



Handbook on the BJMP Policy on Torture Documentation, Reporting, and Rehabilitation of Torture Victims

December 1, 2015



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Republic of the Philippines

BUREAU OF JAIL AND MANAGEMENT PENOLOGY

Mindanao Avenue, Project 8, Quezon City

MESSAGE

The Bureau of Jail Management and Penology (BJMP) has been supportive to the full implementation of Republic Act 9745 or the Anti-Torture Act of 2009. The launching of this BJMP Anti-Torture Policy Handbook serves as another milestone in the history of the BJMP which coincides with the celebration of the Human Rights Week on December 1-11, 2013.

I take cognizance to the BJMP NHO-Directorate for Inmate Welfare and Development, headed by ISSUPT CAROLINA C. BORRINAGA, Director, IDWD for their continuous collaboration in organizing and facilitating the seminar-workshops, as well as for collating and finalizing this handbook with the technical support and training assistance from the Balay Rehabilitation Center (Balay). In the same way, the BJMP Command Group for their support to this endeavor.

This handbook serves as a practical guide for jail officers in the proper documentation and reporting of torture cases in BJMP managed jails and, eventually, as basis for the implementation of BJMP Torture Rehabilitation Program and necessary referrals to other agencies.

BJMP is an Anti-Torture Agency. "Great care must be exercised so that the human rights of this prisoners are respected and protected, and their spiritual and physical well-being are properly and promptly attended to." (Section 62 of RA 6975 known as the DLG Act of 1990)

J/DIR DIONY D. MAMARIL, CES/(E)
CESO) Chief, BJMP



BALAY REHABILITATION CENTER

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MESSAGE

For several years now, Balay Rehabilitation Center (Balay), a non-profit, non-governmental organization, working for the promotion of human rights and the eradication of torture in the Philippines, worked hand in hand with the Bureau of Jail Management and Penology (BJMP).

Engagements between Balay and BJMP started in the form of human rights orientations and seminars for jail officers all over the country to promote inmate welfare and humane treatment of detainees. The relationship was transformed into a collaboration as the BJMP joined in the process of passing the Anti Torture Law of 2009 (RA 9745) and the ratification of the Optional Protocol for the Convention against Torture (OPCAT) in 2010. The BJMP has also organized a series of seminars for its warden, jail health officers, and custodial officers to promote its policy against torture in places of detention and to document torture victims that are brought for safekeeping in its facilities.

This Handbook on the BJMP Policy on Torture Documentation, Reporting, and Rehabilitation of Torture Victims is one of the significant output of the engagements between Balay and BJMP. It seeks to provide practical knowledge and information to jail personnel and officials at the ground level to effectively perform their mandates and duties as stated by law and policy as well as in fulfillment of their professional and moral obligation. Through this handbook, we hope that it would provide the necessary tools for jail officers to effectively document, report, if not, prevent torture inside and outside the jail.

Moreover, this handbook aspires to facilitate a process towards greater appreciation for the eradication of torture and its moral and legal foundations. It is a recognition of the vital function of the Bureau as one of the pillars of the justice system, especially its role in torture reporting, mitigation and prevention. In the end, we are pleased to support the production of this handbook. We hope that through this, we are able to contribute in mainstreaming and keep the momentum of the BJMP's move towards a torture-free and human jail system in the Philippines.

JOSEPHINE A. LASCANO
Executive Director



Introduction

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The Philippines features a comprehensive legal and policy architecture against torture. In 1988, the Philippines became a State Party to the United Nations Convention against Torture (UNCAT). The Anti-Torture Act (Republic Act 9745), a domestic law penalizing the use of torture and ill-treatment, was passed in 2009. Shortly after, the Philippines acceded to the Optional Protocol on the Convention against Torture (OP-CAT). During the same period, government agencies, in particular the security sector, pledged to work for the eradication of torture. In 2014 the framework for a comprehensive rehabilitation program for torture survivors was launched.

Despite these legislative and policy gains, torture continues to persist in an effort to exact punishment or to force confessions believing that it would dissuade criminality, prevent insurgency, or contain terrorism. The police also resort to excessive and inappropriate use of force to humiliate and extract money from their victims, thus perpetuating the culture of corruption in the process. Amnesty International, in its 2014 report, has concluded that:

“The use of torture is widespread in the Philippines. State security forces including law enforcement officers torture suspects and prisoners. Justice is out of reach for the vast majority of people who are tortured. Perpetrators are almost never held to account. The country has an extensive legislative framework to stop torture, and the government has pledged to increase its efforts to ensure these laws are implemented. The Philippines is also party to key international anti-torture laws and mechanisms. Yet impunity persists.”

This reveals a significant disconnect between policy and practice; its implementation fraught with gaps and challenges. While several torture cases have been filed, no perpetrator has yet been convicted. Torture survivors and their families find it difficult to access compensation and rehabilitation services as well. The weak preventive mechanisms and inadequate prison conditions also increase the risk of torture and ill treatment of vulnerable groups in places of detention. The lack of institutionalized preventive mechanisms increases the risk of vulnerable groups (i.e. detainees) to experience (or continue to experience) torture and ill-treatment.

Another obstacle in deterring torture is poor documentation. Torture cases do not lead to justice for the survivors because the scars on their body and mind have not been appropriately documented by doctors or used by lawyers in legal proceedings. Effective investigation and documentation of alleged torture is decisive in proving that torture has taken place; it is essential in bringing perpetrators to court and ensuring reparation and redress for survivors and their families. Official recognition that torture has taken place also serves to restore individual lives and public morals and sends a strong signal to torturers and those authorizing the use of torture that this is never acceptable.

These gains and gaps form the backdrop of the torture situation in the Philippines. However, while huge challenges remain, civil society organizations and international observers believe that the gains achieved since the passage of the Anti-Torture Law have been significant. While reforms remain to be staggered and piecemeal, the RBMP moves forward to fulfill its commitment to promote a rights-based approach to jail management and uphold its mission of "humane safekeeping" of inmates, among others, within its facilities. This Handbook on the RBMP Policy on Torture Documentation, Reporting, and Rehabilitation of Torture Victims is a humble product of that commitment. This publication aims to help mainstream the Anti-Torture Law and related policies to all jail personnel and officers all over the country. This handbook serves as a practical guide to jail officers regarding their duties and functions with respect to torture reporting, documentation, provision of rehabilitative services and prevention. It also seeks to contribute to the effective implementation and monitoring of the bureau's anti-torture policies and the promotion of human rights in places of detention.

As part of its commitment to promote a rights-based approach to jail management, the Bureau of Jail Management and Penology (BJMP) with support from Balay Rehabilitation Center (Balay) produced this Handbook on the RBMP Policy on Torture Documentation, Reporting, and Rehabilitation of Torture Victims to mainstream the Anti-Torture Law and RBMP-related policies to jails and all of its officers in jails over the country. The handbook serves as a practical guide to jail officers and their duties and functions with respect to torture reporting, documentation, provision of rehabilitative services and prevention. It seeks to contribute to the effective implementation and monitoring of the bureau's anti-torture policies and the promotion of human rights in places of detention.

The RBMP is grateful to the Balay Rehabilitation Center and the Danish Institute Against Torture (DIGNITY) for their support in the publication of this handbook.

R.A. 9745

The Anti-Torture Act of 2009

**Republic of the Philippines
Congress of the Philippines
Metro Manila**

**Fourteenth Congress
Third Regular Session**

Passed and held in Metro Manila, on Monday, the twenty-seventh day of July, two thousand nine.

REPUBLIC ACT NO. 9745

**AN ACT PENALIZING TORTURE AND OTHER CRUEL, INHUMAN AND
DEGRADING TREATMENT OR PUNISHMENT AND PRESCRIBING
PENALTIES THEREFOR**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

Section 1. Short Title. - This Act shall be known as the "Anti-Torture Act of 2009".

Section 2. Statement of Policy. - It is hereby declared the policy of the State:

- (a) To value the dignity of every human person and guarantee full respect for human rights;
- (b) To ensure that the human rights of all persons, including suspects, detainees and prisoners are respected at all times; and that no person placed under investigation or held in custody of any person in authority or agent of a person authority shall be subjected to physical, psychological or mental harm, force, violence, threat or intimidation or any act that impairs his/her free will or in any manner degrades or degrades human dignity;
- (c) To ensure that secret detention places, solitary, incommunicado or other similar forms of detention, where torture may be carried out with impunity, are prohibited; and
- (d) To fully adhere to the principles and standards on the absolute condemnation and prohibition of torture as provided for in the 1987 Philippine Constitution; various international instruments to which the Philippines is a State party such as, but not limited to, the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Rights of the Child (CRC), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT); and all other relevant international human rights instruments to which the Philippines is a signatory.

