



Republika ng Pilipinas
Kagawaran ng Katarungan
Tanggapan ng Manananggol Pambayan
PUBLIC ATTORNEY'S OFFICE
DOJ Agencies Building, NIA Road corner East Avenue
1104 Diliman, Quezon City
Telephone Nos. 9299010/9299436; Fax Nos. 9276610

Office Order No. _____

Series of _____

PUBLIC ATTORNEY'S OFFICE (PAO) OPERATIONS MANUAL

ARTICLE I PURPOSE

Section 1. ***Purpose.*** – This Manual sets forth, defines and consolidates the policies, rules and procedures to be observed by PAO lawyers and employees in the handling, recording and reporting of cases and in rendering other forms of legal services to indigents and other persons qualified for free legal assistance.

ARTICLE II CLIENTELE

Section 1. ***Persons Qualified for Legal Assistance.*** - Pursuant to Book IV, Title III, Chapter 5, Section 14 of the Administrative Code of 1987, as amended by Republic Act 9406, in relation to Presidential Decree No. 1 and Republic Act No. 6035, the Public Attorney's Office is mandated to represent, free of charge, indigents, and other persons qualified for legal assistance in all civil, criminal, labor, administrative and other quasi-judicial cases where, after due evaluation, it is determined that the interest of justice will be served thereby. Accordingly, the PAO shall extend legal assistance to qualified persons whose case is meritorious.

In the exigency of the service, the PAO may be called upon by proper government authorities to render such service to other persons, subject to existing laws, rules and regulations.

Section 2. ***Merit Test.*** - A case shall be considered meritorious, if an assessment of the law and evidence on hand, discloses that the legal services of the office will assist, or be in aid of, or in the furtherance of justice, taking into consideration the interests of the party and those of society. In such cases, the Public Attorney should agree to represent the party concerned. *A contrario*, a case is deemed unmeritorious, if it appears that it has no chance of success, or is intended merely to harass or injure the opposite party, or to work oppression or wrong. In such situation the Public Attorney must decline the case.

However, if the indigent client is the defendant or respondent in a civil or administrative case already filed in any court or quasi-judicial agency, notwithstanding the determination as to the merit of the case, the Public Attorney shall still represent or extend legal assistance to the client, in order to protect his rights.

A Public Attorney may represent an indigent client even if his cause of action is adverse to a public officer, government office, agency or instrumentality provided the case is meritorious. Caution should, however, be exercised that the office be not exposed to charges of harassment, unfairness or haste in the filing of suits.

In criminal cases, the accused enjoys the constitutional presumption of innocence until the contrary is proven, hence, cases of defendants in criminal actions are considered meritorious.

Sec. 3. *Indigency Test.* – Taking into consideration recent surveys on the amount needed by an average Filipino family to (a) buy its “food consumption basket” and (b) pay for its household and personal expenses, the following shall be considered indigent persons:

1. If residing in Metro Manila, whose net income does not exceed **P14,000.00** a month;
2. If residing in other cities, whose net income does not exceed **P13,000.00** a month; and
3. If residing in all other places, whose net income does not exceed **P12,000.00** a month.

The term “**net income**” as herein employed, shall be understood to refer to the income of the litigant less statutory deductions.

“**Statutory deductions**” shall refer to withholding taxes, GSIS, SSS, Pag-ibig, Health Insurance and Philhealth premiums as well as mandatory deductions.

For purposes of this Section, ownership of land shall not per se, constitute a ground for disqualification of an applicant for free legal assistance, in view of the ruling in *Juan Enaje vs. Victorio Ramos, et al.* (G.R. No. L-22109, January 30, 1970), that the determinative factor for indigency is the income of the litigant and not his ownership of real property.

To ensure that only those qualified shall be extended free legal assistance, the applicant shall be required to execute an Affidavit of Indigency, and to submit any of the following documents:

1. *Latest Income Tax Return or pay slip or other proofs of income; or*
2. *Certificate of Indigency from the Department of Social Welfare and Development, its local District Office, or the Municipal Social Welfare and Development Office having jurisdiction over the residence of the applicant; or*
3. *Certificate of Indigency from the Barangay Chairman having jurisdiction over the residence of the applicant.*

PAO lawyers and personnel shall exercise diligence in ascertaining the indigency qualification of said applicant/ s.

Section 4. *Cases Which May be Provisionally Accepted.* – Public Attorneys may accept or handle cases provisionally, pending verification of the applicant’s indigency and evaluation of the merit of his/ her case in the following instances:

1. When a warrant of arrest has been issued, and assistance is needed in filing a Motion to Post Bailbond or Reduction thereof for his/ her provisional liberty;
2. When a person is arrested and/ or detained, and appropriate immediate legal action is necessary to protect his/ her rights;
3. When a pleading has to be filed immediately, to avoid adverse effects to the applicant;
4. When an appeal or petition for certiorari or prohibition has to be perfected or filed immediately;
5. When the Public Attorney is appointed by the court as counsel de oficio, to represent the defendant during the trial of the case, provided, however, that if a subsequent investigation discloses that the client is not indigent, the lawyer should request the court to relieve him/ her by filing a Motion for Withdrawal of Appearance from the case;
6. Where the Public Attorney is designated on the spot, as counsel de oficio for the purpose only of arraignment, pre-trial or promulgation of decision;
7. In cases involving violence against women and their children under Republic Act No. 9262, where immediate preparation and filing of pleading/ s is necessary to avoid adverse effects to the victims, except, when there is conflict of interest. Non-indigent women and their children may seek PAO's assistance;
8. In cases involving Children In Conflict with the Law (CICLs), where there is an immediate need of counsel;
9. In cases involving credit card holder/ s considered as "delinquent" by the credit card company, and immediate action is necessary; and
10. Cases which require provisional assistance pursuant to Section 3 of R.A. 9406 (Section 14-A Chapter 5, Title III, Book IV of Executive Order No. 292, otherwise known as the "Administrative Code of 1987"), to wit:

"Sec. 14-A. Powers and Functions. – The PAO shall independently discharge its mandate to render, free of charge, legal representation, assistance and counseling to indigent persons in criminal, civil, labor, administrative and other quasi-judicial cases. In the exigency of the service, the PAO may be called upon by proper government authorities to render such service to other persons, subject to existing laws, rules and regulations." (emphasis supplied)

11. Other similar urgent cases.

Section 5. *Persons/Entities Qualified for Legal Assistance Pursuant to Memoranda Of Agreement, Department of Justice Directives and special laws, as follows:*

1. Department of Agrarian Reform lawyers, against whom criminal and/or administrative complaints have been filed for acts committed in connection with the performance of their official duties (Directive of the Minister of Justice);
2. Farmers-beneficiaries of the Agrarian Reform Law,
 - (a) in agrarian-related civil or criminal cases pending before the courts; and
 - (b) in cases against farmer beneficiaries pending before the courts, or the Department of Agrarian Reform Adjudication Board (DARAB), where one of the parties is already represented by a lawyer from the Department of Agrarian Reform (Memorandum of Agreement, dated May 8, 1991, between DAR and DOJ).
3. Indigent laborers in meritorious labor cases (Memorandum Order of the Secretary of Justice dated May 19, 1988);
4. Indigent aliens (2nd Indorsement of the Undersecretary of Justice, dated March 25, 1974);
5. Qualified overseas contract workers in all cases within the original and exclusive jurisdiction of the Philippine Overseas Employment Administration (Memorandum of Agreement between PAO and DOLE, POEA, NLRC, OWWA and some NGOs, dated April 2, 1993);
6. Barangay Health Workers (Section 16, Rule II and Part 5, Rule VII of the Implementing Rules and Regulations of Republic Act No. 7883);
7. Department of Social Welfare and Development in the filing of petitions for the involuntary commitment of minors, as well as in the filing of petitions for the declaration that a child is abandoned or neglected (Directive of Minister of Justice Neptali Gonzales, dated February 10, 1987);
8. Members of the Association of Local Social Welfare and Development Officers of the Philippines, Incorporated (ALSWDOPI), in criminal and administrative complaints/cases related to, or in connection with, the exercise of their profession or performance of duties, unless there is conflict of interest, or when a member does not qualify under the PAO's Indigency Test, in which case, provisional assistance shall be afforded to him/her (Memorandum of Agreement between the ALSWDOPI and the Public Attorney's Office, dated August 27, 2009);
9. Qualified Print and Broadcast Media Practitioners, as well as their staff and crew, who are harassed with incarceration (Memorandum Circular No. 01, S 2009, dated January 5, 2009 in relation to Memorandum of Agreement between the National Press Club (NPC) and PAO dated May 29, 2009);

