1.0 REFERENCES

A. The 1987 Constitution which was ratified on February 2, 1987;

B. Republic Act No. 386 otherwise known as the "Civil Code of the Philippines", as amended;

C. Executive Order No. 209 dated July 6, 1987 otherwise known as the “Family Code of the Philippines”;  

D. The 2015 NELSON MANDELA RULES also known as the “United Nations Standard Minimum Rules for the Treatment of Prisoners”;

E. BJMP Comprehensive Operations Manual, 2015 Edition; and


2.0 BACKGROUND/RATIONALE

On May 4, 2012, the BJMP has issued a Memorandum re: Policy on Conjugal Visit. The purposes of which are as follows: (1) to have a uniform policy in the conduct of conjugal visits in all jails under the BJMP; (2) to provide guidelines to be followed by the jail authorities in allowing the practice of conjugal visitation; and (3) to set conditions as well as exceptions in identifying PDL who can avail of the privilege of conjugal visit. However, this policy is of limited application. Generally, female PDL were not accorded this privilege due to lack of decent facility and possibility of pregnancy which would engender multiple problems in jail.

Subsequently, BJMP-LSO-MC-56 was issued. It prescribes the revised policy on conjugal visit as part of the visitation privilege of persons deprived of liberty (PDL), both male and female. It took effect on February 19, 2019. Despite its recent issuance, however, the BJMP needs to include some amendment based on the feedback from the different regional offices. Moreover, there is a need to include provisions on the monitoring scheme to ensure effective implementation, hence, the need to revise the existing policy.
3.0 OBJECTIVE

This Memorandum Circular prescribes the Revised Policy on Conjugal Visit as part of the visitation privilege which shall be accorded to persons deprived of liberty (PDL), both male and female. Monitoring mechanisms have been included to assess efficiency in the implementation so that qualified PDL availing the privilege may fully benefit from the policy.

4.0 DEFINITION OF TERMS

For purposes of this Memorandum Circular:

A. **Common-law Spouses** – shall refer to a man and a woman who are capacitated to marry each other but living exclusively with each other as husband and wife without the benefit of marriage.

B. **Conjugal Room** – refers to a separate room measuring at least 2.5m x 3.5m equipped with a bed, ceiling fan and comfort room.

C. **Conjugal Visitation** – refers to the visit by the wife/husband for a short period, usually an hour, more or less, to her/his incarcerated husband/wife during which they are allowed privacy and are generally understood to have sexual contact.

D. **Depot Medroxyprogesterone Acetate (DMPA)** – refers to a long-acting progestogen-only injectable contraceptive to prevent pregnancy in women. It is given by intramuscular or subcutaneous injection and forms a long-lasting depot, from which it is slowly released over a period of several months. It takes one week to take effect if given after the first five days of the menstrual period cycle, and is effective immediately if given during the first five days of the period cycle. It works as a form of birth control by preventing ovulation.

E. **Implant** – also called “Nexplanon”, refers to a tiny, thin rod about the size of a matchstick which is inserted under the skin of the woman’s upper arm. It releases progesterin, a hormone that keeps the ovary from releasing eggs and thickens the cervical mucus which helps block sperm from getting to the egg.

F. **Legal Spouses** – refers to a man and a woman who got married, satisfying all the essential and formal requisites of a valid marriage as evidenced by a marriage certificate.

G. **Reproductive Tract Infection (RTI)** – refers to sexually transmitted infections (STIs) and other types of infections affecting the reproductive system.

H. **Sexually Transmitted Infection (STI)** – refers to any infection that may be acquired or passed on through sexual contact, use of “intravenous” (IV), intravenous drug needles, childbirth and breastfeeding.

I. **Sterilization** – refers to a permanent form of birth control that is extremely effective at preventing pregnancy but it is difficult to reverse. Both men and women can be
sterilized. For women, a tubal ligation is performed, whereas, for men, a vasectomy is performed.

J. **Strip Search** – refers to a search which involves the visual inspection of disrobed or partially disrobed subject.

K. **Tubal ligation** – refers to a permanent form of birth control where the fallopian tubes of the woman are cut, tied, clamped, banded or sealed shut.

L. **Vasectomy** – refers to a simple, permanent sterilization procedure for men. It is generally safer and less painful than sterilization in women. The operation, usually done in a doctor's office, requires cutting and sealing or blocking the “vas deferens” or the tubes in the male reproductive system that carry sperm. A vasectomy prevents the transport of sperm out of the testes. This surgery does not affect the man's ability to achieve orgasm or ejaculate. There will still be a fluid ejaculate, but there will be no sperm in the fluid.