Section 3. Definitions. - For purposes of this Act, the following terms shall mean:

(a) "Torture" refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

(b) "Other cruel, inhuman and degrading treatment or punishment" refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against a person under his/her custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter.

(c) "Victim" refers to the person subjected to torture or other cruel, inhuman and degrading treatment or punishment as defined above and any individual who has suffered harm as a result of any act(s) of torture, or other cruel, inhuman and degrading treatment or punishment.

(d) "Order of Battle" refers to any document or determination made by the military, police or any law enforcement agency of the government, listing the names of persons and organizations that it perceives to be enemies of the State and that it considers as legitimate targets as combatants that it could deal with, through the use of means allowed by domestic and international law.

Section 4. Acts of Torture. - For purposes of this Act, torture shall include, but not be limited to, the following:

- (a) Physical torture is a form of treatment or punishment inflicted by a person in authority or agent of a person in authority upon another in his/her custody that causes severe pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:
 - (1) Systematic beating, headbanging, punching, kicking, striking with truncheon or rifle butt or other similar objects, and jumping on the stomach;
 - (2) Food deprivation or forcible feeding with spoiled food, animal or human excreta and other staff or substances not normally eaten;
 - (3) Electric shock;

(4) Cigarette burning; burning by electrically heated rods, hot oil, acid; by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wound(s);

(5) The submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;

(6) Being tied or forced to assume fixed and stressful bodily position;

(7) Rape and sexual abuse, including the insertion of foreign objects into the sex organ or rectum, or electrical torture of the genitals;

(8) Mutilation or amputation of the essential parts of the body such as the genitalia, ear, tongue, etc.;

(9) Dental torture or the forced extraction of the teeth;

(10) Pulling out of fingernails;

(11) Harmful exposure to the elements such as sunlight and extreme cold;

(12) The use of plastic bag and other materials placed over the head to the point of asphyxiation;

(13) The use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as:

(i) The administration of drugs to induce confession and/or reduce mental competency; or

(ii) The use of drugs to induce extreme pain or certain symptoms of a disease; and

(14) Other analogous acts of physical torture; and

(b) "Mental/Psychological Torture" refers to acts committed by a person in authority or agent of a person in authority which are calculated to affect or confuse the mind and/or undermine a person's dignity and morals, such as:

(1) Blindfolding;

(2) Threatening a person(s) or his/her relative(s) with bodily harm, execution or other wrongful acts;

(3) Confinement in solitary cells or secret detention places;

(4) Prolonged interrogation;

(5) Preparing a prisoner for a "show trial", public display or public humiliation of a detainee or prisoner;

(6) Causing unscheduled transfer of a person deprived of liberty from one place to another, creating the belief that he/she shall be summarily executed;

(7) Maltreating a member/s of a person's family;

(8) Causing the torture sessions to be witnessed by the person's family, relatives or any third party;

(9) Denial of sleep/rest;

(10) Shame infliction such as stripping the person naked, parading him/her in public places, shaving the victim's head or putting marks on his/her body against his/her will;

(11) Deliberately prohibiting the victim to communicate with any member of his/her family; and

(12) Other analogous acts of mental/psychological torture.

Section 5. Other Cruel, Inhuman and Degrading Treatment or Punishment. - Other cruel, inhuman or degrading treatment or punishment refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against another person in custody, which attains a level of severity sufficient to cause suffering, gross humiliation or debasement to the latter. The assessment of the level of severity shall depend on all the circumstances of the case, including the duration of the treatment or punishment, its physical and mental effects and, in some cases, the sex, religion, age and state of health of the victim.

Section 6. Freedom from Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, An Absolute Right. - Torture and other cruel, inhuman and degrading treatment or punishment as criminal acts, shall apply to all circumstances. A state of war or a threat of war, internal political instability, or any other public emergency, or a document or any determination comprising an "order of battle" shall not and can never be invoked as a justification for torture and other cruel, inhuman and degrading treatment or punishment.

Section 7. Prohibited Detention. - Secret detention places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried out with impunity. Are hereby prohibited.

In which case, the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP) and other law enforcement agencies concerned shall make an updated list of all detention centers and facilities under their respective jurisdictions with the corresponding data on the prisoners or detainees incarcerated or detained therein such as, among others, names, date of arrest and incarceration, and the crime or offense committed. This list shall be made available to the public at all times, with a copy of the complete list available at the respective national headquarters of the PNP and AFP. A copy of the complete list shall likewise be submitted by the PNP, AFP and all other law enforcement agencies to the Commission on Human Rights (CHR), such list to be periodically updated, by the same agencies, within the first five (5) days of every month at the minimum. Every regional office of the PNP, AFP and other law enforcement agencies shall also maintain a similar list for all detentions and detention facilities within their respective areas, and shall make the same available to the public at all times at their respective regional headquarters, and submit a copy, updated in the same manner provided above, to the respective regional office of the CHR.

Section 8. Applicability of the Exclusionary Rule; Exception. - Any confession, admission or statement obtained as a result of torture shall be inadmissible as evidence in any proceedings, except if the same is used as evidence against a person or persons accused of committing torture.

Section 9. Institutional Protection of Torture Victims and Other Persons Involved. - A victim of torture shall have the following rights in the institution of a criminal complaint for torture:

(a) To have a prompt and an impartial investigation by the CHR and by agencies of government concerned such as the Department of Justice (DOJ), the Public Attorney's Office (PAO), the PNP, the National Bureau of Investigation (NBI) and the AFP. A prompt investigation shall mean a maximum period of sixty (60) working days from the time a complaint for torture is filed within which an investigation report and/or resolution shall be completed and made available. An appeal whenever available shall be resolved within the same period prescribed herein.

(b) To have sufficient government protection against all forms of harassment, threat and/or intimidation as a consequence of the filing of said complaint or the presentation of evidence therefor. In which case, the State through its appropriate agencies shall afford security in order to ensure his/her safety and all other persons involved in the investigation and prosecution such as, but not limited to, his/her lawyer, witnesses and relatives; and

(c) To be accorded sufficient protection in the manner by which he/she testifies and presents evidence in any form in order to avoid further trauma.

Section 10. Disposition of Writs of Habeas Corpus, Amparo and Habeas Data Proceedings and Compliance with a Judicial Order. - A writ of habeas corpus or writ of amparo or writ of habeas data proceeding, if any, filed on behalf of the victim of

torture or other cruel, degrading and inhuman treatment or punishment shall be disposed of expeditiously and any order of release by virtue thereof, or other appropriate order of a court relative thereto, shall be executed or complied with immediately.

Section 11. Assistance in Filing a Complaint. - The CHR and the PAO shall render legal assistance in the investigation and monitoring and/or filing of the complaint for a person who suffers torture and other cruel, inhuman and degrading treatment or punishment, or for any interested party thereto.

The victim or interested party may also seek legal assistance from the Barangay Human Rights Action Center (BHRAC) nearest his/her as well as from human rights nongovernment organizations (NGOs).

Section 12. Right to Physical, Medical and Psychological Examination. - Before and after interrogation, every person arrested, detained or under custodial investigation shall have the right to be informed of his/her right to demand physical examination by an independent and competent doctor of his/her own choice. If such person cannot afford the services of his/her own doctor, he/she shall be provided by the State with a competent and independent doctor to conduct physical examination. The State shall endeavor to provide the victim with psychological evaluation if available under the circumstances. If the person arrested is a female, she shall be attended to preferably by a female doctor. Furthermore, any person arrested, detained or under custodial investigation, including his/her immediate family, shall have the right to immediate access to proper and adequate medical treatment. The physical examination and/or psychological evaluation of the victim shall be contained in a medical report, duly signed by the attending physician, which shall include in detail his/her medical history and findings, and which shall be attached to the custodial investigation report. Such report shall be considered a public document.

Following applicable protocol agreed upon by agencies tasked to conduct physical, psychological and mental examinations, the medical reports shall, among others, include:

(a) The name, age and address of the patient or victim;

(b) The name and address of the nearest kin of the patient or victim;

(c) The name and address of the person who brought the patient or victim for physical, psychological and mental examination, and/or medical treatment;

(d) The nature and probable cause of the patient or victim's injury, pain and disease and/or trauma;

(e) The approximate time and date when the injury, pain, disease and/or trauma was/were sustained;

(f) The place where the injury, pain, disease and/or trauma was/were sustained;

(g) The time, date and nature of treatment necessary; and

(h) The diagnosis, the prognosis and/or disposition of the patient.

