



PNP GUIDEBOOK ON HUMAN RIGHTS BASED-POLICING

2013 EDITION



Message

Since the creation of the Philippine National Police (PNP) in 1991 from the defunct Philippine Constabulary-Integrated National Police (PC-INP), it has gradually changed from a purely law enforcement agency into a squarely human rights-based police organization. It is a universally accepted norm that professionalism in the police service can only be achieved if it truly respects the rights of every citizen regardless of race, culture, belief and standing in life.

We learned from the lessons of history that a police organization that resorts to unbridled force is doomed to fail. For this reason, the public expects no less from every police officer to act like a morally upright and responsible father who looks after the welfare of his children without special favor; a devoted mother who shares meaningful advices and offers a warm embrace; a dutiful brother who is always on hand to defend the honor of his family; and a cheerful sister who is always ready to listen with an open heart.

Hence, as a family of dynamic public servants, the PNP truly adheres to human rights-based policing through its **CODE-P** (Competence, **O**rganizational Development, **D**iscipline, **E**xcellence and **P**rofessionalism). We achieved Competence through quality rights-based trainings and seminars; **O**rganizational Reforms through the designation of accessible Human Rights Desk Officers down to the station level; **D**iscipline through strict adherence to policies that give premium to human dignity; **E**xcellence through the use of latest investigative technology that delivers immediate, impartial and credible result; and **P**rofessionalism which is the end product of all human rights-based initiatives at all levels of community service and peacekeeping operations.

Many police officers in the past look at human rights policies as a sanction rather than an indispensable tool to facilitate the ends of justice. It took a series of trainings, seminars and actual field exposures to human rights situations to change such negative mindset. For this purpose, the introduction of the **PNP Guidebook on Human Rights-based Policing** is a welcome development. I therefore enjoin all PNP personnel to read, internalize and apply the valuable guidelines in this handbook so that our appreciation of the indispensable rights of others will be deeply embedded both in our hearts and minds. *Ang pagkilala sa karapatang pantao ay kailangang magmula sa puso, isip at diwa ng bawat kawani ng Pambansang Pulisya ng Pilipinas upang ganap na isabuhay ang **Serbisyong Makatotohanan** sa sangkatauhan.*

ALAN LA MADRID PURISIMA
Police Director General
Chief, Philippine National Police



Message

The publication of the PNP Guidebook on Human Rights-Based Policing 2013 Edition is very timely and relevant to the reform thrusts of the police organization and to unrelenting government efforts to investigate and bring to justice perpetrators of human rights violations.

This guidebook provides police personnel with practical information on various human rights standards that would help us strengthen our institutional commitment to the legal, procedural, and moral precepts of policing.

As a human rights education and training tool, it complements the vital work of Task Force Usig under the Directorate for Investigation and Detective Management and supports the work of police investigators in the field who expertly apply the art and science of police investigation in tracking suspects in crimes that violate domestic laws, human rights, and international humanitarian law.

Indeed, this Guidebook is more than just a publication. It is our public affirmation of the PNP's duty to promote and protect human rights.


FRANCISCO DON C. MONTENEGRO
Police Chief Superintendent
Director for Investigation & Detective
Management



Message

The Hanns Seidel Foundation/Germany is honored to be a partner of the Philippine National Police (PNP) in the publication of this “PNP Guidebook on Human Rights-Based Policing.” The efforts that went into this publication is indicative of the PNP’s commitment towards the promotion of human rights-based policing.

This guidebook is not just a listing of human rights-specific laws, nor intended solely for lawyers. The main users are the members of the police force, those who patrol their respective beats, those assigned to police precincts, stations, district, provincial and regional offices - those who work with the community.

Rights-based policing is anchored on the police officers’ competence and professionalism. This book enhances the police officers’ knowledge and understanding of human rights-based policing principles. It also serves as a handy reference for these officers who are in close contact with the people, providing them practical guidelines on community and rights-based policing.

We have been working with the PNP Human Rights Affairs Office since 2008 and look forward to a continued partnership towards the promotion and protection of community and human rights-based policing, and on a broader scale in helping strengthen the technical competence and professionalism of the police officers as they face the challenges of the twenty-first century.

We wish the men and women of the PNP and HRAO all the best in the future!

PAUL G. SCHÄFER
Resident Representative
Hanns Seidel Foundation/Germany



Foreword

The goals behind the publication of the PNP Guidebook on Human Rights-Based Policing 2013 Edition are to update the guide by incorporating the latest policies, laws, and procedures related to human rights; and to ensure that more police personnel gain access to valuable information needed in the performance of their duty as human rights protectors.

In this latest edition, we have included sections on police procedures related to the enforcement of Republic Act 9745 (Anti-Torture Law) and Republic Act 9851 (IHL Act). We have also added more details about the application of principles on the use of non-lethal force and recommendations on how to enhance police services to the poor, vulnerable, and marginalized sectors.

An overview of the International Humanitarian Law (IHL) is also provided to inform police personnel about the duty to respect and protect non-combatants during armed conflicts and certain restrictions in the conduct of warfare.

Through this updated guidebook, we hope to further deepen the consciousness, commitment, and capabilities of police personnel to apply Human Rights-Based Policing in all aspects of law enforcement and public safety operations.


NESTOR M FAJURA
Police Chief Superintendent
Chief, PNP Human Rights Affairs Office

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To the many outstanding individuals and organizations that continue to help, encourage, and work together with the PNP Human Rights Affairs Office in promoting and protecting human rights in our country.

CHAPTER I

WHAT ARE HUMAN RIGHTS?

The subject of “Human Rights” is one of the most pressing issues faced by the Philippine National Police today. Alleged human rights violations by erring police personnel had made discussions about human rights a source of discomfort within police circles. Some had even mistakenly dismissed human rights as a mere propaganda tool used by enemies of the State to denounce the security sector.

If understood in the proper context, the promotion and protection of human rights is at the very core of policing. The enforcement of laws and the maintenance of peace and order are, first and foremost, about protecting the rights of citizens. For example, police personnel patrol the streets to deter criminals from committing robbery or theft. These crimes violate another person’s right to property ownership. Whenever a police checkpoint is set up, it is essentially about promoting the community’s right to have a safer place to work or live in --- and not just about establishing a security cordon.

Still, many in the PNP are asking: “What exactly are human rights?”

Definition of Human Rights

Human Rights refer to the “basic rights and freedoms that all human beings have.”

Rights are inherent to all human beings, regardless of nationality, place of residence, sex, national or ethnic origin, skin color, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent, and indivisible.

According to the Universal Declaration of Human Rights (UDHR) proclaimed by the United Nations General Assembly in December 10, 1948:

“All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.”

At the international level, human rights are often defined, expressed, or guaranteed by law in the form of treaties, conventions, customary international law, general principles, and other legal instruments recognized by almost all States, specifically the 192 sovereign countries that belong to the United Nations. International human rights law also obliges Governments to act in certain ways or to refrain from certain acts in order to promote and protect human rights and fundamental freedoms of individuals or groups. These obligations are intended to prevent abuse of authority by agents of government.

It is important to note that respect for human rights remains inviolable over the performance of police duties and functions unless it is proven that the exercise of certain rights runs counter to the requirements of morality, law and public order, and the general welfare of the people. Moreover, no one needs to give you these rights and no one is supposed to take them away or deprive you of these rights. Everywhere you go, your rights must be respected even as you respect the rights of others.

30 Universal Human Rights

Written below are the 30 Human Rights that all persons have. These universal rights must be respected at all times, anywhere in the world:

1. All human beings are born free and equal in dignity and rights.
2. Everyone is entitled to rights and freedoms without distinction of any kind, such as race, color, sex, language, religion, political affiliation or opinion, national or social origin, property, birth or any other status.
3. Everyone has the right to life, liberty and security of person.
4. No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.
5. No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
6. Everyone has the right to recognition everywhere as a person before the law.
7. All are equal before the law and are entitled without any discrimination to equal protection of the law.
8. Everyone has the right to an effective remedy by the competent national court for acts violating the fundamental rights granted him by the constitution or by law.
9. No one shall be subjected to arbitrary arrest, detention or exile.

10. Everyone is entitled in full equality to a fair and public hearing by an independent and impartial court, in the determination of his rights and obligations and of any criminal charge against him.
11. Everyone charged with a penal offense has the right to be presumed innocent until proved guilty.
12. No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, or to attacks upon one's honor and reputation.
13. Everyone has the right to freedom of movement and residence within the borders of each State.
14. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
15. Everyone has the right to a nationality.
16. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to have a family.
17. Everyone has the right to own property alone as well as in association with others. No one shall be arbitrarily deprived of his property.
18. Everyone has the right to freedom of thought, conscience and religion.
19. Everyone has the right to freedom of opinion and expression.
20. Everyone has the right to freedom of peaceful assembly and association. No one may be compelled to belong to an association.

21. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives. The will of the people shall be the basis of the authority of government.
22. Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.
23. Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
24. Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.
25. Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
26. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory.
27. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
28. Everyone is entitled to a social and international order.

29. Everyone has duties to the community in which alone the free and full development of his personality is possible. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
30. No state, group or person must engage in any activity or perform any act aimed at the destruction of any of the universally recognized rights and freedoms.

Why the PNP must promote and protect human rights?

The PNP must promote and protect human rights because this task lies at the very core of maintaining peace and order, ensuring public safety, and upholding the rule of law in the country. It can be said that Human Rights Protection is the First Business of Policing.

According to the 1997 Human Rights and Law Enforcement Training Manual published by the United Nations High Commissioner on Human Rights, cases of human rights abuses and ill-treatment:

- *adversely affect public trust and confidence towards the police;*
- *lead to isolation of the police from the community and civil unrest;*
- *hamper effective prosecution of criminals;*
- *let those who are guilty remain free while making the innocent unjustly suffer;*

- *delay or deny justice to be given to victims of the crime and their families;*
- *subject the police and other government agencies to local and international criticism and possible sanctions; and*
- *make the law enforcer a law breaker...*

Thus, the pressing need for the PNP to pursue vigorously the implementation of policies, mechanisms, and programs on human rights-based policing.

Constitutional & Legal Bases of Human Rights Protection

The promotion and protection of human rights are part of our constitutional and legal framework, as shown below:

- The Government exists to maintain peace and order, and protect life, liberty and property, as well as promote the general welfare of the people (*1987 Philippine Constitution Article 2, Section 4-5*).
- The State is responsible for promoting social justice and recognizes the value of human dignity and respect for human rights (*1987 Philippine Constitution Article 2, Sections 10-11*).
- The State recognizes and promotes the rights of indigenous cultural communities within the framework of national unity and development. (*1987 Philippine Constitution Article 2, Section 22*).
- The State recognizes, promotes, and protects the rights of all citizens as defined in the Bill of Rights. (*1987 Philippine Constitution Article 3, Section 1-22*).

- Congress shall give highest priority to the enactment of measures that protect and enhance the rights of all the people to human dignity, reduce social, economic, and political inequalities, and remove cultural inequities by equitably diffusing wealth and political power for the common good. *(1987 Philippine Constitution Article 13, Section 1).*
- The State shall defend the right of children to assistance, including proper care and nutrition, and special protection from all forms of neglect, abuse, cruelty, exploitation and other conditions prejudicial to their development. *(1987 Philippine Constitution Article 15, Section 3).*

Other parts of the 1987 Philippine Constitution and laws such as R.A. 7438 (*Rights of Persons Arrested, Detained or Under Custodial Investigation and Duties of the Arresting, Detaining and Investigating officers*), R.A. 9262 (*Anti-Violence Against Women & Children*), and R.A. 9344 (*Juvenile Justice and Welfare Act*) exist to promote and protect the rights of persons in all sectors of Philippine society.

As a signatory, the Republic of the Philippines is obligated to abide by the provisions of various international human rights treaties, conventions, and protocols including the:

- Universal Declaration on Human Rights of 1948 by the United Nations General Assembly (UDHR)
- International Covenant on Civil and Political Rights (ICCPR)
- Optional Protocol to the Covenant on Civil and Political Rights (CCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- U.N. Convention on the Condition of the Wounded and Sick in Armed Conflict (the First Geneva Convention)
- Convention Against Homicide (CAH)
- Convention Against Torture (CAT)

- Convention on Elimination of Discrimination Against Women (CEDAW)
- Convention on the Rights of the Child (CRC)

The United Nations also prescribe the following eight (8) articles of the **U.N. Code of Conduct for Law Enforcement Officials**:

1. Always perform duties under the law.
2. Respect and safeguard human rights.
3. Use force only when strictly necessary.
4. Respect confidentiality.
5. Never inflict any act of torture or ill-treatment.
6. Safeguard the health of all those in custody.
7. Never commit any act of corruption.
8. Respect the law and this Code.

Moreover, there are new national laws on Human Rights and International Humanitarian Law (HR/IHL) that must be fully studied and understood by all PNP personnel. These new laws include:

- **R.A. 9745** (Anti-Torture Law);
- **R.A. 10350** (Anti-Enforced or Involuntary Disappearance Law); and
- **R.A. 9851** (IHL Act of 2009, or more formally, Act Defining and Penalizing Crimes against International Humanitarian Law, Genocide and other Crimes against Humanity).