M. **Visual Body Cavity Search** – refers to a search which involves the inspection of the anus and vaginal area, generally requiring the subject to bend over and spread the cheeks of the buttocks, to squat and/or otherwise expose body cavity orifice.

### 5.0 GUIDELINES

**A. General Guidelines**

1. A conjugal room shall be provided in every jail, both male and female dormitories. For this purpose, Jail Wardens shall lobby for the construction of rooms specifically for conjugal visitation purposes only and in accordance with the specifications herein provided.

2. Jails which have existing conjugal rooms may continue to use such rooms for the purpose. Provided, however, that the Jail Warden shall endeavor to work out for their improvement in order to meet the specifications of a conjugal room as herein defined.

3. Concerned Jail Wardens shall coordinate with the nearest government hospital so that all interested female PDL may receive an “implant” or “depot medroxyprogesterone acetate (DMPA)”, or their variants, free of charge. They may likewise lobby with the Local Chief Executives through the City or Municipal Health Offices for the same purpose. The Jail Warden shall request a certification that indeed, the subject PDL received an “implant” or “DMPA”.

4. The privilege of availing conjugal visitation shall be accorded to all qualified PDL. No fees or charges in whatever form shall be collected in the availing of this privilege.

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5. All interested female PDL shall receive an “implant” or “depot medroxyprogesterone acetate (DMPA)”, or their variants, to prevent the occurrence of pregnancy and to qualify in availing the privilege.

6. Female PDL who have undergone “sterilization” shall likewise be qualified to avail the privilege. Provided, however, that a female PDL who did not receive an “implant” or “DMPA”, or undergone “sterilization” shall still be qualified to avail such privilege when her legal or common-law spouse has undergone sterilization. Provided, further, that in case of claim of sterilization, they shall be required to present a certification from the Medical Doctor that such procedure was conducted. Provided, finally, that sterilization shall be at the instance and expense of the spouses. The Jail Warden shall only coordinate for the introduction of “implant” or “DMPA”, or their variants.

7. The privilege of availing conjugal visitation shall only be available to those who are legally married. Provided, that a male and a female who are living together as husband and wife without a valid marriage but without legal impediment to marry each other, regardless of the period of cohabitation, can avail of this privilege.

8. Conjugal visitation shall be on scheduled basis and shall only be availed of once a month. Every PDL who would wish to avail of the privilege shall signify his/her intention to the Welfare and Development Officer of the jail who shall be responsible in the scheduling of conjugal visitation. The PDL shall submit original or certified true copy of marriage certificate prior to scheduling. In case of common-law spouses, they shall submit certificate of cohabitation from barangay of last residence. The Welfare and Development Officer of the jail shall keep a record of marriage certificates and certificates of cohabitation to include the list of female PDL who received an “implant”, “DMPA” or otherwise sterilized. Further, he/she shall maintain a logbook of the scheduled conjugal visitations.

9. The legal or common-law spouse of the PDL who is scheduled for conjugal visitation shall subject himself/herself to Strip Search and Visual Body Cavity Search without need of a written consent, otherwise, he/she shall be refused entry. The conduct of Strip Search and Visual Body Cavity Search without need of a written consent shall only apply in cases of conjugal visitation.

10. The conjugal visitation shall be from Tuesday to Sunday only. The visitor and her/his spouse shall only be allowed a maximum period of two (2) hours. From Tuesday to Friday, the scheduling shall be from 1:00 pm to 5:00 pm. During Saturdays and Sundays, conjugal visitation shall be from 8:00 am to 12:00 noon and from 1:00 pm to 5:00 pm. The visitor shall be allowed entry one (1) hour prior to schedule. There shall be no overnight conjugal visitation.

11. Spouses who are both detainees may be granted the privilege of availing conjugal visitation, provided that the Male Dormitory is adjacent or adjoining to the Female Dormitory and a Court Order is secured allowing either of them to be sent out of the jail facility for purposes of conjugal visitation.
12. The privilege of availing conjugal visitation may be suspended by the Warden, as a disciplinary penalty to PDL who violate jail rules and regulations. Provided, however, that when there is an issue on the security of the jail, the Warden may exercise his/her sound discretion and temporarily suspend the privilege of conjugal visitation until such time that the threat to security ceases.

13. Concerned Jail Wardens shall coordinate with the Local Chief Executives through the City or Municipal Health Offices, or with the nearest government hospital for the conduct of quarterly medical evaluation to each and every female PDL. Aside from the quarterly medical evaluation, the Jail Warden, through the Chief, Welfare and Development Section, shall conduct a monthly dialogue and evaluation on the adverse effects of the birth control received by the female PDL for proper referral. During the conduct of quarterly medical evaluation, the Jail Warden shall also lobby that pregnancy, reproductive tract infections (RTIs), HIV/AIDS, and other sexually transmittable infections (STIs) tests, shall be performed to all female PDL.

