



Republic of the Philippines  
National Police Commission  
NATIONAL HEADQUARTERS, PHILIPPINE NATIONAL POLICE  
**OFFICE OF THE CHIEF, PNP**  
Camp Crame, Quezon City

**PNP MEMORANDUM CIRCULAR**

No. 42 - 2016

**DUTIES AND RESPONSIBILITIES OF POLICE HUMAN RIGHTS OFFICERS  
IN THE CONDUCT OF INSPECTION OF CUSTODIAL FACILITIES**

**1. REFERENCES:**

- a. LOI 55/07 PAMANA (PNP Human Rights Development Program);
- b. General Orders Number DPL 07-20 (Activation of PNP Human Rights Desks);
- c. Performance Governance System – PNP P.A.T.R.O.L. Plan 2030;
- d. Republic Act (RA) No. 9745 otherwise known as the “Anti-Torture Act of 2009”;
- e. RA No. 7438 (Rights of Persons Arrested, Detained, or Under Custodial Investigation);
- f. U.N. Standard Minimum Rules for the Treatment of Prisoners; and
- g. U.N. Convention against Torture (CAT).

**2. RATIONALE:**

The designation and deployment of Police Human Rights Officers (PHROs) is anchored on the top-down strategy of cascading human rights-based policies, strategies, plans, and methods from the highest levels of PNP leadership down to the smallest frontline police unit. Clearly identifying the duties and responsibilities of Police Human Rights Officers would enable them to optimally exercise their functions based on existing laws, police regulations, and international human rights standards for law enforcement. Specifically, by citing the unique role of PHROs in the conduct of inspections in custodial facilities, the PNP is able to implement anti-torture and pro-human rights measures. The target outcome of such inspections is the improvement of protection mechanisms for detainees, enhancement of custodial management procedures, and a deeper inculcation of professionalism and human rights principles among police personnel.

**3. SITUATION:**

As of date, the PNP maintains and operates a total of 1,640 custodial facilities nationwide that could hold at least 1,500 to 2,000 people.

At present, there are 3,648 persons under custody based on the consolidated report from Police Regional Offices. These persons are either person arrested due to the commission of crime/s; arrested suspects covered by a commitment order; and arrested suspects who are under custodial investigation. However, under no circumstances should the arrested suspects under custodial investigation be held in custodial facility beyond the prescribed reglementary period, unless, while in custody, appropriate changes have been filed and a commitment order has been issued by the court concerned or he signed the required waiver of the rights under the provisions of Article 125 of the Revised Penal Code.

In compliance to the United Nations Standard Minimum Rules for the Treatment of Prisoners that all prisoners shall be treated with respect due to their



inherent dignity and value as human being and shall not be subjected to, and shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification, the safety and security of a person under custody, staff, service providers, and visitors shall be ensured at all times.

The drive to prevent and address torture and all forms of ill-treatment is of paramount importance since it is mandated by RA No. 9745, otherwise known as the Anti-Torture Law. The Implementing Rules and Regulations of the said law also require the PNP to submit the records of person under custody to the Commission on Human Rights (CHR). Any act of torture or ill-treatment, by legal definition, is a criminal act. Therefore, the prevention and prosecution of torture is an essential and indispensable law enforcement function.

By tasking PHROs to regularly conduct cell inspections, police personnel in frontline units with custodial facilities are able to receive guidance on proper custodial management and human rights-based policing methods. The said inspections also provide an additional mechanism to promote accountability, transparency, professionalism, and competence among police personnel.

#### 4. PURPOSE:

This Memorandum Circular (MC) provides the policies, directives, guidelines, and procedures on the duties and responsibilities of Human Rights Officers in the conduct of custodial facility inspections.

#### 5. DEFINITION OF TERMS:

For the purpose of this MC, the following terms shall mean:

- a. **Custodial Facility** – a facility of the PNP utilized to place persons under the custody of the PNP.
- b. **Person under Custody** – any person arrested and kept inside the PNP custodial facility for custodial investigation.

#### 6. POLICIES AND GUIDELINES:

The following policies and guidelines shall be adhered by all PNP personnel involved in the conduct of custodial facility inspections.

