



MEMORANDUM CIRCULAR
No. 31 series of 2017

TO : ALL BUCOR PERSONNEL

SUBJECT : CREATION OF BUCOR INTERNAL AFFAIRS SERVICE UNDER THE OFFICE OF THE DIRECTOR GENERAL AND ESTABLISHING RULES THEREFOR

Pursuant to Executive Order No. 292, otherwise known as the Administrative Code of 1987, and the Revised Rules on Administrative Cases in the Civil Service ("RRACCS"), an Internal Affairs Service ("IAS") in the Bureau of Corrections ("BuCor"), under the office of the Director General ("DG") as the disciplining authority and head of agency, has to be established in order to ensure public accountability and utmost discipline in the prison service and to appropriately address all disciplinary and non-disciplinary administrative cases of all BuCor personnel.

The Office of the BuCor IAS, therefore, is hereby established under the Office of DG which has the sole authority over all administrative cases brought against its personnel, either *motu proprio* or thru a valid complaint.

The BuCor IAS shall be administered by its Chief who is a lawyer or a graduate of law or a civilian officer of at least under SG-20 level or in the absence of such officer, an Acting Chief may suffice provided he/she possesses experience, know-how and of proven probity and integrity.

Selection of BuCor IAS personnel shall be the sole authority of the DG as disciplining authority and head of the agency. The Chief IAS, however, may recommend in the selection of its personnel complement.

Apart from its Chief, the following positions maybe designated under the office of the BuCor IAS.

- a) Deputy Chief
- b) Head Secretariat
- c) Case Investigators
- d) Case Evaluators
- e) Evidence Custodian
- f) Researchers/Encoders

The Office of the BuCor IAS shall have the sole authority to investigate all administrative cases of erring BuCor personnel, including the discharge of the following functions:

1. To validate allegations or investigate issues or complaints or gather evidence on assertions against BuCor personnel;
2. To conduct summary hearings of administrative charges;
3. To convey confidential recommendation to support a Resolution or Decision;
4. To draft confidential documents upon DG's instruction;
5. To disseminate documents relative to administrative development, proceedings, Resolutions/Decisions in observance of the required due process;
6. To recommend other legal actions relative to other violations, if evidence so warrants;
7. To submit appropriate periodic assessment of administrative cases;
8. To perform such other functions as ordered by DG or his duly authorized representative.

In addition, BuCor IAS shall conduct, *motu proprio*, automatic investigation of the following cases:

1. Incidents where BuCor personnel discharges a firearm;
2. Incidents where physical injury, or any violation of human rights occurred in the discharge of official functions;
3. Incidents wherein evidence were compromised, tampered with, obliterated with, or lost while in the custody of BuCor personnel; and
4. Incidents of non-implementation of the Decision against BuCor personnel.

Its investigation and hearing shall be summary in nature and shall not strictly adhere to the technical rules of procedure and evidence applicable in judicial proceedings. The provisions and the disciplinary mechanisms of the RRACCS are applicable. Similarly, the provisions of the Revised Rules of Court are likewise suppletorily applicable.

Unless Formal Investigation is waived, there shall be at least three (3) summary hearings before the promulgation of the Decision to be signed by DG. In order to abbreviate the proceedings, however, mere submission of respective Memorandum or Position Paper is allowed. The Memorandum or Position Paper shall contain only those charges, defenses and other claims contained in the complaint and affidavits filed by the parties. Relevant evidence, documentary or otherwise, shall be attached in order to be considered by the Hearing Committee ("HC").

The HC, composing of either three (3) or five (5) members, shall be created in each Operating Prison and Penal Farm ("OPPF") by the Superintendent to hear cases of personnel who elected Formal Investigation.

The Assistant Penal Superintendent of respective OPPF shall be the designated Chairperson of the HC and the members thereof shall be selected by the Superintendent upon the latter's recommendation. Upon termination of the Formal Investigation, the HC shall submit a report of its findings with recommendation to the Chief of BuCor IAS. The BuCor IAS may either concur or dissent with the recommendation/s of the HC. BuCor IAS shall make its own independent recommendation after evaluation of the case folder of the erring personnel based on evidence on records.

