1.0 REFERENCES

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


C. BJMP Comprehensive Operations Manual 2015 Edition; and

D. The United Nations Standard Minimum Rules for the Treatment of Prisoners also known as the Nelson Mandela Rules.

2.0 BACKGROUND/RATIONALE

Section 12, Article II of the 1987 Philippine Constitution provides that, "(T)he State recognizes the sanctity of family life and shall protect and strengthen the family as a basic autonomous social institution." Likewise, Section 1, Article XV provides that, "(T)he State recognizes the Filipino family as the foundation of the nation. Accordingly, it shall strengthen its solidarity and actively promote its total development."

Additionally, Rule 58(1)(a) of the United Nations Standard Minimum Rules for the Treatment of Prisoners categorically provides that, "(P)risoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals by corresponding in writing and using, where available, telecommunication, electronic, digital and other means." Moreover, Rule 62 of the same Rules provide that, (1) Prisoners who are foreign nationals shall be allowed reasonable facilities to communicate with the diplomatic and consular representatives of the State to which they belong, and (2) Prisoners who are nationals of States without diplomatic or consular representation in the country and refugees or stateless persons shall be allowed similar facilities to communicate with the diplomatic representative of the State which takes charge of their interests or any national or international authority whose task is to protect such persons. Finally, its Rule 95 provides that, "(S)ystems of privileges appropriate for the different classes of prisoners and the different methods of treatment shall be established at every prison, in order to encourage good conduct, develop a sense of responsibility and secure the interest and cooperation of prisoners in their treatment."

Worthy to note that the BJMP Comprehensive Operations Manual 2015 Edition, specifically Section 34(8)(e) allows a PDL to make telephone calls albeit under restriction and...
on the condition that it can be monitored through an extension line. Said Manual including several Memoranda that were issued granting the privilege, however, speak only of landline calls and does not include other medium of communications. Moreover, there are no definite guidelines on how this privilege may be availed and properly monitored.

Considering that Section 20(2), Chapter 4, Book IV of the Administrative Code of 1987 vests unto the Director of a line bureau, the power to "establish policies and standards for the operations of the bureau" and "promulgate rules and regulations necessary to carry out bureau objectives, policies and functions," it is therefore within the power of the Chief, BJMP to promulgate the policy at hand. This is consistent with the objective of the State to strengthen the delivery of basic services to the citizenry though the institutionalization of highly efficient and competent jail services as reflected in Section 2 of R.A. No. 9263.

3.0 OBJECTIVE

This Memorandum Circular prescribes the guidelines in allowing contact by Persons Deprived of Liberty (PDL) detained under the jurisdiction of the BJMP, with the community through phone or video call.

4.0 DEFINITION OF TERMS

For purposes of this Memorandum Circular:

A. Case Study shall refer to a process or record of research in which detailed consideration is given to the development of a PDL over a period of time.

B. Immediate Family shall refer to a spouse, fiancé or fiancée, parent or child, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece, and guardian or ward.

C. Phone Call shall refer to an instance of speaking to someone through telecommunication, electronic, digital and other means.

D. Phone List shall refer to a list of persons nominated by the PDL from among his immediate family and friends. The phone list shall specify the name of the person nominated, address, relationship to the PDL, and phone number.

E. Vetting shall refer to the process of performing a background check on someone to determine if his/her contact with the PDL is constructive for development or not.

F. Video Call shall refer to a call made via mobile phone with a camera and a screen or a computer, allowing the participants to see each other as they talk. It may also be defined as a visual communication between two people through telecommunication, electronic, digital or other means.

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5.0 GUIDELINES

A. General Guidelines

1. A PDL may be allowed, under close supervision and monitoring, to contact through phone or video call once a month to any member of his immediate family and friends. As regards medical doctor, priest or religious minister, counsel, or diplomatic and consular representatives, contact shall be as the need arises.

2. Contacts as herein provided shall only be a privilege which may be availed of by a qualified PDL who has not violated any jail rules and regulations within thirty (30) days of detention prior to scheduled call, hence, a PDL who has violated jail rules and regulations has to abide by the rules for one (1) month in order to qualify. No fees or charges in whatever form shall be collected in the availing of this privilege.

3. The communication equipment that may be provided shall be placed under the custody of the designated Welfare and Development Officer of the jail who shall be responsible for scheduling and monitoring all outgoing electronic communications of PDL. A PDL shall not be permitted to receive phone or video calls.

4. A PDL shall be permitted to make phone or video calls only to the people appearing on their approved phone list which shall come from among their immediate family and friends. A maximum of ten (10) persons is allowed on the list, five (5) from their immediate family and/or friends while the other five (5) shall be reserved for medical doctor, priest or religious minister, counsel, or diplomatic and consular representatives, which shall be recommended by the Chief, Welfare and Development Sections for approval of the Jail Warden.

5. All phone and video calls to persons appearing on the approved phone list shall be by schedule for a minimum of five (5) minutes but shall not exceed ten (10) minutes for each PDL to allow reasonable use of phones or computers by others. Schedule shall be from Monday to Friday, 0900H – 1200H and 1330H – 1700H. The duration of call to medical doctor, priest or religious minister, counsel, or diplomatic and consular representatives shall not be limited, and its frequency shall depend on the circumstances.