10. Dangerous Drugs Board, its authorized representatives and drug offenders, in the filing of petitions for voluntary confinement, except when there is conflict of interest (Memorandum of Agreement between the Dangerous Drugs Board and the Public Attorney's Office, dated July 15, 2008);
11. Complaints of Filipinos against foreigners for violation/ s of immigration, alien registration and other local laws; respondent foreigners in deportation cases; Bureau of Immigration clients in connection with the notarization of applications; and such other legal services that may be assigned by the Commissioner (Memorandum of Agreement between the Bureau of Immigration and the Public Attorney's Office, dated February 4, 2009);
12. Members of the Press Photographers of the Philippines (PPP) under investigation for a complaint, or on trial, including inquest proceedings, related to, or in connection with, the exercise of profession or performance of duties, and to the families of PPP members who are victims of media killings (Memorandum of Agreement between the Press Photographers of the Philippines and the Public Attorney's Office, dated May 25, 2009);
13. Officials of the Philippine National Police holding the ranks of Police Officer I (PO1) to Senior Police Officer 4 (SPO4), when sued in the performance of their police duties (DOJ Department Circular No. 78, dated October 26, 2009 and Memorandum, dated November 9, 2009).
14. Torture victims pursuant to the Anti-Torture Law of 2009 (RA 9745) [*Note: Public Attorney's Office has the authority to conduct an independent investigation in cases involving torture per RA 9745*]

Section 6. *Other Persons Qualified for Assistance.* –

- a. Immediate members of the family, and relatives within the 4th civil degree of consanguinity or affinity of a Public Attorney, may avail of his/ her services regardless of qualification under the indigency test, subject to the approval of the Chief Public Attorney, upon the recommendation of the Regional Public Attorney or Service Head, as the case may be. The lawyer concerned shall submit an Affidavit of Kinship, file a leave of absence during hearings, and submit a monthly status report on the case (Sec. 4 (a) of the Implementing Rules and Regulations of RA 9406);
- b. Public Attorneys and PAO employees may also avail of the services of the Public Attorney's Office in criminal cases, provided, that the Office is not the adverse party. (Sec. 4(b) of the Implementing Rules and Regulations of RA 9406).

Section 7. *Persons Not Qualified for Legal Assistance.* - Public Attorneys and employees are prohibited from assisting the following:

1. Juridical person/ s and private/ stock corporation/ s; except juridical entities which are non-stock, non-profit organizations, whose individual members will pass the indigency test of the office. In cases involving land disputes, the PAO can represent said juridical person/ s provided they are not the lessor/ s thereof.

2. Parties who do not pass the Merit and Indigency Tests, unless appointed as counsel *de officio* in criminal cases, only under existing laws, rules and regulations or in pursuant to Sec. 2, paragraph 2 hereof;
3. Parties represented by de parte counsels;
4. Landlords or lessors of residential lands and/ or buildings, with respect to the filing of collection or unlawful detainer suits against their tenants or lessees; and
5. Political candidates and parties in all election cases.

Section 8. ***Cases Not To Be Handled.*** – Public Attorneys shall not handle the following cases:

- a. Where they would be representing conflicting interests;
- b. Prosecution of criminal cases in court;
- c. Adoption cases, except in instances where the adopter is the biological parent or the step-parent of the adoptee, subject to the indigency test.

**ARTICLE III
HANDLING OF CRIMINAL CASES PURSUANT TO THE PROVISIONS OF THE SPEEDY
TRIAL ACT AND ITS IMPLEMENTING RULES**

Section 1. *Cases Covered by the Rules on Summary Procedures*– Upon learning of the filing of an Information against a client, the Public Attorney shall:

A. Motion to Quash/ Dismiss. – File a motion to quash/ dismiss the information against the accused within the ten-day (10) period for filing the counter-affidavit where appropriate and only on any of the following two (2) grounds:

- a. lack of jurisdiction over the subject matter;
- b. non-referral to the *Barangay* Conciliation process

B. Counter-Affidavit. – File the requisite counter-affidavit of the accused and the affidavit/ s of his/ her witnesses, as well as documentary evidence in support thereof, if any, where none of the above grounds for Motion to Quash/ Dismiss is present, within ten (10) days from the time that the accused received a copy of the subpoena/ summons.

Section 2. *Cases Under Regular Procedure.* – When a walk-in-client/ or a detained person avails of the services of the Office, or a Public Attorney is appointed *counsel de officio* for the accused, the Public Attorney shall:

A. Immediately secure a copy of the information and affidavit of the complainant and his/ her witnesses and other documentary evidence against the accused;

B. Interview the accused focusing on:

1. the legality of the arrest, the nature of the charge and his/ her rights under existing laws including his/ her right to demand trial;
2. his/ her theory of defense, his/ her witnesses, and his/ her documentary evidence, if any;
3. the plea of the accused, or the possibility of plea bargaining.

C. Move for a preliminary investigation/ reinvestigation within five (5) days from learning of the filing of the information,¹ if beneficial to the accused and if he/ she is entitled thereto. In case of an adverse resolution, the Public Attorney may file a Motion for Reconsideration or appeal the same to the Regional State Prosecutor's Office/ Secretary of Justice;

D. Determine the existence of a ground for a Motion to Quash or Dismiss, and where applicable, the Public Attorney shall file the same prior to arraignment,² except when to do so would not work to the advantage of the accused.

Section 3. *Duties Where Accused is Detained.* – If the Public Attorney knows that a person charged of a crime is detained, either because he/ she is charged of a bailable crime but has no means to post bail, or is charged of a nonbailable crime, or is serving a term of imprisonment in any penal institution, the Public Attorney shall:

a. File a Motion manifesting that the detainee/ prisoner demands arraignment/ trial and, for this purpose, that the custodian of the detainee/ prisoner be ordered to bring the detainee/ prisoner to the court, from time to time as ordered;

b. Upon receipt of notice from the custodian that he/ she has in his/ her custody a detainee/ prisoner who demands trial, the public attorney shall file a Motion that said detainee/ prisoner be brought to the court for arraignment/ trial.

Section 4. *Duties on Arraignment.* – The Public Attorney shall:

A. Ascertain the schedule for the arraignment of the accused. Should there be none, he/ she shall immediately file a Motion to Set Case for Arraignment of the accused:

1. Within thirty (30) days from the time the court acquired jurisdiction over the person of the accused;

2. Within ten (10) days from the date of the raffle³ or from receipt of the information when the accused is a detention prisoner.

B. Immediately after arraignment, move either in open court or in writing that pre-trial be scheduled:

1. Within thirty (30) days from the time the court acquires jurisdiction over the person of the accused,⁴ who is out on bail; or

2. Within ten (10) days after arraignment⁵ when the accused is a detention prisoner.

Section 5. *Duties on Pre-trial.* During Pre-trial, the Public Attorney shall:

A. Ensure that the agreements or admissions made or entered into during the preliminary and/ or pre-trial conference are faithfully and accurately reflected in the written form before signing the transcription, to the end that the accused shall be bound only by the admission/ s made by him/ her, and by the agreement/ s that he/ she actually entered into;⁶

¹Section 7, Rule 112, Rules of Court. *When accused lawfully arrested without warrant.* — x x x. After the filing of the complaint or information in court without a preliminary investigation, the accused may within five (5) days from the time he learns of its filing, ask for a preliminary investigation with the same right to adduce evidence in his defense as provided in this Rule.

²Section 1, Rule 117, Rules of Court. *Time to move to quash.* — At any time before entering his plea, the accused may move to quash the complaint or information.

³Section 1(e), Rule 116, Rules of Court. *When the accused is under preventive detention* x x x. The accused shall be arraigned within ten (10) days from the date of the raffle. The pre-trial conference of his case shall be held within ten (10) days from arraignment.

⁴Section 1, Rule 118, Rules of Court. *Pre-trial; mandatory in criminal cases.* — In all criminal cases x x x, the court shall, after arraignment and within thirty (30) days from the date the court acquires jurisdiction over the person of the accused, unless a shorter period is provided for x x x.

⁵Rule 116, Section 1(e). *Ibid.*

⁶R.A. 8493, Section 3. *Pre-trial Agreement.* — All agreements or admissions made or entered into during the pre-trial conference shall be reduced to writing and signed by the accused and counsel, otherwise the same shall not be used in evidence against the accused. x x x.

B. To expedite the proceedings and if favorable to the accused, the Public Attorney may prepare judicial affidavits, subject to additional direct examination, in case of clear necessity and in the interest of speedy disposition of the case;

C. Determine if the Pre-trial Order is an accurate reflection of the actions taken, the facts stipulated and the pieces of evidence marked. Should there be errors or inaccuracies, move for the same to be rectified, prior to the agreed/ scheduled initial presentation of evidence;⁷

D. Thereafter, move for the setting of the case for trial to commence, with at least fifteen (15) days to prepare for trial, but to make sure that the initial presentation of evidence be set within thirty (30) days from receipt of the Pre-trial order;⁸

E. In the event that the pre-trial has already been scheduled and the complainant fails to appear despite due notice, move for the termination of the pre-trial and the setting of the case for trial.

Section 6. *Time Limit for Trial.* – When the case is set for trial by the Court, the Public Attorney shall take note and see to it that the case is set for continuous trial on a weekly or other short-term trial calendar at the earliest possible time, *EXCEPT* for cases falling under the rules on summary procedure.

The entire trial period shall not exceed one hundred eighty (180) days from the first day of trial *EXCEPT* when the trial court is authorized in writing by the Chief Justice or by the Court Administrator.

Section 7. *When the Accused Enters a Plea of Not Guilty.* – If the accused enters a plea of not guilty, the Public Attorney has at least fifteen (15) days to prepare for trial, which shall commence within thirty (30) days from receipt of the pre-trial order.