Approved recommendation/s of BuCor IAS for the imposition of disciplinary measures against an erring personnel once final, cannot be unduly delayed by any BuCor official without any justifiable cause. Any BuCor official who fails to act or acted with abuse of discretion on the approved Decision/Resolution shall be made liable for Neglect of Duty.

The BuCor IAS shall have the authority to administer oaths thru its Head Secretariat and its personnel designated to conduct investigation and/or Pre-Charge Evaluation.

The following RULES in the management of all BuCor administrative cases shall be observed and applied.

RULES OF PROCEDURE OF THE INTERNAL AFFAIRS SERVICE (IAS) OF THE BUREAU OF CORRECTIONS.

Pursuant to RRACCS, the BuCor IAS rules of procedure are hereby prescribed and promulgated.

RULE I PRELIMINARY PROVISIONS

Section 1. Title - These rules shall be known and cited as Rules of Procedure of the BuCor IAS.

Section 2. Scope and Application - These Rules shall apply to all administrative cases filed against all erring BuCor personnel.

Section 3. Construction - These Rules shall be liberally construed to attain just and expeditious disposition of administrative complaints and cases filed against BuCor personnel, ensure public accountability and utmost discipline in the prison service.

Section 4. Nature of Proceeding - The default mode in the investigation and hearing in the BuCor IAS shall be summary in nature and shall not strictly adhere to the technical rules of procedure and evidence applicable in judicial proceedings. The provisions of the Civil Service Law, Rules and Regulations as well as the Revised Rules of Court shall, however, be applied suppletorily.

RULE 2
GENERAL PROVISIONS

Section 1. Definition of Terms: As used in these Rules, the following terms shall be understood to mean as follows:

- a) Answer – a responsive pleading containing the respondent's negative and affirmative defenses;
- b) Complaint – a written and sworn statement regarding a wrong, grievance or injury sustained by a person;
- c) Complainant – one who initiates a complaint against a BuCor personnel either a complaining witness or as a concerned government agency or office;
- d) Decision – a written disposition of the case by a disciplining authority stating clearly the facts and the law upon which it is based;
- e) Disciplining Authority – shall refer to the BuCor Director General;
- f) Finality of Decision – there is finality of Decision when upon the lapse of fifteen (15) days from receipt or notice of such Decision, no motion for reconsideration or appeal has been filed;
- g) Formal Charge – a complaint initiated before the disciplining authority after finding the existence of a prima facie case;
- h) Forum Shopping – the filing of several complaints arising from one and the same cause of action involving the same parties asking for the same relief with different administrative disciplining authority;
- i) Jurisdiction – the authority vested by law to hear and decide cases;
- j) Newly Discovered Evidence – the evidence which could not have been discovered and produce during the hearing of the case despite due diligence, and if presented, would probably alter the Decision;
- k) Pending Case – refers to a case when the respondent has been formally charged before a disciplining authority or an appeal is pending with an appellate authority/body;
- l) Pre-Charge Evaluation – the preliminary examination of the complaint and supporting evidence for the purpose of determining the existence or non-existence of prima facie case;
- m) Prima Facie Case – the existence of such facts and circumstances as would excite the belief, in a reasonable mind, acting on facts

within the knowledge of the investigator, that the respondent is probably guilty of a specific administrative offense/s;

- n) Reglementary Period – the period required by law to perform a specific act. In the computation of a period, the first day shall be excluded and the last day to be included unless it falls on a Saturday, Sunday or a legal Holiday, in which case the last day shall fall on the next working day;
- o) Respondent – a defendant in administrative case and one who was required to answer the complaint;
- p) Substantial Evidence – such relevant evidence as a reasonable mind might accept as adequate to support a conclusion;
- q) Summary Hearing Officer – an officer designated by the Disciplining Authority to conduct the Summary Proceeding and to submit a report of Formal Investigation;
- r) Summary Proceeding – an expeditious administrative proceeding conducted by mere submission of memorandum or position paper, consistent with due process, to determine the administrative liability or innocence of the respondent, and;
- s) Summon – a written notice informing the respondent that he is charged with an offense and directing him/her to file an Answer.