Salient Points of R.A. 9745 (Anti-Torture Law)

Under R.A. 9745:

1. A victim of torture has the right:
 - a. To have an **impartial investigation** by the Commission on Human Rights (CHR) and other concerned government agencies such as the Department of Justice (DOJ), the Public Attorney's Office (PAO), the Philippine National Police (PNP), the National Bureau of Investigation (NBI) and the Armed Forces of the Philippines (AFP);
 - b. To have the investigation of the torture completed **within a maximum period of 60** working days from the time a complaint for torture is filed, and to have any appeal resolved within the same period;
 - c. To have **sufficient government protection** for himself/herself and other persons involved in the investigation/prosecution such as his/her lawyer, witnesses and relatives, against all forms of harassment, threat and/or intimidation as a consequence of the filing of the complaint for torture or the presentation of evidence for such complaint;
 - d. To be given sufficient protection in the manner by which he/she testifies and presents evidence in any forum to avoid further trauma; and

- e. To claim for compensation under Republic Act No. 7309, with a maximum of PhP 1,000.00 per month for each month of unjust imprisonment or detention; and a maximum of PhP 10,000.00 for victims of other offenses. For a torture victim, the maximum compensation should not be less than PhP 10,000.00. Torture victims may also request for financial assistance from the Commission on Human Rights (CHR).
2. Any confession, admission or statement obtained as a result of torture is inadmissible as evidence in any proceeding, except if the same is used as evidence against a person or persons accused of committing torture.
3. **Secret detention places, solitary confinement, incommunicado** or other similar forms of detention, where torture may be carried out with impunity, are prohibited. The PNP, AFP and other law enforcement agencies, as well as their regional offices, are required to submit to the CHR and make available to the public at all times, **a list of all detention centers and facilities under their respective jurisdictions/ areas with the corresponding data on the prisoners or detainees** incarcerated or detained in such centers/facilities, such as names, date of arrest and incarceration, and the crime or offense committed. The list should be updated within the first 5 days of every month at the minimum. Failure to comply with this requirement is punishable under R.A. 9745.
4. The penalty is *reclusion perpetua* if the torture results in death or mutilation, or is committed against children, or is committed with rape, or other forms of sexual abuse that make the victim insane, imbecile, impotent or maimed for life.

5. Torture as a crime will not absorb or will not be absorbed by any other crime or felony committed as a consequence, or as a means in the conduct or commission, of such torture. *Torture will be treated as a separate and independent criminal act*, the penalties for which will be imposed without prejudice to any other criminal liability under domestic and international laws.
6. Persons who have committed any act of torture will **not benefit from any special amnesty law** or similar measures that will have the effect of exempting them from any criminal proceedings and sanctions.
7. Every person arrested, detained or under custodial investigation is given the right:
 - a. Before and after interrogation, to be **informed of his/her right to demand physical examination** by an independent and competent doctor of his/her own choice. If he/she cannot afford the services of his/her own doctor, he/she will be provided by the State with a competent and independent doctor to conduct the physical examination. If the person arrested is female, she will be attended to preferably by a female doctor.
 - b. To **immediate access to proper and adequate medical treatment.**

These rights may be waived by the person arrested, detained or under custodial investigation, provided the **waiver** is made knowingly and voluntarily, in writing, and executed in the presence and assistance of his/her counsel.

8. The State shall endeavor to provide the victim with **psychological evaluation** if available under the circumstances.
9. The physical examination and/or psychological evaluation of the victim should be contained in a **medical report**, duly signed by the attending physician and detailing the victim's medical history and the physician's findings, including the nature and probable cause of the victim's injury, pain, disease and/or trauma, and the approximate time and date when it/they was/were sustained. The report is to be attached to the custodial investigation report and considered a public document.
10. No person will be expelled, returned or extradited to another State where there are substantial grounds to believe that such person will be in danger of being subjected to torture, as determined by the Secretary of the Department of Foreign Affairs (DFA) and the Secretary of the DOJ, in coordination with the Chairperson of the CHR.

Salient Points of R.A. 10350

(Anti-Enforced or Involuntary Disappearance Law)

1. The crime of enforced or involuntary disappearance is generally imprescriptible as an exception to the statute of limitations.
2. No amnesty can exempt any offender, either convicted or facing prosecution, from liability.
3. No war or any public emergency can justify the suspension of the enforcement of the anti-disappearance law.

4. Command responsibility makes a superior officer also culpable for violations of the law by subordinates.
5. Subordinates are authorized to defy unlawful orders of superiors for the commission of enforced disappearance.
6. A periodically updated registry of all detained persons is required in all detention centers.
7. Secret detention facilities are prohibited.
8. Compensation, restitution and rehabilitation of victims and kin are mandated.
9. Gradation of penalties are prescribed with reclusion perpetua as the severest penalty.
10. Human rights organizations shall participate in the crafting of the necessary Implementing Rules and Regulations.

Note: All PNP personnel are advised to study the Implementing Rules and Regulations or IRR of R.A. 9745 and R.A. 10350. The salient points of R.A. 9851 are shown in Chapter V of this guidebook.

PNP Doctrine, Policies, and Issuances on Human Rights

Human rights are emphasized in the following PNP doctrine, code of conduct, and policies:

- **The PNP Ethical Doctrine** states that “all members of the Philippine National Police... shall serve with utmost responsibility, integrity, morality, loyalty, and efficiency with due respect to human rights and dignity as hallmarks of a democratic society” (PNP Ethical Doctrine Manual, Chapter I, Section 2, DHRDD 1995 Edition).

- **The PNP Code of Professional Conduct and Ethical Standards** expressly cites respect for human rights as a high standard that must be maintained during the performance of police duties (Chapter III, para 2.9)
- **Letter of Instructions 55/07 (LOI Pamana)** states that “members of the Philippine National Police shall embrace the highest principles of the Universal Declaration of Human Rights. It also emphasizes that respect for human rights and dignity shall apply to everyone including all members of the police service, regardless of education, gender, religion, political beliefs and all other types of status.
- **PNP Core Values** seek to instill in all PNP personnel a godly (Makadiyos) and humane (Makatao) thoughts and behavior in both their official and private life. Being godly and humane entails having a genuine understanding and respect for human rights.

Given the social, doctrinal, constitutional/legal, and moral rationale behind the police duty and obligation to promote and protect human rights --- it is, therefore, imperative for the PNP to review and adopt new policies, systems and procedures that would better protect the rights of citizens and other stakeholders in Philippine society. In fact, one of the key perspectives in the ongoing police reforms under the *PNP Patrol Plan 2030 / Integrated Transformation Program – Performance Governance System (ITP-PGS)* is “Rights-Based Policing”. As part of process excellence, the PNP strives to serve and protect the community by upholding their rights under the law. The performance of the PNP in addressing crime, therefore, cannot be separated from its duty and obligation to uphold human rights.

CHAPTER II

WHAT IS HUMAN RIGHTS-BASED POLICING?

What is Human Rights-Based Policing?

Human Rights-Based Policing (HRBP) is the comprehensive, systematic, and institutional adherence to national or domestic laws on human rights; and compliance with international human rights principles, standards, and practices as well as treaties, conventions, and protocols related to law enforcement or police functions.

HRBP is also an approach to policing that defines the relationship between individual citizens and various groups or sectors of society as Claim Holders whose rights have to be respected and protected by the police; and the Police as Duty Bearers that have obligations to respect, protect and fulfill human rights. HRBP aims to empower claim holders to claim their rights, while strengthening the capacities of duty bearers to meet their duties and obligations as human rights protectors.

Moreover, HRBP is an important component of Security Sector Reform (SSR). According to the National Security Policy 2011-2016, the government is committed to pursue the transformation of the security sector by:

- a. Strengthening civilian control and oversight of the security sector to include reforms in the defense and law enforcement agencies; and
- b. Professionalizing the security forces to include among others the establishment of programs designed to train soldiers, police, and other security sector personnel on their respective functions and responsibilities under the Constitution or as provided for by law, and develop competencies on Human

Rights, International Humanitarian Law, ethnic sensitivity and indigenous peoples' rights, in accordance with the rule of law.

There are many national and international laws that are related to human rights or were crafted precisely to promote and protect the rights of people. Therefore, it can also be said that Human Rights-Based Policing is the enforcement of laws, treaties, and conventions on human rights.

Mainstreaming human rights-based approaches in police work is done by incorporating human rights principles and practices into police doctrines, strategies, and plans. These principles and practices are also applied to all police systems, procedures, methods, and tactics. To be truly effective, even police equipment, supplies, and facilities are reviewed and upgraded to enable a police organization to meet human rights standards for law enforcement.

Human Rights-Based Policing is considered to be institutionalized when human rights principles and practices are taught and applied at all levels, in both operational and administrative functions of the police organization.

Once human rights-based policing is fully institutionalized, a police organization enhances its effectiveness and credibility in networking with other government and non-government agencies to address various human rights issues and concerns.

Historical context and experience, socio-cultural background, economic conditions, and the crime situation have an impact on how a police organization plans and performs its functions. However, regardless of these conditions, all law enforcement agencies have the obligation to respect and follow internationally recognized human rights standards.

As a reform initiative, Human Rights-Based Policing is a strategic approach for reorienting the police organization from the traditional policing models or theories based purely on social control or repression to a new paradigm anchored on genuine respect for human rights and dignity, transparency, accountability, rule of law, and people's active participation in democratic governance.

Characteristics of Human Rights-Based Policing

Human Rights-Based Policing has several characteristics which are briefly explained below:

1. Strict Observance of Police Policies and Operational Procedures

Human Rights-Based Policing entails strict observance of police policies and operational procedures. Most, if not all, violations of human rights occur when police officers do not follow established policies and procedures. Shortcuts, omissions, or blatant disregard for procedures are unacceptable behavior that violate our national laws, PNP rules and regulations, and generally accepted socio-cultural norms. When police officers follow and apply proper procedures, they uphold human rights while doing all that is possible to ensure that the subsequent case to be filed in court against a suspect would prosper, in the higher interest of justice.

For example, when a police officer informs an arrested person about his or her Miranda Rights, that police officer is following established procedure in making arrests, whether it is done with or without a warrant. If the arrested person was not informed of his or her rights, it could later on be used as a defense and a means to charge the arresting officer with a violation. By not following procedure, a police officer runs the risk of being charged administratively while opening an opportunity for the arrested person to be released from detention due to a technicality.

Some policies in the PNP were also issued to uphold certain rights. For example, the ban on the presentation of suspects before the media is intended to protect their rights to dignity and presumption of innocence until proven guilty.

Indeed, one of the most effective ways to promote and protect human rights is by following PNP policies and procedures.

2. Adherence to National/Domestic and International Laws, Treaties, Standards, and Protocols on Human Rights

Human Rights-Based Policing is about adhering to national/domestic and international laws, treaties, protocols, and standards of human rights in law enforcement.

All PNP personnel must know, understand, and adhere to Philippine laws related to human rights such as R.A. 7438, 9745, 9851, among others. It can be said that human rights-based policing is the full enforcement of laws on human rights.

There are at least ten (10) basic international human rights standards for law enforcement that all police organizations around the world must strive to attain. By adhering to international standards, the PNP is able to comply with a uniform set of principles and practices that is expected from all police officers by the international community. These 10 standards are discussed in Part III of this guidebook.

Of course, there are differences between Philippine laws and those of other states. The crime situation in the country is also peculiar and some international standards may not be immediately attainable in the Philippines. However, knowledge and recognition of international standards paves the way for setting benchmarks for the gradual improvement of the organizational philosophy, doctrines, physical infrastructure, systems, training and education, operational procedures, values, and practices in the PNP.

The police officer's authority and ability to use force is an important issue in terms of the PNP's adherence to human rights laws, treaties, and standards. The PNP Manual on Police Operational Procedures (2010 Edition) states that "the excessive use of force is prohibited" and that "the use of weapon is justified if the suspect poses imminent danger of causing death or injury to the police officer or other persons." It is also important to note that there are international standards on the Use of Force and concepts or procedures in the Use of Non-Lethal Weapons, Techniques, Tools, and Technologies that are applied by many police agencies around the world. It is envisioned that the PNP would eventually develop its own Non-Lethal Force Doctrine, to be followed by the establishment of clear procedures as well as procurement, training, and issuance of appropriate non-lethal weapons, tools, and technologies for use by police personnel.

Often, the models in the Use of Force are presented as a series of "stair steps", with each level or degree of force corresponding to a certain level of resistance or threat. In general, a police officer need not necessarily progress or pass through each level before reaching the decision to use lethal force as a final resort or option. The progressions or decisions to choose which level of force is appropriate will depend on the need to escalate and de-escalate the level of force based on the resistance or threat posed to the police officer. Extensive education, training, and the issuance of appropriate non-lethal weapons and technologies are needed to effectively implement the Use of Force concept.

See Annex for a sample Use of Force Continuum.

3. Professional Competence and Courteous Service

Human Rights-Based Policing is best demonstrated by police personnel through their professional competence and courtesy. There are many definitions or descriptions about being a professional. In general, a Professional is a person who possesses expert knowledge and skills in a particular field. A Professional exhibits a high standard of work

ethics, behavior, and attitude. Aside from good grooming and presentable appearance, a Professional works well under pressure and consistently delivers quality services or products on time with speed, efficiency, effectiveness, and attention to detail. He or she also exudes self-confidence, pride of work, and sets a good example for others to follow. Therefore, a Police or Law Enforcement Professional must have a high degree of practical knowledge about laws and ordinances, police policies and regulations, and police operational procedures. The Police or Law Enforcement Professional must be skilled in the core policing areas such as the maintenance of peace and order, investigation and detection, legal procedures in the arrest and detention of suspects, etc.

Moreover, as a duty bearer of human rights and public servant, the Police or Law Enforcement Professional must be courteous and considerate towards citizens and other clients who need police assistance.

Professional competence, or being an expert in one's line of work, enables a person to avoid unnecessary mistakes. In the case of police personnel, lack of proficiency or competency may inadvertently lead to violations of human rights. In order to prevent human rights violations, the police must only use calibrated force to subdue suspects. This can only be taught through realistic simulation of incidents involving both armed and unarmed suspects; as well as compliant and resisting persons. They must understand that force is only used when normal persuasion fails and when it is absolutely necessary to overcome a threat to public safety. The police arrest and restrain persons or suspects based on the basis of "probable cause" while judges adjudicate and punish on the burden of "beyond a reasonable doubt" which is a higher legal standard. However, it is clear that the police must use commensurate degrees of force in order to effectively enforce the law and ensure public safety.

Upholding human rights is very similar to the Golden Rule which says that we must treat others in the way we want others to treat us. When we render respect and courtesy to citizens, there is a greater tendency for them to return that respect and courtesy.