Any person who does not wish to avail of the rights under this provision may knowingly and voluntarily waive such rights in writing, executed in the presence and assistance of his/her counsel.

Section 12. Who are Criminally Liable. - Any person who actually participated or induced another in the commission of torture or other cruel, inhuman and degrading treatment or punishment or who cooperated in the execution of the act of torture or other cruel, inhuman and degrading treatment or punishment by previous or simultaneous acts shall be liable as principal.

Any superior military, police or law enforcement officer or senior government official who issued an order to any lower ranking personnel to commit torture for whatever purpose shall be held equally liable as principals.

The immediate commanding officer of the unit concerned of the AFP or the immediate senior public official of the PNP and other law enforcement agencies shall be held liable as a principal to the crime of torture or other cruel or inhuman and degrading treatment or punishment for any act or omission, or negligence committed by him/her that shall have led, assisted, abetted or allowed, whether directly or indirectly, the commission thereof by his/her subordinates. If he/she has knowledge of or, owing to the circumstances at the time, should have known that acts of torture or other cruel, inhuman and degrading treatment or punishment shall be committed, is being committed, or has been committed by his/her subordinates or by others within his/her area of responsibility and, despite such knowledge, did not take preventive or corrective action either before, during or immediately after its commission, when he/she has the authority to prevent or investigate allegations of torture or other cruel, inhuman and degrading treatment or punishment but failed to prevent or investigate allegations of such act, whether deliberately or due to negligence shall also be liable as principals.

Any public officer or employee shall be liable as an accessory if he/she has knowledge that torture or other cruel, inhuman and degrading treatment or punishment is being committed and without having participated therein, either as principal or accomplice, takes part subsequent to its commission in any of the following manner:

(a) By themselves profiting from or assisting the offender to profit from the effects of the act of torture or other cruel, inhuman and degrading treatment or punishment;

(b) By concealing the act of torture or other cruel, inhuman and degrading treatment or punishment and/or destroying the effects or instruments thereof in order to prevent its discovery; or(c) By harboring, concealing or assisting in the escape of the principals in the act of torture or other cruel, inhuman and degrading treatment or punishment;

Provided, That the accessory acts are done with the abuse of the official's public functions.

Section 14. Penalties. - (a) The penalty of reclusion perpetua shall be imposed upon the perpetrators of the following acts:

(1) Torture resulting in the death of any person;

(2) Torture resulting in mutilation;

(3) Torture with rape;

(4) Torture with other forms of sexual abuse and, in consequence of torture, the victim shall have become insane, imbecile, impotent, blind or maimed for life; and

(5) Torture committed against children.

(b) The penalty of reclusion temporal shall be imposed on those who commit any act of mental/psychological torture resulting in insanity, complete or partial amnesia, fear of becoming insane or suicidal tendencies of the victim due to guilt, worthlessness or shame.

(c) The penalty of prison correccional shall be imposed on those who commit any act of torture resulting in psychological, mental and emotional harm other than those described in paragraph (b) of this section. '

(d) The penalty of prison mayor in its medium and maximum periods shall be imposed if, in consequence of torture, the victim shall have lost the power of speech or the power to hear or to smell; or shall have lost an eye, a hand, a foot, an arm or a leg; or shall have lost the use of any such member; Or shall have become permanently incapacitated for labor.

(e) The penalty of prison mayor in its minimum and medium periods shall be imposed if, in consequence of torture, the victim shall have become deformed or shall have lost any part of his/her body other than those aforesaid, or shall have lost the use thereof, or shall have been ill or incapacitated for labor for a period of more than ninety (90) days.

(f) The penalty of prison correccional in its maximum period to prison mayor in its minimum period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for more than thirty (30) days but not more than ninety (90) days.

(g) The penalty of prison correccional in its minimum and medium period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for thirty (30) days or less.

(k) The penalty of arrests mayor shall be imposed for acts constituting cruel, inhuman or degrading treatment or punishment as defined in Section 5 of this Act.

(l) The penalty of prison correctional shall be imposed upon those who establish, operate and maintain secret detention places and/or effect or cause to effect solitary confinement, incommunicado or other similar forms of prohibited detention as provided in Section 7 of this Act where torture may be carried out with impunity.

(m) The penalty of arrests mayor shall be imposed upon the responsible officers or personnel of the AFP, the PNP and other law enforcement agencies for failure to perform his/her duty to maintain, submit or make available to the public an updated list of detention centers and facilities with the corresponding data on the prisoners or detainees incarcerated or detained therein, pursuant to Section 7 of this Act.

Section 15. Torture as a Separate and Independent Crime. - Torture as a crime shall not absorb or shall not be absorbed by any other crime or felony committed as a consequence, or as a means in the conduct or commission thereof. In which case, torture shall be treated as a separate and independent criminal act whose penalties shall be imposed without prejudice to any other criminal liability provided for by domestic and international laws.

Section 16. Exclusion from the Coverage of Special Amnesty Law. - In order not to depreciate the crime of torture, persons who have committed any act of torture shall not benefit from any special amnesty law or similar measures that will have the effect of exempting them from any criminal proceedings and sanctions.

Section 17. Applicability of Refouler. - No person shall be expelled, returned or extradited to another State where there are substantial grounds to believe that such person shall be in danger of being subjected to torture. For the purposes of determining whether such grounds exist, the Secretary of the Department of Foreign Affairs (DFA) and the Secretary of the DOJ, in coordination with the Chairperson of the CHR, shall take into account all relevant considerations including, where applicable and not limited to, the evidence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights.

Section 18. Compensation to Victims of Torture. - Any person who has suffered torture shall have the right to claim for compensation as provided for under Republic Act No. 7309: Provided, That in no case shall compensation be any lower than Ten thousand pesos (P10,000.00). Victims of torture shall also have the right to claim for compensation from such other financial relief programs that may be made available to him/her under existing law and rules and regulations.

Section 19. Formulation of a Rehabilitation Program. - Within one (1) year from the effectivity of this Act, the Department of Social Welfare and Development (DSWD), the DOJ and the Department of Health (DOH) and such other concerned government

agencies, and human rights organizations shall formulate a comprehensive rehabilitation program for victims of torture and their families. The DSWD, the DOJ and the DOH shall also call on human rights nongovernmental organizations duly recognized by the government to actively participate in the formulation of such program that shall provide for the physical, mental, social, psychological healing and development of victims of torture and their families. Toward the attainment of restorative justice, a parallel rehabilitation program for persons who have committed torture and other cruel, inhuman and degrading punishment shall likewise be formulated by the same agencies.

Section 20. Monitoring of Compliance with this Act. - An Oversight Committee is hereby created to periodically oversee the implementation of this Act. The Committee shall be headed by a Commissioner of the CHR, with the following as members: the Chairperson of the Senate Committee on Justice and Human Rights, the respective Chairpersons of the House of Representatives' Committees on Justice and Human Rights, and the Minority Leaders of both houses or their respective representatives in the minority.

Section 21. Education and Information Campaign. - The CHR, the DOJ, the Department of National Defense (DND), the Department of the Interior and Local Government (DILG) and such other concerned parties in both the public and private sectors shall ensure that education and information regarding prohibition against torture and other cruel, inhuman and degrading treatment or punishment shall be fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment. The Department of Education (DepEd) and the Commission on Higher Education (CHED) shall also ensure the integration of human rights education courses in all primary, secondary and tertiary level academic institutions nationwide.

Section 22. Applicability of the Revised Penal Code. - The provisions of the Revised Penal Code insofar as they are applicable shall be supplementary to this Act. Moreover, if the commission of any crime punishable under Title Eight (Crimes Against Persons) and Title Nine (Crimes Against Personal Liberty and Security) of the Revised Penal Code is attended by any of the acts constituting torture and other cruel, inhuman and degrading treatment or punishment as defined herein, the penalty to be imposed shall be in its maximum period.

Section 23. Appropriations. - The amount of Five million pesos (P5,000,000.00) is hereby appropriated to the CHR for the initial implementation of this Act. Thereafter, such sums as may be necessary for the continued implementation of this Act shall be included in the annual General Appropriations Act.

Section 24. Implementing Rules and Regulations. - The DOJ and the CHR, with the active participation of human rights nongovernmental organizations, shall promulgate the rules and regulations for the effective implementation of this Act. They shall also ensure the full dissemination of such rules and regulations to all officers and members of various law enforcement agencies.

