> Memorandum Circular No. 004, Series of 2012 Standard Operating Procedure in the Conduct of Barangay Legal Information Dissemination and Outreach Program

Section 3. **RECORDING/REPORTING** –

- a. **Official Logbook and Recording System** – A separate logbook and recording system shall be maintained by the office for barangay outreach programs.
- b. **Reporting** – Upon completion of the outreach activity, the District Public Attorney/OIC shall prepare a monthly report for submission to the Regional Public Attorney the details of the activity such as:
  1. Date when the activity was conducted
  2. Name of Barangay and the City/Municipality where such barangay is located
  3. Activity/ies undertaken
  4. Subject Matter
  5. Number of Beneficiaries
- c. **Inclusion in monthly report.** – The Public Attorney shall include in their individual performance report the barangay outreach activities conducted during the month.

Section 4. **Supplementary Application.** - The provisions of Memorandum Circular No. 007, Series of 2010, otherwise known as the Code of Conduct for Public Attorneys and Employees, shall apply herein in a supplementary manner.

**CHAPTER XII  
RECORDING AND REPORTING OF CASES AND SERVICES**

ARTICLE 1. **Recording.** - All requests for legal assistance shall have to be recorded, as follows:

- a. The Interview Sheet shall be filled out by the Interviewer, and signed by the client. The accomplished Interview Sheet shall be attached to the case folder;
- b. The control number assigned to the case shall appear in all the forms. Assignment of numbers shall be in the sequence of receipt of cases, regardless of classification, thus, there should be no separate control numbers for judicial and non-judicial cases;
- c. Accepted applications shall be recorded in a logbook, at the Provincial, City, Municipal District Offices or Line Services. The logbook shall contain columns for the following data: name of client, date the application was received, PAO Control Number, name of lawyer to whom the case was assigned, nature of case or cause of action, cause of termination, and date of termination;
- d. Transfer of cases duly approved by the Provincial, City, Municipal Public Attorneys or Service Heads, shall be recorded in PAO Form No.2-F. This contingency arises when there are changes in court assignments of lawyers, or cases are re-raffled to other branches of the court, when the lawyer assigned retires, transfers to another office, resigns or files an application for leave for more than five (5) days, or other similar situations. The original shall be submitted to the District Head as office file, the duplicate to the transferor and the third copy to the transferee;
- e. PAO Form No. 4 (Case History) shall be attached to the case folder, for recording of every development of the case, such as dates of hearing, the witnesses presented on direct or cross-examination, and documents marked as exhibits;
- f. Custodial interrogation and Inquest Investigation Services shall be entered in PAO Form No. 5, which shall reflect the date, name of person assisted, offense charged, and place where the services were rendered;

- g. Jail visitation activities shall be recorded in PAO Form No. 6, which shall contain the following: the person visited, detainees interviewed and action taken on their problem, if any.

ARTICLE 2. **Reporting.** – All lawyers are required to submit the following reports:

- a. **Monthly Reports.**– Public Attorneys shall submit monthly, in triplicate, to the Provincial, City, Municipal District Public Attorney or Service Heads, within the first three (3) working days of the succeeding month, a statistical report of their judicial, quasi-judicial and non-judicial services, as well as limited services and outreach activities, on Monitoring Form No. 01. The Unit Head shall immediately transmit the original of the reports, including his/her own, to the Field Operations and Statistics Service (FOSS), furnishing the Regional Public Attorney with a copy thereof. A copy shall be retained by the District Office.
- b. **Year-end Reports.** – A year-end inventory of pending judicial and non-judicial cases, as well as limited services and outreach activities, shall be submitted to the Provincial, City, Municipal District Public Attorney or Service Heads, within the first five (5) working days of the succeeding year, on PAO Form No. 8. The Provincial, City, Municipal District Public Attorney or Service Heads shall immediately submit within three (3) working days, the original of the reports, including his/her own, to the Field Operations and Statistics Service, furnishing the Regional Public Attorney a copy thereof. A copy shall be retained by the District. The Regional Public Attorneys shall submit, within three (3) working days after receipt from the district offices, a consolidated year-end report to the Field Operations and Statistics Service.

### **CHAPTER XIII LITIGATION EXPENSE AND SUCCESS FEES**

ARTICLE 1. **Exemption from Fees and Costs of the Suit.** – The clients of the PAO shall be exempt from payment of docket, court fees and other fees, incidental to instituting an action in court, and other quasi-judicial bodies, as an original proceeding or on appeal. (*Section 6 [paragraph 5], R.A. 9406*)

ARTICLE 2. **Exemption from Filing Fees for Complaints filed before the Prosecutor's Office.** – Consistent with the Memorandum dated January 4, 2005 issued by then Secretary of Justice Raul M. Gonzalez, as reiterated in Department Circular No. 46 dated June 25, 2010 issued by then Secretary Alberto C. Agra, indigent litigants assisted by the Public Attorney's Office are exempted from payment of filing fees for complaints filed before the Prosecutor's Office.

ARTICLE 3. **Costs of suit, attorney's fees and contingent fees.** – The costs of the suit, attorney's fees and contingent fees, imposed upon the adversary of the PAO clients after a successful litigation, shall be deposited to the National Treasury as trust fund, and shall be disbursed for special allowances of authorized officials and lawyers of the PAO. (*Section 6 [paragraph 6], R.A. 9406*)

ARTICLE 4. **Receipt for contingent and attorney's fees.** The handling PAO lawyer shall file a request with the Office of the Clerk of Court of the Metropolitan Trial Court, Metropolitan Circuit Trial Court, Regional Trial Court, Court of Appeals, Supreme Court and cashiers/sheriffs of the National Labor Relations Commission/Department of Labor and Employment and other quasi-judicial bodies, to issue the proper receipt to the losing party, with regards to the payment of contingent fees and attorney's fees adjudged in favor of the PAO client, and shall immediately turn-over the same to the PAO cashier to be deposited to the National Treasury.