In the Philippines, citizens are generally compliant to instructions of uniformed agents of government such as PNP personnel. However, that compliance must not only be based on fear brought about by the threat or actual use of force by police officers. The ideal compliance of citizens to their police should be based on genuine respect for the police badge and uniform as symbols of proper legal authority.

Another important factor to consider is that majority of citizens only establish contact with police officers after they had already been victimized by criminals or when they need urgent police assistance. Just like the cliché, the “first impression” that a citizen gets from a police officer usually lasts --- whether that impression is positive or negative. Therefore, the goal of every police officer during citizen contact is to provide a professional, fast, efficient, and courteous response to a legitimate citizen request for police service or assistance.

4. Respect for Rule of Law and Civilian Supremacy

Human Rights-Based Policing is anchored on the rule of law and recognition of civilian supremacy. From the term law enforcement, it is understood that there can be no enforcement apart from the law. Any act of enforcement (that is, the use of police powers or any manner of application of force) apart from the law may be considered criminal, or at the very least, an abuse of authority. Respect for rule of law and civilian supremacy is best exemplified when the police practices accountability for all its actions or, as the case may be, inaction on matters related to the protection of people’s legal rights. Therefore, all police officers must always remember Article II, Section 1 of the 1987 Philippine Constitution which states that “... sovereignty resides in the people and all government authority emanates from them.”

5. Pro-Democracy and Pro-Citizen

Human Rights-Based Policing is democratic and citizen-centered. Democratic values are best demonstrated by the police when it seeks greater participation by the community in maintaining peace and order. The police organization must always remain responsive and relevant to the needs of the community --- which is actually the PNP's main clientele. Through dialogues and consultations with stakeholders, the police are able to learn about the issues and concerns that must be addressed at the community level. In most, if not all situations, full cooperation between the police and the community is required in order to solve peace and order problems.

PNP and Its Human Rights Obligations

As a government bureau or state actor, the PNP has three levels of human rights obligations: to respect, protect, and fulfill human rights.

1. ***To respect human rights*** means refraining from interfering with the enjoyment of people's rights.
2. ***To protect human rights*** means to implement laws that provide equal protection to all persons from human rights violations by state authorities or by non-state actors.
3. ***To fulfill human rights*** refers to the act of establishing institutions and implementing systems, mechanisms or procedures that enable people to claim and enjoy their rights.

Principles of Human Rights (PANTHER)

It is also important for police personnel to be oriented about the PANTHER principles of human rights. PANTHER is an acronym or mnemonic (a word, phrase, or literary device that helps a person learn and remember a concept) that stands for: *Participation, Accountability, Non-discrimination, Transparency, Human Dignity, Empowerment, and Rule of Law.*

The PANTHER principles of human rights were originally developed by the United Nations Food and Agriculture Organization (FAO) for application in development planning. It is also incorporated into the Human Rights-Based Approach Development Toolkit of the National Economic and Development Authority (NEDA) and the Commission on Human Rights (CHR).

The PANTHER principles were first introduced to the PNP and other National Government Agencies (NGAs) during a training-workshop entitled *“Mainstreaming Human Rights-Based Approach in Political Development and Governance Sector”* in October 2010.

As shown in the brief definitions and examples below, these principles are applicable to Human Rights-Based Policing.

PARTICIPATION is about the active involvement of the people in public planning and decision-making. This is applied by the PNP when it conducts multi-sector consultations, dialogues, and other similar activities that encourage and enable citizens, NGOs, civil society, and other sectors of society to participate in the process of policy or action planning and other activities related to public safety, law enforcement, and the protection of human rights. This is anchored on the Right to Participate in Government or the *“right of citizens to freely, voluntarily, effectively and fully participate in government, and in processes constituting the conduct of public affairs, without sanction or threat.”*

As a practical example, the PNP regularly conducts multi-sector consultations, dialogues, and other activities that encourage and enable citizens and sectoral representatives to interact with the police and provide inputs needed for the development of policies, plans, strategies, and programs. The formation of police auxiliary groups and other PNP-accredited civilian organizations is also a good example of people’s participation in police affairs. The application of this principle is a recognition of the unique and important role of the community in maintaining peace and order. As the old dictum says, *“The Community is the Police and the Police is the Community.”*

Practical Guide / Suggestions:

1. Organize regular activities which enable PNP personnel, especially those in positions of leadership, to engage members of the community in constructive dialogue. Police-community relations is not only good for improving the PNP's public image. It is the foundation to building a network of civilian supporters that can assist the police in the monitoring of community safety, gathering of information that can be useful in the detection and investigation of crimes, and other police tasks that need the cooperation and support of the citizenry.
2. Organize and support a "Council of Elders" in the community that can advise and support the plans and programs of the PNP.
3. Educate police personnel about the role and importance of civil society, non-government organizations, and groups that call for and promote good governance, human rights, and police reforms.

ACCOUNTABILITY It is a recognition that the purpose for existence of the PNP is to serve and protect the public; and, as declared in the Constitution, since all power and authority of the government emanates from the people, it is the obligation of the police to remain fully accountable to the people. Accountability means that the PNP has obligations to the people or claim holders of human rights in terms of conduct and results. On conduct, all PNP personnel are accountable to the people for all their actions and the consequences of those actions. Thus, PNP personnel must be professional, competent, effective, and efficient in rendering police services. On results, all police services must be responsive to the needs and expectations of the people. The PNP must deliver or implement policies, actions, decisions, services, and other law police-related outputs and outcomes, including those related to the attainment of human rights goals and objectives. The

publication of police reports; providing the public with information about police policies and procedures; open and transparent bidding processes in the PNP; and the implementation of strict internal disciplinary measures are good examples of accountability.

As an example, the PNP Internal Affairs Service (IAS) conducts investigations or inquiries into reports of misconduct by police personnel. All police personnel found guilty of misconduct are given appropriate disciplinary measures, with separation from the police service, perpetual ban from re-entering the police service, and removal of all benefits such as retirement and/or pension pay as the highest form of administrative sanction. By putting in place strict disciplinary mechanisms, the PNP exercises the principle of accountability. The PNP also presents regular reports to the Executive Department, Congress, and to the general public about the crime situation, police initiatives and accomplishments, and other information related to public safety. These reports are also part of the PNP's application of the principle of accountability to its stakeholders.

Practical Guide / Suggestions:

1. At the police station or precinct, make sure that the contact numbers of the commander or officer in charge of police discipline are prominently displayed. People must be informed that there are disciplinary mechanisms in place and that designated officers can be approached or contacted by the citizens to seek redress for their grievances or complaints.
2. During police information, communication, and education (PICE) sessions, the police commander must acknowledge the accomplishments or good performance of PNP personnel. By praising them for doing a good job, they will be motivated to continue performing well. However, in closed-door meetings with staff, the commander should also point out areas for improvement especially with regard to the professional conduct and discipline of personnel.

3. Police commanders must be well-acquainted with their supervisory and management roles, including the scope of their authority to impose administrative sanctions against erring police personnel. Failure to impose appropriate sanctions only embolden erring police personnel to continue doing acts that dishonor their colleagues and the police organization. Zero tolerance for misconduct is the best example of police accountability.

NON-DISCRIMINATION is about providing police service to all persons without any bias or prejudice. The PNP must serve all persons with utmost professionalism, competence, courtesy, and respect regardless of age, sex, race or ethnic origin, gender or sexual orientation, social and economic status, or any other status.

A good example of the application of Non-Discrimination is the recent resolution by the National Police Commission which authorized the removal of the height waiver requirement for members of Indigenous People (IP) groups or communities. The PNP recognizes the value and contributions of the IP community and, as a result, no longer bars the entry of qualified applicants from IP communities even if they do not meet the standard height requirement. For those who are not members of an IP community, they just need to get an en banc resolution that authorizes their entry into the PNP even if they do not meet the height requirements.

Practical Guide / Suggestions:

1. Police commanders must educate their personnel about human rights, especially on the principle of non-discrimination. All persons must receive professional and courteous service from the police, without discrimination.
2. Police personnel, especially at the police station and precinct level, must consistently refer to citizens as “Sir” or “Ma’am”; or use “Po” and “Opo” when speaking with citizens.

3. Firm, commanding language must only be used by the police in communicating with persons that must be controlled due to unlawful or unruly behavior or those that must be placed under police custody.
4. Under any circumstance, the police should never use foul language or words that discriminate, belittle, or disrespect the dignity of people whether they are law-abiding citizens, suspects, or persons under custody. It must be remembered that professionalism and courtesy must be displayed in word and in deed.

TRANSPARENCY means that the PNP, as much as practicable and without risk to national security or public safety, allows the public to gain access to policies, plans, documents, rules and regulations, and other information that affects their safety, security, and well-being. Closely related to the principle of accountability, the PNP also practices transparency by regularly providing the public and other concerned sectors about PNP policies, operations, accomplishments, and other important information. Through the PNP Public Information Office (PNP PIO), any person may obtain information from the police as long as the requested information does not compromise national security and public safety.

Practical Guide / Suggestions:

1. The Police Blotter is a public document. The public, especially the legitimate members of the media, can gain access to the police blotter. However, the security of the police station/precinct including the integrity of the police blotter and other police documents must be ensured at all times.
2. Designated public information officers (PIOs) must always be available or accessible to the media and to the general public. PIOs must exercise due diligence in their duty as official conduit of police-related information that have been pre-approved for public dissemination.

3. As part of transparency, all police personnel must always be in proper, complete uniform including their respective name plates. When speaking with citizens or engaging in citizen contacts, the police personnel must always introduce himself/herself or make sure that the nameplate and police identification card are clearly visible to the citizen.
4. Always adhere to prescribed rules and procedures in the conduct of bidding and procurement processes.
5. It is important to have a regularly updated inventory of PNP equipment, supplies, firearms, and other government owned property. The inventory must be made available to all auditing authorities.
6. A database on persons under custody or under detention must be maintained and regularly updated as a practical application of transparency and as compliance to the requirements of R.A. 9745 or the Anti-Torture Law.

HUMAN DIGNITY as a principle means that the PNP values the inherent and immutable dignity of every person at all times, without exception. It also entails the provision of special services or measures that meet the unique needs of the poor, vulnerable, and marginalized sectors of society. The PNP Human Rights Development Program, including the ongoing campaign against torture, ill treatment, and other violations of human rights are part of the application of the principle of human dignity.

Practical Guide / Suggestions:

1. In word and in deed, police personnel must treat all persons with utmost respect and dignity regardless of age, sex, nationality, ethnic origin, educational or financial background, religion, or any other status.

2. Whenever possible, police personnel must obtain training on how to render police services to the poor, vulnerable, and marginalized. For example, police stations/precincts must be made accessible to Persons With Disabilities (PWDs) by setting up ramps and other structures that would enable PWDs to enter and leave the station/precinct without much difficulty. Police personnel must also be ready to assist persons who cannot read or write, especially when they need to report or file a complaint.
3. The health and safety of persons under police custody, specifically those under detention must be ensured. Detention areas must be kept clean or sanitary, well-ventilated, and adequately lighted. Detainees as well as visitors of detainees must be treated with respect and courtesy.

EMPOWERMENT is the acknowledgement and full respect for people's capacity to think and act freely for and on their own behalf for the purpose of identifying solutions to problems. As it relates to the principle of participation, this means that the PNP recognizes that people or claim holders of human rights have the power to explore and maximize their potential and shape their collective destiny.

One of the best examples of the principle of empowerment are the Community-Based Dialogues on Human Rights, the barangay *pulong-pulong*, and other activities related to police-community relations. When the police encourage and enable citizens and sectoral representatives to participate in police affairs, they become empowered. As empowered stakeholders, they are no longer passive recipients of police services but active participants in the maintenance of peace and order.

Practical Guide / Suggestions:

1. PCR officers may help citizens or community leaders organize dialogues, meetings, and other similar activities that would enable people to identify local issues and concerns, as well as community-based solutions to address them.

2. Whenever possible, the police station/precinct should distribute the Citizens' Primer on Law Enforcement and other knowledge products or materials that would educate citizens about their rights under the law.
3. In partnership with the local office of the Commission on Human Rights or human rights NGOs, the PCR officer can help organize human rights advocacy activities at the barangay or community level so that people can get more information that would empower them as Claim Holders of human rights.

RULE OF LAW is the observance of the principles and values of justice, equity, fairness, and impartiality in all police policies, plans, decisions, procedures, and all other actions related to law enforcement and public safety. Respect for legal procedures, human rights principles, as well as the enforcement of human rights laws, treaties, and protocols are good examples of respect for the principle of Rule of Law.

As a law enforcement agency, the PNP must continuously and consistently uphold the rule of law --- which includes the enforcement of laws related to human rights. Whenever a human rights violation is committed, a law is broken. Therefore, the PNP can best apply the principle of rule of law by deterring crime, bringing lawbreakers before the bar of justice, and by ensuring that human rights are fully respected and protected.

Practical Guide / Suggestions:

1. Police stations/precincts must have posters and other information materials related to human rights and police procedures. People must be informed about laws, police policies, rules, regulations, and procedures that have a bearing on their safety, well-being, and exercise of their rights as citizens.

2. The police commander or team leader must always conduct a Pre-Operation Briefing and Post-Operation Assessment/Debriefing. All police personnel/operatives must be given prior instructions and guidelines especially on the protection of human rights and the primacy of saving human lives before they are deployed on a police operation. The Post-Operation Assessment or debriefing is also critical in praising personnel for performing their job with professionalism and competence. At the same time, the debriefing can be used by the commander to discuss areas for improvement or to point out any missteps or errors during the conduct of the police operation.

3. Whenever possible, the police commander or a representative from the PNP Legal Service or their designated legal officer should conduct briefings on legal updates, case studies, and other information that would enhance the practical knowledge of police personnel about international laws or treaties, national/local laws, and jurisprudence especially those that are related to policing and human rights.

