

Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
NATIONAL HEADQUARTERS PHILIPPINE NATIONAL POLICE
OFFICE OF THE CHIEF, PNP
Camp Crame, Quezon City

August 1, 2008

MEMORANDUM CIRCULAR
NUMBER 2008-0801-003

**UNIFORM GUIDELINES IN THE SERVICE OF SUBPOENA AND OTHER
LEGAL PROCESSES ISSUED BY THE COURTS, TRIBUNALS,
ADMINISTRATIVE AND QUASI-JUDICIAL BODIES**

I. REFERENCES:

- a. NAPOLCOM Memorandum Circular No. 2007-001;
- b. Section 26, RA 6975, as amended; and
- c. Sections 91 & 92, RA 9165

II. PURPOSE:

This circular is intended to strengthen existing policies with regard to the service of subpoena and other legal processes issued by the courts, tribunals, administrative and quasi-judicial bodies to ensure that their timely implementation and compliance shall redound to the speedy disposition of cases and the proper and fair administration of justice consistent with the mandate of the PNP as a law enforcement agency.

III. SITUATION:

The service of subpoena and other legal processes is part and parcel of due process, hence, it is imperative that PNP personnel who may be given the obligation to fulfill this function must see to it that they are served and complied with efficiently and at the soonest possible time. Otherwise, the case may be dismissed, the trial of the case may be delayed or ongoing investigation will be also delayed, thus, disposition of the cases on the merits may be thwarted by technicalities or defeated by the lack of dedication to ensure the attendance of the parties and/or witnesses. Public accountability therefore dictates that as an agency of the government, the PNP shall contribute to the maintenance of the rule of law by seeing to it that those who are required by the courts, tribunals, administrative and quasi-judicial bodies to appear, whether as a witness or not, are informed and notified accordingly.

IV. OBJECTIVES:

- a. Device a more effective and efficient means of service of subpoenas, notices and legal processes to ensure timely receipt by those who are named therein so as to ensure their appearance;
- b. Ensure accountability of those who may be given the additional duty of serving subpoena and other legal processes and cause the involvement of their superior officers under the doctrine of command responsibility.
- c. Establish a mechanism that the courts, tribunals, administrative and quasi-judicial bodies that issued the subpoena and other legal processes are duly informed of the disposition thereof; and
- d. Provide appropriate administrative sanctions to personnel, as may be warranted by evidence after due investigation, who shall violate this Circular.

V. DEFINITION OF TERMS:

- a. Bench warrant- a process issued by the court for the arrest of a person to compel his attendance in court to answer a charge of contempt or for failure of a witness to comply with a subpoena which has been duly served.
- b. Court Process Officer (CPO)- PNP personnel designated in accordance with this Circular who shall be responsible for the service of subpoena and other legal processes and ensure the timely delivery of such process to the personnel concerned.
- c. Legal processes- the means used by a court, tribunal or investigating body to compel obedience to its mandates.
- d. Service- the execution of the processes or writ to the person against whom it is directed.
- e. Subpeona *ad testificandum*- a process directed to a person requiring him to attend and to testify at the hearing or the trial of an action, or at any investigation.
- f. Subpoena *duces tecum*- a process directed to a person requiring him to appear before a court and bring with him any books, documents or other things under his control.
- g. Proof of Service- is a written statement under oath made by the server and shall set forth the manner, place and date of service; shall specify the papers which have been served with the process and the name of the person who received the same.

VI. POLICIES

- a. All police offices, from the lowest police station up to police regional office, as well as the national support units, both administrative and operational, and the different Directorial Staffs in the National Headquarters shall have a Court Process Officer (CPO). In the National Headquarters, the Case Monitoring Division (CMD), Directorate for Investigation and Detective Management shall be designated

as the central repository of subpoena and other legal processes issued by the courts, tribunals, administrative and quasi-judicial bodies. The Chief, CMD shall be responsible to oversee / supervise the concerned CPOs as provided for in this Circular.

b. Preferably, the CPO shall be a Police Commissioned Officer with the rank of Police Inspector or, in case of non-availability, a Police Non Commissioned Officer with the rank of Senior Police Officer IV.

c. The timely service of subpoena and other legal processes issued by the courts, tribunals, administrative and quasi-judicial bodies shall be the responsibility of the CPO. The immediate superior Officer of the CPO, however, shall exercise his authority to ensure that the CPO performs his responsibility with the highest degree of dedication.

d. The failure of the CPO to perform his obligation as herein provided shall not be his sole liability but, as may be warranted by evidence, affect his immediate superior officer as well.