## CHAPTER XIV FRANKING PRIVILEGES

ARTICLE 1. *Franking Privilege.* - The PAO may transmit through ordinary mail and/or registered mail with return card, free of charge, all official communications and papers directly connected with the conduct of its duties, functions and/or its exercise of administrative supervision over its personnel. (*Section 6 [paragraph 8], R.A. 9406*)

ARTICLE 2. *Form.* – The envelope or wrapper of the privileged mail matter shall bear on the left upper corner, “Public Attorney” together with its address, and on the right upper corner, the words “Private or unauthorized use to avoid payment of postage is penalized by fine or imprisonment, or both.” (*Section 6 [paragraph 9], R.A.9406*)

ARTICLE 3. *Provision of envelopes and rubber stamps.* – The PAO shall provide for the standard mailing envelope and the standard rubber stamp for purposes of compliance with the preceding section.

ARTICLE 4. *Recording of Outgoing Mails.* – Every Service, Regional and District Office, shall maintain a separate logbook to serve as record of all official communications sent either through ordinary mail and/or registered mail with return card, free of charge, indicating therein the date of mailing, brief description of the mail matter and the registry receipt number, as the case may be.

## CHAPTER XV RULE OF CONDUCT

ARTICLE 1. *Rule of Conduct for Public Attorneys.* -Public Attorneys should primarily play the role of peacemakers. They must be guided by a high sense of fairness, integrity, good faith and justice, in the performance of their functions. Cases must be evaluated that only the meritorious ones are entertained, and only deserving persons are extended free legal assistance.

ARTICLE 2. In rendering legal services to the needy, Public Attorneys must give the fullest measure of assistance and diligence. They must keep abreast of the latest laws and jurisprudence.

Public Attorneys should meticulously study the cases assigned to them to ensure a full understanding of the facts in support of the claims and/or defenses that may be available to the client. They must ensure that reproduction/photocopying of documents are complete and in order.

In labor cases, Public Attorneys shall assist in the filing of the complaint and accompany the client in all stages of the proceedings, especially in the preliminary mandatory and pre-execution conferences.

Public Attorneys must be courteous in their language and demeanor towards clients and the general public. No client should be left unattended. Our avowed policy should be “*prompt service with a smile*”.

ARTICLE 3. All Public Attorneys and employees shall observe fidelity in the custody of case records and shall not allow the unauthorized photocopying and/or removal of the same from the office.

ARTICLE 4. No Public Attorney shall take custody of cash or valuables of a client. If there are fees to be paid, the client should be the one to pay. In amicable settlements, the Public Attorney should refrain from taking custody of any money or valuables which is/are the object/s or subject/s of settlement.

However, with respect to attorney’s fees duly awarded, the Public Attorney shall take custody of the same and ensure proper transmittal to the designated accountable officer of the Regional Office.

ARTICLE 5. Acceptance of “**pasalubong**” or gifts from clients is punishable under R.A. No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), and should, therefore, be strictly avoided.

## **CHAPTER XVI SANCTIONS**

ARTICLE 1. **Administrative Sanction** –Disciplinary action in accordance with the existing Civil Service Laws, rules and regulations shall be taken against a Public Attorney and employee who commits any of the following acts:

- a. Handles cases of persons who are not qualified for legal services under the indigency test, or those who are not entitled to services specifically mentioned in Rule VI (Free Legal Services) of the Implementing Rules and Regulations of R.A. 9406;
- b. Handles cases outside of his/her court residency assignment, without appropriate written authorization;
- c. Fails to submit monthly and year-end report on time;
- d. Travels abroad without securing a *Permit/Authority to Travel Abroad* from the Chief Public Attorney;
- e. Fails to transmit records of cases to the Special and Appealed Cases Service within the specified time-frame prescribed herein;
- f. Handles appealed cases in the Appellate Courts, if he/she is a field lawyer;
- g. Fails to perfect an appeal on time to the prejudice or interest of the client;
- h. Fails to attend inquest duty without valid reason; and,
- i. Any other violations of the PAO Operations Manual, other office policies, issuances, and Civil Service Rules and Regulations.

ARTICLE 2. Administrative action shall, likewise, be taken against those who will unjustifiably and willfully violate Republic Act No. 9406 and its Implementing Rules and Regulations, without prejudice to the filing of criminal charges under existing penal laws, and the provisions of R.A. 3019 and R.A. No. 6713.

## **CHAPTER XVII FINAL PROVISIONS**

ARTICLE 1. **Repealing Clause.** – All circulars and memoranda, or any portion thereof, inconsistent herewith, are hereby repealed or modified accordingly.

ARTICLE 2. **Effectivity.** – This PAO Operations Manual shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Signed in Davao City on this 17th day of November 2016.

(SGD.) **DR. PERSIDA V. RUEDA-ACOSTA**  
Chief Public Attorney

.WE, the undersigned Officials of the PUBLIC ATTORNEY'S OFFICE, do hereby present and ratify the 2016 REVISED PUBLIC ATTORNEY'S OFFICE (PAO) OPERATIONS MANUAL, this 17<sup>th</sup> Day of November, 2016, at the Royal Mandaya Hotel, Davao City, Philippines

(SGD.) **SILVESTRE A. MOSING**  
Deputy Chief Public Attorney  
for Visayas and Mindanao

(SGD.) **HOWARD B. AREZA**  
Regional Public Attorney  
MIMAROPA, and concurrent  
OIC Deputy Chief Public Attorney

(SGD.) **MARLON E. BUAN**  
Regional Public Attorney  
National Capital Region

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