I. PURPOSE

This Standard Operating Procedure prescribes the guidelines in the Chain of Custody, Laboratory Examination, Filing of Complaint and Destruction of confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment by BJMP apprehending/seizing officers.

II. REFERENCES

A. Republic Act No. 9165 otherwise known and cited as the "Comprehensive Dangerous Drugs Act of 2002";

B. Implementing Rules and Regulations (IRR) of Republic Act No. 9165;

C. Republic Act No. 10640 entitled ‘An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, otherwise known as the “Comprehensive Dangerous Drugs Act of 2002” which took effect on July 23, 2014;

D. Guidelines on the Implementing Rules and Regulations (IRR) of Section 21 of Republic Act No. 9165 as Amended by Republic Act No. 10640;

E. Amendment to the Guidelines on the Implementing Rules and Regulations (IRR) of Section 21 of Republic Act No. 9165 as Amended by R.A. No. 10640; and

F. Dangerous Drugs Board Regulation No. 1, Series of 2002 bearing the Subject: Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment which was adopted and approved on October 18, 2002.

III. DEFINITION OF TERMS

For purposes of this Standard Operating Procedure:

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A. "Apprehending Officer" shall refer to any BJMP personnel of whatever designation who takes a person into custody, either by an actual restraint or by voluntary submission, in order that he may be bound to answer for the commission of an offense.

B. "Chain of Custody" shall refer to the duly recorded authorized movements and custody of confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment from the time of confiscation, seizure or surrender to receipt in the forensic laboratory. Such record of movements and custody of confiscated, seized or surrendered item shall include the identity and signature of the person who held temporary custody and the date and time when such transfer of custody were made in the course of safekeeping.

C. "Controlled Precursors and Essential Chemicals (CPECs)" shall refer to those listed in Tables I and II of the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances as enumerated in the annex of R.A. No. 9165.

D. "Dangerous Drugs (DDs)" shall refer to those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances as enumerated in the annex of R.A. No. 9165.

E. "Drug Paraphernalia" shall refer to any equipment, product or material of any kind which is primarily intended or designed for use in manufacturing, compounding, converting, concealing, producing, processing, preparing, injecting, ingesting, inhaling or otherwise introducing any dangerous drug into the human body.

F. "Illegal Drug Trafficking" shall refer to the illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation and possession of any dangerous drug and/or controlled precursor and essential chemical.

G. "Instrument" shall refer to anything that is used in or intended to be used in any manner in the commission of illegal drug trafficking.
H. "Laboratory Equipment" shall refer to the paraphernalia, apparatuses, materials or appliances when used, intended for use or designed for use in the manufacture of any dangerous drug and/or controlled precursor and essential chemical, such as reaction vessel, preparative/purifying equipment, fermentors, separatory funnel, flask, heating mantle, gas generator, or their substitute.

I. "Seizing Officer" shall refer to any BJMP personnel of whatever designation who confiscated, seized or took custody and control of the surrendered, dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment.

IV. BACKGROUND/RATIONALE

Through R.A. No. 9165, the State expressed its policy to safeguard the integrity of its territory and the well-being of its citizenry particularly the youth, from the harmful effects of dangerous drugs on their physical and mental well-being, and to defend the same against acts or omissions detrimental to their development and preservation. Toward this end, the government pursued an intensive and unrelenting campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs, and projects.

In 2010, the State sees the need to further enhance the efficacy of the law against dangerous drugs, it being one of more serious social ills. Hence, on July 15, 2010, R.A. No. 10640 was enacted to further strengthen the anti-drug campaign of the government. The law amended for the purpose Section 21 of Republic Act No. 9165 which speaks of the chain of custody of confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment for the purpose of successful prosecution.

As expressed by the Supreme Court in its OCA Circular No. 77-2015 dated April 23, 2015 which was addressed to all Regional Trial Court judges, the Court’s attention was called to the significance of the so-called “Sotto Amendment to the Anti-Drug Law” or R.A. No. 10640. Recognizing its significance, the Court reminded all Regional Trial Court judges to comply with
the provisions of the new law for the purpose of ensuring that all those involved in the proper apprehension of drug violators will avail of the full benefits of the law.

Considering the possibility of entry of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment inside the jail facility and their inevitable confiscation, seizure or surrender, there is likewise a need to establish guidelines to ensure the proper prosecution of drug violators by taking into account the amendment brought about by R.A. No. 10640.

V. GUIDELINES

A. Chain of Custody

1. The apprehending/seizing officer having initial custody and control of the confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after confiscation, seizure and surrender, mark, inventory and photograph the same in the following manner:

   a. The apprehending/seizing officer shall proceed with the marking by placing his initials and signature on the items confiscated, seized or surrendered in the presence of the violator which shall be done immediately at the place where the items were confiscated, seized or surrendered or at the nearest police station or nearest office of the apprehending/seizing officer, whichever is practicable.

   b. The apprehending/seizing officer shall then proceed with the physical inventory by serially numbering each and every item in the presence of the violator which shall be done immediately where the marking was conducted.

   c. The apprehending/seizing officer shall likewise photograph the marked and inventoried items in the presence of the violator which shall also be done at the place where the items were marked and inventoried.

   d. An Inventory or Itemized List of Evidence in Custody shall be accomplished and signed by the apprehending/seizing officer. The violator shall also be required
to sign the copies of the inventory and be given copy thereof. In case of his refusal to sign, the apprehending/seizing officer shall indicate "refused to sign" above his name in the certificate of inventory.