Section 25. Separability Clause. - If any provision of this Act is declared invalid or unconstitutional, the other provisions not affected thereby shall continue to be in full force and effect.

Section 26. Repealing Clause. - All laws, decrees, executive orders or rules and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 27. Effectivity. - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,



JUAN PONCE ENRILE
President of the Senate



PROSPERO C. NOGRALES
Speaker of the House of Representatives

IMPLEMENTING RULES AND REGULATIONS OF THE ANTI-TORTURE ACT OF 2009

This Act which is a consolidation of House Bill No. 5709 and Senate Bill No. 1979 was finally passed by the House of Representatives and the Senate on September 2, 2009.



EMMA LIRIM REYES
Secretary of the Senate



MYRLYN B. BARUA-TUP
*Secretary General
House of Representatives*

Approved: **SEP 14 2009**



GLORIA MACAPAGAL ARROYO
President of the Philippines



IMPLEMENTING RULES AND REGULATIONS OF THE ANTI-TORTURE ACT OF 2009

Section 1. Title. - This shall be known as the implementing rules and regulations of Republic Act No. 9745, otherwise known as the "Anti-Torture Act of 2009".

Section 2. Purpose. - These rules and regulations are hereby promulgated to promote policies, establish the institutional mechanism, prescribe the procedures and guidelines to prevent all forms of torture and other cruel, inhuman and degrading treatment or punishment and ensure the implementation of R.A. No. 9745.

Section 3. Declaration Policy. - It is hereby declared the policy of the State:

(a) To value the dignity of every human person and guarantee full respect for human rights;

(b) To ensure that the human rights of all persons including suspects, detainees and prisoners are respected at all times; and that no person placed under investigation or held in custody by any person in authority or agent of a person in authority shall be subjected to physical, psychological or mental harm, force, violence, threat or intimidation or any act that impairs his/her free will or in any manner degrades or degrades human dignity;

(c) To ensure that secret detention places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried out with impunity, are prohibited;

(d) To fully adhere to the principles and standards on the absolute condemnation and prohibition of torture as provided for in the 1987 Philippine Constitution

(e) To uphold at all times the inherent rights and dignity of all persons as enshrined and guaranteed in the following international instruments:

- (i) International Covenant on Civil and Political Rights (ICCPR);
- (ii) Convention on the Rights of the Child (CRC);
- (iii) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- (iv) Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- (v) Universal Declaration on Human Rights; and
- (vi) all other relevant international human rights instruments to which the Philippines is a signatory.

Section 4. Construction. - These implementing rules and regulations shall be construed to achieve the objectives of the Anti-Torture Act of 2009.

Section 1. Title. - This shall be known as the implementing rules and regulations of Republic Act No. 9745, otherwise known as the "Anti-Torture Act of 2009".

Section 2. Purpose. - These rules and regulations are hereby promulgated to promote policies, establish the institutional mechanism, prescribe the procedures and guidelines to prevent all forms of torture and other cruel, inhuman and degrading treatment or punishment and ensure the implementation of R.A. No. 9745.

Section 3. Declaration Policy. - It is hereby declared the policy of the State:

(a) To value the dignity of every human person and guarantee full respect for human rights;

(b) To ensure that the human rights of all persons including suspects, detainees and prisoners are respected at all times; and that no person placed under investigation or held in custody by any person in authority or agent of a person in authority shall be subjected to physical, psychological or mental harm, force, violence, threat or intimidation or any act that impairs his/her free will or in any manner degrades or degrades human dignity;

(c) To ensure that secret detention places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried out with impunity, are prohibited;

(d) To fully adhere to the principles and standards on the absolute condemnation and prohibition of torture as provided for in the 1987 Philippine Constitution

(e) To uphold at all times the inherent rights and dignity of all persons as enshrined and guaranteed in the following international instruments:

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- (v) Universal Declaration on Human Rights; and
- (vi) all other relevant international human rights instruments to which the Philippines is a signatory.

Section 4. Construction. - These implementing rules and regulations shall be construed to achieve the objectives of the Anti-Torture Act of 2009.

Section 5. Definition of Terms. - The following shall be defined as:

Torture - refers to an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a person in

authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

Other cruel, inhuman and degrading treatment or punishment - refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of the Act, inflicted by a person in authority or agent of a person in authority against a person under his/her custody, which attains a level of severity causing suffering, gross humiliation or debasement to the latter.

Victim - refers to the person subjected to torture or other cruel, inhuman and degrading treatment or punishment as defined above and any individual who has suffered harm as a result of any act(s) of torture, or other cruel, inhuman and degrading treatment or punishment.

Order of Battle - refers to any document or determination made by the military, police or any law enforcement agency of the government, listing the names of persons and organizations that it perceives to be enemies of the State and that it considers as legitimate targets as combatants that it could deal with, through the use of means allowed by domestic and international law.

Act- refers to Republic Act No. 9748 or the Anti-Torture Act 2009.

Person in Authority - refers to any person directly vested with jurisdiction, whether as an individual or as a member of a court or government corporation, board, or commission.

Agent of a person in authority - refers to any person who, by direct provision of law or by election or by appointment of a competent authority, is charged with the maintenance of public order and the protection and security of life and property including any person who comes to the aid of persons in authority.

Custodial Investigation - shall include the practice of issuing an invitation to a person who is investigated in connection with an offense he/she is suspected to have committed, without prejudice to the liability of the inviting officer for any violation of law, as defined in R.A. No. 7438 or "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 Prescribing Penalties for Violations Thereof".

Interrogation - refers to the process of questioning an arrested or detained person in relation to any violation of law.

Solitary Confinement - is a form of imprisonment in which a prisoner(s) or detainee(s) is denied contact with any other persons, except members of the prison or detention staff. Solitary confinement also exists when occasional access to the prisoner(s) or detainee(s) is subjected to the discretion of the jailer or prison or detention authority.

Incommunicado - refers to a condition wherein a person under investigation or detention is deliberately prohibited, without valid reason, from communicating in any manner with any person other than the persons holding him/her under custody.

Prohibited custody - refers to the captivity or deprivation of liberty of an individual, whether static or mobile, without just cause.

Prohibited detention - refers to the secret detention places, solitary confinement, incommunicado or other similar forms of detention, where torture may be carried out with impunity.

Right to own choice - refers to the right of all persons in custody to be informed in oral or written form, in a language or dialect understood by the alleged torture victim or the person concerned, of the right to demand a physical examination by a physician of his/her own choice.

Independent and competent doctor - refers to any physician freely chosen by the victim or his/her duly authorized representatives to conduct physical examination and treatment of tortured victims. Physicians who belong to agencies that are involved in the arrest and detention of the victim are not included, unless the victim specifically allowed such examination and when circumstances so require.

Right to Physical Examination - refers to the right of every person arrested, detained or under custodial investigation to prompt and thorough examination for the purpose of determining whether or not torture has been inflicted. This also refers to access without any delay to such an examination, which shall be made before and after any act of interrogation and immediately before and after any transfer of the person to places of detention.

Barangay Human Rights Action Center (BHRAC) - refers to the barangay institutional mechanism, which receives and refers complaints of human rights violations, including torture.

Section 6. Acts of Torture - For purposes of these rules and regulations, torture shall include, but not be limited to the following:

(a) Physical torture is a form of treatment or punishment inflicted by a person in authority or agent of a person in authority upon another in his/her custody that causes severe pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:

(1) Systematic beating, head banging, punching, kicking, striking with truncheon or rifle butt or other similar objects, and jumping on the stomach. For purposes of these rules, stomach shall mean abdomen.

(2) Fecal deprivation or forcible flooding with spoiled food, animal or human excreta and other stuff or substances not normally eaten.