- a. All designated Police Human Rights Officers of Police Regional Offices (PROs) and Police Provincial Offices/City Police Offices (PPOs/CPOs) shall conduct unannounced random inspection of Custodial Facilities in Cities/Municipalities (C/MPS) within their areas of jurisdiction as follows:

OPR	Office/Unit to be inspected
Regional Police Human Rights Officer	<ol style="list-style-type: none"> <li>a. PRO Custodial Facilities to include RSU's (CIDU, RHPU, RIU, RMU, AVSEU, RMG)</li> <li>b. PPO Custodial Facilities</li> <li>c. City PS Custodial Facilities</li> <li>d. City PO Custodial Facilities</li> <li>e. MPS Custodial Facilities</li> <li>f. Police Assistance Center/Police Precinct Custodial Facilities</li> </ol>
Provincial Human Rights Officer	<ol style="list-style-type: none"> <li>a. PPO Custodial Facilities</li> <li>b. City Custodial Facilities</li> <li>c. MPS Custodial Facilities</li> <li>d. Police Assistance Center/Police Precinct Custodial Facilities</li> </ol>



City Police Office Human Rights Officer	<ul style="list-style-type: none"> <li>a. Police Stations Custodial Facilities under CPO</li> <li>b. Police Assistance Center Custodial Facilities</li> </ul>
City Police Station Human Rights Officer	<ul style="list-style-type: none"> <li>a. Police Station Custodial Facilities under CPS</li> <li>b. Police Assistance Center Custodial Facilities</li> <li>c. Police Precinct Custodial Facilities</li> </ul>

- b. The inspection team is composed of team leader preferably a Police Commissioned Officer (PCO) together with two Police Non-Commissioned Officers (PNCOs) who will serve as recorder/documenter and assistant documenter;
- c. Coordinate with the Chief of Police/unit who has jurisdiction over the Custodial Facilities to be inspected;
- d. Police Human Rights Officers shall wear the PNP Human Rights Officer vest during the conduct of ocular inspection;
- e. Police Human Rights Officers must submit a certification that they have personally conducted inspection with their respective team;
- f. Prepare Custodial Facility Inspection Form to be filled-up during the inspection with emphasis on the following:
  - 1) Number of persons under custody, male and female;
  - 2) Number of custodial facilities/custodial cells for male under custody;
  - 3) Number of custodial facilities/custodial cells for female under custody;
  - 4) Person under custody with serious injury or illness;
  - 5) Person under custody with contagious disease;
  - 6) Records of medical examinations conducted prior to custody;
  - 7) Traces of wounds or other manifestation of torture among persons under custody;
  - 8) Adequate food, water, ventilation, and items for personal hygiene;
  - 9) Presence of custodial officer to monitor health condition of persons under custody;
  - 10) Persons under custody held beyond reglementary period;
  - 11) Record of turn-over and updated turn-over of record;
  - 12) Persons under custody who have availed the services of legal counsel (Public Attorney's Office or Private lawyer);
  - 13) Maintain data base of persons under custody, including their complete name, address, age, sex, and nature of offense/crime committed, date/time arrested and date /time of release; and
  - 14) Pertinent findings of the Police Human Rights Officers
- g. Take pictures of the activity/facilities to document the conduct of ocular inspection. Pictures taken during the inspection will be included in the inspection report to be submitted to HRAO;
- h. Inspecting Police Human Rights Officers shall confiscate all contrabands (e.g. illegal drugs and paraphernalia, deadly weapons, communication gadgets, guns and ammunition, counterfeit money, etc.) for proper disposition;
- i. Police Human Rights Officers shall take note and report the lacking facilities/equipment in the custodial facility for improvement and repair, for inclusion in the future construction of the particular custodial facility;
- j. If a person under custody was found to be tortured, the Police Human Rights Officer should immediately coordinate with the designated Administrative Order 35 (AO35) Prosecutor in their AOR or the Regional State Prosecutor for the creation of AO35 Special Investigation Team who will investigate the torture case;
- k. Human Rights Officers shall conduct a de-briefing session after the inspection to apprise our personnel on the current policies and guidelines in managing custodial facilities;

- l. Maintain records/files of inspections conducted; and
- m. Human Rights Officers of PROs shall collate all inspection report forms from PPOs/CPOs and submit the same to HRAO, including pictures and observations noted during the inspection. The custodial facilities inspection report shall be submitted to HRAO every 10<sup>th</sup> day of the month. A copy of the inspection reports should also be submitted to the Head of Office and concerned LGUs. The Human Rights Officers (HRO) shall submit report and recommend to The Directorate for Investigation and Detective Management the investigation of those concerned personnel found to have violated paragraph 6 hereof which enumerates the procedures in conducting inspection of custodial facilities and also those found to have maltreated and abused any person under custody.

## 7. PENAL CLAUSE/LIABILITY

All PNP personnel found violating any provision of this MC shall be administratively liable pursuant to existing NAPOLCOM and PNP regulations. Likewise, Unit Commanders shall be investigated and if evidence warrants, be held accountable under the principle of Command Responsibility.

## 8. RESCISSION

All PNP policies, directives, and issuances which are inconsistent with the provisions of this MC are hereby deemed rescinded or modified accordingly.

## 9. EFFECTIVITY

This MC shall take effect after 15 days from filing a copy thereof at the UP Law Center in consonance with Section 3, Chapter 2, Book II of Executive Order 292 otherwise known as the "Revised Administrative Code of 1987," as amended.



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