Section 8. *Exclusions* – The Public Attorney shall take note of the period set forth in R. A. 8493 for the Speedy Trial and/ or Resolution of cases, and shall see to it that only the allowable periods of delay as provided in Section 10 thereof be excluded from computing the time within which trial must commence.⁹

⁷ Section 5, RA 8493. *Pre-Trial Order* – After the pre-trial conference, the court shall issue an order reciting the actions taken, the facts stipulated, and evidence marked. Such order shall bind the parties, limit the trial to matters not disposed of and control the course of action during the trial, unless modified by the court to prevent manifest injustice.

⁸ Section 6, S.C. Circular. No. 38-98. *Pre-Trial Order.* — x x x.

Thereafter, where a plea of not guilty is entered, the accused shall have at least fifteen (15) days to prepare for trial which shall commence within thirty (30) days from receipt of the pre-trial order appearing at or being returned for trial.

(c) Any period of delay resulting from the fact that the accused is mentally incompetent or physically unable to stand trial.

⁹ RA 8493, Section 10. *Exclusions.* – The following periods of delay shall be excluded in computing the time within which trial must commence:

(a) Any period of delay resulting from other proceedings concerning the accused, including but not limited to the following:

(1) delay resulting from an examination of the accused, and hearing on his/ her mental competency, or physical incapacity;

(2) delay resulting from trials with respect to charges against the accused;

(3) delay resulting from interlocutory appeals;

(4) delay resulting from hearings on pre-trial motions: *Provided*, that the delay does not exceed thirty (30) days;

(5) delay resulting from orders of inhibition, or proceedings relating to change of venue of cases or transfer from other courts;

(6) delay resulting from a finding of the existence of a valid prejudicial question; and

(7) delay reasonably attributable to any period, not to exceed thirty (30) days, during which any proceeding concerning the accused is actually under advisement.

(b) Any period of delay resulting from the absence or unavailability of the accused or an essential witness.

For purposes of this subparagraph, an accused or an essential witness shall be considered absent when his/ her whereabouts are unknown and, in addition, he/ she is attempting to avoid apprehension or prosecution or his/ her whereabouts cannot be determined by due diligence. An accused or an essential witness shall be considered unavailable whenever his/ her whereabouts are known but his/ her presence for trial cannot be obtained by due diligence or he/ she resists

Toward this end, the Public Attorney shall insist on the strict adherence to the period set forth in the law and shall be ready to move for the dismissal of the case, where there is delay or violation of the aforesated periods.

Section 9. *Time Limit Following an Order for New Trial.* – If there is an order for the accused to be tried again, the Public Attorney shall see to it that the trial shall commence within thirty (30) days from notice of the order; except when witnesses are unavailable, or other factors make trial within thirty (30) days impractical; in which case, the period may be extended, but such extension shall not exceed one hundred eighty (180) days from notice of the order for new trial.¹⁰

Section 10. *Remedy Where Accused is Not Brought to Trial Within the Time Limit.* – If an accused is not brought to trial within the time limit required by Section 7¹¹ of R.A. 8493 as extended by Section 9¹² thereof, the Public Attorney shall move to dismiss the charge/ information on the ground of the denial of his/ her right to speedy trial.¹³ The Public Attorney shall prove the violation of the time limits set by the Act, and rebut that the delay is attributable to any allowed exclusion from the period set by the law.

The Motion to Dismiss on grounds of the accused not having been brought to trial within the time limit, shall be filed by the Public Attorney prior to trial or entry of a plea of guilty, otherwise, the said failure to so move shall constitute a waiver of the right to dismissal under Section 13, R.A. 8493.¹⁴

(d) If the information is dismissed upon motion of the prosecution and thereafter a charge is filed against the accused for the same offense, or any offense required to be joined with that offense, any period of delay from the date the charge was dismissed to the date the time limitation would commence to run as to the subsequent charge had there been no previous charge.

(e) A reasonable period of delay when the accused is joined for trial with a co-accused over whom the court has not acquired jurisdiction, or as to whom the time for trial has not run and no motion for severance has been granted.

(f) Any period of delay resulting from a continuance granted by any justice or judge *motu proprio* or on motion of the accused or his/ her counsel or at the request of the public prosecutor, if the justice or judge granted such continuance on the basis of his/ her findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial. No such period of delay resulting from a continuance granted by the court in accordance with this subparagraph shall be includable under this section unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public in a speedy trial.

¹⁰ Section 11, S.C. Circular No. 38-98. *Time Limit Following an Order for New Trial.* — If the accused is to be tried again pursuant to an order of a court for a new trial, the trial shall commence within thirty (30) days from notice of that order, except that the court retrying the case may extend such period but not to exceed one hundred eighty (180) days from notice of said order for a new trial if unavailability of witnesses or other factors make trial within thirty (30) days impractical.

¹¹ Section 7, RA 8493. *Time Limit Between Filing of Information and Arraignment, and Between Arraignment and Trial.* – The arraignment of an accused shall be held within thirty (30) days from the filing of the information, or from the date the accused has appeared before the justice, judge or court in which the charge is pending, whichever date last occurs. Thereafter, where a plea of not guilty is entered, the accused shall have at least fifteen (15) days to prepare for trial. Trial shall commence within thirty (30) days from arraignment as fixed by the court. x x x

¹² Section 9, RA 8493, *Extended Time Limit.* – Notwithstanding the provisions of Section 7 of this Act for the first twelve-calendar-month period following its effectivity, the time limit with respect to the period from arraignment to trial imposed by Section 7 of this Act shall be one hundred eighty (180) days. For the second twelve-month period, the time limit shall be one hundred twenty (120) days, and for the third twelve-month period, the time limit with respect to the period from arraignment to trial shall be eighty (80) days.

¹³ Section

¹⁴, S.C. Circular No. 38-98. *Remedy Where Accused is Not Brought to Trial Within the Time Limit.* — If the accused is not brought to trial within the time limit x x x, the information may be dismissed on motion of the accused on the ground of denial of his right to speedy trial. The accused shall have the burden of proving such motion but the prosecution shall have the burden of going forward with the evidence in connection with the exclusion of time under Section 9 hereof. The dismissal shall be subject to the rules on double jeopardy.

**ARTICLE IV
LEGAL ASSISTANCE TO CHILDREN IN
CONFLICT WITH THE LAW (CICL)**

Section 1. ***Scope of Legal Assistance.*** – Legal assistance that the Public Attorneys shall be provided to qualified CICLs includes the following:

- a) Appearing as counsel for the CICL on initial contact or during custodial investigation, and before the courts, prosecutor's office, and other quasi-judicial bodies;
- b) Preparing pleadings, affidavits, sworn statements, and the like, necessary in the defense of the CICL;
- c) Coordinating with the Department of Social Welfare and Development, the Local Social Welfare Officers in the Local Government Units, and other concerned government agencies to procure the immediate release of the CICL under detention, or who is otherwise deprived of liberty, to demand the prompt submission of discernment and intervention or rehabilitation programs for the CICL, and to prevent any delay in the diversion of the case before the barangay level; and
- d) Such other action/ s relative to the foregoing.

Section 2. ***Provisional Legal Assistance*** - Pending the qualification on the Merit and Indigency Tests, the Public Attorneys shall provide legal assistance to CICLs in the following instances:

- a) When placed under detention or otherwise deprived of liberty, and is in immediate need of counsel;
- b) When placed under custodial investigation without the assistance of counsel;
- c) When the Public Attorney is designated, as counsel de officio for purposes of arraignment, pre-trial, or promulgation of decision and suspension of sentence; and
- d) Other cases of similar nature.

Section 3. ***Stages in the Rendition of Legal Assistance.*** –

Sec. 3.1- **On Initial Contact.**

When the CICL is qualified for legal assistance. - In the course of his/ her regular visitation in police stations, jails and other detention centers, or upon receipt of the information that a CICL has been arrested, or is in the custody of the police, the Public Attorney shall determine if the CICL is represented by a counsel. If he/ she is not represented by a counsel, the Public Attorney shall, as soon as possible:

- a) Conduct the initial interview of the CICL, advising him/ her of his/ her rights under existing laws, and exert efforts to ascertain his/ her actual age, through his/ her parents, guardians or the social worker concerned;
 - a.1. In ascertaining the age of the CICL, the Public Attorney shall request the production of the birth certificate, baptismal certificate, or any other pertinent documents. The age of the CICL may also be determined from the testimonies of other persons, his/ her physical appearance, his/ her medical or dental records, and other available relevant evidence.

a.2. If the age of the CICL is contested prior to the filing of the Information in any appropriate court, the Public Attorney shall file a summary proceeding case before the Family Court, or in its absence, before the appropriate Regional Trial Court.

- b) Demand for the immediate release of the CICL and refer his/ her case to the local social welfare officer for the conduct of an intervention program, in case he/ she is fifteen (15) years of age, or below the age of criminal responsibility, at the time of the commission of the offense;

In accordance with Section 58 of Republic Act No. 9344, the Public Attorney shall also demand the immediate release of a CICL who is charged, and/ or arrested for the following acts:

- i. Vagrancy and Prostitution under Article 202 of the Revised Penal Code;
- ii. Mendicancy under Presidential Decree No. 1563; and
- iii. Shifting of rugby under Presidential Decree No. 1619.
- iv. Violation of curfew ordinances and other status offenses.