(3) Electric shock;
(4) Cigarette burning; burning by electrically heated rods, hot oil, acid; by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on the wounds);

(5) The submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;

(6) Being tied or forced to assume fixed and stressful bodily position;

(7) Rape and sexual abuse, including the insertion of foreign objects into the sex organ or rectum, or electrical torture of the genitals;

(8) Mutilation or amputation of the essential parts of the body such as the genitalia, ear, tongue, etc.;

(9) Dental torture or the forced extraction of the teeth;

(10) Pulling out of the fingernails;

(11) Harmful exposure to the elements such as sunlight and extreme cold;

(12) The use of plastic bag and other materials placed over the head to the point of asphyxiation;

(13) The use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as:

(i) The administration of drugs to induce confusion and/or reduce mental competency; or

(ii) The use of drugs to induce extreme pain or certain symptoms of a disease; and

(14) Other analogous acts of physical torture; and

(b) **Mental/Psychological Torture** refers to acts committed by a person in authority or agent of a person in authority which are calculated to affect or confuse the mind and/or undermine a person's dignity and morale, such as:

(1) Blindfolding;

(2) Threatening a person(s) or his/her relative(s) with bodily harm, execution or other wrongful acts;

(3) Confinement in solitary cells or secret detention places;

(4) Prolonged interrogation;

(5) Preparing a prisoner for a show trial, public display or public humiliation of a detainee or prisoner;

(6) Causing unscheduled transfer of a person deprived of liberty from one place to another, creating the belief that he/she shall be summarily executed;

(7) Maltreating a member(s) of a person's family;

(8) Causing the torture sessions to be witnessed by the person's family, relatives or any third party;

(9) Denial of sleep/ rest;

(10) Shame infliction such as stripping the person naked, parading him/ her in public places, chasing the victim's head or putting marks on his/her body against

against his/her will;

(11) Deliberately prohibiting the victim to communicate with any member of his/her family; and

(12) Other analogous acts of mental/psychological torture.

Section 7. Other Cruel, Inhuman and Degrading Treatment or Punishment.

– Other cruel, inhuman and degrading treatment or punishment refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of the Act, inflicted by a person in authority or agent of a person in authority against another person in custody, which attains a level of severity sufficient to cause suffering, gross humiliation or debasement to the latter. The assessment of the level of severity shall depend on all the circumstances of the case, including the duration of the treatment or punishment, its physical and mental effects and, in some cases, the sex, religion, age and state of health of the victim.

Section 8. – Freedom from Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, An Absolute Right.

– Torture and other cruel, inhuman and degrading treatment or punishment as criminal acts shall apply to all circumstances. A state of war or a threat of war, internal political stability, or any other public emergency, or a document of any denomination comprising an "order of battle" shall not and can never be invoked as a justification for torture and other cruel, inhuman and degrading treatment or punishment.

Section 9. – Nature of the Offense. – Any person having personal knowledge of the circumstances involving the commission of the crime may file a complaint under acts punishable by Sections 6 and 7 hereof.

Section 10 – Secret Detention Places, Solitary Confinement, Incommunicado or Other Similar Forms of Detention. – No individual, whether arrested, detained, or under custodial investigation, restricted or deprived of liberty for any reason, shall be kept in secret detention, solitary confinement, held incommunicado, prohibited custody or other similar forms of detention.

Under no circumstances shall such detention centers be allowed and, if found, its use as secret detention center shall be discontinued immediately.

Section 11. – Inspection by the CHR of Detention, Rehabilitation, Confinement and Other Similar Facilities. – The Commission on Human Rights (CHR) shall exercise its visitatorial powers at any time over jails, prisons and detention facilities and it shall be kept in secret detention facility inside military camps, police lock-up cells, jails, prisons, youth homes, and any detention, rehabilitation, confinement and other similar facilities.

The custodial authorities shall validate or verify the identity and authority of the CHR visitation team without delay.

Section 12. – List of Detention Centers, Facilities and Register of Detainees and Prisoners. – The Philippine National Police (PNP), Armed Forces of the Philippines (AFP), National Bureau of Investigation (NBI), Bureau of Jail Management and Penology (BJMP), Bureau of Corrections (BucCor), Philippine Drug Enforcement Agency (PDEA), and all other law enforcement agencies and local chief executives having jurisdiction over provincial jails shall make an updated list of all detention centers and facilities under their respective jurisdictions with the corresponding data on the prisoners or detainees incarcerated or detained therein such as, among others, names, dates of arrest and incarceration, and the crime or offense charged. Such list shall be periodically updated by the said agencies and local chief executives within the first five (5) days of every month at the minimum.

Within sixty (60) days from the adoption of these rules and regulations, the CHR shall prescribe a standard format and guidelines for reporting the list of detention centers and facilities at the national and regional and local levels. It shall also prescribe the contents of register of detention centers and facilities.

The updated list shall be made available to the public at all times, with copies available at the respective national headquarters or offices of the above mentioned agencies; Provided, however, that any records of children or of persons involved in sexual violence cases shall not be accessible to the public pursuant to R.A. 7610, R.A. 8151, R.A. 9144 and other related laws.

Section 13. – Compliance of the Regional Offices. – All regional or similar offices of the agencies referred to in the preceding section shall also maintain a similar list of all detention centers and facilities within their respective jurisdictions together with the up-to-date register of detainees and/or prisoners, make the same available to the public at all times at their respective regional headquarters, and submit a copy, updated in the same manner provided above, to the respective regional offices of the CHR.

Section 14. – Applicability of the Exclusionary Rule; Exception. – Any confession, admission or statement obtained as a result of torture shall be inadmissible as evidence in any proceeding, except if the same is used as evidence against a person or persons accused of committing torture.

Section 15. – Institutional Protection of Torture Victims and Other Persons Involved. – A victim of torture shall have the following rights in the institution of a criminal complaint if torture:

(a) A victim of torture shall have the right to a prompt and impartial fact-finding investigation within the period of sixty (60) days by the CHR, PNP, DOJ/NBI, AFP and other concerned government agencies where the complainant is lodged.

The Public Attorney's Office (PAO) shall assist the victim/s in the preparation of affidavits and other legal documents.

When the case is referred to the Department of Justice (DOJ) or the Ombudsman for preliminary investigation, the 60-day period shall be reckoned from the filing of the complaint before said agencies.

(b) A child shall always be accompanied by a social worker from the Local Social Welfare Development Office (LSWDO). The LSWDO shall ensure that medical examination is conducted, preferably with the presence of the parent or legal guardian. The LSWDO shall likewise ensure the filing of a complaint to the appropriate agencies.

Section 16. – Sufficient Government Protection Against All Forms of Harassment, Threat and/or Intimidation. – Upon filing of the complaint, during trial and until the cases reach final disposition, the victim, as well as other persons involved in the investigation and prosecution of the case, shall be provided with sufficient government protection such as placing the persons being investigated under preventive suspension during the period of administrative investigation, filing a motion in the court to transfer the detainee to a safe place and other remedies as may be provided by the law.

The following to be considered in granting protection may include, among others, the following:

- (1) Power and position of the perpetrator;
- (2) Capacity and access to resources of the accused;
- (3) History of retaliatory action of the accused;
- (4) Economic, social status, and gender of the victim and other involved persons;
- (5) Degree of severity of the act complained of; and
- (6) Geographical distance between the victim/other involved persons and the accused.

The victim of torture and witnesses to torture may avail of the benefits under R.A. 6950, otherwise known as the "Witness Protection, Security and Benefit Act", and other applicable laws.

Section 17. – Manner of Testifying and Presentation of Evidence. – Torture victims and witnesses to torture shall be accorded sufficient protection in the manner by which he/she testifies and presents evidence in any forum in order to avoid further trauma. Appropriate government agencies may coordinate with concerned civil society organizations in providing such protection.

Whenever necessary, closed circuit television testimony and one-way mirrors and such devices shall be utilized in taking of testimony to prevent direct interaction between the victim/s and accused.

Psychiatrists or psychologists, especially trauma experts, shall provide victims and witnesses in-court assistance when necessary, in accordance with the rule of court.

Child psychologists, child psychiatrists or Court Appointed Special Advocate/ Guardian Ad Litem (CASAGAL) shall also be provided to children, in accordance with the existing rules on examination of a child witness.

Section 18. Assistance in Filing Complaint. – The CHR and the PAO shall render legal assistance in the investigation and monitoring and/or filing of the complaint for a person who suffers torture and other cruel, inhuman and degrading treatment or punishment, or for any interested party thereto, regardless of whether the complainant is indigent or not.

The victim or interested party may also seek legal assistance from the Integrated Bar of the Philippines (IBP) and human rights non-government organizations (NGOs), among others.

The Barangay Human Rights Action Center (BHRAC), through the Barangay Human Rights Action Officers (BHRACs), shall render assistance in the following manner:

- (1) Conduct information education campaign on this law;
- (2) Refer victims of torture to the CHR or other appropriate agency for the conduct of investigation or for legal assistance.

The Department of Interior and Local Government (DILG) and CHR shall conduct information dissemination at the grassroots level to ensure that the citizenry will utilize the BHRAC in filing complaints.