e. The police officer/s named in the subpoena and other legal processes issued by the court, tribunal, administrative and quasi-judicial bodies shall comply in good faith with the directives therein. Failure to appear and/or testify as directed is tantamount to Serious Neglect of Duty pursuant to NAPOLCOM MC No. 2007-001.

f. Any PNP personnel who, in the performance of his duties become a prosecution witness shall not be allowed to transfer to any other unit outside of the jurisdiction of his present unit during the pendency of the case/s he handles.

g. In case the transfer can not be avoided due to the exigency of the service, the personnel concerned shall inform the court, tribunal, administrative and quasi-judicial bodies, as the case may be, of his transfer with the corresponding request for the transmittal of all court processes to his new unit assignment.

h. Any personnel who handles and is a witness to several cases shall inform the court, tribunal, administrative or quasi-judicial bodies concerned of any conflict of his schedule of appearances/hearing to avoid failure to appear in any of the cases he handles or in any cases where he stands as a witness.

VII PROCEDURE:

a. All orders, subpoenas and other legal processes transmitted to the PNP by the courts, tribunals, administrative and quasi-judicial bodies for service and/or implementation must be duly stamped received on its face by the personnel or unit that received the same. It shall be indicated therein the date and time of receipt, and the name of the personnel who received the same must be written legibly and signed by him or his initial affixed thereto.

b. All PNP offices and units must maintain a record book for orders, subpoenas and other legal processes which they received for service or implementation. The following data must be legibly written thereon:

(1) The court, tribunal, administrative or quasi-judicial body that issued the order, subpoena or other legal processes;

(2) The nature of the document received, i.e., court order, subpoena, etc. and its purpose. The person or persons named in the document; and

(3) The initial action taken by the CPO and the final action, if still necessary.

c. In the performance of his duties pursuant to this Circular, the CPO may avail the assistance of other offices or personnel, such as, but not limited to the delivery of the court orders, subpoenas, and other legal processes to those who may be named therein. He may require proof or affidavit of service from those who may be tasked to personally deliver the court order, etc. However, it shall be the responsibility of the CPO to inform the court, tribunal, administrative or quasi-judicial body with regard to the disposition of the order, subpoena and other legal processes.

d. If the court order, subpoena or other legal process is served by the officer or sheriff of the court, tribunal, administrative or quasi-judicial body personally or via registered mail to the person named therein who is a member of the PNP, it shall be the duty of the personnel concerned to inform the CPO of the receipt of such processes for recording purposes. The duty herein mentioned shall only be performed if the nature of the order, subpoena or other legal process has bearing on his duties and responsibilities as a PNP member.

e. If the service of the court order, subpoena or other legal processes could no longer be made by reason of the fact that the person named therein is dead, dismissed, marked AWOL, or could not anymore be located in the address indicated, the CPO shall be responsible in informing the court, tribunal, administrative or quasi-judicial body thereof.

f. In case the subpoena, by reason of time constraint can no longer be served to the person named therein, the CPO shall inform the court, for deferment and resetting of the hearing.

g. In case where a bench warrant is issued by the court for the immediate arrest of a police witness who fails or is unwilling to testify, the CPO shall personally serve the said warrant and, if taken into custody, the police witness shall be delivered immediately to the court. If non-appearance of the police witness or his refusal to testify is unjustified, the CPO may initiate the filing of the appropriate administrative complaint against the subject police personnel.

h. All CPOs shall submit monthly report as part of the compliance and performance rating of the investigation office to the DIDM.

VIII. PENAL CLAUSE:

a. Any PNP member who shall fail, without justifiable reason, to appear and testify when so ordered by the court, tribunal, administrative or quasi-judicial body shall be liable for serious neglect of duty and be penalized accordingly. If the non-appearance of a PNP member resulted in the dismissal of the case or acquittal of the accused, or when the PNP member so ordered to appear and testify is a principal witness or the arresting officer, the penalty of dismissal from the service shall be imposed pursuant to NAPOLCOM Memorandum Circular No. 0007-001.

b. Any PNP member who shall fail, without justifiable reason, to appear and testify when so ordered by the court in a drug case and/or through patent laxity, inexcusable neglect, unreasonable delay or deliberately causes the unsuccessful prosecution and/or dismissal of the said drug case, shall be charged for violation of Secs. 91 and 92 of RA 9165, as the case may be.