- c) Ensure that the CICL is detained separately from adults.

- d) Ascertain the due execution by the enforcement officer, of the duties imposed under Sections 21 and 22 of Republic Act No. 9344, in the conduct of the initial investigation;

In case of violation, the Public Attorney shall immediately make representation or file the appropriate administrative action before the proper forum.

Maintain a checklist to be attached to the case history (PAO Form No. 4), for immediate determination of due compliance with said duties, to curtail infringement of the rights of the CICL;

- e) Ensure that the taking of the statement of the child shall be conducted in his/ her presence, his/ her parents, guardian, or nearest relative, and the local social worker.

In the absence of the child's parents, guardian, or nearest relative, and the local social welfare and development officer, the Public Attorney shall make certain that the initial investigation shall be conducted in the presence of a representative of a non-government organization, religious group, or member of the Barangay Council for the Protection of Children (BCPC).

- f) Require the referral, in proper cases, of the CICL for diversion before the barangay under Sections 23 and 24 of Republic Act No. 9344; and

- g) Secure from the DSWD or the local social welfare officer, or court-appointed social worker, a copy of the case study report on the CICL, if one is available.

3.2. ***Compliance with Executive Order No. 633 dated July 16, 2007.***

The Public Attorney, duly notified thereof, shall immediately file the necessary "MOTION FOR IMMEDIATE RELEASE PURSUANT TO R.A. NO. 9344 IN RELATION TO E.O. No. 633" of children who are fifteen (15) years of age and below, at the time of the commission of the crime, and who are detained in prison facilities of the Bureau of Jail Management and Penology, Bureau of Corrections, provincial jails, and other detention cells, in cases pending trial before the courts, or while undergoing inquest investigation before the Prosecutor's Office.

For prisoners who are detained by reason of final judgment, and who were fifteen (15) years of age and below at the time of the commission of the crime, the Public Attorney concerned shall file a "PETITION FOR IMMEDIATE RELEASE PURSUANT TO R.A. NO. 9344 IN RELATION TO E.O. NO. 633" on behalf of such inmates before the appropriate court that last disposed of the case.

Section 4. ***During Custodial Investigation.*** –

- 4.1. ***Representation of the CICL*** - Upon information of the taking of a CICL into custody, the Public Attorney shall, at all times, be present while the CICL is under investigation by the authorities, and shall assist in the protection of his/ her rights under Section 2 of Republic Act No. 7438 (An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations thereof).
- 4.2. ***Remedy in case of violation*** - In case of any violation by the investigating officer in the conduct of the custodial investigation, the Public Attorney shall immediately make proper manifestation before the concerned office to which the erring investigating officer belongs, and/or file the appropriate civil, criminal or administrative action against the said officer.

Section 5. ***During Inquest Proceedings and Preliminary Investigation.*** –

- 5.1. ***Claim of torture or ill-treatment. Action to be taken*** - During the conduct of inquest proceedings or preliminary investigation, where an allegation of torture or ill-treatment was made at the time of the arrest or detention of the CICL, the Public Attorney shall immediately make the proper manifestation and recommend the investigation of the same to the prosecutor.
- 5.2. ***Responsibilities during inquest proceedings or preliminary investigation*** - In the event that diversion procedures fail, and the prosecutor conducts inquest proceedings or preliminary

investigation because: (a) the CICL does not qualify for diversion; (b) when the CICL, his/ her parents or guardian do not agree to diversion as specified under Sections 27 and 28 of Republic Act No. 9344; and (c) when the prosecutor, after considering the assessment and recommendation of the social worker, determines that diversion is not appropriate for the CICL, the Public Attorney, upon having been informed of the service of the subpoena and the accompanying documents, shall:

- i. Obtain copy of the records and other documents relevant to the case;
- ii. Prepare the counter-affidavit and affidavit/s of his/ her witness/ es, and other supporting documents;
- iii. Obtain a copy of the birth certificate of the CICL from the Civil Registrar of the locality where the child was born, or the National Statistics Office (NSO);
- iv. Assist in the preparation of the Waiver required under Article 125 of the Revised Penal Code, when the circumstances surrounding the case and the defense of the CICL justify the conduct of a preliminary investigation;
- v. Make immediate and constant verification from the handling prosecutor of the status of the case, in order that it be given preferential attention in its resolution;
- vi. Ensure the observance of procedural requirements during the investigation;
- vii. Appear as counsel for the CICL during clarificatory conference, if necessary, to ensure the protection of his rights.

5.3. *Dismissal of the case in the absence of criminal responsibility*

- When proper, the Public Attorney shall move for the dismissal of the case for which the CICL is undergoing inquest proceedings or preliminary investigation, under Sections 6 and 58 of Republic Act No. 9344.

Section 6. *Diversion.* -

- 6.1. *Diversion when case is not yet filed in court*** - Where the CICL is above fifteen (15) years of age, and the imposable penalty for the crime for which the CICL is charged, is not more than six (6) years of imprisonment, and the case is undergoing investigation before the prosecutor's office, the Public Attorney shall, with the consent of the CICL's parents/ guardian, move for the referral of the case to the Katarungan Pambarangay or the local social development and welfare officer for the conduct of diversion proceedings. The system of diversion, as provided under Section 23 (a) and (b) of Republic Act No. 9344 shall apply, and the Public Attorney shall explain the same to the CICL and his/ her

parents/ guardian, in the dialect known and understood by them.

- 6.2. ***Diversion when the case is filed in court*** - Where the CIGL is above fifteen (15) years of age, and he acted with discernment, and the imposable penalty for the crime for which the CIGL is charged, exceeds six (6) years but not more than twelve (12) years of imprisonment, regardless of the fine or fine alone, regardless of the amount, and before arraignment, the Public Attorney shall file a motion before the court, for the holding of diversion proceedings. In all hearings conducted by the diversion committee, the Public Attorney shall be present to safeguard the rights of the CIGL.

Section 7. ***Filing of the Complaint or Information in Court*** . -

- 7.1. ***Standard Procedures in the initial stage of the case*** - In all criminal cases where a CIGL is involved, the Public Attorney, after examination of the records of the case shall:

- a) Ensure the immediate and prompt assignment of the case to a Family Court;
- b) Move for the quashal or dismissal of the case, if the CIGL is exempt from criminal responsibility under Sections 6 and 58 of Republic Act No. 9344;
- c) File a motion for psychiatric evaluation of the CIGL if at any time, the Public Attorney is convinced, through the manifestation of the CIGL, that he is not fit to stand trial;
- d) Move for the immediate release of the CIGL on recognizance to his/ her parents or other suitable persons;
- e) Before arraignment, file a motion to refer case to diversion proceedings when the imposable penalty of the offense for which the CIGL is charged, is imprisonment of not more than twelve (12) years, regardless of the fine which may be imposed, or fine alone, regardless of the amount; and
- f) Move for the setting of the case for arraignment, which shall be scheduled not later than seven (7) days from the time of the filing of the complaint or information, in accordance with Section 27 of the Rules on Juveniles in Conflict with the Law.

- 7.2. ***Arraignment of the CIGL*** - When the case of the CIGL is called for arraignment, the Public Attorney shall:

- a) Manifest for the conduct of the arraignment in the chambers of the presiding judge, or in the court sala with the exclusion of the public;
- b) Move for the setting of the pre-trial conference at the earliest available date possible in the calendar of the court, when a plea of not guilty is entered by the CIGL;

c) Invoke all available mitigating circumstances, when a plea of guilty was made by the CICL, for the appreciation of the court in the imposition of the penalty.

7.3. ***Pre Trial.*** - The Public Attorney shall afford protection to the rights of the CICL during plea-bargaining, and shall make certain that there is full comprehension on the part of the CICL and his parents or guardian, of the consequences and results of any agreement or compromise that they may enter into.

7.4. ***Trial.*** - In all proceedings and hearings conducted on the case of the CICL, the Public Attorney shall afford protection to the rights of the CICL, most importantly, his right to privacy and to demand confidentiality of his records in accordance with Section 12 of Republic Act No. 8369 (An Act Establishing Family Courts, granting them exclusive original jurisdiction over child and family cases, amending Batas Pambansa Bilang 129, as amended, otherwise known as the Judiciary Reorganization Act of 1980, appropriating funds therefore and for other purposes). The Rule on Examination of a Child Witness shall also be observed by the Public Attorney when the CICL will testify in court.

7.5. ***Promulgation of Judgment.*** - During the promulgation of judgment, the Public Attorney shall:

a) Move for the holding of the promulgation of judgment in the chambers of the presiding judge, or in the court sala with the exclusion of the public, and that no media coverage shall be permitted;

b) Move for the presence of the parents/ guardian of the CICL and a local social welfare officer or a court-appointed social worker during promulgation, whenever possible;

c) Demand for the automatic suspension of sentence, or when applicable, for probation, when a verdict of conviction is meted against the CICL, in accordance with Presidential Decree No. 603 (Child and Youth Welfare Code); and

d) When suspension of sentence is not possible and while awaiting resolution on his probation, coordinate with a local social welfare officer, or a court-appointed social worker, for his commitment to a suitable youth rehabilitation center or youth detention home, and to this end, shall make proper representation in court for the transfer of the CICL.