Section 19. Right to Physical, Medical and Psychological Examination. – Before and after interrogation, every person arrested, detained or under custodial investigation shall have the right to be informed of his/her right to demand physical examination by an independent and competent doctor of his/her own choice. The implementation of this right shall likewise ensure that the person has access to a medical examination for the purpose of documenting possible allegations of torture or other ill-treatment.

If each person cannot afford services of his/her doctor, he/she shall be provided by the State with a competent and independent doctor to conduct a physical examination. The State shall likewise provide the victim with a psychological evaluation if available under the circumstances. The medical examination shall be conducted at no cost to the victim, and under no circumstance will he/she be required to pay for laboratory fees, testing fees, x-rays, or any and all other expenses. Failure to prove incapacity to pay shall not be a ground to deny physical examination. If further consultations are necessary, the funds for this purpose may likewise be provided by other agencies that provide financial assistance, such as the Philippine Charity Sweepstakes Office (PCSO) and Philippine Amusement and Gaming Corporation (PAGCOR).

In case of the Department of Health (DOH), each Center for Health Development (CHD) shall ensure that victims are referred to the appropriate health facilities in their jurisdiction. In case of the local government units (LGUs), the local health units may

also provide assistance. The social worker conducting the intake interview may recommend to the LGU the grant of financial/medical assistance.

Section 20. Access to Physical, Medical and Psychological Examination for Treatment, An Immediately Executory Right. – The right to immediate access to proper and adequate physical, medical and psychological examination for treatment of any person arrested, detained or under custodial investigation, and his/her immediate family member such as the parents, brothers and sisters, spouse and children, is an in-homine right that is immediately executory upon demand of the victim without need of any court order or any legal process.

Section 21. Female victims/detainees. – If the person arrested and/or detained is female, she shall be attended to by a female doctor. In cases where female doctors are unavailable, male doctors will be allowed, provided that there is a written or oral consent from the person arrested, and the examination is done in the presence of a family member, preferably female, of sufficient age and discretion, or representative of any organization authorized by the victim.

Facilities for female victims/detainees shall be exclusive to them and separate from the facilities for the male victims/detainees.

In case of victims of sexual torture, utmost care and sensitivity shall be observed in the medical examination of the victim. If specialized care is necessary, the victim shall be referred to the appropriate specialists.

Section 22. – Obligation of the Medical Examiners. – All medical examiners conducting the examinations described in these rules and regulations are under a legal and ethical obligation to conduct a diligent and complete medical examination. Any violation of this obligation by conduct or omission shall be referred to the relevant authorities and medical associations for further investigation. All medical reports must be duly signed by the examining physician.

Section 23. – Medical Report. – The medical report with respect to a medical examination conducted on the torture victim shall be considered a public document. Provided, that any person who seeks to avail of the medical report has legal interest on the same. Provided further, that medical reports involving children and victims of sexual violence shall be kept confidential in conformity with existing laws.

Section 24. – Contents of the Report. – The physician who conducted the medical examination and psychological evaluation shall prepare and sign the report which shall contain the following information:

(I) Case information

- (1) Date and time of examination

- (2) Place of examination
- (3) Address of referring agency/person
- (4) Address of immediate relative or contact person
- (5) Name/position of person requesting the examination
- (6) Case number
- (7) Duration of evaluation in hours and minutes
- (8) Subject's full name (given name, middle name and surname)
- (9) Subject's birth date
- (10) Subject's birth place
- (11) Subject's gender
- (12) Reason for examination
- (13) Subject's ID number
- (14) Clinician's name
- (15) When present, interpreter's name
- (16) Whether or not informed consent was given by the subject. If none, reason's why.

- (17) Name and position of person accompanying the subject
- (18) Name and position of persons present during the examination
- (19) Whether or not subject is restrained during examination: If "yes",

how/why?

- (20) Name and position of a person to whom the medical report is to be transferred/submitted.
- (21) Transfer date
- (22) Transfer time
- (23) For subjects in custody, whether or not medical evaluation/investigation was conducted without restriction
- (24) Provide details of any restriction

(II) Background Information

- (1) General information (age, occupation, education, family composition, etc.)
- (2) Past medical history
- (3) Review of prior medical evaluations of torture and ill-treatment
- (4) Psychosocial history pre-arrest

(III) Victim's allegations of torture and ill-treatment

- (1) Summary of detention and abuse
- (2) Circumstances of arrest and detention
- (3) Initial and subsequent places of detention (chronology, transportation and detention conditions)
- (4) Narrative account of ill-treatment or torture (in each place of detention)
- (5) Review of torture methods.

(IV) Physical symptoms and disabilities

Describe the development of acute and chronic symptoms and disabilities and the subsequent healing processes.

- (1) Acute symptoms and disabilities
- (2) Chronic symptoms and disabilities

(V) Physical Examination

- (1) General appearance
- (2) Skin
- (3) Face and head
- (4) Eyes, ears, nose and throat
- (5) Oral cavity and teeth
- (6) Chest and abdomen (including vital signs)
- (7) Genitourinary system
- (8) Musculoskeletal system
- (9) Central and peripheral system
- (10) Anogenital system

(VI) Photographs

(VII) Diagnostic test results

(VIII) Interpretation of findings

Physical evidence

- (A) Correlate the degree of consistency between the history of acute and chronic physical symptoms and disabilities with allegations of abuse.
- (B) Correlate the degree of consistency between physical examination findings and allegations of abuse.
- (C) Correlate the degree of consistency between examination findings of the individual with knowledge of torture methods and their common after-effects used in a particular region.

(IX) Conclusions and Recommendations

Physical

- (1) Statement of opinion on the consistency between all sources of evidence cited above (physical and psychological findings, historical information, photographic findings, diagnostic test results, knowledge of regional practices of torture, consultation reports, etc.) and allegations of torture and ill-treatment.
- (2) Reiterate the symptoms and disabilities from which the individual continues to suffer as a result of the alleged abuse.

(X) Consultations

(XI) Physician's certification on the conduct of physical examination:

The undersigned physician(s) shall certify that he/she was allowed to work freely and independently and permitted to speak with and examine (the subject) in private, without any restriction or reservation, and without any form of coercion being used by the detaining authorities. In case restrictions were imposed, the certification shall include said restrictions. The physician(s) shall certify that he/she had to carry out the evaluation with restrictions and shall state the same.

"I hereby certify that I was allowed to work freely and independently and permitted to speak with and examine (the subject) in private, without any restriction or reservation, and without any form of coercion being used by the detaining authorities."

"I hereby certify that I was allowed to examine (the subject) with restrictions."
(State the restrictions)

(XII) Clinician's Signature, Date, Place

(XIII) Relevant Annexes

A copy of the clinician's curriculum vitae, anatomical drawings for identification of torture and ill-treatment, photographs, consultations and diagnostic test results, among others.

(XIV) Psychological History/Examination

- (1) Methods of assessment
- (2) Current psychological complaints
- (3) Post-torture history
- (4) Pre-torture history
- (5) Past psychological/psychiatric history
- (6) Substance use and abuse history
- (7) Mental status examination
- (8) Assessment of social functioning
- (9) Psychological testing
- (10) Neuropsychological testing

(XV) Interpretation of Findings

Psychological evidence

(A) Correlate the degree of consistency between the psychological findings and the report of alleged torture.

(B) Provide an assessment of whether the psychological findings are

expected or typical reactions to extreme stress within the cultural and social context of the individual.

(C) Indicate the status of the individual in the fluctuating course of trauma-related mental disorders over time, i.e. what is the time frame in relation to the torture events and where in the course of recovery is the individual.

(D) Identify any coexisting stressors impinging on the individual (e.g. ongoing prosecution, forced migration, exile, loss of family and social role, etc.) and the impact these may have on the individual.

(E) Mention physical conditions that may contribute to the clinical picture, especially with regard to possible evidence of head injury sustained during the torture or detention.

(XVI) Conclusions and recommendations

Psychological

(1) Statement of opinion on the consistency between all sources of evidence cited above (physical and psychological findings, historical information, photographic findings, diagnostic test results, knowledge of regional practices of torture, consultation reports, etc.) and allegations of torture and ill-treatment.

(2) Reiterate the symptoms and disabilities from which the individual continues to suffer as a result of the alleged abuse.

(3) Provide any recommendations for further evaluation and care for the individual.

(4) If necessary, provide recommendation for rehabilitation program.

(XVII) Consultations

(XVIII) Physician's certification on the conduct of psychological examination:

"I hereby certify that I was allowed to work freely and independently and permitted to speak with and examine (the subject) in private, without any restriction or reservation, and without any form of coercion being used by the detaining authorities."

