MEMORANDUM CIRCULAR

TO: DOCTRINE OF COMMAND RESPONSIBILITY OF REGIONAL DIRECTORS, JAIL PROVINCIAL ADMINISTRATOR AND JAIL WARDEN

SUB-TOpic: GUIDELINES ON THE LEVEL OF ACCOUNTABILITIES OF REGIONAL DIRECTORS, JAIL PROVINCIAL ADMINISTRATOR AND JAIL WARDEN ON ESCAPE INCIDENTS

1.0 REFERENCES

A. Republic Act No. 6975;
B. Implementing Rules and regulations on RA 6975;
C. Executive Order No. 226, dated February 17, 2005;
E. Memorandum Re: BJMP’s One Strike Policy for Wardens/wardresses and Three Strike for Regional Directors”; and

2.0 RATIONALE

Executive Order No. 226 series of 1995 provides among others that any government official or supervisor, or officer of the Philippine National Police or that of any other law enforcement agency shall be held accountable for “Neglect of Duty” under the doctrine of “command responsibility” if he has knowledge that a crime or offense shall be committed, is being committed, or has been committed by his subordinates, or by others within his area of responsibility and, despite such knowledge, he did not take preventive or corrective actions either before, during, or immediately after its commission”.

The Jail Bureau has an existing policy on the level of accountabilities of Regional Directors under the Doctrine of Command Responsibility as embodied in BJMP-DIP MC 2014-002 and Memorandum on Three Strikes for Regional Directors which provides that Regional Directors shall be relieved from post based on three (3) escape incidents within a three (3) month period within the Region.

On 10 May 2012, memorandum entitled “BJMP’s One Strike Policy for Wardens/wardresses and three strikes for Regional Directors was issued to drive peak performance among jail officers in their role in preventing jail incidents, particularly escapes.

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Likewise, Memorandum on amendment on the Policy on Level of Accountabilities of Regional Directors on Escape Incidents dated August 02, 2017 was issued to provide One Strike Policy for Regional Directors only on extreme cases which include any of the following:

a. One (1) incident of Mass Escape involving three (3) or more Persons Deprived of Liberty (PDL);
b. One (1) incident of Escape of high profile or high risk PDL; or
c. One (1) incident of Escape attended by the loss of lives of at least two (2) Bureau personnel.

The current BJMP leadership finds the necessity to integrate and synthesize these several issuances to effect the full implementation and allegiance in compliance to the intent of doctrine of command responsibility.

3.0 PURPOSE

This Memorandum Circular prescribes the guidelines on the level of accountabilities of Regional Directors, Jail Provincial Administrators and Jail Wardens on all incidents such as escape incidents, noise barrage, hostage taking and other incidents covered under the doctrine of command responsibility.

4.0 OVERVIEW

Emphasized in Section 2 of E.O. 226 Series of 1995, is the presumption of knowledge which provides that a government official or supervisor, or PNP Commander, is presumed to have knowledge on the commission of irregularities or criminal offenses in any of the following circumstances: a) when the irregularities or illegal acts are widespread within his/her area of jurisdiction; b) when the irregularities or illegal acts have been repeatedly or regularly committed within his/her area of responsibility; c) when members of his/her immediate staff or office personnel are involved.

Under our BJMP Manual Revised 2007, our Regional Directors are tasked to supervise, monitor and control all district, city and municipal jails within their area of responsibility while the Jail Provincial Administrator is mandated to supervise jails within the province and sees to it that all directives, policies, rules and guidelines are strictly followed.

Based on the foregoing, the Regional Directors and Jail Provincial Administrators assume regionwide and provincial wide responsibilities respectively and not on a limited or specific jail only. It follows that the Warden of Male and Female Dorm (Warden for brevity) is the direct subordinate, the officer in control and supervises over personnel in jails. Thus, in cases of any jail disturbances, the Doctrine of Command Responsibility will not automatically apply to the RD/JPA but to the Jail Wardens who are directly
responsible to the erring personnel. However, this does not automatically follow that RDs and JPAs are shielded from liabilities under the doctrine, since to do otherwise would serve as a waiver by the government to hold them liable for future negligence while being in command and defeats the rationale behind imposing liability under the Doctrine of Command Responsibility.