7.6. ***Discharge of the CICL.*** - Upon favorable recommendation of a local social welfare officer or a court-appointed social worker, or in cases of CICL proceeded against in violation of Republic Act No. 9165, upon favorable recommendation of the Dangerous Drugs Board, the Public Attorney shall file with the Family Court, a motion to dismiss the case and for the immediate issuance of an order of Final Discharge in favor of the CICL, who has been issued disposition measures before he has reached eighteen (18) years of age. However,

if the CICL failed to comply therewith, or has not been rehabilitated, and whenever practicable, before the execution of judgment, the Public Attorney shall make representation for another opportunity to be afforded to the CICL to comply with the disposition measures, or to undergo rehabilitation.

After the lapse of two (2) years from the date of the Closure Order, or the Final Discharge of the CICL, when there is no pending case involving moral turpitude filed against him during said period, the Public Attorney shall move for the permanent sealing of his records in court, and in all other offices and agencies that dealt with the case.

Section 8. **Recording and Reporting of Cases.** –

8.1. **Office Logbook and recording system for cases involving CICL**

- Each PAO District Office shall maintain a separate logbook and recording system for cases involving CICLs. The logbook and recording system shall serve as a directory for these kind of cases handled by the Office. At the same time, it shall also be a guide/ reference for Public Attorneys in accepting or declining a case involving a CICL, due to conflict of interest.

The Public Attorney shall cause to be entered in the said Logbook the following data:

Entry No.
Date Received
Name and Address of the CICL
Date and Place of birth
Gender
Name & Address of the Plaintiff/ Complainant
Name & Address of Parents/ Guardian
Offense charged
Assistance Given/ Remarks

8.2. **Reporting of Cases** - The Public Attorney shall include in his/ her monthly performance report, the termination of the case involving the CICL at the time of the promulgation of judgment or suspension of sentence, but the records of the case shall remain active in a **SPECIAL FILE** for this purpose, until the permanent sealing of the records has been ordered by the Court.

ARTICLE V LEGAL ASSISTANCE TO WOMEN AND THEIR CHILDREN SUBJECTED TO VIOLENCE UNDER REPUBLIC ACT NO. 9262 AND OTHER RELATED LAWS

Section 1. *Legal Basis* - The Public Attorney's Office shall extend legal assistance to victims of violence against women and their children regardless of the indigency requirement.

Pursuant to the provisions of Sections 13 and 35 of Republic Act No. 9262, the woman or victim may avail of the services of PAO in the filing of an application/ petition for protection order and/ or civil action for damages. Where the applicant is already represented by a counsel de parte, PAO may represent the other party.

Section 2. *Legal Assistance to Women and Children Subjected to Abuse.* – The assistance of the Public Attorney’s Office to women and children who are victims of violence under RA No. 9262 shall be limited to, the following services:

- a) Legal advice or consultation;
- b) Conduct of pre-litigation/ mediation conference between the parties in cases involving economic abuse, with the express consent of the victim and where there is no imminent danger to her life and limb and those of her children;
- c) Preparation of affidavits and other pertinent papers necessary to the filing of the complaint for violence against women or children, petition/ application for protection order and/ or civil action for damages;
- d) Filing of petition/ application for protection order;
- e) Representation in courts in cases of petition for protection order and/ or civil action for damages.

Section 3. *Handling of Cases* - In the handling of cases involving violence to women and their children, the *First Come-First Served Policy* shall be strictly observed.

Section 4. *Procedure in Extending Legal Assistance to Women and Children Subjected to Violence.*

4.1. *Walk-In-Clients* - For clients who seek the services of the Office, or who visit the same for consultation, the following procedures shall be observed:

- a) When a victim visits the Office to seek legal advice for a problem concerning violence against women and their children, he/ she shall be referred to a Public Attorney for immediate action.

In filing the application/ petition for protection order, the Public Attorney shall prepare the pleadings, as well as the affidavits of the applicants and the witnesses in support thereof.

- b) If the person does not qualify for free legal assistance due to conflict of interest, he/ she should be referred to other public and/ or free legal aid organization and/ or be duly advised to seek the legal assistance of a counsel of his/ her own choice;

- c) The Public Attorney shall cause the entry in the Logbook for Cases of Violence Against Women and Their Children the following data:

Entry No.

Date Received

Name & Address of Victim/ Complainant

Name & Address of Parents/ Guardian of the victim

Name & Address of Respondent

Assistance Given

Remarks

Each PAO District Office shall maintain a separate logbook for cases involving violence against women and children. The logbook shall serve as a directory for cases handled by the Office. At the same time, it shall also be a guide/ reference for Public Attorneys in accepting or refusing a case by reason of conflict of interest;

d) In an application/ petition for protection order, the appearance and assistance of PAO shall extend up to the final resolution of the case; and

e) In the event a criminal Information is filed in court against the accused, as a result of PAO's assistance to the complainant at the prosecutor's Office, the active prosecution of the criminal case in court shall immediately be turned over to the public prosecutor.

5.2. Where Appearance of PAO is Through Court Appointment.

Where an application/ petition for protection order is filed in court through the assistance of any person mentioned in Section 9 of RA 9262, and the Public Attorney is appointed by the court to appear for the applicant/ petitioner, he shall provisionally accept such appointment.

In case of conflict of interest, the handling Public Attorney shall withdraw his appearance, and refer the applicant to other public and/ or free legal aid organization or advise him/ her to retain the services of a counsel of his/ her own choice.

ARTICLE VI LEGAL ASSISTANCE TO POLICE OFFICERS PURSUANT TO DOJ DEPARTMENT CIRCULAR NO. 78 DATED OCTOBER 26, 2009

Section 1. Coverage. - a) This Article shall apply to members of the Philippine National Police holding the ranks of Police Officer I (PO1) to Senior Police Officer 4 (SPO4), in all cases where these officials are sued in connection with the performance of their respective police duties and official functions. For this purpose, the provisions on Indigency Test shall not apply.

Section 2. Legal Assistance. - The legal assistance that the Public Attorneys shall extend includes, but not limited to the following:

- a) Legal advice and documentation;
- b) Preparation of written explanation or any responsive pleading;

- c) Legal representation in judicial, quasi-judicial and other administrative bodies.

Section 3. *Procedure in Extending Legal Assistance.* –

- 3.1. ***Duties of a Public Attorney*** - When a police officer seeks legal assistance, the Public Attorney shall:
 - a) Determine whether the officer is sued in connection with the performance of his official duties.
 - a.1. If in the affirmative, the Public Attorney shall determine which district office shall provide legal assistance and consider the following:
 - a.1.a. If the case is filed within the territorial jurisdiction of the said district, the Public Attorney shall handle the case.
 - a.1.b. If otherwise, the same shall be referred to the district office having territorial jurisdiction over the same;
 - a.2. If in the negative, of Section 3 Article II hereof shall apply.
 - b) Require the police officer to submit the following:
 - b.1. Proof of his rank;
 - b.2. Copy of the Complaint, Information, or Charge Sheet and such other documents in connection therewith; and
 - b.3. Evidence in support of his defense.

**ARTICLE VII
LEGAL ASSISTANCE TO DELINQUENT
CREDIT CARD HOLDERS**

Section 1. *Legal Assistance.* – The legal assistance that the Public Attorneys shall extend includes, but not limited to, the following:

- a) Legal advice and documentation;
- b) Preparation of written explanation or any responsive pleading;
- c) Legal representation in judicial, quasi-judicial and other administrative bodies.

Section 2. *Provisional Legal Assistance*- Pending qualification on the Merit and Indigency Tests, Public Attorneys shall provide legal assistance to credit card holders in accordance with Section 4, Article II of this Manual.

Section 3. *Stages in the Rendition of Legal Assistance.* –

- 3.1. Where Creditor has sent a Formal Demand for Payment

3.1.1. Duties of the Public Attorney - When a credit card holder seeks legal advice after receiving a demand letter to pay, the public attorney shall:

a) Interview the credit card holder regarding his/ her qualification to avail of the services of the PAO and instruct him/ her to provide proof of indigency;

b) Require the credit card holder to present a copy of the credit card agreement, the statements of account/ billing statement and other pertinent documents, such as receipts, bank transfers or other documents evidencing payment;

c) The Public Attorney shall acquaint himself/ herself with the specifics of the credit card obligation of the holder; such as:

1. The credit limit applied for and amount granted to the client;

2. The application of credit card extension, if any;

3. The total credit card receivables or amount due;

4. The "*Minimum Amount Due*" or "*Minimum Payment Required*;"

5. The total finance charges and interests applied to the account;

6. The total amount of purchases of the client using the credit card;

7. The demand letter, if any;

8. The amount paid by the client; and

9. Such other pertinent information regarding the obligation.

d) Consider and discuss with the holder, possible means and terms of payment or settlement of the credit card obligation;

e) Where advisable, draft, sign and serve a reply to the demand letter, and consider applicable jurisprudence, provisions of the Civil Code, Republic Act No. 3765 (An Act to Require the Disclosure of Finance Charges in Connection with Extension of Credit), such other applicable laws and government policies. The Public Attorney shall, as far as practicable, incorporate in the reply, a fair and feasible offer/ proposal for settlement;

f) Where there is an agreement between the credit card issuer and the holder regarding the settlement of the obligation, discuss with the holder, the terms thereof, and its effects/ consequences;

g) Where the holder is insolvent, said fact and its legal effects shall be raised in the reply.