Section 2. Prohibition against Forum Shopping – When an administrative complaint is filed with the BuCor IAS, no other case involving the same cause of action shall be filed with any other disciplinary authority such as the Office of the Ombudsman.

In order to prevent forum shopping or multiple filing of complaints, the complainant or party seeking relief in the complaint shall certify under oath in such sworn complaint a certification to that effect simultaneously filed therewith, to the truth of the following facts and undertaking, that:

- a) he/she has not heretofore commenced any other action or proceeding involving the same issues in other disciplinary forum;
- b) to the best of his/her knowledge, no such action or proceeding is pending in other administrative disciplinary machinery or authority;
- c) if there is any such action or proceeding which is either pending or may have been terminated, he/she must state the status thereof; and

d) if he/she should thereafter learn that a similar action or proceeding has been filed or is pending before any other disciplinary authority, he/she must undertake to report that fact within five (5) days therefrom.

Section 3. Effect of forum shopping – Violation of the prohibition against forum shopping shall be a ground for the dismissal of the case, *motu proprio*, or upon motion of the respondent.

Section 4. Application of the Principle of Res Judicata / Bar by prior Judgement. – For a prior judgement in an administrative case to constitute a bar to a subsequent administrative action, the following requisite must concur:

- a) It must be a final judgement or order;
- b) The disciplining authority rendering the same must have jurisdiction over the subsequent matter and over the parties;
- c) It must be a judgement on the merits, and;
- d) It must be between the two (2) cases, identity of parties, subject matter and cause/s of action.

Section 5. Career Development and Incentives. – Personnel of the BuCor IAS shall have priorities in the quota allocation for seminar, training and education.

Section 6. Records Management of the BuCor IAS. – The BuCor IAS shall be responsible for the maintenance and update of the records of administrative cases of the BuCor personnel.

Section 7. Commencement of complaint and how initiated. – Except in cases which BuCor IAS may institute *motu proprio* wherein the assigned investigator shall act as nominal complainant, an administrative complaint maybe initiated by filing a sworn statement before the office of DG as disciplining authority or BuCor IAS accompanied by affidavits of witnesses, if any, and other evidence in support thereof.

The complaint shall be accompanied by a certificate of non-forum shopping duly subscribed and sworn to by the complainant. If the complaint is not accompanied by a certificate of Non-Forum Shopping, the complainant shall be required to submit the same within 5 days from notice; otherwise, the complaint shall be dismissed.

Section 8. Contents of a Complaint. – The Complaint shall contain the following:

- a) Full name, address and contact information of the complainant;
- b) Full name and station/assignment of the respondent;
- c) Narration of material facts showing specifically the act/s or omission/s attributed to the respondent constituting the offense allegedly committed, the place, date and time of the commission of the offense.

Section 9. Anonymous Complaint - Anonymous complaint/accusation maybe the basis of a formal complaint provided that the material allegations contained therein are validated by assigned investigator who shall act as the nominal complainant.

Section 10. Appeals. - Decisions rendered by the DG or the disciplining authority, thru the BuCor IAS, maybe appealed to the Department of Justice, Civil Service Commission or to the Court of Appeals as may be appropriate.

Section 11. Complaints Against BuCor IAS. - A complaint against any personnel or the office of the BuCor IAS shall be brought to the Office of DG for appropriate action.

RULE 3 DISCIPLINARY MECHANISMS

Section 1. Disciplinary Mechanism - The provisions of the RRACCS disciplinary mechanisms are applicable and implemented by the BuCor IAS.

Section 2. Inclusion of immediate Supervisor in IAS Investigations. - The immediate superior or supervisor of the personnel being investigated shall be automatically included in the investigation of the BuCor IAS to exclusively determine lapses in supervision.