Likewise, this does not also mean that RDs and JPAs are to be held automatically liable for any untoward incident in his/her AOR if the surrounding circumstances and evidence would prove that a) subject officer/s took immediate correction of the irregularities which transpired in his/her AOR so as to curtail or eradicate the spread of such irregularities, and b) when there is no direct superior-subordinate relationship between the superior and the perpetrator of the infraction. However, if despite preventive measures and sound policy implementation, the incident becomes repeated/widespread, the RDs/JPAs in their capacity as the person in command becomes accountable for the neglectful Jail Wardens.

5.0 GUIDELINES

1. By virtue of Command Responsibility, a Regional Director, Jail Provincial Administrator and Jail Wardens shall bear the following managerial actions depending on the circumstances hereinafter specified:

   a) Immediate leave of absence;
   b) Relief; and
   c) Administrative charge for Neglect of Duty inclusive of the above.

2. ESCAPE INCIDENTS

   a) First Escape Incident

   * Within twenty four (24) hours, the warden shall lead the recapture of the PDL escapee, and in the event of its successful recovery, the warden shall retain supervision and control over the jail. After the lapse of twenty four (24) hours, the Warden shall be administratively relieved, with the Assistant Warden taking over the command of the facility, pending the result of an investigation on the possible liabilities of the personnel of the facility. Should investigation show that the Warden involved is not remiss in his/her duties he/she shall be reinstated. Should result of the investigation show that the Warden is remiss in his/her duties, unless absolutely necessary due to severe lack of personnel, he/she shall be permanently relieved from post and shall not hold wardenship position until such time the case has been terminated and the appropriate penalty for the offense has been served.

   b) Mass escape involving three (3) or more inmates and Second Escape Incident

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The Warden shall be relieved from post irrespective of the result of investigation.

The Regional Director shall be relieved from post irrespective of the result of investigation.

c) Three (3) escape incidents within a three (3) -month period within the Province

The Jail Provincial Administrator shall be relieved from post irrespective of the result of any investigation inclusive of the administrative charge for Neglect of Duty should there exist a prima facie case.

d) Three (3) escape incidents within a three (3)–month period within the Region

The Regional Director shall be relieved from post irrespective of the result of any investigation inclusive of the administrative charge for Neglect of Duty should there exist a prima facie case.

e) One (1) escape of high profile or high risk PDL

The Regional Director shall be relieved from post irrespective of the result of any investigation inclusive of administrative charge for Neglect of Duty should there exist a prima facie case.

f) One (1) escape incident involving loss of lives of at least two (2) Bureau personnel

The Regional Director shall be relieved from post irrespective of the result of any investigation inclusive of administrative charge for Neglect of Duty should there exist a prima facie case.

3. NOISE BARRAGE

a) First and Second Noise Barrage Incident

The Warden shall be directed to take a leave of absence, with the Assistant Warden taking over the command of the facility, pending the result of the investigation on the possible liabilities of the personnel of the facility. Should investigation show that the Warden involved is not remiss on his/her duties he/she shall be reinstated. Should result of the investigation show that the Warden remiss his/her duties, he/she shall be permanently relieved from post.

b) Third Noise Barrage Incident or where the noise barrage resulted in the massive destruction of government properties and/or resulted in the loss of life of any person.
The Warden shall be relieved from post irrespective of the result of any investigation inclusive of the administrative charge for Neglect of Duty should a prima facie case exist.

c) Five (5) Noise Barrage Incidents within a five (5)-month period within the province.

The Jail Provincial Administrator shall be relieved from post irrespective of the results of any investigation inclusive of the administrative charge for Neglect of Duty should a prima facie case exists.

d) Five (5) Noise Barrage Incidents within a five (5)-month period within the region.

The Regional Director shall be relieved from post irrespective of the result of any investigation inclusive of the administrative charge for Neglect of Duty should a prima facie case exist.

4. HOSTAGE-TAKING INCIDENT

a) First Hostage-Taking Incident

The Warden shall be administratively relieved or take a mandatory leave of absence, with the Assistant Warden taking over the command of the facility, pending the result of an investigation on the possible liabilities of the personnel of the facility. Should investigation show that the Warden involved is not remiss on his/her duties, he/she shall be reinstated. Should result of the investigation showed that the Warden was remiss in his/her duties, he/she shall be permanently relieved from post.

b) Second Hostage-Taking Incident or where the Hostage-taking resulted to the loss of life of any person and or massive destruction of government properties.