3.1.2. **Latest Jurisprudence as Guide** - In giving advice, drafting of reply and discussing the practicability and terms of the proposal/ offer of settlement, the Public Attorney should be guided by the principles enunciated by latest jurisprudence as regards excessive and unconscionable interest rates.

3.2. When a case for collection is already filed in Court. -

3.2.1. *For claims not in excess of Php100,000.00 and the Rules of Procedure for Small Claims is applicable*- The Public Attorney shall assist the credit holder in making a reply or the drafting of the Verified Answer of the holder, ensuring that all necessary documents are attached thereto and seasonably filed;

3.2.2. *When the ordinary Rules of Procedure apply* – The Public Attorney shall prepare and file the necessary Answer to the Complaint. When grounds exist, Counterclaims shall be pleaded in the Answer. The Public Attorney shall, likewise, include in the Counterclaim, the allowable claims for attorney's fees pursuant to the PAO Law (R.A. 9406);

3.2.3. *When Credit Card holder is insolvent* - In every case of collection filed against the credit card holder who is insolvent, the said fact shall be raised as a defense, and proof of such insolvency shall be attached and made an integral part of the Verified Answer;

3.3. When the Credit Card Holder is Criminally Prosecuted.

3.3.1. *Complaint Filed Before Prosecutor's Office/ Information Filed in Court* – When a complaint is filed before the Prosecutor's Office, or an Information is filed in Court, against a credit card holder for a credit card related offense, the provisions of the Speedy Trial Act shall be observed.

**ARTICLE VIII
JUDICIAL AND QUASI-JUDICIAL CASES**

Section 1. *Procedure in Accepting Cases*- The following shall be observed in the acceptance of judicial and quasi-judicial cases:

1.1. *Interview*. – Persons seeking legal assistance shall be interviewed by a lawyer or assigned personnel to ascertain if he is qualified. In addition to the required data in the Interview Sheet, the applicant shall submit a copy of his latest income tax return, or other proofs of income, or a Certificate of Indigency issued by the local office of the Department of Social Welfare and Development, or by the Barangay Chairman having jurisdiction over the residence of the applicant, and execute the Affidavit of Indigency printed at the back of the Interview Sheet.

1.2. *Control Number*. - If the applicant is found to be qualified for legal assistance, the case shall be assigned a control number. The numbering shall be consecutive, starting from January to December of every year. The control number shall indicate the Regional Office and District Office handling the case. In the Central Office the numbering shall be undertaken by the Service Officer concerned, i.e., FOS Service or SAC Service.

Example:

PAO Form No. 3 – Interview Sheet

Region : Dist. Office : Year : Month : Number
III : San Fdo. : 2010 : March : 298

Section 2. *Court Assignments* - Public Attorneys shall be given specific court assignments by the Regional Public Attorney or District Public Attorney. They are not allowed to handle cases or appear in other courts without the approval of the District Public Attorney, if within the district, or by the Regional Public Attorney, if the case is outside the district but within the region.

Section 3. *Handling of Cases* - The following policies shall be observed:

3.1. *First Come-First Served* - Where both the complainant and respondent apply for legal assistance and both are qualified, the first to seek assistance shall be given preference.

3.2. *Conflict of Interest* - Where the PAO is precluded from accepting the case under the conflict of interests rule, the applicant shall be duly informed and advised to seek the services of a private counsel or legal aid organization.

3.3. *Travel of Lawyers and Personnel* - PAO lawyers and personnel who leave the office during office hours to attend to cases, and/ or other official business must secure written permission, as follows:

3.3.a. Lawyers and personnel in the Central Office shall secure prior written permission from their Service Head, for travel within Metro Manila and for travels outside Metro Manila, from the Chief Public Attorney.

3.3.b. Field lawyers and personnel shall secure prior written permission from their District Public Attorney for travels within the district, from their Regional Public Attorney for travels outside the district but within the region, and from the Chief Public Attorney for travels outside the region.

3.3.c. A District Public Attorney shall secure prior written permission from the Regional Public Attorney, for travels outside the territory of his district but within the region, and from the Chief Public Attorney, for travels outside the region.

3.3.d. Service Heads and Regional Public Attorneys, shall secure the prior written permission of the Chief Public Attorney for their travels outside Metro Manila, and their regions, respectively.

3.3.e. All lawyers and personnel who wish to travel outside the country shall secure an Authority to travel abroad from the Chief Public Attorney.

3.4. *Signature on Pleadings* - All complaints, petitions, answers, replies and other important pleadings to be filed in the lower courts, quasi-judicial bodies and other offices, must be signed by the lawyer handling the case and co-signed:

3.4.a. In the District Offices – by the District Public Attorney

3.4.b. In the Regional Offices – by the Regional Public Attorney, or any senior lawyer in that Office designated by him; and

3.4.c. In the Central Office – by the Service Head or the senior lawyer designated by the former.

3.5. *Transfer of Cases.* – Transfer of cases from one Public Attorney to another, shall be effected, only upon approval of the Officer-in-Charge/ District Public Attorney/ Service Head/ Regional Public Attorney.

Section 4. *Withdrawal of Representation.* – A Public Attorney may, on justifiable instances, withdraw representation of a client's cause, upon approval of his superior, and through a proper motion filed in Court.

Withdrawal may be warranted in the following situations:

1. In cases provisionally handled, where it is subsequently ascertained that the client is not qualified for PAO services;
2. Where the client's income or resources improve, and he no longer qualifies for continued assistance;
3. When adequate proof is subsequently submitted, showing that the client's allegation of indigency is false or incorrect;
4. When the client subsequently engages a de parte counsel, or is provided with a de officio counsel;
5. When, despite proper advice from the Public Attorney, the client cannot be restrained from doing things which the lawyer himself ought not to do, particularly with reference to their conduct towards the courts, judicial officers, witnesses, and litigants (Canons of Professional Ethics), or the client insists in having control of the trial, theory of the case, or strategy in procedure, which would tend to result in incalculable harm to the interests of the client; and
6. When it becomes apparent that the representation of the client's cause will result in conflicting interests, as where the adverse party had previously engaged the services of the PAO, and the subject matter of the litigation is directly related to the services rendered to the adverse party.

ARTICLE IX APPEALS

Section 1. *Decision to Appeal.* – All appeals must be made upon the request of the client himself, and only meritorious cases shall be appealed.

If the lawyer handling the case and his District Head find that there is no merit to the appeal, the client should be immediately informed thereof in writing, and the record of the case turned over to him, under proper receipt. However, if the client insists on appealing the case, the handling lawyer should perfect the appeal, before turning over the records of the case to him.

If the case is meritorious, and the remedy is ordinary appeal, the Notice of Appeal should be forthwith prepared and co-signed by the lawyer handling the case

and his District Head. Where the District Office concerned is housed in the same building as the Regional Office, the Notice of Appeal should also be co-signed by the Regional Public Attorney.

Appeals by way of petitions under Rules 42, 43 and 45 of the 1997 Revised Rules of Court are effected by the SAC Service filing a motion for extension of time to file petition, with the proper appellate court.

Field lawyers shall not file any motion for extension of time to file petition, without prior consultation with the SAC Service.

Section 2. Appeals to be Handled by the SAC Service (Central Office) and its Regional Special and Appealed Cases Units (RSACU). –

The SAC Service (Central Office) shall handle:

- a) Appeals to the Office of the President;
- b) Appeals to the Court of Appeals (Manila); and
- c) Appeals to the Supreme Court (from all cases originating from the Court of Appeals, Manila).

The Regional Special and Appealed Cases Units (RSACU) stationed in Cebu City and Cagayan de Oro City, shall handle all appeals to the Court of Appeals Cebu and Mindanao Stations, respectively, and the Supreme Court (from all cases originating from the Court of Appeals, Cebu City and Cagayan de Oro City).

The lawyer who handled the case in the lower court, shall be responsible in perfecting the appeal. Automatic appeals wherein capital penalties are imposed, do not exist anymore (A.M. 00-503-SC, Oct. 15, 2004). In special proceedings and other cases where multiple appeals are allowed, he shall also file the Record on Appeal.