CHAPTER III

10 BASIC INTERNATIONAL HUMAN RIGHTS STANDARDS FOR LAW ENFORCEMENT

Originally published by the United Nations High Commissioner for Human Rights, the 10 Basic International Human Rights Standards for Law Enforcement are premised on the principle that “international human rights law is binding on all States and their agents, including law enforcement officials.” Therefore, all police and law enforcement personnel have the obligation to know, understand, and apply the following human rights standards.

STANDARD 1: EQUAL PROTECTION

Everyone is entitled to equal protection of the law, without discrimination on any grounds, and especially against violence and other threats. Be especially vigilant to protect potentially vulnerable groups such as children, the elderly, women, refugees, displaced persons, and members of minority groups.

Guidelines / Suggested Action Items:

- a. All police personnel must carry and use Miranda Warning Cards that contain English and Filipino versions. If possible, produce an additional Miranda Warning Card using the vernacular or most common language/dialect in your area of jurisdiction. This can be replicated in posters on the Rights of Persons Arrested, Detained or Under Investigation (R.A. 7438). Helping people know and understand their rights is one of the best ways to improve their access to justice and equal protection of the law.

- b. Police service must be non-selective. Provide the same quality of service to all people regardless of their age, sex, economic and political status, religion, ethnic background, and any other status.
- c. Train police personnel in communication and empathy skills especially geared towards addressing concerns of women, children, the elderly, and other vulnerable sectors. This type of training may be obtained in cooperation with the Department of Social Welfare and Development (DSWD) and the National Council on Indigenous Peoples (NCIP). The police station may also explore partnerships with the call center industry which can provide expert trainers on communication and empathy skills.

STANDARD 2: RESPECTFUL TREATMENT

Treat all citizens and victims of crime with compassion and respect, with utmost consideration for their need for safety and privacy.

It must be remembered that under the law, all arrested persons and detainees are still considered innocent and have the right to due process. Only the court can determine their guilt or innocence. Even when they are already convicted by the court, they still have the right to be treated humanely, with full respect and dignity.

Guidelines / Suggested Action Items:

- a. If possible, allocate a well-secured room inside the police station where the detainee can privately speak with his/her lawyers and family.

- b. Ensure that posters or information materials on the Rights of Persons Arrested, Detained or Under Investigation are prominently displayed inside the investigation room or desk where booking or investigation of the suspects is done.
- c. Explore possible joint projects with the local government unit, NGOs, and other local/foreign donor organizations specifically on improving detention facilities or lock-up cells in your police station. If possible, avoid overcrowding of lock-up cells which poses health and safety risks to police personnel, detainees, and their visitors.
- d. Designate a liaison officer who shall be responsible for coordinating with the Office of the Prosecutor and the Court for the speedy release of commitment orders. Delays in the release of commitment orders inadvertently cause overcrowding in police custodial cells. Overcrowding poses unnecessary security and health concerns at the police station.
- e. Police officers should address citizens as “Sir” or “Ma’am” during all cases of citizen contact. However, police officers must use a more commanding yet professional language to obtain compliance or control over persons who are uncooperative or disorderly.
- f. Respect the need for confidentiality especially among minors and female victims of crime.
- g. Never parade suspects before the media. They remain innocent until proven guilty by the courts of law. Police officers are responsible for safeguarding the dignity, health and safety of suspects and persons under investigation or custody.

STANDARD 3: USE OF FORCE

Do not use force except when strictly necessary and to the minimum extent required under the circumstances.

Guidelines / Suggested Action Items:

- a. Re-orient police personnel about the Use of Force Doctrine or Use of Force continuum with emphasis on the use of lethal force only as a last resort.
- b. Re-train police personnel in proper arrest procedures with emphasis on non-lethal tactics, weapons retention techniques, and officer safety measures.
- c. Re-orient police personnel assigned to crowd control units about human rights, crowd psychology, maximum tolerance, and use of calibrated force especially during the dispersal phase of Civil Disturbance Management (CDM) operations.
- d. Police personnel involved in shootouts and discharge of firearms must submit an after-operations report. Assessments must be conducted to determine the validity of the use of force during a police operation.
- e. Request the assistance of the PNP Health Service, Department of Health (DOH), or a psychiatrist in the conduct of periodic neuro-psychiatric examinations, stress management, and counseling services for personnel involved in shootouts or discharge of firearms.

STANDARD 4: POLICING NON-VIOLENT ASSEMBLIES

Avoid using force when policing unlawful but non-violent assemblies. When dispersing violent assemblies, use force only to the minimum extent necessary.

Guidelines / Suggested Action Items:

- a. If possible, arrange for a meeting with protest leaders/organizers prior to the actual day of protest demonstrations. An open dialogue would help the police establish “ground rules” and communication lines with protest leaders/organizers which are necessary to prevent miscommunication and possible outbreak of violence.
- b. Whenever appropriate, deploy properly trained and equipped female CDM personnel as front liners. Previous experience showed that there is less agitation on the part of protesters and lower incidence of violence when female CDM personnel are made as front liners.
- c. Advise crowd control elements (CDM personnel) that in situations requiring the use of batons or truncheons, they should only target fleshy parts of the body such as the arms, torso, legs, and thighs. Hitting protesters with the baton or truncheon on the head, face, neck, shoulder blades, elbows, fingers, groin, knees, and ankles must be avoided since strikes to these parts may cause serious to permanent injuries, or even death. Further, all persons arrested must be properly restrained or handcuffed using scientific control methods; and thereafter, brought safely to the police station for processing. Arrested protesters must not be kicked, punched, or dragged by the hair or feet.

- d. When fire trucks are deployed as part of the crowd control formation, ensure that appropriate fire hoses are used to avoid excessive water pressure that may cause serious to permanent injury.

STANDARD 5: USE OF LETHAL FORCE

Lethal force should not be used except when strictly unavoidable in order to protect your life or the lives of others.

Guidelines / Suggested Action Items:

- a. If possible, conduct regular firearms proficiency training and testing for all police personnel. Proficiency is needed to enable police personnel to use their firearms with accuracy, specifically if the goal is only to immobilize an armed person or suspect. In today's police paradigm which considers the protection of human lives as the primary operational objective, the death of a person (whether that person is a criminal, suspect, victim, hostage or innocent bystander) resulting out of a police intervention is generally considered an operational failure.
- b. Conduct re-training of police personnel in the use of non-lethal force and tactics in effecting arrests. Specifically, provide re-training in individual / group arresting methods and weapons retention techniques. All PNP personnel must study the concept called Use of *Force Continuum*.*
- c. Orient police personnel on principles of stress and anger management. Police work, by nature, is very stressful. For that reason, all PNP personnel need to undergo periodic neuro-psychiatric testing and counseling which are vital tools in maintaining the emotional and mental health of

police officers. Counseling and/or stress debriefing is very important especially for personnel who were engaged in armed encounters or violent incidents.

** Use of Force Continuum is a concept or standard that provides law enforcers with guidelines on what level or degree of force may be used against a resisting person or group in a given situation.*

STANDARD 6: ARRESTING PERSONS ON LEGAL GROUNDS

Only arrest persons if there are legal grounds to do so, and the arrest is carried out in accordance with lawful arrest procedures.

Guidelines / Suggested Action Items:

- a. All police personnel must carry and use Miranda Warning Cards in informing persons arrested, detained or under investigation about their rights under the law.
- b. Take extra care to ensure the safety of the arrested person/s during transport from the crime scene to the police station.
- c. Personal properties of the detained/arrested person must be properly inventoried, documented, and kept in a secure location inside the police station or designated storage area. Said properties must be properly turned-over to the detained/arrested person upon his or her release; given to family members or relatives of the arrested person with his/her consent; or to the appropriate authorities in cases when the said person is committed to another detention facility.

STANDARD 7: DETAINEES' RIGHTS

Ensure that all detainees, immediately after their arrest, have access to their family and lawyer. They must also be given immediate medical assistance whenever necessary.

Guidelines / Suggested Action Items:

- a. Maintain a manually written and/or computerized Database of Detainees or Persons Under Police Custody which includes the complete name of the detainee, address, age, nature of offense, date arrested and released, date of preliminary investigation or inquest, name and contact details of his/her lawyer, and other pertinent details. Take note of detainees with special medical needs.
- b. When necessary, coordinate with the local chapter of the Integrated Bar of the Philippines (IBP) and/or NGOs that provide free legal assistance to assist detainees who cannot afford to hire a lawyer; or those who cannot be immediately attended to by the Public Attorney's Office (PAO). Partnerships with the local IBP chapter and NGOs involved in paralegal work may be explored as a means to provide free legal assistance to detained persons, and possibly, even to PNP personnel.
- c. Ensure that duty personnel have contact details of nearby hospitals and clinics in case the persons arrested, detained and those under investigation require emergency medical care.

STANDARD 8: HUMANE TREATMENT OF DETAINEES

All detainees must be treated humanely. Under any circumstances, do not inflict, instigate, nor tolerate any act of torture or ill-treatment, and refuse to obey any order to do so.

Guidelines / Suggested Action Items:

- a. If resources and circumstances would allow, physical improvements may be undertaken to ensure that detention facilities are well-ventilated and well-lighted. If possible, the cells should be fitted with benches and toilet facilities. The maintenance of separate male and female custodial facilities is mandatory.
- b. If possible, install audio-video recording equipment in investigation rooms. The recording of custodial investigations will provide the police station commander with several advantages including:
 - Capability to record custodial investigations in support to case-build up and prosecution;
 - Documentation of investigation procedures as a tool for training and performance evaluation;
 - Recording of proof about the proper, fair, and legal conduct of police investigation in defense to possible harassment suits.

STANDARD 9: REFUSAL TO OBEY UNJUST ORDERS

Do not carry out, order, or cover-up extra-legal killings or enforced disappearance, and refuse to obey any order to do so.

Guidelines / Suggested Action Items:

- a. Ensure that all police operations include pre-deployment briefing and post-operation assessment / debriefing. Such briefings must include the provision of general guidelines and specific instructions to police personnel to ensure mission accomplishment without prejudice to the observance of human rights. The underlying goal behind the guidelines and instructions is to prevent violations of police policies and operational procedures.
- b. When in doubt about a specific order, seek clarification and guidance from the direct superior or from higher headquarters. In some cases, it may be advisable to request for written instructions or orders to ensure that specific missions or police interventions are legal and duly authorized.

STANDARD 10: REPORTING VIOLATIONS

Report all violations of these standards to your senior officer and to the nearest Prosecutor's Office. Do everything within your ability and authority to ensure steps are taken to investigate violations of these standards.

Guidelines / Suggested Action Items:

- a. Maintain copies of mission orders, memoranda, notes, and other official documents related to police operations involving your participation. These documents will be useful in the preparation of your factual report of alleged violations of human rights; and in the preparation of your reply or defense in case you are the subject of complaint for alleged violations.

- b. Follow prescribed procedures for reporting violations of police policies and procedures (from immediate superior to higher office).

CHAPTER IV

ADDITIONAL GUIDELINES FOR SELECTED POLICE INTERVENTIONS

All police personnel are required to study and strictly follow the instructions, procedures, and guidelines contained in the PNP Manual on Police Operational Procedures (POP). Written below are supplemental or complementary guidelines and action items to enhance the protection of human rights during the conduct of police interventions. Police personnel are encouraged to clearly explain the various procedures that need to be followed so that citizens or their clients can understand the nature and reason of their actions; to ease any tension or hesitation on the part of the citizen; and to promote immediate compliance to police instructions.

1. FOOT AND MOBILE PATROLS

Foot and mobile patrols are among the most effective anti-crime operations available to the PNP. Patrols significantly deter crimes due to the active presence of uniformed police officers. To remain effective in the conduct of police patrols, all PNP personnel must follow these guidelines:

- a. Wear proper police uniform and equipment:
 - Complete PNP General Office Attire (GOA) Uniform or prescribed uniform of the day
 - Nameplate and Badge
 - Leather Pistol Belt, Handcuffs, and Service Firearm
 - Whistle
 - Baton/Truncheon
 - Early Warning Device
 - PNP Tickler / Notebook and Pen
 - Flashlight and First Aid Kit (if available)
 - Handheld Radio (if available)
 - Authorized jacket or raincoat in case of inclement weather

- b. Mobile patrols should always entail the use of properly marked PNP vehicles. Megaphones should be kept inside the patrol cars, ready for use during traffic management or traffic stops, driver and vehicle inspections, emergency response, crowd control, etc.
- c. Always be respectful or courteous when speaking to citizens. Use tact and non-threatening language when conducting a spot inquiry or when questioning persons. Use a conversational language and avoid an interrogation-type of questioning. Remember that a citizen's impression on individual police officers has an impact on public perception towards the entire PNP.

Suggested Script:

“Magandang umaga/gabi po. Ako po si (ranggo at apelyido). Ano po ang pangalan nila? Maari po bang makita ang inyong I.D.?”

“Good morning/evening. I am (rank and surname). May I ask for your name, please? May I also see your I.D.?”

- d. Police officers cannot force any person to present an I.D. card and other documents. However, you are allowed to ask their name. When requesting a suspicious person or any individual for identification, never handle the wallet or bag in which the I.D. cards or documents are kept. Let that individual voluntarily hand over his/her identification card or documents.
- e. The police commander or team leader must always conduct a pre-deployment briefing to inform and guide police personnel about proper conduct or appropriate decorum during police patrols.

- f. Even when an individual does not ask for a reason or explanation why he/she was stopped for questioning, explain that police patrols are normal procedures to prevent crime and ensure public safety.

Suggested Script:

“Normal police procedure po ang pagpa-patrol. Ginagawa po natin ito para magbantay laban sa krimen at para sa kaligtasan ng publiko.”

“Patrols are part of normal police procedures to prevent crime and ensure public safety.”

- f. Always thank the citizen before letting him/her go.

Suggested Script:

“Thank you Sir / Ma’am, we appreciate your cooperation.”

or

“Thank you for bearing with the slight inconvenience. Have a safe trip.”

“Salamat po sa inyong kooperasyon.”

o kaya

“Salamat po at pasensya na po sa kaunting abala. Ingat po kayo sa biyahe.”