"I hereby certify that I was allowed to examine (the subject) with restrictions."
(State the restrictions)

(XIX) Clinician's signature, date, place

(XX) Relevant Annexes

A copy of the clinician's curriculum vitae, anatomical drawings for identification of torture and ill-treatment, photographs, consultations and diagnostic test results, among others.

Section 25. Waiver of the Right to Medical Examination/Psychological Evaluation. – Any person who does not wish to avail of the rights to physical, medical and psychological examination as prescribed in the Act may knowingly and voluntarily waive such rights in writing, executed in the presence and assistance of a counsel of his/her own choice and in a language he/she understands.

Section 26. Principal. – (a) Any person who directly participated, forced or induced another in the commission of torture or other cruel, inhuman and degrading treatment or punishment or who cooperated in the execution of the offense of another act without which it would not have been accomplished or who cooperated in the execution of the offense by previous or simultaneous acts shall be liable as a principal.

(b) any superior military, police or law enforcement officer or senior government official who issued an order to any lower ranking personnel to commit torture for whatever purpose shall be held equally liable as principal.

(c) The immediate commanding officer of the unit concerned of the AFP or the immediate senior public official of the PNP and other law enforcement agencies shall be held liable as a principal to the crime of torture or other cruel or inhuman and degrading treatment or punishment for any act or omission, or negligence committed by him/her that shall have led, assisted, abetted or allowed, whether directly or indirectly, the commission thereof by his/her subordinates. If he/she has knowledge of or, owing to the circumstances at the time, should have known that the act of torture or other cruel, inhuman and degrading treatment or punishment shall be committed, is being committed, or has been committed by his/her subordinates or by others within his/her areas of responsibility and, despite such knowledge, did not take preventive or corrective action either before, during or immediately after its commission, when he/she has the authority to prevent or investigate allegations of torture or other cruel, inhuman and degrading treatment or punishment but failed to prevent or investigate allegations of such act, whether deliberately or due to negligence shall also be liable as a principal.

Section 27. Accessories.– Any person who, not being included in Section 26 heretofore, cooperate in the execution of torture or other cruel, inhuman and degrading treatment or punishment by previous or simultaneous acts is an accomplice.

Section 28. Accessories.– Any public officer or employee shall be liable as an accessory if he/she has knowledge that torture or other cruel, inhuman and degrading treatment or punishment is being committed and without having participated therein, either as principal or accomplice, takes part subsequent to its commission in any of the following manner:

- (a) By themselves profiting from or assisting the offender to profit from the effects of the act of torture or other cruel, inhuman and degrading treatment or punishment;
- (b) By concealing the act of torture or other cruel, inhuman and degrading treatment or punishment and/or destroying the effects or instruments thereof in order to prevent its discovery; or

- (c) By harboring, concealing or assisting in the escape of the principal/s in the act of torture or other cruel, inhuman and degrading treatment or punishment; Provided that the accessory acts are done with the abuse of the official's public functions.

If in the event a child is involved in the act of inflicting torture, the handling and treatment of said child shall be in accordance with R.A. 7610, R.A. 9344 (Juvenile Justice and Welfare Act) and other related laws. In case of doubt, the interpretation of any of the provisions of these rules and regulations shall be construed liberally in favor of the child involved in torture acts, i.e., consistent with the best interests of the child, the declared state policy, the rights of the child and principles of restorative justice.

Section 29. Penalties. – (a) The penalty of reclusion perpetua shall be imposed upon the perpetrators of the following acts:

- (1) Torture resulting in the death of any person;
- (2) Torture resulting in mutilation;
- (3) Torture with rape;
- (4) Torture with other forms of sexual abuse and, in consequence of torture, the victim shall have become insane, imbecile, impotent, blind or maimed for life; and
- (5) Torture committed against children.

(b) The penalty of reclusion temporal shall be imposed on those who commit any act of mental/psychological torture resulting in insanity, complete or partial amnesia, fear of becoming insane or suicidal tendencies of the victim due to guilt, worthlessness or shame.

(c) The penalty of prison correccional shall be imposed on those who commit any act of torture resulting in psychological, mental and emotional harm other than those described in paragraph (b) of this section.

(d) The penalty of prison mayor in its medium and maximum periods shall be imposed if, in consequence of torture, the victim shall have lost the power of speech or the power to hear or to smell; or shall have lost an eye, a hand, a foot, an arm or a leg; or shall have lost the use of any such member; or shall have become permanently incapacitated for labor.

(e) The penalty of prison mayor in its minimum and medium periods shall be imposed if, in consequence of torture, the victim shall have become deformed or shall have lost any part of his/her body other than those aforesaid, or shall have lost the use thereof, or shall have been ill or incapacitated for labor for a period of more than ninety (90) days.

(f) The penalty of prison correccional in its maximum period to prison mayor in its minimum period shall be imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for more than thirty (30) days but not more than ninety (90) days.

(g) The penalty of prison correccional in its minimum and medium period shall be

imposed if, in consequence of torture, the victim shall have been ill or incapacitated for labor for thirty (30) days or less.

(h) The penalty of *arresto mayor* shall be imposed for acts of constituting cruel, inhuman or degrading treatment or punishment as defined in Section 5 of the Act.

(i) The penalty of *prisión correccional* shall be imposed upon those who establish, operate and maintain secret detention places and/or effect or cause to effect solitary confinement, incommunicado or other similar forms of prohibited detention as provided in Section 7 of the Act where torture may be carried out with impunity.

(j) The penalty of *arresto mayor* shall be imposed upon the responsible officers or personnel of the AFP, the PNP and other law enforcement agencies for failure to perform his/her duty to maintain, submit or make available to the public an updated list of detention centers and facilities with the corresponding data on the prisoners or detainees incarcerated or detained therein, pursuant to Section 7 of the Act.

This is without prejudice to the provisions of R.A. 7638 or "An Act Defining Certain Rights of Person Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof."

Section 20. Torture as a Separate and Independent Crime. – Torture as a crime shall not absorb or shall not be absorbed by any other crime or felony committed as a consequence, or as means in the conduct or commission thereof. In which case, torture shall be treated as a separate and independent criminal act whose penalties shall be imposed without prejudice to any other criminal liability provided for by domestic and international laws.

Section 21. Inapplicability of Amnesty. – In order not to depreciate the crime of torture, persons who have committed any act of torture shall not benefit from any special amnesty law or similar measures that will have the effect of exempting them from any criminal proceedings and sanctions.

Section 22. Applicability of Refoulee. – No person shall be expelled, returned or extradited to another State where there are substantial grounds to believe that such person shall be in danger of being subjected to torture. For the purpose of determining whether such grounds exist, the Secretary of the Department of Foreign Affairs (DFA) and the Secretary of DOI, in coordination with the Chairperson of the CHR, shall take into account all relevant considerations including, where applicable and not limited to, the existence in the requesting State of a consistent pattern of gross, flagrant or mass violations of human rights.

Section 23. Who May Avail of Compensation. – Any person who has suffered torture as defined in the Act, or in the victim's absence or incapacity, his/her

immediate family, shall have the right to claim for compensation provided for under existing laws, rules and regulations.

In case of death of the tortured victim, the compensation accruing to him/her shall form part of his/her estate.

Section 24. Applications for claims, Where filed. – The application or claims shall be filed with the Bureau of Claims under the DOI as provided for in the R.A. 7309. Request for financial assistance may also be filed with the CHR.

Section 25. Who May File. – The victim, a relative of the victim within the fourth degree of consanguinity, or authorized human rights NGO may assist the victims in filing a claim.

Section 26. Amount of Compensation. – Where there is a finding that torture had been committed, the amount of compensation in R.A. 7309 shall not be less than ten thousand pesos (P10,000.00).

Victims of torture shall also have the right to claim for compensation from such other financial relief programs that may be made available to them under existing laws, including the right to apply for the grant of financial assistance from the CHR.

Section 27. Rehabilitation Program. – Toward the attainment of the restorative justice, rehabilitation programs shall be provided for the physical, psychological and social healing and development of victims of torture and their families.

The victims of torture and their families shall be entitled to avail of the rehabilitation program based on the recommendation of the examining physician in the Medical and Psychological Report.

A parallel rehabilitation program shall also be provided for persons who have been convicted by final judgment of torture and other cruel, inhuman and degrading or punishment.

