MEMORANDUM CIRCULAR

TOPIC
DOCTRINE OF COMMAND RESPONSIBILITY
OF REGIONAL DIRECTORS, JAIL PROVINCIAL
ADMINISTRATORS AND JAIL WARDENS

SUB-TOPIC
GUIDELINES ON THE LEVEL OF
ACCOUNTABILITIES OF REGIONAL
DIRECTORS, JAIL PROVINCIAL
ADMINISTRATORS AND JAIL WARDENS ON
JAIL INCIDENTS

1.0 REFERENCES

a. Republic Act No. 6975;

b. Implementing Rules and Regulations of RA 6975;

c. Executive Order No. 226, dated February 17, 1995;

on Level of Accountabilities of Regional Directors, Jail Provincial Administrators and
Wardens Under the Doctrine of Command Responsibility;

e. Memorandum Re: BJMP’s One Strike Policy for Wardens/Wardresses and Three
Strike, for Regional Directors; and

f. Memorandum Re: Proposed Clarification on the One Strike Policy for Regional

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, a 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 2, 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 the doctrine of command responsibility. In this regard, there is a need to amend certain provisions of this Memorandum Circular that may adopt to the needs of time.

3.0 PURPOSE

This Memorandum Circular prescribes the guidelines on the level of accountabilities of Regional Directors (RD), Jail Provincial Administrators (JPA) and Jail Wardens on jail 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 of 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; and c) when members of his/her immediate staff or office personnel are involved.

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

Based on the foregoing, RDs and JPAs assume region wide and provincial wide responsibilities, respectively and not on a limited or specific jail only. It follows that Wardens of Male and Female Dormitories (Wardens for brevity) are the direct subordinates, the officers in control and supervision over personnel in jails. Thus, in cases of any jail disturbances, the Doctrine of Command Responsibility will not automatically apply to the RD or JPA but to the Jail Wardens who are directly responsible for the offense committed by their 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 would defeat the rationale behind imposing liability under the Doctrine of Command Responsibility.

Likewise, this does not also mean that RDs and JPA 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/JPA in their capacity as the person in command become accountable for the neglectful Jail Wardens.

5.0 DEFINITION OF TERMS

Doctrine of Command Responsibility – states that a superior is liable 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 action either before, during, or immediately after its commission.

Contraband – any article, item, or thing prohibited by law and/or forbidden by jail rules that would pose as security hazards or endanger the lives of the PDL.

Hostage Taking – is defined as the seizing or detaining of an individual coupled with a threat to kill, injure or continue to detain such individual in order to compel a third person or governmental organization to take some action.

Mass Escape - escape involving three or more PDL.

Neglect of Duty – It is the omission or refusal, without sufficient excuse, to perform an act or duty, which is the personnel’s legal obligation to perform and which the law requires him to perform by reason of his office; it implies a duty as well as its breach and the act can never be focused in the absence of a duty.

Noise Barrage – A loud outcry of protest or complaint.

Operation Greyhound – search and seizure operations to rid jail facilities of contraband.

Persons Deprived of Liberty – is a generic label use for individuals who are detained in jails or prisons as ordered by the court.

Semester - a half-year term.

6.0 GUIDELINES

1. By virtue of Command Responsibility, the RD, JPA and Jail Wardens shall bear the following managerial actions depending on the circumstances hereinafter specified:

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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 the investigation show that the Warden involved is not remiss in his/her duties, he/she shall be reinstated. Should the 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:

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

2) The JPA shall be relieved from post should the investigation show that he/she is remiss of his/her duties.

3) The RD shall be relieved from post only if the mass escape of PDL happened twice within a 12-month period.

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

The JPA 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.

3. NOISE BARRAGE

a. First and Second Noise Barrage Incident

The Warden shall be directed to take a 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 the investigation show that the Warden involved is not remiss on his/her duties, he/she shall be allowed to assume duties and responsibilities as such. Should the result of the investigation show that the Warden is remiss in his/her duties, 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.

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b. Third Noise Barrage Incident or when 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 the investigation inclusive of the administrative charge for Neglect of Duty should a prima facie case exist.

c. Five (5) Noise Barrage Incidents within a 6-month period within the province.

The JPA 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 exist.

d. Five (5) Noise Barrage Incidents within a 6-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 shall be directed to 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 the investigation show that the Warden involved is not remiss on his/her duties, he/she shall be reinstated or allowed to return from leave. Should the result of the investigation show that the Warden is remiss in his/her duties, 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. Second hostage-taking incident or where the hostage-taking resulted in 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 the investigation, inclusive of the administrative charge for Neglect of Duty should a prima facie case exist.

c. Three (3) hostage-taking incidents in a semester within the province.

The JPA 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.
d. Three (3) hostage-taking incidents in a semester within the Region.

The RD 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 the image of the Bureau to shame.

a. First incident 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 the image of the Bureau to shame.

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

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

The JPA 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) incidents in a semester within the Region.

The RD 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 concerned:

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

b. Communication device such as cellphone, two-way radio, computer, laptop, netbook and internet accessories like wifi device, USB broadband and any other similar devices;

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

d. Money amounting to more than two thousand pesos (P2,000.00) in the actual possession of one (1) PDL or stashed in one of his belongings whether in cash or check or in local or foreign denomination.

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1. 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.

2. Second Incident

The Warden shall be administratively relieved or shall be directed to 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 the investigation show that the Warden involved is not remiss on his/her duties he/she shall be reinstated. Should the result of the investigation show that the Warden is 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 reformist position until such time the case has been terminated and the appropriate penalty for the offense has been served.

3. Third Incident

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

Notwithstanding the above provisions of Para (6), should the confiscated contrabands be 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.

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

8. Relief of a Regional Director due to an administrative case under this doctrine shall bar him from occupying Regional Director position until such time his/her case has been finally disposed in accordance with the BJMP Administrative Disciplinary Machinery.

7.0 MONITORING CLAUSE

The Directorate for Investigation and Prosecution (DIP) of the Regional Investigation and Prosecution Division (RIPD), shall be the Office Primarily Responsible (OPR), in monitoring compliance with this policy. As such, it shall recommend to the Chief, BJMP or the Regional Director, as it may deem appropriate, for the relief and filing of appropriate case against the BJMP personnel exercising command responsibility.

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8.0 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.

9.0 REPEALING CLAUSE

All existing BJMP issuances which are inconsistent herewith are hereby repealed or modified accordingly.

10.0 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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