IN THE CONDUCT OF POLICE PATROLS, ALL PNP PERSONNEL MUST PROMOTE AND PROTECT THE CITIZEN’S RIGHT TO DIGNITY, PRIVACY, AND FREEDOM OF MOVEMENT.

Questions for Deeper Study:

1. What are the common operational lapses or reports of human rights violations during the conduct of police patrols?
2. What specific citizen’s rights must be protected during police patrols?
3. During a patrol, what signs should you look for when evaluating whether a certain person poses a threat to you and to the public?
4. When conducting mobile patrols, what situations require police intervention?

2. PROTOCOLS IN CITIZEN CONTACT

As the old saying goes, “First impressions last.” Police-citizen contacts are not only the means for you to provide police service to people. It is also an opportunity to create a positive impression on the citizen about the entire police organization. In all situations (when engaged in patrols, checkpoints, investigation, traffic stop, etc.) that require police officers to speak to people, always follow these guidelines:

- a. Always smile and be courteous when speaking with people. When an individual becomes uncooperative or exhibits resisting speech or behavior, continue to use polite yet firm language. Maintain eye contact and try to calm down a nervous or hysterical person.

- b. Avoid shouting. Only use clear, firm instructions to make a person or group more cooperative or compliant. If necessary, use a megaphone especially when addressing a group or large crowd.
- c. Exhibit professional behavior. Never use foul language or invectives even when an individual or group is unruly, uncooperative, or resisting.
- d. Never un-holster or touch your service firearm when speaking to an unarmed and cooperative individual.
- e. In a pat-down search, officers are permitted only to feel the outer clothing of the suspect. Officers may not place their hands in pockets unless they feel an object that could possibly be a weapon such as a firearm, knife, blunt instrument or any other item that can be used to inflict harm.
- f. In conducting a pat-down search, as much as possible, only female police officers should be allowed to frisk a female adult or minor.
- g. During the conduct of a pat-down, a full-custody search is only allowed when a police officer discovers that a person has possession of illegal weapons, illegal drugs or narcotics, and other prohibited items. The police officer must fully inform the arrested person about his/her “Miranda Rights”.
- h. When an individual or group is uncooperative or resisting, apply the principles on the use of force. Immediately de-escalate situations when people are showing anger or disorderly behavior. See the Use of Force matrix in annex c on page 102.

- i. Every police station must have a fully functioning Quality Service Lane (QSL) in accordance with NAPOLCOM Resolution 2011-033. The Quality Service Lane (formerly known as Complaint Service Desk) must have at least the following elements or features:
- Professional, courteous, and efficient police personnel who are friendly, pleasant, and ready to smile to every person that approaches the QSL or comes to the police station to ask for police assistance.
 - All police personnel must be well-groomed and in proper, complete uniform. All requests for assistance or service must be attended to without delay.
 - Clients or persons requesting assistance must be greeted warmly and should be given feedback by the concerned police personnel.
 - Well-lighted and ventilated work area that shows the signage and poster or information about the Quality Service Lane, “I-Report Mo Kay Tsip”, and Text 2920 as backdrop.
 - Clean restrooms, chairs and tables, and drinking water that can be used by citizens or clients. Aside from the QSL, the entire police station must be clean and presentable because it is supposed to reflect the values of discipline, professionalism, and commitment to public service that must be demonstrated by all PNP personnel.

- Although the police must render services to all persons according to a standard and professional manner, appropriate consideration and special procedures must be applied when dealing with persons with special needs or those under special circumstances including those who are considered as functionally illiterate (cannot read or write), persons who are blind, deaf and/or mute, persons with physical impairment, senior citizens, individuals that have apparent mental or psychological conditions, among others.

- j. As a general rule in citizen contacts especially inside the police station, women and children must be attended to by members of the Women and Children Protection Desk (WCPD).

- k. On Sex and Gender Issues, the following interim guidelines must be followed by all PNP personnel:

Lesbians (female homosexuals) are classified as female and must be attended to by the WCPD.

Gay persons (male homosexuals) are classified as male and should be attended to by the appropriate police desk/ personnel.

Bisexuals (in general, a person who is romantically or sexually attracted to both male and female individuals) will be classified as male or female based on their natural biological/physiological characteristics or physical anatomy from birth.

Transsexuals (persons who underwent sex change or sex reassignment surgery) must be requested by police personnel to show a valid ID that indicates their legal sexual classification, i.e., whether they are male or female.

Male Transvestites (men who wear clothing and accessories that are traditionally associated with women) are classified as male and should be attended to by the appropriate police desk/personnel.

Female Transvestites (women who wear clothing and accessories that are traditionally associated with men) are classified as female and should be attended to by the WCPD.

Note: Some groups or sectors attribute negative connotations or meanings behind the word 'homosexual'. At present, using the terms 'gay' or 'lesbian' are considered more acceptable.

- l. Based on the human rights principles of Non-Discrimination, Human Dignity, and Equality, police personnel must treat all persons with utmost professionalism, respect, and courtesy regardless of their age, sex, gender, sexual orientation or sexual preference, choice of lifestyle, beliefs, political or religious affiliation, or any other status.

- m. The proper classification of a person's sex (whether male or female) is very important since it affects the disposition or handling of a case; recording of pertinent facts; designation of the appropriate personnel, desk, or section within a police station that will handle a case or have custody over an individual; selection of the appropriate detention area, if found necessary, etc.

- n. Avoid referring to any person as “bakla”, “tomboy”, “AC/DC” or any other derogatory word or term. Name-calling is unprofessional and violates the inherent dignity of a person regardless of their gender identity or sexual orientation.
- o. Police commanders and personnel assigned to Women and Children Protection Desks (WCPDs) are encouraged to provide orientation or seminars on Gender-Based Violence (GBV) for police personnel, or to disseminate copies of the “How to Handle Gender-Based Violence: A Manual for Police First Responders” that was published by the PNP Directorate for Police-Community Relations.

DURING CITIZEN CONTACTS, ALL POLICE PERSONNEL MUST EXHIBIT PROFESSIONALISM, COURTESY, AND RESPECT FOR THE RIGHTS AND DIGNITY OF ALL PERSONS.

QUESTIONS FOR DEEPER STUDY:

- 1. What words, acts, or behavior should be avoided by police officers when speaking with citizens?
- 2. In practical terms, how can police officers exhibit professionalism during citizen contacts?
- 3. How can a police officer effectively handle an agitated or angry citizen?

4. What are the positive effects or impact to the individual police officer and to the PNP as a whole when police personnel treat citizens with respect and courtesy?
5. When speaking with citizens, why should police officers avoid touching their service firearm? In what cases or situation are police officers allowed to touch, un-holster, or draw their service firearm?

3. POLICE CHECKPOINT

Checkpoints are important in maintaining public safety and deterring criminality in the streets. However, such checkpoints must not cause inconvenience nor intimidate citizens but, instead, should provide them a real sense of safety and security. To remain legitimate and authorized, all PNP checkpoints must be:

- a. Staffed by uniformed police personnel in complete uniform, including name plates and (if available) I.D. cards. The checkpoint must be led by a Police Commissioned Officer who is at least of Inspector rank. In Metro Manila and other major cities, enforcement officers manning the checkpoints should not be wearing battle dress uniforms or black fatigues in lieu of the PNP GOA unless the conduct of checkpoint is a result of a hot pursuit operation.

Civilian volunteers (barangay officials, NGO members, etc.) who will participate in the checkpoint operations must be properly accredited by the PNP and must have undergone proper orientation prior to deployment. The civilian volunteers must also wear their organizational uniform and identification cards during the checkpoint operations. Said volunteers are not authorized to bear firearms and must only act as observers at the checkpoint. In serious national emergency situations, the participation of civilian volunteers is not allowed.

- b. Established as part of ongoing police operations. Only official PNP marked vehicles shall be used in establishing mobile checkpoints.
- c. Always use courteous language when speaking to motorists, passengers, and drivers of public utility vehicles. The conduct of checkpoints including searches, seizures, and arrests shall be done with civility and with due respect to innocent passers-by, commuters, or bystanders.

Suggested Script:

“Magandang umaga/gabi po. Police checkpoint lang po ito, Pasensya na po sa kaunting abala. Maraming salamat po.”

“Good morning/evening. This is a police checkpoint. Please bear with the slight inconvenience. Thank you, Sir/Ma’am.”

- d. Always explain the purpose of the checkpoint.

“Magandang umaga/gabi po. Police checkpoint lang po ito, pasensya na po sa kaunting abala. Nagkaroon po ng bank robbery kanina kaya po naghigpit po tayo ng security para na rin po sa kaligtasan ng publiko; at para po mahuli natin ang mga suspek. Maraming salamat po sa kooperasyon ninyo.”

“Good morning/evening Sir/Ma’am. Our apologies for the slight inconvenience. We are conducting this checkpoint because there was a bank robbery earlier and we wanted to increase security measures to protect the public and to arrest the suspects as soon as possible. Thank you for your cooperation.”

- e. Observe the Plain View Doctrine during checkpoint operations. Never force motorists to open their vehicle’s trunk or compartments. Never force motorists, drivers, and passengers to present I.D. cards.

- f. The use of warning shots is strictly forbidden to avoid unnecessary and accidental deaths, injuries, and damage to property. Megaphones or police sirens shall be used instead during the pursuit. In the event that the occupants of the vehicle open fire on the personnel manning the checkpoint, reasonable force to overcome the suspects' aggression may be employed.
- g. Searches made at checkpoints shall be limited to visual search and neither the vehicle nor the occupants shall be subjected to physical search or require the passengers to alight from the vehicle. An extensive search may be allowed only if the officers conducting the search have probable cause to believe that they would find evidence pertaining to the commission of a crime in the vehicle to be searched and there is no sufficient time to secure a valid warrant upon which the passengers shall be required to alight from the vehicle to effect the search.
- h. Persons stopped during a checkpoint are not required and must not be forced to answer any questions posed during spot checks or accosting. Failure to respond to an officer's inquiries is not, in and of itself, a sufficient ground to make an arrest. A person's failure or refusal to respond to questions made by the police officer, however, may provide sufficient justification for additional observation and investigation.
- i. The team leader must properly orient the Search Team and Security Team that will participate in the checkpoint operations.
- j. Both the police and civilian components of the checkpoint operations must submit their respective after-operations report to their unit/organization.

- k. Proper coordination with the military must be done especially in areas where AFP units or personnel conduct their own checkpoint operations, i.e., in conflict-affected areas, near military camps or installations, locations where armed encounters recently occurred, areas where presence of threat groups had been monitored, in so-called “election hot spots”, areas declared under state of emergency, etc.

IN THE CONDUCT OF POLICE CHECKPOINTS, ALL PNP PERSONNEL MUST PROMOTE AND PROTECT THE CITIZEN’S RIGHT TO DIGNITY, PRIVACY, AND FREEDOM OF MOVEMENT.

QUESTIONS FOR DEEPER STUDY:

1. What are the common operational lapses or reports of human rights violations during the conduct of police checkpoints?
2. What specific citizen’s rights must be protected during the conduct of police checkpoints?
3. When are police personnel allowed to request the driver and/or passengers to alight the vehicle for further searches, pat-down, or frisking?

4. SEARCH AND SEIZURE

Search and seizure operations are very critical in the conduct of investigation, evidence-gathering, and in pre-empting possible criminal activities or threats to public safety. However, maximum care should be observed in search and seizures to avoid human rights violations and other offenses that might hamper a police operation or case investigation. Review the following points to ensure that search and seizures are done properly within legal parameters:

- a. A search and seizure operation is allowed and legal when it is covered by a valid search warrant issued by the court. Normally, a search warrant should be used only during day time. Otherwise, the search warrant must specifically indicate that it can be used day or night.
- b. The search warrant must show or indicate: the signature of a judge; specific alleged violation or crime; exact address or location of the area to be searched; and exact items to be seized.
- c. The search warrant is only valid for ten (10) days from the date it was issued.
- d. Police officers must be in proper complete uniform (including their name plate and/or I.D. card) during the search operation.
- e. Police officers must identify themselves; show the Search Warrant to the owner, custodian or occupant of the house, building, or property to be searched; and explain the purpose and legality of the said search operation. When the owner or custodian refuses to cooperate or denies entry, the police officers (search party) can forcibly enter the property.
- f. The owner, custodian, or occupants of the property to be searched must be allowed to accompany the police officers during the entire search operation.
- g. If the owners, custodian, or occupants are not present, there must be at least two (2) independent witnesses of legal age who work in or reside near the property to be searched.

- h. Illegal items or contraband may also be seized by police officers even if these are not covered by the search warrant as long as the said items are in plain view. Police officers or members of the search party are required to present an official receipt for all items taken or seized.
- i. After arresting a person (for example, during a traffic stop or checkpoint operation), police officers can frisk the arrested person and conduct search and seizure of illegal items, materials that can be used as evidence, and deadly weapons, or any other object that pose a threat to the police officer and to the public.
- j. Proper police procedures in the confiscation or seizure of property must be followed. Police officers or personnel who, as part of a police operation or intervention, confiscate or seize computers, laptops, cellphones, and other similar devices that can store data, photos, videos, and other sensitive information must take all necessary precautions to safeguard the said devices and equipment including the content. Unauthorized use, storage, release, distribution, display, file sharing, public viewing, or selling of these devices, equipment, and content is strictly prohibited and punishable under existing laws.
- k. Always thank people for their cooperation during the entire search operation/procedure.
- l. The police commander or team leader must provide clear instructions and guidelines to personnel or operatives that will conduct the search operation. The pre-deployment briefing must emphasize proper procedures in the conduct of search & seizure operations, applicable laws, and related citizens' rights that must be observed and respected.

ALL PNP PERSONNEL MUST PROMOTE AND PROTECT THE CITIZEN'S RIGHT TO BE SECURE IN THEIR PERSONS, HOUSES OR PROPERTY, PAPERS, AND EFFECTS AGAINST UNREASONABLE OR ILLEGAL SEARCHES AND SEIZURES. CITIZENS' INTELLECTUAL PROPERTY RIGHTS AND RIGHT TO PRIVACY MUST REMAIN INVIOABLE.