14. The spouse of a female PDL availing the privilege shall be required to submit medical certificate in a quarterly basis showing that he is free from HIV/AIDS and other STIs. If possible, they shall be included in the quarterly medical evaluation conducted on the female PDL availing the privilege.

15. In cases of findings of adverse effects of the birth control received by female PDL or positive findings of pregnancy, RTIs, HIV/AIDS, and other STIs, the Jail Warden shall immediately refer the PDL to the City or Municipal Health Office, or the nearest government hospital for immediate care, treatment and management.

16. When a female PDL or her spouse tested positive for RTIs, HIV/AIDS, and other STIs, they shall be temporarily disqualified to avail the privilege until a medical doctor certifies that it is safe for them to have conjugal visitation.

17. It is an admitted fact that NO birth control method is perfectly accurate, hence, in case of positive findings of pregnancy, the female PDL shall NOT be subjected to grievance machinery or any other form of disciplinary action on account of her getting pregnant despite receiving a birth control method.

18. The DHS, through the Regional Offices, shall monitor proper compliance with this Memorandum Circular which may be through ocular inspection, dialogue and submission of reports, as the DHS may deem necessary.

19. Jail Wardens shall submit monthly report to the Regional Director of the Jail Bureau in a Memorandum format stating therein the (a) jail population for the month; (b) number of conjugal rooms; (c) number of qualified PDL to avail conjugal visit; and (d) number of PDL who availed conjugal visit. In the case of Female Dormitories, the number of qualified PDL to avail conjugal visit shall be itemized according to the (1) number of PDL who received implant; (2) number of PDL who received DMPA; and (3) number of PDL who or whose spouse was sterilized.

The Regional Director of the Jail Bureau shall subsequently submit a consolidated report on a monthly basis to the Chief, BJMP, through the DHS.
In addition, Jail Wardens of Female Dormitories shall submit quarterly report on the conduct of quarterly medical evaluation stating therein the tests conducted on the female PDL. The report shall indicate the (a) number of qualified PDL to avail conjugal visit; (b) number of PDL subjected to pregnancy test; (c) number of PDL who tested positive in pregnancy test; (d) number of PDL subjected to RTI test; (e) number of PDL who tested positive in RTI; (f) number of PDL subjected to HIV/AIDS test; (g) number of PDL who tested positive in HIV/AIDS; (h) number of PDL subjected to other STI tests (indicate kind of test); and (i) number of PDL who tested positive for such STIs.

The Regional Director of the Jail Bureau shall subsequently submit a consolidated report on a quarterly basis on these facts to the Chief, BJMP, through the DHS.

B. Specific Guidelines

1. The visitor shall enter the jail at least one (1) hour prior to his/her scheduled time for conjugal visitation.

2. Upon entry in jail, the visitor shall present a valid identification card.

3. The visitor shall be informed that he/she must abide by the jail rules and regulations during his/her stay in the jail facility.

4. The Officer of the Day or Desk Officer shall cause the verification from the logbook of conjugal visitation whether the visitor is on schedule.

5. The Officer of the Day or Desk Officer shall likewise cause the verification from the records of the Welfare and Development Officer whether the female PDL visited has received an “implant” or “DMPA”, or their variants, or otherwise sterilized.

6. The visitor shall voluntarily submit his/her belongings for thorough inspection by the duty searchers.

7. He/she shall subject himself/herself to Strip Search and Visual Body Cavity Search without need of a written consent, otherwise, he/she shall be refused entry.

8. The visitor shall be issued a visitor’s tag which must be worn at all times while inside the jail facility.

9. The visitor shall then be advised to proceed to a holding area and wait for advice to proceed to the conjugal room.

10. While in the holding area, the Welfare and Development Officer shall inform the visitor of the limitations of the privilege and instruct the visitor to go out on the lapse of two (2) hours. In case the spouses do not go out of the room after the lapse of two (2) hours, duty personnel shall be duty-bound to verify.

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11. After the time period of scheduled conjugal visitation has lapsed, the PDL shall be immediately brought inside his/her cell and his/her visitor directed to immediately leave the jail facility.

6.0 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.

7.0 REPEALING CLAUSE

BJMP-LSO-MC-56 which took effect on February 19, 2019 and all other existing BJMP issuances which are inconsistent herewith are hereby repealed or modified accordingly.

8.0 EFFECTIVITY

This Memorandum Circular 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".