Section 3. Appeals to be Handled by Field Lawyers –

The following appeals shall be handled by the field lawyers:

- a) Appeals from decisions of the Municipal Trial Courts, Municipal Circuit Trial Courts and Metropolitan Trial Courts, to the Regional Trial Courts. (to be handled by PAO resident lawyer of the RTC);
- b) Appeals from decisions, resolutions and final orders of Regional Offices, Bureaus and other offices to their Departments;
- c) Appeals to quasi-judicial bodies such as the Department of Agrarian Reform Adjudication Board (DARAB), National Labor Relations Commission, Housing and Land Use Regulatory Board (HLURB), Civil Service Commission, Employees' Compensation Commission, Social Security Commission and others;
- d) Petitions addressed to the Secretary of Justice, for the review of the resolution of a Prosecutor, or his order denying a motion for reconsideration, shall be prepared by the field lawyers on the case. The appeal must be in strict conformity with **Department Circular No. 70 dated July 3, 2000**;

- e) Appeals from the decisions of the Regional Trial Courts, for violations of the Anti-Graft Law (R.A. 3019), and other related legislations to the Sandiganbayan, shall be handled by the Quezon City District Office.

Section 4. *Records to be Transmitted.* – The complete records of the civil/ criminal case elevated to the appellate court, should be forwarded to the SAC Service, upon receipt by the handling lawyer of the Order giving due course to the Notice of Appeal. The documents to be transmitted should comply with the SACS prescribed transmittal/ checklist form.

Material dates to show timeliness of the remedy should be included in the memorandum/ transmittal of the case to the SACS.

In criminal cases, the indorsing lawyer must, likewise, indicate whether the accused is on bail, or detained at the local jail or the National Penitentiary.

Field lawyers shall forward the records of the case for purposes of appeal/ petition, only upon the instance of the accused/ petitioner.

Likewise, the District Public Attorney shall immediately forward all appellate court's resolutions and pleadings received from the adverse party, that were addressed to the district office, after the records of the case were forwarded to the SAC Service. If the court resolution provides a reglementary period to file a pleading and/ or to comply with a certain requirement/ directive, the DPA shall immediately transmit the same to the SAC Service, to ensure the latter's receipt thereof, before the expiration of the period.

Section 5. *Immediate Transmittal of Records* – The records shall be immediately transmitted to the SAC Service in the following cases:

1. Petitions for Review with the Court of Appeals of decisions of Regional Trial Courts in the exercise of its appellate jurisdiction;
2. Appeals in Special Civil Actions like petitions for certiorari, prohibition, or mandamus;
3. Petitions for Review on Certiorari of decisions of the Sandiganbayan.

Section 6. *Habeas Corpus Cases* – Petitions for the issuance of a Writ of Habeas Corpus, shall be filed by the Public Attorney on the case, before the Family Court, or in the absence thereof, before the proper Regional Trial Court. Where there are extraordinary and very important reasons for filing it with the Court of Appeals, the case shall be endorsed to the SAC Service.

Where an appeal is to be interposed, it must be perfected within forty-eight (48) hours from notice of the judgment. The records of the case must be transmitted to the SAC Service immediately upon the filing of the notice of appeal.

Section 7. *Appeals by the Adverse Party.* – Where the adverse party appeals, the records of the case shall be forwarded to the SAC Service immediately upon knowledge of the perfection of the appeal, or filing of the petition or appeal memorandum by the adverse party.

Section 8. *SAC Service Responsibilities* – While the initial evaluation of the merit and propriety of an appeal are made at the District Office level, it is the SAC Service which shall finally decide if the appeal is justified, and whether the theory adopted, issues raised and mode of appeal availed of, by the trial lawyer are proper.

If the SAC Service finds no merit in the appeal, or believes the course of action adopted is not proper, and can no longer be remedied, the corresponding recommendation to consider the case as terminated, shall be submitted to the Chief Public Attorney for his/ her approval.

The SAC Service shall only enter its appearance once it receives the complete records of the case. Such appearance in substitution of the trial lawyer, will relieve the latter of responsibilities attendant to the case.

It is the duty of the SAC Service to furnish the field lawyer or his District Head, with a copy of the decision the moment it receives the same from the Appellate Court.

Section 9. *Monitoring of Compliance with Guidelines* – The SAC Service shall closely monitor compliance by field lawyers with this Article (Article VIII). Whenever necessary, their attention shall be called regarding requirements that have not been met, or of any violations that may have been committed. It shall apprise the Regional Public Attorney and the Chief Public Attorney, of such violations or shortcomings.

Section 10. *Miscellaneous Provisions* – PAO lawyers must not file a Notice of Appeal for an accused who jumped bail, escaped or who is a fugitive from justice, unless he surrendered or posted bail pending appeal. Proof of such surrender or posting of bail shall be attached to the records transmitted to the SAC Service. (People vs. Maria Luna Gonzales, CA-G.R. CR. NO. 08821, September 6, 1990, citing People vs. Patajo, 57718, November 20, 1988, en banc. Minute Resolution).

ARTICLE X NON-JUDICIAL SERVICES

Section 1. *Coverage* – The following are classified as Non-Judicial Services:

1. Instant Services:
 - a. Legal counseling and documentation;
 - b. Administering oaths; and
 - b. Mediation and conciliation of disputes.

2. Outreach Activities:
 - a. Assistance to persons undergoing police interrogation or persons under detention and inquest proceedings;
 - b. Jail visitations; and
 - c. Barangay outreach programs.

Section 2. *Counseling* – Requests for legal advice or counseling by phone or in person should be acted upon immediately, unless the problem presented requires further study and research, in which case the clients should be advised to call back or return within 5 working days by which time, the lawyer on the case should be ready with his advice or opinion. Requests for advice or opinion shall not be subjected to the merit test, but care should be taken that affluent persons do not avail of PAO services.

Section 3. *Documentation* – Requests for the preparation of affidavits, notices, and other documents must be attended to immediately.

Included in this service is administering oaths pursuant to Republic Act 9406. Requests for documentation services shall not be subjected to the merit test, and neither shall it be necessary to accomplish the Interview Sheet. Again, care should be taken that documentation services are availed of only by indigents. Hence, requests for the preparation of deeds of sale of real properties and other commercial documents shall be denied.

Section 4. *Mediation, Arbitration and Conciliation.* – Requests for legal assistance in justiciable civil matters, shall first be evaluated by the District Public Attorney/ Officer-in-Charge for the purpose of determining whether the issues could possibly be resolved through mediation or conciliation. In the affirmative, the case shall be assigned to a lawyer of the District, who shall immediately schedule the same for mediation conference, notifying both parties thereof. Conferences shall be within 3 months from acceptance of the case.

4.1 Public Attorneys conducting mediation or conciliation conferences, shall always maintain strict neutrality. They shall encourage the parties to come to an agreement. If a settlement is reached, the lawyer shall prepare a compromise agreement for the signature of the parties. If no agreement is arrived at, the lawyer shall determine whether or not a case should be filed on behalf of the applicant, and submit his/ her recommendation to the District Head, who shall decide the matter. If a decision to file a case is reached, the matter shall be transferred to the Judicial Cases record of the District.

4.2. Requests for assistance under this category are subject to the merit and indigency tests, hence, the Interview Sheet must be accomplished.

Section 5. *Authority to Administer Oaths* – Public Attorneys shall have the general authority to administer oaths in connection with the performance of their official duty free of charge.

5.1. In administering oaths, the Public Attorney shall use the following format:

**NAME OF PAO LAWYER
POSITION/ DESIGNATION
(Pursuant to R.A. No. 9406)**

5.2. ***Recording of Oaths Administered.*** – Every Public Attorney shall maintain a separate record book as register of all the oaths administered, indicating the date thereof, brief description of the document, name of the swearing party, and witnesses, if any.

5.3. ***Reportorial Requirement.*** – Every Public Attorney, exercising the authority to administer oath, shall submit a monthly report of the oaths administered, to the Field Operations and Statistic Service.

Section 6. *Outreach Activities* – The main thrust of the legal aid delivery program of the PAO is to enable the marginalized sector of society to have access to counsel when needed. In carrying out this mission, Public Attorneys shall reach out beyond the confines of their offices, and make access to counsel visible to those who need our legal service. Regional and District Heads, should institutionalize in their respective Regions and Districts, a dynamic inquest program and regular jail visitations.

6.1. ***Custodial Interrogation and Inquest Investigation.*** – District Heads shall ensure that a Public Attorney is available to assist arrested persons during custodial interrogations and inquest investigations. For these purposes, they shall coordinate with Precinct Commanders, other police authorities and Prosecutors in their respective Districts.

a. Public Attorneys shall see to it that the persons assisted are informed of their constitutional rights, before the start of the custodial interrogation, and shall be present at all stages thereof. Should the client agree to execute a statement, he/ she shall be apprised of the consequences thereof, and informed that he/ she is under no compulsion to sign the same.

b. The inquest lawyer shall see to it that due process is accorded the arrested person during an inquest investigation. When proper, he/ she shall assist the client in effecting a compromise with the complainant to avoid court litigation. He/ she shall move for the dropping of the case, if warranted by the evidence, or the submission of the case to the Prosecutor's Office for preliminary investigation.

6.2. ***Jail Visitation Activities*** – Every Regional Public Attorney, Provincial, City and Municipal District Attorney, shall see to it that jails within his/ her Region, Province, City or Municipality, are visited at least twice a month for the purpose of determining:

a. Those detained without legal counsel; and

b. Those in custody beyond the period equal to, or more than the maximum/ minimum imposable penalty for the offense charged.