QUESTIONS FOR DEEPER STUDY:

1. What are the common errors and/or complaints against police personnel involved in search and seizure operations?
2. What specific citizen's rights must be protected during the conduct of police search and seizure operations?
3. What procedures must be followed in the handling of seized items or objects?

5. ARRESTS WITH WARRANT

When making arrests with a warrant, always follow these guidelines:

- a. Always identify yourself as a police officer. Provide your name, position/designation, and place of assignment or unit to the person to be arrested, his family or relatives, or other persons present during the time of arrest.
- b. Present the warrant of arrest to the subject person before or after the arrest is made.

- c. If requested, allow the arrested person to be accompanied by a family member, relative, or friend from the place of arrest to the police station or headquarters where the said arrested person would be processed and detained.

- d. As much as possible, members of the arresting team should be in complete uniform. During covert operations, the arresting team must properly identify themselves during the conduct of arrest; and it is recommended that a marked PNP vehicle be used to transport the arrested person(s) from the place of arrest to the police station/headquarters.

- e. The Arresting Officer must immediately inform the Arrested Person about his/her rights under the law by quoting the updated Miranda Warning (see text below) and by using a language or dialect that is known or understood by the arrested person.

ARREST WARNING (ENGLISH VERSION)

YOU ARE ARRESTED FOR THE CRIME OF _____ (OR BY VIRTUE OF A WARRANT OF ARREST). UNDER THE MIRANDA DOCTRINE, YOU HAVE THE RIGHT TO REMAIN SILENT. ANY STATEMENT YOU MAKE MAY BE USED FOR OR AGAINST YOU IN ANY COURT OF LAW IN THE PHILIPPINES. YOU HAVE THE RIGHT TO HAVE A COMPETENT AND INDEPENDENT COUNSEL (OR LAWYER), PREFERABLY OF YOUR OWN CHOICE. IF YOU CANNOT AFFORD THE SERVICES OF COUNSEL (OR LAWYER), THE GOVERNMENT WILL PROVIDE ONE FOR YOU. UNDER REPUBLIC ACT 9745, YOU HAVE THE RIGHT TO DEMAND PHYSICAL EXAMINATION BY AN INDEPENDENT AND COMPETENT DOCTOR OF YOUR CHOICE. IF YOU CANNOT AFFORD THE SERVICES OF A DOCTOR, THE STATE SHALL PROVIDE ONE FOR YOU. DO YOU UNDERSTAND THESE RIGHTS?

MIRANDA WARNING (FILIPINO VERSION)

IKAW AY ARESTADO DAHIL SA SALA O KRIMEN NA _____
(O DAHIL SA BISA NG ISANG WARRANT OF ARREST). IKAW AY
MAY KARAPATANG MANAHIMIK O MAGSAWALANG KIBO.
ANUMAN ANG IYONG SASABIHIN AY MAAARING GAMITIN
PABOR O LABAN SA IYO SA ANUMANG HUKUMAN. IKAW AY
MAYROON DING KARAPATANG KUMUHA NG ABOGADO NA
IYONG PINILI AT KUNG WALA KANG KAKAYAHAN, ITO AY
IPAGKAKALOOB SA IYO. AYON SA REPUBLIC ACT 9745 O ANTI-
TORTURE LAW, IKAW AY MAY KARAPATANG MAGPATINGIN SA
ISANG MAPAGKAKATIWALAANG DOKTOR NA SARILI MONG
PINILI. KUNG WALA KANG KAKAYAHANG KUMUHA NG IYONG
DOKTOR, IKAW AY PAGKAKALOOBAN NG LIBRE NG ESTADO O
PAMAHALAAN. NAUNAWAAN MO BA ITO?

- f. The arresting officer must show the valid Warrant of Arrest to the arrested Person(s) as soon as possible.
- g. The arresting officer must ensure that the arrested person acknowledges that he/she understands the Miranda Warning.
- h. All police personnel are required to memorize and/or carry at all times a copy of the official PNP Miranda Warning Pocket Card.
- i. It is important to note that under Republic Act 9745 (Anti-Torture Law), all persons arrested, detained, or under custodial investigation have the Right to Demand Physical, Medical, and Psychological Examination by a competent and independent doctor of his/her own choice. The person arrested, detained, or under custodial investigation must be informed of these rights BEFORE AND AFTER interrogation or custodial investigation.

6. ARRESTS WITHOUT WARRANT

An arrest without warrant is authorized and legal:

- a. When a person has committed, is actually committing, or attempting to commit an offense or crime in the presence of a police officer.
- b. When an offense or crime has just been committed and the police officer has personal knowledge of facts indicating that the person to be arrested had committed the said offense or crime.
- c. When the person to be arrested is an escaped detainee or prisoner.
- d. When the person arrested without a warrant is immediately brought to the nearest police station or jail, and subjected to inquest proceedings at the soonest possible time in keeping with the provisions of Section 7, Rule 112 of the Rules of Criminal Procedure.

An arrest without warrant is considered unauthorized and illegal if the warrantless arrest is made:

- a. Due to mere suspicion or belief; and
- b. Unsupported by facts, credible information, or circumstances necessary to establish probable cause.

When conducting a warrantless arrest, the arresting officer must also ensure that the arrested person is properly informed of his/her rights under the law.

ALL PNP PERSONNEL MUST PROMOTE AND PROTECT THE CITIZEN'S RIGHT TO DUE PROCESS, PRESUMPTION OF INNOCENCE UNTIL PROVEN GUILTY BY THE COURT, AND EQUAL PROTECTION OF THE LAW.

QUESTIONS FOR DEEPER STUDY:

1. What are the common errors and/or complaints against police personnel involved in the serving of warrants of arrest?
2. What specific legal rights must be protected during the conduct of arrest procedures?
3. What type or level of force should be used by police officers against an unarmed but violently resisting suspect?
4. Why is it important for the arresting officer to inform the arrested person about his/her right to counsel or assistance of a lawyer and right to demand physical examination by an independent and competent doctor?

7. CUSTODIAL INVESTIGATION

During custodial investigation, police officers must abide by the provisions of Republic Act 7438, or the law that prescribed the Rights of Persons Arrested, Detained, or Under Custodial Investigation; and Republic Act 9745, or the Anti-Torture Law. It is important to remember and apply the following guidelines on custodial investigation:

- a. Police officers must observe the principle of due investigative process and presume the person being investigated as innocent until proven guilty by the court.

- b. Investigations must be sensitive and adaptable to special needs or requirements of women, children, minors, the elderly, members of indigenous groups, and persons with disabilities.
- c. Put up PNP Posters on the Rights of Persons Arrested, Detained, or Under Investigation (based on R.A. 7438) in a prominent or highly visible area inside the investigation room. As a best practice, advise the person/s under investigation to read the poster before the conduct of questioning or custodial investigation.
- d. All PNP personnel must inform all persons arrested, detained, or under investigation about their rights under the law most especially their Right to Counsel and Right to Physical, Medical, and Psychological Examination before and after custodial investigation/interrogation.

ALL PNP PERSONNEL MUST PROMOTE AND PROTECT THE CITIZEN'S RIGHT TO COUNSEL AND RIGHT TO DEMAND PHYSICAL, MEDICAL AND PSYCHOLOGICAL EXAMINATION BEFORE AND AFTER THE CONDUCT OF THE CUSTODIAL INVESTIGATION OR INTERROGATION.

QUESTIONS FOR DEEPER STUDY:

- 1. What are the common errors and/or complaints against police personnel involved in custodial investigation?
- 2. What should police investigators do when a person under custodial investigation does not have a lawyer or cannot afford to hire a lawyer? What can be done to protect a person's right to counsel when private counsel or a PAO lawyer is not available?

3. Why is it important to inform a person arrested, detained, or under custodial investigation about his/her right to demand physical, medical, and psychological examination BEFORE AND AFTER an investigation, questioning, or interrogation?
4. Why should police officers be aware, sensitive, and capable of meeting special needs of women, children, minors, and other vulnerable groups?

8. DETENTION

The following guidelines will help ensure that the rights of detained persons are respected and protected by police personnel:

- a. Police personnel are responsible for the health, safety, and hygiene of all persons detained or under police custody.
- b. Proper monitoring of the status and disposition of detained persons, especially those who are awaiting transfer to jails or those who are supposed to be released is vital to the efficient and effective detention management. It is also relevant to the prevention of overcrowding in custodial facilities, which is a serious health and security concern.
- c. If possible and with prior approval of higher authorities, seek structural modifications in police custodial facilities to allow detained persons to have privacy when speaking with his/her family and lawyer. Such modifications also need to consider the need for sufficient space for detained persons to rest and sleep.

- d. Police station commanders or the Chief of the Custodial Facility must prescribe fixed times or schedules for eating, sleeping, personal sanitation/necessities, and receiving visitors. This is necessary to maintain security inside the station as well as to promote safe, healthy, and humane conditions in the custodial facility.

ALL PNP PERSONNEL MUST PROMOTE AND PROTECT THE DETAINED PERSON'S RIGHT TO SAFE AND HUMANE CONDITIONS WHILE UNDER POLICE CUSTODY.

QUESTIONS FOR DEEPER STUDY:

1. What are the common complaints about custodial facilities and jails?
2. What can police station commanders do to address overcrowding in police custodial facilities?
3. What type or level of force should be used by police officers against an unarmed but violently resisting suspect?

9. CROWD CONTROL / CDM OPERATIONS

Any loss of emotional control, unprofessional conduct, and excessive use of force by members of PNP crowd control or civil disturbance management (CDM) units is highly counter-productive, causes negative perception towards the police organization, and may lead to violations of human rights. To prevent possible abuse of authority and human rights violations, police personnel should consider the following guidelines:

- a. Always use prescribed CDM protective gear and equipment to avoid physical injury or unnecessary harm to police personnel should the situation escalate.

- b. During the violent dispersal stage, only hit the resisting person(s) on fleshy or thick portions of the arms, torso, thighs, and legs. Avoid hitting the head, face, eyes, neck, throat, collar bones, elbows, knees, spinal column, feet, ankles, genitals and other very sensitive body parts. Baton strikes to these parts may cause long-term or permanent damage.
- c. Always use proper control and handcuffing techniques. Never drag protesters by the hair or leg. Use two-man or four-man carry techniques to control and transport resisting protesters from the protest area to the mobile patrol car or police vehicle.
- d. Police officers must use the Miranda Warning cards to inform arrested protesters of their rights.
- e. Police officers must take extra care in the conduct of arrests or in the use of non-lethal weapons since minors and innocent civilians might be unnecessarily harmed or affected during dispersal or any other necessary police action.

ALL PNPPERSONNEL MUST PROMOTE AND PROTECT THE PEOPLE’S RIGHT TO FREEDOM OF PEACEFUL ASSEMBLY.

QUESTIONS FOR DEEPER STUDY:

- 1. What are the negative effects of excessive use of force in dispersing protesters especially when there is media covering the rally?

2. Are ill-equipped crowd control (CDM) personnel more prone to loss of emotional control and excessive use of force? Yes or No? Why?
3. What should police personnel do when there are minors and vulnerable persons (ex. elderly and persons with disabilities) in the group of protesters and there is a command to disperse the crowd?

10. DECLARING A CRIME SCENE OR CRITICAL INCIDENT AREA

Police officers must be aware of the protocols in media coverage, principles of press freedom, and the public's right to information --- and balance these with the need to perform law enforcement duties.

Declaring an area off-limits for being a crime scene or a critical incident area is vital in preserving evidence and maintaining public safety. To avoid possible conflicts with media personalities covering a crime scene or a major incident, take note of the following guidelines:

- a. Inform all civilians, media practitioners, and other unauthorized persons that a certain location is being declared a crime scene, off-limits zone, or critical incident area. Calmly but firmly instruct them to immediately vacate the said area.
- b. Establish a police line to cordon-off the crime scene or critical incident area.
- c. The police ground commander or designated police officer must immediately coordinate with the News Desk Editors or main offices of the media personalities who are present in the area. Request the news desk editor or concerned media

officer to advise their media staff to leave or stay outside the crime scene or cordoned-off area.

- d. Unauthorized persons who refuse to leave the declared crime scene or critical incident area may be arrested for obstruction of justice. However, the arrest must only be made after the said person is given enough time to comply with police instructions to leave the area. Should the conduct of an arrest become necessary, the arrested person must be immediately informed of his/her rights.
- e. Set-up a media briefing area several meters away from the crime scene or critical incident area. This measure is necessary to maintain public safety and to preserve the integrity of the crime scene or critical incident area.

ALL PNP PERSONNEL MUST PROMOTE AND PROTECT THE PEOPLE'S RIGHT TO INFORMATION, AND FREEDOM OF THE PRESS.

QUESTIONS FOR DEEPER STUDY:

- 1. How can police officers effectively preserve a crime scene or cordon-off a critical incident area without curtailing press freedom or violating media's right to gather news information?
- 2. What steps can be undertaken by the police ground commander when media personalities and other unauthorized persons refuse to leave a crime scene or critical incident area despite an earlier request or instruction?
- 3. When does obstruction of justice take place in these situations?

CHAPTER V

OVERVIEW OF INTERNATIONAL HUMANITARIAN LAW

This section provides a quick review of important terms, concepts, and principles of International Humanitarian Law (IHL). All police personnel are enjoined to participate in IHL training or seminars and to read more detailed books, primers, or publications about IHL.

What is International Humanitarian Law?

International Humanitarian Law (IHL) is a set of rules that seek to limit the effects of armed conflict for humanitarian reasons. It also restricts the methods and means of warfare.

In essence, IHL aims to protect non-combatants or persons who are not or no longer involved in armed hostilities. IHL is part of International Law or the set of rules that govern relations between nation-states.