6. For proper scheduling and monitoring, the Welfare and Development Officer shall keep a record of every PDL’s approved phone list and maintain a logbook which shall reflect the: (1) date; (2) name of the PDL; (3) name of the person called; (4) relationship; (5) phone number; and (6) duration of call. All calls shall be done at a secure place inside the jail designated by the Jail Warden and in the presence and strict monitoring of the duty personnel duly designated for the purpose. However, calls to a medical doctor, priest or religious minister, counsel, or diplomatic and consular representatives shall be exempted from monitoring, unless the PDL consents, but the same shall be done in the presence of the duty personnel.

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7. Upon the availability of communication equipment intended solely for this purpose, the Welfare and Development Officer shall request assistance in creating social media account which shall be used exclusively in making video calls for the PDL.

8. Considering that contact by a PDL is only a privilege, it may be suspended at any time when in the assessment of the Jail Warden, security may be compromised. Hence, a PDL scheduled for transport shall not be allowed to make any phone or video call immediately before such transport. It may also be suspended or cancelled as a penalty for violation of jail rules and regulations.

9. All calls shall be immediately terminated when the conversation turns unpleasant or it would tend to endanger the security of the jail like PDL giving information about the names and number of duty personnel, mapping of offices and cells, and such other analogous circumstances.

10. All PDL availing this privilege shall observe proper grooming and wear the prescribed yellow T-shirt with appropriate marking before making a call. Non-compliance with the foregoing requirements shall be sufficient cause for not allowing the PDL to make the scheduled call.

11. As a general rule, all calls shall be made either in Filipino or English language. However, a PDL may be permitted to use the vernacular, provided that the duty personnel designated to monitor the call is well versed with the dialect used by the PDL. In case of foreign national PDL, they shall only be allowed to communicate in Filipino or English language.

B. Specific Guidelines

1. Upon commitment or not long after commitment, a PDL may submit a phone list, containing five (5) names, considering that the other five (5) shall be reserved for medical doctor, priest or religious minister, counsel, or diplomatic and consular representatives, to the Welfare and Development Officer who shall forward the same to the Chief, Welfare and Development Section.

2. Immediately upon receipt of the PDL’s phone list by the Chief, Welfare and Development Section, he shall recommend for its approval to the Jail Warden.

3. Upon receipt of the recommendation of the Chief, Welfare and Development Section, the Jail Warden shall immediately direct the Case Manager or the Welfare and Development Officer to conduct case study. He shall likewise direct the Jail Intelligence Officer to conduct vetting.

4. Upon receipt of the directive from the Jail Warden, the Case Manager or the Welfare and Development Officer shall proceed to conduct case study and the Jail Intelligence Officer shall proceed to conduct vetting to determine whether the person on the list may be constructive for the development of the PDL.

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5. After the conduct of case study and vetting, the Case Manager or the Welfare and Development Officer and the Jail Intelligence Officer shall submit their respective reports with recommendations to the Jail Warden. When it appears in the study or vetting that a person on the list may not be constructive for the development of the PDL, such person shall be recommended to be removed from the list.

6. Upon receipt of the reports, the Jail Warden shall direct the Chief, Administrative and Records Section to prepare the PDL’s phone list based on the recommendations of the Case Manager or the Welfare and Development Officer and the Jail Intelligence Officer as reflected in their reports. Upon signature signifying his approval, he shall then issue the PDL’s phone list to the Chief, Welfare and Development Section attaching therein the case study and vetting report. The Welfare and Development Section shall file and keep the reports confidential.

7. Upon receipt of the approved PDL phone list, the Chief, Welfare and Development Section shall transmit the same to the Welfare and Development Officer who shall inform the PDL of the nature and circumstances of its approval. He shall furnish the PDL with a copy of the approved phone list.

8. In case the phone list submitted is disapproved, the PDL may submit another phone list which shall undergo the same process prior to approval. Upon approval, the PDL shall be barred from changing the list, unless recommended by the Case Manager or the Welfare and Development Officer and the Jail Intelligence Officer.

9. The PDL with approved phone list and who has not violated any jail rules and regulations within thirty (30) days prior to scheduled call, may request for a scheduled call from the Welfare and Development Officer who shall keep and maintain a file of approved phone list and a logbook of scheduled call. He may permit a qualified PDL to make the scheduled call subject to the availability of phone or computer at the time the call will be made.

6.0 Monitoring

1. The Directorate for Welfare and Development (DWD) shall be the Office Primarily Responsible (OPR) for monitoring compliance with this policy. As such, it shall require the submission of monthly report by Regional Offices, which shall likewise require submission of the same by Jail Units. The report shall indicate the (1) name of jail; (2) date of call; (3) name of the PDL; (4) name of the person called; (5) relationship; and (6) duration of call. Moreover, the DWD shall conduct jail inspections and verify case study reports, approved PDL’s phone list and logbook maintained by the Welfare and Development Officer.

2. The Directorate for Intelligence (DI) shall conduct jail inspections to verify whether the persons appearing in the approved PDL’s phone list were subjected to vetting by the Jail Intelligence Officer. The DI shall require the submission of reports regarding compliance with the provisions of this Circular.

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7.0 FINANCIAL CLAUSE

There will be no financial requirement needed in this policy.

8.0 SEPARABILITY CLAUSE

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

9.0 REPEALING CLAUSE

BJMP NHQ-Office of the Chief, BJMP Standard Operating Procedure No. 2011-06 dated November 28, 2011 re: The BJMP Protocol on the “e-Dalaw” Program, including all other 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, s. 1987 otherwise known as the “Administrative Code of 1987.”