The Warden shall be relieved from post irrespective of the result of any investigation inclusive of the administrative charge for Neglect of Duty should a prima facie case exist.

c) Three (3) Hostage-taking Incidents within a three (3)-month period within the Province.

The Jail Provincial Administrator shall be relieved from post irrespective of the result of any investigation inclusive of the administrative charge for Neglect of Duty should a prima facie case exists.

d) Three (3) Hostage-taking Incidents within a three (3)-month period within the Region.

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The Regional Director shall be relieved from post irrespective of the result of any investigation inclusive of the administrative charge for Neglect of Duty should a prima facie case exist.

5. Other Jail Incidents Involving loss of life and/or massive destruction (destruction of property on a large scale) of government properties and/or those incidents which put to shame the image of the Bureau.

a) Other Jail Incidents that resulted in the massive destruction of government properties and/or resulted in the loss of life of any person and/or incidents which put to shame the image of the Bureau.

The Warden shall be relieved from post irrespective of the result of any investigation to be conducted inclusive of the administrative charge for Neglect of Duty should a prima facie case exist.

b) Three (3) incidents within a three (3) month period within a province.

The Jail Provincial Administrator shall be relieved from post irrespective of the result of any investigation to be conducted inclusive of the administrative charge for Neglect of Duty should a prima facie case exist.

c) Three (3) incidents with a three (3)-month period within the Region.

The Regional Director shall be relieved from post irrespective of the result of any investigation inclusive of the administrative charge for Neglect of Duty should a prima facie case exist.

6. Confiscation of any of the following contrabands during Greyhound Operations by the NHQ or the Regional Office.

a) Illegal drugs such as but not limited to shabu, marijuana, alcoholic beverages, and cigarettes;

b) Two-way communication device, such as cellphone, two-way radio, computer, laptop, netbook, and internet accessories like wi-fi device, USB broadband and any similar devices;

c) Deadly weapon, such as but not limited to improvised deadly weapon like firearm, knife, paddle, “sumpak”, samurai sword, “Indian pana”, or any potential weapon such as cord, metal clothes hanger, metal spoon or fork or tools like hammer, pair of scissors, screw driver, saw, hacksaw blade, ice pick, chain, pickaxe, etc;

d) Money amounting to more than two thousand pesos (Php 2,000.00) in the actual possession of one Persons Deprived of Liberty (PDL) or stashed in one of his belongings whether in cash or check or in local or foreign denomination.

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First Incident

Admonition, except in cases where the money recovered is of large amount; or seizure of illegal drugs equivalent to ten (10) grams or more; or recovery of communication device/s from suspected drug lords; or recovery of firearms, improvised firearms or explosive devices; or recovery of cigarettes and tobaccos sold by the commissary of the jail, shall be a sufficient ground for the immediate relief of the warden.

Second Incident

The Warden shall be administratively relieved or take mandatory leave of absence, with the Assistant Warden taking over the command of the facility, pending the result of the investigation on the possible liabilities of the personnel of the facility. Should investigation show that the Warden involved is not remiss on his/her duties he/she shall be reinstated. Should result of the investigation showed that the Warden was remiss on his/her duties, unless absolutely required due to extreme lack of officer personnel, he/she shall be permanently relieved from post and shall not hold wardenship position until such time the case has been terminated and the appropriate penalty for the offense has been served.

Third Incident

The Warden shall be relieved from post irrespective of the result of any investigation inclusive of the administrative charge for Neglect of Duty should there exist a prima facie case.

7. Notwithstanding the above provisions of Para (6), should the confiscated contrabands are of significant quantity or the extent of effect in the jail security is of greater degree, the filing of administrative charge for Neglect of Duty is appropriate.

8. Any act to cover-up Warden’s liability under the doctrine of command responsibility shall be prosecuted under the provisions of the BJMP Administrative Disciplinary Machinery.

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.

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7.0 REPEALING CLAUSE

All 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”.

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