Those who have been detained for a period equal to, or more than the maximum imposable penalty for the offense charged, or for a period equal to, or more than the minimum of the imposable principal penalty, should be informed, that through a proper motion, they could be released pending trial or appeal, or that they could be released on a reduced bail, or on their own recognizance, as the case may be (Article 29, Revised Penal Code). The discovery of such a situation, should be relayed to the counsel de parte of the detention prisoner, if he/ she is so represented, otherwise, the PAO resident lawyer should be informed of this fact for immediate action, to effect the release of the detained prisoner.

6.3. ***Barangay legal information dissemination and outreach program.***

ARTICLE XI RECORDING AND REPORTING OF CASES AND SERVICES

Section 1. *Recording.* - All requests for legal assistance shall have to be recorded, as follows:

a. The Interview Sheet shall be filled-up by the Interviewer, and signed by the client. The accomplished Interview Sheet shall be attached to the case folder;

b. The control number assigned to the case shall appear in all the forms. Assignment of numbers shall be in the sequence of receipt of cases, regardless of classification, thus, there should be no separate control numbers for judicial and non-judicial cases;

c. Accepted applications shall be recorded in a logbook, at the Provincial, City, Municipal District Offices or Line Services. The logbook shall contain columns for the following data: name of client, date the application was received, PAO Control Number, name of lawyer to whom the case was assigned, nature of case or cause of action, cause of termination, and date of termination;

d. Transfer of cases duly approved by the Provincial, City, Municipal Public Attorneys or Service Heads, shall be recorded in PAO Form No.2-F. This contingency arises when there are changes in court assignments of lawyers, or cases are re-raffled to other branches of the court, when the lawyer assigned retires, transfers to another office, resigns or files an application for leave for more than five (5) days, or other similar situations. The original shall be submitted to the District Head as office file, the duplicate to the transferor and the third copy to the transferee;

e. PAO Form No. 4 (Case History) shall be attached to the case folder, for recording of every development of the case, such as dates of hearing, the witnesses presented on direct or cross-examination, and documents marked as exhibits;

f. Custodial interrogation and Inquest Investigation Services shall be entered in PAO Form No. 5, which shall reflect the date, name of person assisted, offense charged, and place where the services were rendered;

g. Jail visitation activities shall be recorded in PAO Form No. 6, which shall contain the following: the person visited, detainees interviewed and action taken on their problem, if any.

Section 2. Reporting. – All lawyers are required to submit the following reports:

- a. **Monthly Reports** – Public Attorneys shall submit monthly, in triplicate, to the Provincial, City, Municipal District Public Attorney or Service Heads, within the first three (3) working days of the succeeding month, a statistical report of their judicial, quasi-judicial and non-judicial services, as well as limited services and outreach activities, on Monitoring Form No. 01. The Unit Head shall immediately transmit the original of the reports, including his/ her own, to the Field Operations and Statistics Service (FOSS), furnishing the Regional Public Attorney with a copy thereof. A copy shall be retained by the District Office.
- b. **Year-end Reports** – A year-end inventory of pending judicial and non-judicial cases, as well as limited services and outreach activities, shall be submitted to the Provincial, City, Municipal District Public Attorney or Service Heads, within the first five (5) working days of the succeeding year, on PAO Form No. 8. The Provincial, City, Municipal District Public Attorney or Service Head s, shall immediately submit within three (3) working days, the original of the reports, including his/ her own, to the Field Operations and Statistics Service, furnishing the Regional Public Attorney a copy thereof. A copy shall be retained by the District. The Regional Public Attorneys, shall submit within three (3) working days after receipt from the district offices, a consolidated year-end report to the Field Operations and Statistics Service.

**ARTICLE XII
LITIGATION EXPENSE AND SUCCESS FEES**

Section 1. Exemption from Fees and Costs of the Suit. – The clients of the PAO shall be exempt from payment of docket, court fees and other fees, incidental to instituting an action in court, and other quasi-judicial bodies, as an original proceeding or on appeal. (*Section 6 [paragraph 5], R.A. 9406*)

Section 2. Exemption from Filing Fees for Complaints filed before the Prosecutor's Office. – Consistent with the Memorandum dated January 4, 2005 issued by then Secretary of Justice Paul M. Gonzalez as reiterated in Department Circular No. 46 dated June 25, 2010 issued by then Secretary Alberto C. Agra, indigent litigants assisted by the Public Attorney's Office, are exempted from payment of filing fees for complaints filed before the Prosecutor's Office.

Section 3. Costs of suit, attorney's fees and contingent fees – The costs of the suit, attorney's fees and contingent fees, imposed upon the adversary of the PAO clients after a successful litigation, shall be deposited to the National Treasury as trust fund, and shall be disbursed for special allowances of authorized officials and lawyers of the PAO. (*Section 6 [paragraph 6], R.A. 9406*)

Section 4. The handling PAO lawyer shall file a request with the Office of the Clerk of Court of the Metropolitan Trial Court, Metropolitan Circuit Trial Court, Regional Trial Court, Court of Appeals, Supreme Court and cashiers/ sheriffs of the National Labor Relations Commission/ Department of Labor and Employment and other quasi-judicial bodies, to issue the proper receipt to the losing party, with regards to the payment of contingent fees and attorney's fees adjudged in favor of the PAO client, and shall immediately turn-over the same to the PAO cashier to be deposited to the National Treasury.

**ARTICLE XIII
FRANKING PRIVILEGES**

Section 1. Franking Privilege. - The PAO may transmit through ordinary mail and/ or registered mail with return card, free of charge, all official communications and papers directly connected with the conduct of its duties, functions and/ or its exercise of administrative supervision over its personnel. (*Section 6 [paragraph 8], R.A. 9406*)

Section 2. Form. – The envelope or wrapper of the privileged mail matter shall bear on the left upper corner, "Public Attorney" together with its address, and on the right upper corner, the words "Private or unauthorized use to avoid payment of postage is penalized by fine or imprisonment, or both." (*Section 6 [paragraph 9], R.A. 9406*)

Section 3. Provision of envelopes and rubber stamps – The PAO shall provide for the standard mailing envelope and the standard rubber stamp for purposes of compliance with the preceding section.

Section 4. Recording of Outgoing Mails – Every Service, Regional and District Office, shall maintain a separate logbook to serve as record of all official communications sent either through ordinary mail and/ or registered mail with return card, free of charge, indicating therein, the date of mailing, brief description of the mail matter and the registry receipt number, as the case may be.

**ARTICLE XIV
RULE OF CONDUCT**

Section 1. Rule of Conduct for Public Attorneys - Public Attorneys should primarily play the role of peacemakers. They must be guided by a high sense of fairness, integrity, good faith and justice, in the performance of their functions. Cases must be evaluated that only the meritorious ones are entertained, and only deserving persons are extended free legal assistance.

Section 2. In rendering legal services to the needy, Public Attorneys must give the fullest measure of assistance.

PAO lawyers must be courteous in their language and demeanor towards clients and the general public. Our avowed policy should be *“prompt service with a smile”*.

Section 3. No Public Attorney shall take custody of cash or valuables of a client. If there are fees to be paid, the client should be the one to pay. In amicable settlements, the PAO lawyer should refrain from taking custody of any money or valuables which is/ are the object/ s or subject/ s of settlement.

Acceptance of **“pasalubong”** or gifts from clients is punishable under RA 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees), and should, therefore, be strictly avoided.

ARTICLE XV SANCTIONS

Section 1. Administrative Sanction – Disciplinary action in accordance with the existing Civil Service Laws, rules and regulations shall be taken against a PAO lawyer and employee who commits any of the following acts:

- a. Handles cases of persons who are not qualified for legal services under the indigency test, or those who are not entitled to services specifically mentioned in Rule VI (Free Legal Services) of the Implementing Rules and Regulations of R.A. 9406;
- b. Handles cases outside of his/ her court residency assignment, without appropriate written authorization;
- c. Fails to submit monthly and year-end report on time;
- d. Travels abroad without securing a *Permit/ Authority to Travel Abroad* from the Chief Public Attorney;
- e. Fails to transmit records of cases to the Special and Appealed Cases Service within the specified time-frame prescribed herein;
- f. Handles appealed cases in the Appellate Courts, if he/ she is a field lawyer;
- g. Fails to perfect an appeal on time to the prejudice or interest of the client;
- h. Failure to attend inquest duty without valid reason; and
- i. Any other violations in accordance with the PAO and Civil Service Rules and Regulations.

Section 2. Administrative action shall, likewise, be taken against those who will unjustifiably and willfully violate Republic Act No. 9406 and its Implementing Rules and Regulations, without prejudice to the filing of criminal charges under existing penal laws, and the provisions of R.A. 3019 and R.A. No. 6713.

**ARTICLE XV
FINAL PROVISIONS**

Section 1. *Repealing Clause.* – All circulars and memoranda, or any portion thereof, inconsistent herewith, are hereby repealed or modified accordingly.

Section 2. *Effectivity.* – This PAO Operations Manual shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Signed in Cebu City for Manila, Metro Manila on the 27th of August 2010.

PERSIDA V. RUEDA-ACOSTA

Chief Public Attorney