Section 3. Contents of Decision - The Decision shall contain the full name of the parties, assignment of the respondent, the offense charged, brief statement of the material and relevant facts, the findings as established by the evidence on record, the conclusion, the applicable laws, rules and regulations, jurisprudence and the disposition thereof.

Section 4. Effect of Compulsory Retirement. - The compulsory retirement of the respondent shall not affect the pendency of the case and the award of the retirement benefit that is due shall be subject to the final disposition of the administrative case.

The Administrative case of the resigned or retired personnel shall be resolved within three (3) months from the effectivity date of resignation or retirement. After the lapse of such period and the case has not been

terminated, without justifiable reason/s and/or without fault or delay attributable to the respondent, the retirement benefit shall be immediately released without prejudice to the outcome of the case.

In the event that the resigned or retired respondent is found guilty and the penalty of suspension is imposed, the corresponding amount relative to the period of suspension shall be deducted from the portion of his emolument or benefit allowed under the law.

Section 5. Effect of Death. - The administrative case against the respondent who dies during the pendency of the case shall be resolved under the following:

- a) The case should not be dismissed when the respondent was afforded due process or when the latter was notified of the complaint and when he/she has filed his answer or waived the right for the same or at the stage where the respondent was given the opportunity to air his side and explain.
- b) The case should be dismissed and considered dropped and closed when the responded is not accorded with the opportunity to be heard or the basic element of due process is wanting.

Section 6. Liability for an offense separate and distinct from the charge.- The respondent maybe found liable of an offense separate and distinct from the charge, provided, the acts constituting the offense of which he was found liable were alleged in the complaint and the respondent was given the opportunity to answer.

Section 7. Motion for Reconsideration - A Motion for Reconsideration may be filed to DG, thru the office of the BuCor IAS - with the assistance of the Office of the Superintendent of Operating Prison and Penal Farm ("OPPF"), if applicable - within fifteen (15) days from receipt of the Decision based on any of the following grounds:

- a) Newly discovered evidence which, if presented, would materially affect the Decision rendered, or
- b) Errors of law or irregularities have been committed prejudicial to the substantial rights and interest of the movant, or
- c) The Decision is not supported by the evidence on record.

Motion for Extension of Time to file Motion for Reconsideration shall not be allowed.

The filing of a timely Motion for Reconsideration shall stay the implementation of the Decision sought to be reconsidered. Only one (1) Motion for Reconsideration shall be allowed and the same shall be resolved within five (5) days upon receipt.

RULE 4 SUPPLEMENTAL PROVISIONS

Section 1. Appeals from the declaration of lack of prima facie case in an Administrative Complaint. - Resolution dismissing the administrative complaint for lack of prima facie case may be appealed to DG as disciplining authority.

Section 2. Appeal from the Decision of BuCor Director General. - Appeal from the Decision of the disciplining authority or DG may be taken by the party adversely affected by filing an appeal to the Department of Justice, copy furnish the Bureau of Corrections or the BuCor IAS, within fifteen (15) days upon receipt of the challenged Decision.

Section 3. Compromise Agreements. - Compromised agreements by parties as well as other forms of alternative dispute Resolution allowed under the law, rules and regulations shall be likewise be observed, if applicable, in the expeditious and judicious Resolution of the administrative case between parties.

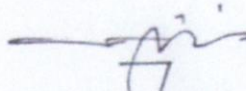
RULE 5 TRANSITORY PROVISIONS

Section 1. Penal Clause. - Any violations of the provisions of this Circular by the BuCor employees shall be dealt with accordingly.

Section 2. Separability Clause. - In any event that a provision contained in this Circular is declared invalid, illegal, inconsistent with existing laws or declared unconstitutional, the validity of other provisions hereof shall not in any manner be affected thereby.

Section 3. Effectivity. - This Circular shall take effect this 30th of June 2017 of fifteen days from its issuance and bureau-wide dissemination.

Issued this 15th day of June 2017 at NBP Reservation, Muntinlupa City.


ATTY. BENJAMIN C. DE LOS SANTOS
Director General

T 8/15/17