While protecting civilian populations and non-combatants, IHL also seeks to protect the natural environment, the preservation of which is needed for human life and survival.

IHL only applies to armed conflicts and not to internal disturbances such as riots, demonstrations, protest rallies, and sporadic or isolated incidents of violence that occur inside the territory of a State.

Serious violations of IHL are called war crimes.

All parties to an armed conflict, whether state or non-state actors, are bound to observe International Humanitarian Law.

Where did IHL come from?

The Geneva Conventions and the Hague Conventions are the bases of International Humanitarian Law.

The Geneva Conventions are international standards on humanitarian treatment of victims of war. The said conventions are composed of four (4) treaties, namely:

1. *First Geneva Convention* for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (ratified in 1864)
2. *Second Geneva Convention* for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (ratified in 1906)
3. *Third Geneva Convention* relative to the Treatment of Prisoners of War (ratified in 1929)
4. *Fourth Geneva Convention* relative to the Protection of Civilian Persons in Time of War (ratified in 1949)

The Geneva Conventions also include modifications or amendment protocols which include:

Protocol I (1977) relating to the Protection of Victims of International Armed Conflicts

Protocol II (1977) relating to the Protection of Victims of Non-International Armed Conflicts

Protocol III (2005) relating to the Adoption of an Additional Distinctive Emblem

Other treaties that are related or considered in the observance of IHL include the conventions that prohibit the use of landmines, chemical weapons, blinding laser weapons, among others.

Three Principles of IHL

1. Principle of Distinction

The Principle of Distinction means that states must not use means and methods of warfare that do not distinguish or make a distinction between combatants and non-combatants.

2. Principle of Proportionality

The Principle of Proportionality means that a clear military target must not be attacked if the risk to civilians and to civilian/non-military property is larger than the expected military advantage or result.

3. Principle of Precaution

The Principle of Precaution, as part of the principle of distinction, means that parties in conflict must take all precautions to distinguish between combatants and non-combatants, as well as legitimate military targets and civilian properties or structures that must not be attacked.

Basic Rules of IHL

According to the International Committee of the Red Cross (ICRC), the basic rules of International Humanitarian Law are as follows:

1. Persons hors de combat (outside of combat) and those not taking part in hostilities shall be protected and treated humanely.

2. It is forbidden to kill or injure an enemy who surrenders or who is hors de combat.
3. The wounded and sick shall be cared for and protected by the party to the conflict which has them in its power. The emblem of the Red Cross, Red Crescent, and Red Crystal shall be recognized and respected as signs of humanitarian protection.
4. Captured combatants and civilians must be protected against acts of violence and reprisals. They shall have the right to correspond with their families and to receive relief.
5. No one shall be subjected to torture, corporal punishment or cruel or degrading treatment.
6. Parties to a conflict and members of their armed forces do not have an unlimited choice of methods and means of warfare.
7. Parties to a conflict shall at all times distinguish between the civilian population and combatants. Attacks shall be directed solely against military objectives.

Salient Points of R.A. 9851

In December 11, 2009, Republic Act 9851 entitled, an *Act Defining and Penalizing Crimes against International Humanitarian Law, Genocide and other Crimes against Humanity* was enacted by Congress. According to R.A. 9851, both state and non-state armed groups must adhere to international humanitarian law standards. The said law also provides legal recourse to victims and prescribes appropriate punishment to those convicted of war crimes, genocide, and crimes against humanity.

The following acts are crimes against International Humanitarian Law (IHL) and are now punishable under R.A. 9851:

During International Armed Conflict

1. Willful killing;
2. Torture or inhuman treatment, including biological experiments;
3. Willfully causing great suffering, or serious injury to body or health;
4. Extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly;
5. Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
6. Arbitrary deportation or forcible transfer of population or unlawful confinement;
7. Taking of hostages;
8. Compelling a prisoner a prisoner of war or other protected person to serve in the forces of a hostile power; and
9. Unjustifiable delay in the repatriation of prisoners of war or other protected persons.

During Non-International Armed Conflict

1. Violence to life and person, in particular, willful killings, mutilation, cruel treatment and torture;
2. Committing outrages upon personal dignity, in particular, humiliating and degrading treatment;
3. Taking of hostages; and
4. The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.

Other Serious Violations

1. Internationally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
2. Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
3. Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions or Additional Protocol III in conformity with international law;
4. Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;

5. Launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be excessive in relation to the concrete and direct military advantage anticipated;
6. Launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects, and causing death or serious injury to body or health .
7. Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives, or making non-defended localities or demilitarized zones the object of attack;
8. Killing or wounding a person in the knowledge that he/she is hors de combat, including a combatant who, having laid down his/her arms or no longer having means of defense, has surrendered at discretion;
9. Making improper use of a flag of truce, of the flag or the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions or other protective signs under International Humanitarian Law, resulting in death, serious personal injury or capture;
10. Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick

and wounded are collected, provided they are not military objectives. In case of doubt whether such building or place has been used to make an effective contribution to military action, it shall be presumed not to be so used;

11. Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind, or to removal of tissue or organs for transplantation, which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his/her interest, and which cause death to or seriously endanger the health of such person or persons;
12. Killing, wounding or capturing an adversary by resort to perfidy;
13. Declaring that no quarter will be given;
14. Destroying or seizing the enemy's property unless such destruction or seizure is imperatively demanded by the necessities of war;
15. Pillaging a town or place, even when taken by assault;
16. Ordering the displacements of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
17. Transferring, directly or indirectly, by the occupying power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;

18. Committing outrages upon personal dignity, in particular, humiliating and degrading treatments;
19. Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions or a serious violation of common Article 3 to the Geneva Conventions;
20. Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
21. Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including willfully impeding relief supplies as provided for under the Geneva Conventions and their Additional Protocols;
22. In an international armed conflict, compelling the nationals of the hostile party to take part in the operations of war directed against their own country, even if they were in the belligerent's service before the commencement of the war;
23. In an international armed conflict, declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
24. Committing any of the following acts:
 - a. Conscripting, enlisting or recruiting children under the age of fifteen (15) years into the national armed forces;

- b. Conscripting, enlisting or recruiting children under the age of eighteen (18) years into an armed force or group other than the national armed forces; and
 - c. Using children under the age of eighteen (18) years to participate actively in hostilities; and
25. Employing means of warfare which are prohibited under international law, such as:
- a. Poison or poisoned weapons;
 - b. Asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
 - c. Bullets which expand or flatten easily in the human body, such as bullets with hard envelopes which do not entirely cover the core or are pierced with incisions; and
 - d. Weapons, projectiles and material and methods of warfare which are of the nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict.

Genocide

R.A. 9851 defines Genocide as acts with the intent to destroy, in whole or in part, a national, ethnic, racial, religious, social or any other similar stable and permanent group as such:

1. Killing members of the group;
2. Causing serious bodily or mental harm to members of the group;

3. Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
4. Imposing measures intended to prevent births within the group; and
5. Forcibly transferring children of the group to another group.

R.A. 9851 also makes it unlawful for any person to directly and publicly incite others to commit genocide.

Other Crimes against Humanity

Other Crimes against Humanity refers to any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population, with knowledge of the attack:

1. Willful killing;
2. Extermination;
3. Enslavement;
4. Arbitrary deportation or forcible transfer of population;
5. Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
6. Torture;
7. Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;

8. Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender, sexual orientation or other grounds that are universally recognized as impermissible under international law, in connection with any act referred to in this paragraph or any crime defined in this Act;
9. Enforced or involuntary disappearance of persons;
10. Apartheid; and
11. Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health.

Guidelines / Suggested Action Items:

- a. All police commanders are enjoined to provide briefings and/or organize seminars to inform and educate their staff and personnel, especially the members of PNP maneuver units (ex. PNP Special Action Force, Regional/Provincial Mobile Groups, etc.) deployed in conflict-affected areas of the country, about International Humanitarian Law and R.A. 9851.
- b. Designated Human Rights Desk Officers (HRDOs) shall have the primary responsibility of providing information about International Humanitarian Law and R.A. 9851 to police personnel in their respective areas of jurisdiction.
- c. All police personnel must know, understand, and apply the seven (7) Basic Rules of International Humanitarian Law.

- d. Violations of IHL and R.A. 9851 must be immediately reported to the Human Rights Desk and/or to the Government of the Philippines - Monitoring Committee (GPH-MC).
- e. Food blockades, preventing the transport of relief goods and other supplies, stopping medical missions, and causing delays, stoppage, or any unnecessary disruption of humanitarian and/or rescue services is illegal.
- f. Enforced or involuntary disappearance is prohibited under International Humanitarian Law. The said act also became a criminal offense with the the enactment of the Anti-Enforced or Involuntary Disappearance Law or Republic Act 10350.

In R.A. 10350, an enforced disappearance is defined as “the arrest, detention, abduction or any other form of deprivation of liberty committed by government authorities or by persons or groups of persons acting with the authorization, support or acquiescence of such persons in authority, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such person outside the protection of the law.”

Salient features of R.A. 10350:

- 1. The crime of enforced disappearance is generally imprescriptible as an exception to the statute of limitations.
- 2. No amnesty can exempt any offender, either convicted or facing prosecution, from liability.
- 3. No war or any public emergency can justify the suspension of the enforcement of the anti-disappearance law.
- 4. Command responsibility makes a superior officer also culpable for violations of the law by subordinates.

5. Subordinates are authorized to defy unlawful orders of superiors for the commission of enforced disappearance.
6. A periodically updated registry of all detained persons is required in all detention centers.
7. Secret detention facilities are prohibited.
8. Compensation, restitution and rehabilitation of victims and kin are mandated.
9. Gradation of penalties are prescribed with reclusion perpetua as the severest penalty.
10. Human Rights organizations shall participate in the crafting of the necessary Implementing Rules and Regulations.
11. The penalty of Reclusion Perpetua and its accessory penalties shall be imposed on:
 - (a) Those who directly committed the act of enforced or involuntary disappearance;
 - (b) Those who directly forced, instigated, encouraged or induced others to commit the act of enforced or involuntary disappearance;
 - (c) Those who cooperated in the act of enforced or involuntary disappearance by committing another act without which the act of enforced or involuntary disappearance would not have been consummated;
 - (d) Those officials who allowed the act or abetted in the consummation of enforced or involuntary disappearance when it is within their power to stop or uncover the commission thereof; and
 - (e) Those who cooperated in the execution of the act of enforced or involuntary disappearance by previous or simultaneous acts.

12. The penalty of Reclusion Temporal and its accessory penalties shall be imposed upon those who shall commit the act of enforced or involuntary disappearance in the attempted stage as provided for and defined under Article 6 of the Revised Penal Code.

13. The penalty of Reclusion Temporal and its accessory penalties shall also be imposed upon persons who, having knowledge of the act of enforced or involuntary disappearance and without having participated therein, either as principals or accomplices, took part subsequent to its commission in any of the following manner:
 - (a) By themselves profiting from or assisting the offender to profit from the effects of the act of enforced or involuntary disappearance;
 - (b) By concealing the act of enforced or involuntary disappearance and/or destroying the effects or instruments thereof in order to prevent its discovery; or
 - (c) By harboring, concealing or assisting in the escape of the principal/s in the act of enforced or involuntary disappearance, provided such accessory acts are done with the abuse of official functions.
 - (d) The penalty of Prision Correccional and its accessory penalties shall be imposed against persons who defy, ignore or unduly delay compliance with any order duly issued or promulgated pursuant to the writs of habeas corpus, amparo and habeas data or their respective proceedings.

14. The penalty of Arresto Mayor and its accessory penalties shall be imposed against any person who shall violate the provisions of Sections 6, 7, 8, 9 and 10 of this Act.
15. Government officials and personnel who are found to be perpetrators of or participants in any manner in the commission of enforced or involuntary disappearance as a result of a preliminary investigation conducted for that purpose shall be Preventively Suspended or Summarily Dismissed from the Service, depending on the strength of the evidence so presented and gathered in the said preliminary investigation or as may be recommended by the investigating authority.
16. Under R.A. 10350, the Commission on Human Rights (CHR) or its duly authorized representative are “allowed to conduct regular, independent, unannounced, and unrestricted visits to or inspections of all places of detention and confinement.”

All persons found guilty of committing enforced or involuntary disappearance of persons may be punished with lifetime imprisonment.

Under the new law, the Commission on Human Rights (CHR) or its duly authorized representative are “allowed to conduct regular, independent, unannounced, and unrestricted visits to or inspections of all places of detention and confinement.”

CHAPTER VI

SERVING THE POOR, VULNERABLE, AND MARGINALIZED SECTORS IN SOCIETY

The Poor, Vulnerable, and Marginalized Sectors in our society include persons or families living in poverty in urban and rural settings; senior citizens or the elderly; persons with disabilities (PWDs); individuals classified as “purely illiterate” (persons who cannot read or write) and “functionally illiterate” (persons who can probably read and write but with very limited vocabulary); indigenous peoples or tribal communities; and poor women and children, among others. While majority of the needs of the poor, vulnerable, and marginalized sectors are economic and social in nature, the police also has a unique role to ensure that the lives, dignity, and rights of the disadvantaged are protected.

As part of its mandate to serve and protect the people, the PNP must develop policies, plans, procedures, guidelines, measures, and mechanisms to better serve and protect these disadvantaged persons and sectors. Police personnel must demonstrate sensitivity, awareness, respect, and genuine concern for the needs and welfare of specific individuals and sectors that are more vulnerable to crime, abuse, and neglect. As a good example, the PNP established the PNP Women and Children Protection Center (WCPC) and its counterpart Women and Children Protection Desks (WCPDs) nationwide to serve and protect women and children from crime, abuse, and exploitation.

But more needs to be done. The following guidelines and suggested action items can guide police commanders and personnel on how to apply human rights-based policing to serve the poor, vulnerable, and marginalized sectors.