e. To prevent switching or contamination, the items which are fungible and indistinct in character, and which have been marked, shall be sealed in a container or evidence bag and signed by the apprehending/seizing officer ready for submission to the forensic laboratory for examination.

f. The apprehending/seizing officer shall endeavor to comply with the foregoing guidelines. In case of noncompliance, he shall exert extra effort to preserve the integrity and evidentiary value of the items. Moreover, any justification or explanation on noncompliance shall be clearly stated in the sworn statements/affidavits of the apprehending/seizing officers, as well as the steps taken to preserve the integrity and evidentiary value of the items.

g. Finally, the apprehending/seizing officer shall prepare a Chain of Custody of Evidence which shall indicate the time and place of marking, the names of officers who marked, inventoried, photographed and sealed the items, who took custody and received the evidence from one officer to another within the chain, and further indicating the time and date every time the transfer of custody of the same evidence were made in the course of safekeeping until submitted to laboratory personnel for forensic laboratory examination.

B. Laboratory Examination

1. The apprehending/seizing officer shall prepare a Request for a Qualitative and Quantitative Examination before the Philippine Drug Enforcement Agency (PDEA), National Bureau of Investigation (NBI) or Philippine National Police (PNP) forensic laboratory, as the case may be.

2. Together with the request and within twenty-four (24) hours upon confiscation, seizure or surrender of the items, the same shall be submitted by the apprehending/seizing officer for forensic laboratory examination.
3. Upon submission of the items to the PDEA, NBI or PNP forensic laboratory, the apprehending/seizing officer shall request an Acknowledgment Receipt and a Certification or Chemistry Report of the forensic laboratory examination results.

4. In provinces where no forensic or crime laboratories are equipped and operational for scientific drug analysis, or when the distance from the existing PNP, NBI or PDEA forensic or crime laboratory to the place of confiscation, seizure or surrender of the subject items or office of the apprehending/seizing officer requires several hours of travel, the apprehending/seizing officer shall request a copy of the facsimile or any electronic transmission of the Certification or Chemistry Report of the laboratory examination results.

C. Filing of Complaint and Destruction

1. The apprehending/seizing officer shall prepare an Affidavit of Arrest which shall narrate the circumstances of the arrest and the confiscation, seizure or surrender of the dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals or laboratory equipment.

2. The apprehending/seizing officer shall then proceed to the National Prosecution Service (NPS) and coordinate for the filing of appropriate criminal charge/s by presenting the following documents:
   a. Affidavit of Arrest;
   b. Request for a Qualitative and Quantitative Examination;
   c. Acknowledgment Receipt;
   d. Certification or Chemistry Report;
   e. Chain of Custody of Evidence;
   f. Inventory or Itemized List of Evidence in Custody;
   g. Photographs taken during the marking and inventory; and
   h. Such other documents that the NPS may require.

3. In cases where the apprehending/seizing officer is incapable of accomplishing the required documents, the Warden shall, upon confiscation, seizure or surrender of the items, call assistance from the PNP. The Warden shall request for assistance in the documentation process which shall commence from the marking, inventory...
and photograph until the filing of appropriate charge/s before the NPS to ensure the successful prosecution of the violator.

4. In cases of confiscation, seizure or surrender where no violator is apprehended, the Warden, through the Regional Director, shall secure an Order to proceed with the immediate destruction of the items from the Regional Director of PDEA.

5. Immediate destruction or burning of the subject items for destruction shall proceed as scheduled, provided, that appropriate inventory of subject items for destruction in the presence of witnesses, forensic laboratory examination and prescribed reports have been carried out.

6. During the destruction or burning process, the Warden shall endeavor to secure the presence of witnesses from the PDEA, media, NPS, civil society groups, any elected public official and such other witnesses as the PDEA may prescribe. A representative of the NPS is anyone from its employees, while the media representative is any media practitioner. The elected public official is any incumbent public official regardless of the place where he is elected.

7. After the destruction or burning of the subject items, the Warden, through the Regional Director, shall secure a sworn certification as to the fact of destruction or burning of the subject items from the Regional Director of PDEA.

VI. RESPONSIBILITY OF PROSECUTION WITNESS AND IMMEDIATE SUPERIOR

A. BJMP personnel who are subpoenaed to testify as prosecution witnesses in Dangerous Drugs Cases shall strictly comply and religiously attend to scheduled court hearings for the successful prosecution of the case.

B. The immediate superior of the BJMP personnel shall exert reasonable effort to present the latter to the court. For this purpose, appropriate Letter Orders shall be issued directing him to attend the scheduled court hearing.
C. BJMP personnel who are prosecution witnesses shall not be transferred or re-assigned to any other jail or office located in another court’s territorial jurisdiction during the pendency of the case in court, unless for compelling reasons:

D. In case a BJMP personnel is transferred or re-assigned for compelling reasons, his immediate superior shall notify the court where the case is pending of the order to transfer or re-assign, within twenty-four (24) hours from its approval.

VII. SEPARABILITY CLAUSE

If any provision or part hereof is held invalid or unconstitutional, the remainder or the provision not otherwise affected shall remain valid and subsisting.

VIII. REPEALING CLAUSE

All other existing BJMP issuances which are contrary to or inconsistent with the provisions of this Standard Operating Procedure are hereby repealed, modified or amended accordingly.

IX. EFFECTIVITY

This Standard Operating Procedure shall take effect fifteen (15) days from filing thereof with the Office of the National Administrative Register (ONAR), University of the Philippines Law Center (UPLC) in accordance with Sections 3 and 4, Chapter II, Book VII of Executive Order No. 292 otherwise known as the “Administrative Code of 1987”.

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