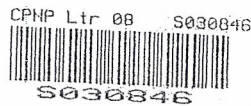
c. The CPO who shall fail without justifiable reason to perform his duties under this Circular shall be liable for serious neglect of duty pursuant to NAPOLCOM Memorandum Circular No. 2007-001. His immediate superior officer shall be equally liable for serious neglect of duty under the doctrine of command responsibility.

IX. EFFECTIVITY

This Memorandum Circular shall take effect fifteen (15) days from the filing of a copy hereof at the University of the Philippines Law Center in consonance with Sections 3 and 4 of Chapter 2, Book VII of Executive Order No. 292, otherwise known as the "Revised Administrative Code of 1987", as amended.




AVELINO TRAZON JR.
Police Director General
Chief, PNP



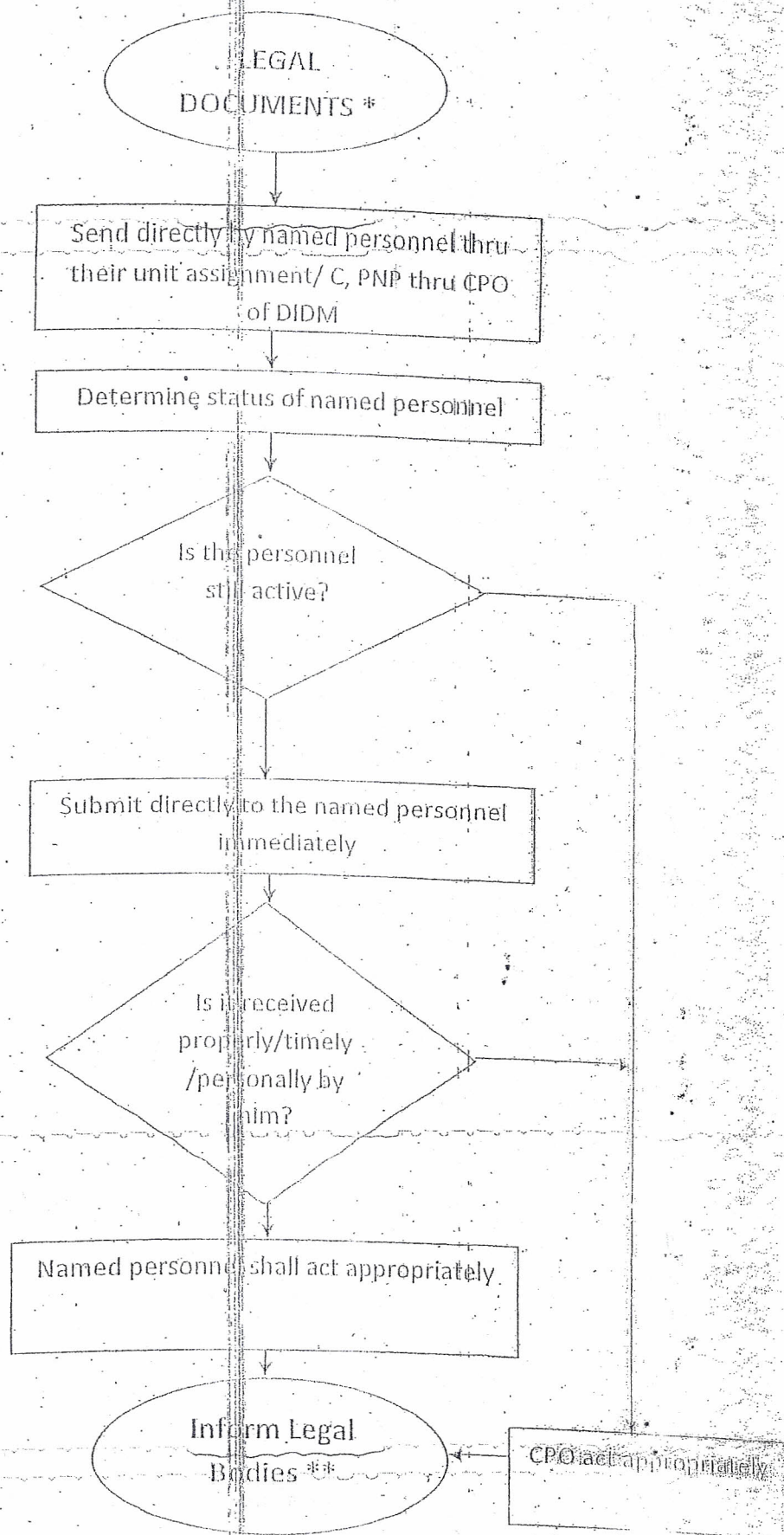
Encls:

Flowchart = Annex "A"

Conceptual Framework = Annex "B"

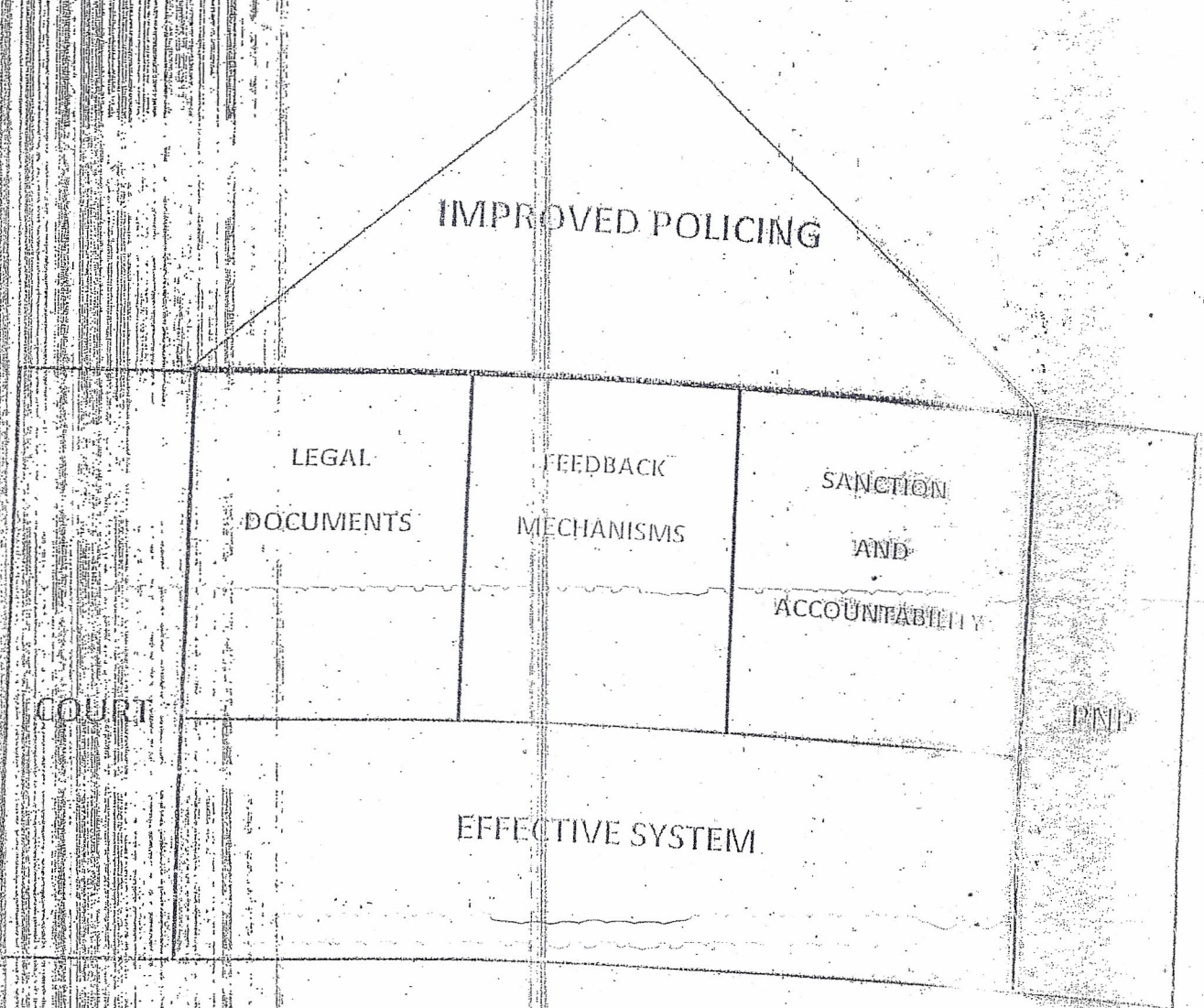
Annex "A"
FLOWCHART

for the Service of Subpoena and Other Legal Processes
Issued by the Courts, Tribunals, Administrative
and Quasi-Judicial Bodies



* Legal Document – refers to subpoena and other legal processes;

** Legal Bodies – refers to courts, tribunals, administrative and quasi-judicial bodies



Conceptual Framework for the Service of Subpoena and other Legal Processes Issued by the Courts, Tribunals, Administrative and Quasi-Judicial Bodies