Guidelines / Suggested Action Items:

- a. All PNP personnel must have basic knowledge about laws, policies, and programs concerning the poor, vulnerable, and marginalized sectors.
- b. Police personnel must ensure that indigent individuals are informed about their rights under the law. Police personnel are directly responsible for informing indigent individuals about their right to counsel or to the free services of a lawyer, specifically those from the Public Attorney's Office (PAO).
- c. All police stations must have structural adjustments to cater to the needs of persons with disabilities (PWDs), as required by law. For example, police stations including headquarters and other PNP facilities must have ramps and other facilities to assist persons who use wheelchairs.
- d. Research and development of appropriate doctrines, plans, strategies, and procedures are needed to enhance police services with the goal of meeting the unique needs of the blind, deaf-mute, and other PWDs. For example, how can a police investigator effectively conduct an investigation, record a complaint, or provide assistance to a person or complainant who is blind or deaf-mute?
- e. Whenever necessary, coordinate with the local DSWD officer in order to attend to the needs of senior citizens or the elderly, persons with mental/psychological conditions, and minors especially orphans and street children.
- f. Coordination with the national/local office of the National Commission on Indigenous Peoples (NCIP) may be necessary to effectively address situations or instances

where the complainant is a member of an indigenous group or community. This is very relevant in cases of alleged incursions into the ancestral domain of indigenous peoples (IPs); acts of discrimination and abuse against IPs; and other acts that violate the dignity and rights of indigenous communities.

- g. Police commanders and personnel in-charge of Police-Community Relations (PCR) are encouraged to develop profiles or reports on the vulnerability of the poor, elderly, women and children, indigenous peoples, and other disadvantaged persons/groups in their jurisdiction. The said profile or report should serve as basis of action plans that can be implemented by the concerned PNP unit/office. For example, a PCR plan must be developed in order to establish good relations and communication lines with leaders and members of urban poor organizations in a particular area. This is important especially in situations when the police must be deployed in informal settlements or areas that will be subjected to lawful eviction and/or demolition based on a valid court order. Good PCR and communication lines could prevent unnecessary public disturbance or violence in those situations.

ANNEX A

BASIC POLICE STATION CHECKLIST ON HUMAN RIGHTS-BASED POLICING

1. **No. of personnel with basic and advanced training in human rights**
 - Basic human rights modules in mandatory and special courses
 - Additional human rights seminars, workshops, and training conducted by CHR
 - Additional human rights seminars, workshop, training conducted by NGOs and foreign organizations

2. **No. of detention facilities / lock-up cells inspected**
 - Separate facilities for men, women, and children?
 - Availability of written and/or digital (computerized) Detainee Information Database?

3. **No. of reported cases of human rights violations (alleged excessive use of force, illegal arrest, illegal detention, summary killings, enforced disappearance, etc.) referred to police station**

4. **No. of reported cases of human rights violations investigated**

5. **Display of posters and information materials on Rights of Persons Arrested, Detained or Under Investigation (R.A. 7438) at the police station and other PNP offices**
6. **Activation of human rights desk and designation of human rights desk officers (HRDOs)**
 - Workflow and Contact Details of concerned units/offices on reporting alleged human rights violations
 - Human Rights Promotion Action Plan
7. **Coordination with Barangay Human Rights Action Officer (BHRAO)**

ANNEX B

HUMAN RIGHTS DESK BASIC OPERATIONAL PROCEDURES

Receiving / Taking Action on Complaints of Alleged Human Rights Violations:

1. Politely greet the complainant or any person that approaches the Human Rights Desk. State your rank and full name, then ask the complainant or person about his specific need or purpose for approaching your desk.
2. Through initial interview, evaluate if the complaint is about an alleged human rights violation or a typical complaint that is supposed to be handled by other desks such as the Investigation Desk, Women & Children's Protection Desk (WCPD), etc.
3. Assess if the complaint is about alleged enforced disappearance (ED), extra-legal killing (ELK), torture (TOR), illegal arrest (IA), or excessive use of force by a police officer and/or law enforcer (EF).
4. If the complaint is related to human rights violations cited in No. 2, get a written statement from the complainant about the incident. Get full details of the incident, complete name

and contact details of the complainant, and other pertinent information.

5. Inform the complainant that he/she will receive an update on actions taken by the Human Rights Desk / Police Station within three (3) days. Further, inform the complainant that the update on actions taken may be sent via phone call, text message, e-mail, or as a last resort, via post mail. Also provide the complainant with your official telephone/fax numbers, e-mail address, and other contact details.

6. Thank the complainant for reporting the incident/alleged human rights violation. Express reassurance that the Human Rights Desk would closely monitor the actions that will be taken by the appropriate police units or government agencies that will handle the complaint or report of alleged human rights violation.

ANNEX C

USE OF FORCE CONTINUUM

SITUATION OR TYPE OF THREAT POSED BY OFFENDER/SUSPECT	USE OF FORCE CONTINUUM	AUTHORIZED FORCE LEVEL	POLICE OFFICER LANGUAGE AND DEFENSIVE POSTURE
<p>COOPERATIVE</p> <p>Person/group is UNARMED and cooperative and does not pose a threat to the police officer or to public safety.</p>	<p>PHYSICAL PRESENCE</p>	<p>VERBAL COMMANDS</p> <p>Use of lethal and non-lethal force NOT authorized.</p>	<p>Use polite language. Assume normal ready stance. Waist and leg with holstered firearm should be positioned away from the person, group or suspect you are speaking to. Maintain eye contact. Keep your hands on the side or loosely clasped in front of your belt buckle.</p>
<p>RESISTANT (PASSIVE)</p> <p>Person/group is UNARMED, uncooperative, shouting, angry, or using foul language but does not pose an imminent threat to the police officer or to public safety.</p>	<p>PHYSICAL PRESENCE</p>	<p>VERBAL COMMANDS</p> <p>Use of lethal and non-lethal force NOT authorized.</p>	<p>Use polite but firm language. Use directives or instructions to make the person/group more cooperative or compliant. Normal ready stance. Waist and leg with holstered firearm should be positioned away from the person,</p>

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			<p>group or suspect you are speaking to. Maintain eye contact and increase peripheral awareness. Place your hands in front of your belt buckle, with the tips of your fingers lightly touching --- ready to draw a non-lethal weapon, if necessary.</p> <p>Use firm language to give instructions or directives, making your voice moderately loud but not at “shouting” level.</p>
<p>RESISTANT (SEMI-ACTIVE)</p> <p>Person/group is UNARMED but actively resisting verbally; and <u>may</u> already pose a minor threat to the police officer and to public safety.</p>	<p>SOFT HANDS</p>	<p>CONTROL TECHNIQUES</p> <p>Use of non-lethal force is authorized, including joint manipulations and other body control techniques.</p>	<p>Use firm language with a moderately loud voice. Use directives or instructions to make the person/group more cooperative or compliant. When cooperation or compliance is not attained using verbal directives, cautiously approach the person/group and apply control techniques using only light force. Maintain eye contact and increase peripheral</p>

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			<p>awareness. Do NOT draw nor use firearms and other lethal weapons. DO NOT use the baton/truncheon. Police officer should continue to issue firm instructions or directives while restraining or controlling a resisting person/group. If necessary, call for back-up.</p>
<p>RESISTANT (ACTIVE)</p> <p>Person/group is resisting physically and/or verbally; and already poses a more serious threat to the police officer and to public safety. At this stage, the person/group is resisting but does not directly physically attack the police officer or any civilian in the area.</p>	<p>HARD HANDS</p>	<p>CONTROL & COMPLIANCE TECHNIQUES</p> <p>Use of non-lethal weapons is authorized, including joint manipulations and other body control techniques.</p> <p>Do NOT draw nor use firearms and other lethal weapons. If necessary, use the baton or truncheon with calibrated force.</p> <p>Only hit the resisting person(s) on fleshy or thick portions of the arms, torso, thighs, and legs.</p>	<p>Use firm language in a loud voice to command the person/group to cooperate and stop resisting. If necessary, call for back-up.</p>

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		<p>Avoid hitting the head, face, neck, collar bones, elbows, knees, spinal column, feet, ankles, and other very sensitive body parts. Strikes to these parts may cause long-term or permanent damage.</p> <p>Police officer should continue to issue firm instructions or directives while restraining or controlling a resisting person/group.</p>	
<p>ASSAULTIVE (POSSIBLE BODILY HARM)</p> <p>Person/group is UNARMED but resisting physically and/or verbally; and already poses a more serious threat to the police officer and to public safety. At this stage, the UNARMED person/group is resisting and has physically attacked or has threatened to attack the police</p>	<p>HARD HANDS, POLICE BATON & OTHER NON-LETHAL FORCE</p>	<p>DEFENSIVE TACTICS</p> <p>Use of non-lethal weapons is authorized, including joint manipulations, body control techniques, and baton/truncheon.</p> <p>Do NOT draw nor use firearms and other lethal weapons.</p> <p>The use of joint manipulations and body control techniques must not result in long-term injury or</p>	<p>Use firm language in a loud voice to command the person/group to stop resisting.</p> <p>While approaching the person/group, the police officer may draw his/her baton and assume a ready striking stance.</p> <p>If the situation escalates and the person/group increases its level of verbal and/or physical resistance, the police officer should approach caution with his/her</p>

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<p>officer or any member of the public.</p>		<p>permanent physical damage.</p> <p>If necessary, use the baton or truncheon with calibrated force.</p> <p>Only hit the resisting person(s) on fleshy or thick portions of the arms, torso, thighs, and legs.</p> <p>DO NOT hit the head, face, neck, collar bones, elbows, knees, groin, spinal column, feet, ankles, and other very sensitive body parts.</p> <p>Only use striking techniques (punches, kicks, knee and elbow strikes, head butts, etc.) against an unarmed but resisting subject as a last resort. Police officer should continue to issue firm instructions or directives while restraining or controlling a resisting person/group.</p>	<p>hand positioned and ready to draw the service firearm.</p> <p>Immediately call for back up.</p>
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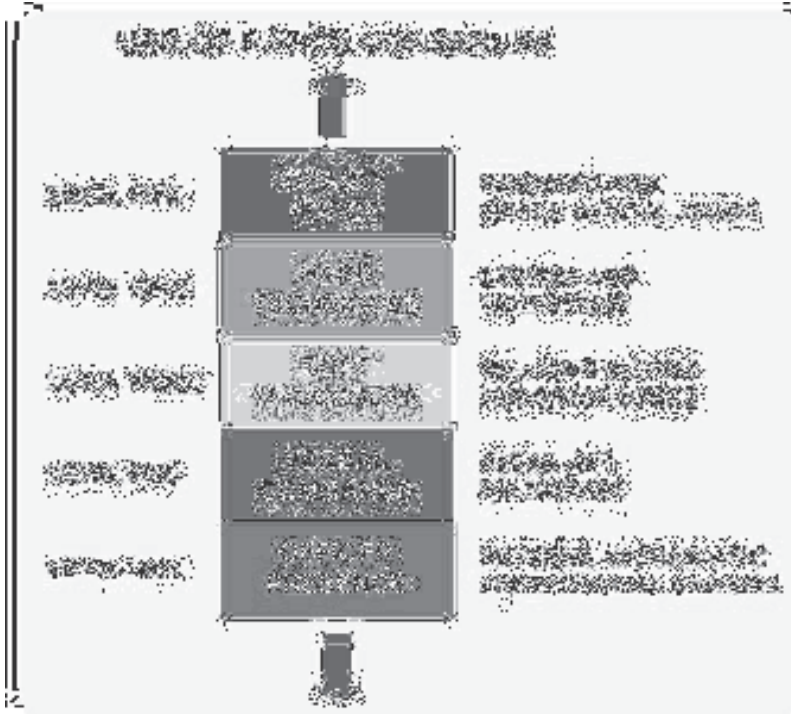
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<p>ASSAULTIVE (BODILY HARM)</p>	<p>THREAT TO USE DEADLY FORCE</p>	<p>COMMENSURATE FORCE</p>	
<p>Person/group is ARMED and resisting physically and/or verbally; and already poses a serious threat to the police officer and to public safety.</p> <p>At this stage, the person/group has only made threats and has not yet attacked the police officer and/or any member of the public.</p> <p>The person/group is only armed with blunt, edged or propelled weapons incl. baseball bats or wooden clubs, knives, bolos, swords, bow & arrows, slingshots, blow darts, brass knuckles, rocks, etc.</p>		<p>Use of non-lethal weapons and firearms is authorized.</p>	<p>The police officer must warn the person/group about resorting to violence.</p> <p>The police officer must direct them to lay down their weapons and stop resisting.</p> <p>The police officer may assume a combat ready position with his/her hand over the service firearm; or draw the firearm and point the muzzle to the ground.</p> <p>When necessary, take cover or use additional protective measures against a possible attack. Immediately call for back-up.</p>

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<p style="text-align: center;">ASSAULTIVE (SERIOUS BODILY HARM / DEATH)</p>	<p style="text-align: center;">USE OF DEADLY FORCE</p>	<p style="text-align: center;">DEADLY FORCE</p>	
<p>Person/group is ARMED and has attacked or is attacking the police officer and/or any member of the public using lethal weapons. Person/group is armed with factory manufactured and/or improvised small arms, light to heavy weapons, and explosives.</p>		<p>Use of lethal weapons is necessary and authorized.</p>	<p>After exhausting all means to make the person, group or suspects to peacefully surrender, the police officer is authorized to use calibrated lethal force to suppress the threat.</p> <p>Deploy Special Weapons and Tactics (SWAT) unit if necessary.</p> <p>When attacked, the police officer is authorized to immediately engage and suppress the threat using his/her service firearm.</p> <p>When armed resistance subsides, the police officer must cautiously approach the suspects using tactical movements.</p> <p>Wounded persons/suspects must be given first aid and/or brought immediately to the nearest hospital.</p>

USE OF FORCE CONTINUUM



NOTE: The pro-baton or truncheon is currently the sole non-lethal weapon used by PNP personnel. The use of Oleo-Capsicum (OC) sprays or pepper sprays, tear gas, tasers, rubber bullets, and other non-lethal weapons and technologies are not yet officially prescribed.

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