Section 28. Responsible agencies. – Within one (1) year of the effectivity of the Act, the rehabilitation program shall be formulated by the following agencies:

Department of Social Welfare and Development (DSWD)
Department of Health (DOH)
Department of Justice (DOJ)
Department of Interior and Local Government (DILG)
Commission on Human Rights (CHR)
Council for the Welfare of Children (CWC)
Armed Forces of the Philippines (AFP)
Bureau of Corrections (BuCor)

Human rights non-government organizations duly recognized by the government shall also be called to actively participate in the formulation of such program.

The role and participation of survivors of torture shall be given due consideration by inviting female and male survivors who will be able to represent their collective feelings and opinions on the formulation of a rehabilitation program.

Section 39. Components of the Rehabilitation Program. – The comprehensive rehabilitation program to be developed by the aforementioned agencies shall provide for the physical, mental, social, psychological healing and development of victims of torture and their families.

The parallel rehabilitation program for persons who have committed torture and other cruel, inhuman and degrading or punishment shall be developed for their mental, social, psychological healing and re-integration.

Section 40. Funding for the Rehabilitation Program. – The agencies mandated to provide services for the rehabilitation of victims/perpetrators of torture shall provide the necessary budget for the implementation of the rehabilitation program.

Section 41. Monitoring of Compliance with the Act. – An Oversight Committee (OC) is hereby created to periodically oversee the implementation of the Act. The committee shall be headed by a Commissioner of the CHR, with the following as members: the Chairperson of the Senate Committee on Justice and Human Rights, the respective Chairpersons of the House of Representatives' Committees on Justice and Human Rights, and the Minority Leaders of both houses or their respective representatives in the minority.

The OC shall regularly conduct meetings and submit an annual report to the President on the implementation of the Act. The annual report, which shall be made publicly available, shall also include, among others:

- Identification of the strengths and weaknesses in the implementation of the Act;
- Appraisal of the performance of the government agencies in relation to their duties and responsibilities under the Act; and
- Recommendations on how to improve the implementation of the Act.

The OC shall call the attention of the department and agencies concerned to person their respective duties and responsibilities under the Act and the Rules, and assist them in necessary to ensure the effective implementation of the Act.

Section 42. Active Participation of the NGOs. – The OC recognizes the active

participation of concerned NGOs in exercising its oversight functions. NGOs request the Committee to conduct inquiries, consultations, and/or sector inspections regarding documented violations of the Act.

Section 43. Mandatory Education and Training on Prohibition Against Torture. – The CHR, the DOJ, the Department of National Defense (DND), the Department of the Interior and Local Government (DILG) and such other concerned parties in both the public and private sectors shall ensure that education and information regarding prohibition against torture and other cruel, inhuman and degrading treatment or punishment shall be fully included in the following:

- Government personnel and officials: A continuing education on human rights, prohibition against torture and other cruel, inhuman and degrading treatment or punishment shall be provided to prosecutors, investigators, personnel and officials with remedial and correctional functions and other government personnel and officials who may be involved in the implementations of programs under the Act.

- Law enforcement and security personnel and officials: The education and training shall be integrated in basic curricula in the military and police academies. Continuing education shall likewise be provided for the law enforcement and security personnel.

- Medical personnel: The DOH shall provide adequate formal training for physicians in government health institutions and agencies that provide medical and forensic services to victims of all types of violence, especially cases of torture.

It shall endeavor to provide the same training to private medical practitioners in coordination with the Philippine Medical Association and other medical societies or colleges.

- Inclusion in formal education curricula: The Department of Education (DEPED) and the Commission on Higher Education (CHED), in consultation with the CHR, shall ensure the integration of human rights, anti-torture and other related laws in all primary, secondary and tertiary level academic institutions nationwide.

Section 44. Information Dissemination. – The concerned agencies shall ensure that the information disseminated is comprehensive, clear and in a manner easy to understand. Efforts must be undertaken to inform the public on the definition of torture, what their rights and duties are in relation to it, and how they can be part of sustainable solutions to eradicate the culture of torture. The tri-media should be employed so that the information reaches the widest audience possible.

Section 45. Torture as a Non-Prescriptible Offense. – The statute of limitation or prescription period shall not apply to torture cases.

Section 46. Applicability of the Revised Penal Code. – The provisions of the Revised Penal Code insofar as they are applicable shall be supplementary to the Act. Moreover,

if the commission of any crime punishable under Title Eight (Crimes Against Persons) and Title Nine (Crimes Against Personal Liberty and Security) of the Revised Penal Code is attended by any of the acts constituting torture and other cruel, inhuman and degrading treatment or punishment as defined herein, the penalty to be imposed shall be in its maximum period.

Section 47. Appropriations.- The amount of five million pesos (P5p 5,000,000.00) is hereby appropriated to the CJRR for the initial implementation of the Act. Thereafter, such sums as may be necessary for the continued implementation of the Act shall be included in the annual General Appropriations Act.

Section 48. Separability Clause.- If any provision of these IRR is declared invalid or unconstitutional, the other provisions so affected thereby shall continue to be in full force and effect.

Section 49. Effectivity. - These IRR shall take effect fifteen (15) days after its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Done in the City of Manila, this 10th day of December 2010.


LILIA M. DE LIZA
Secretary of Justice


LORENITA AMOR BORJA
Chair, Commission on Human Rights

Creation of the BJMP Human Rights Affairs Office (HRAO)



MEMORANDUM
CIRCULAR NO. 2011-02
 (Directorate for Operations)

I – REFERENCES:

- A. Universal Declaration of Human Rights (UDHR) of 1948;
- B. International Covenant on Civil and Political Rights (ICCPR);
- C. U.N. Convention Against Torture or Other Cruel, Inhuman and Degrading Treatment or Punishment (CAT);
- D. U.N. Code of Conduct for Law Enforcement Officials;
- E. RA 7438, RA 7877, RA 9262, RA 9745 and other special laws pertaining to the upholding of with human rights standards;
- F. U.N. Standard Minimum Rules for the Treatment of Prisoners;
- G. “The Istanbul Protocol” or the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- H. BJMP Manual (Revised 2007); and
- I. Other administrative issuances on human rights.

II – SITUATION:

At present, the Bureau of Jail Management and Penology (BJMP) have in its custody a total of sixty thousand four hundred thirty-six (60,436) inmates detained in its four hundred twenty-three (423) district, city and municipal jail facilities. Only about five percent (5%) of the detainees are sentenced and the rest are either awaiting or undergoing trial.

Coupled with the fact that most jails in the urban areas are grossly overcrowded, it is imperative then for the BJMP to make sure that they are properly taken care of and that their basic needs such as food, water, and accommodations are provided and that they are humanely treated by the jail officers who are sworn to keep them safe while in detention.

III – PURPOSE:

This Circular sets forth the creation of the BJMP-Human Rights Affairs Office (BJMP-HRAAO) under the Directorate for Inmates Welfare and Development and the Human Rights Desks in the lower units to effectively uphold the human rights of all detainees under the Bureau of Jail Management and Penology (BJMP).

IV – VISION:

The BJMP strives to completely uphold the human rights of the detainees under its care.

V – MISSION:

The Bureau shall keep the detainees safe and ensure their humane treatment in all district, city and municipal jails.

VI – GENERAL POLICIES AND GUIDELINES:

In compliance with the government’s commitment to the principles of human rights and to improve the living conditions of the inmates, the following policies and guidelines are hereby issued:

A. Members of the BJMP shall ensure full respect for the inmates’ human rights and prevent the violation of said rights as part of the Bureau’s self-keeping programs.

B. All BJMP personnel shall be made to undergo appropriate skills trainings on inmates’ human rights.

C. Efforts shall be made to provide the inmates with their basic needs such as adequate food, water, at least one (1) hour daily exercise in the open air and medical and dental services, and their other needs to ensure humane treatment during their confinement.

D. Procedures for the inmates’ complaint mechanism shall be instituted and measures should be made to ensure that inmates who lodged complaints against the personnel or their co-inmates are properly protected from retaliation.

E. Violation of human rights shall be dealt with promptly through the BJMP’s administrative-disciplinary machinery or by the jail’s disciplinary board, as the case may be.

VII. EXECUTION:

A. CONCEPT OF OPERATIONS

The BJMP – Human Rights Action Office under the Directorate for Inmates Welfare and Development is hereby created which shall serve as the office primarily responsible for the formulation, implementation, and monitoring of the BJMP’s human rights development programs in line with the policies set forth herein.

Human Rights Desks are hereby created in all BJMP Regional Offices, Jail Provincial Administration offices and in every jail under their respective Inmates Welfare and Development offices and are tasked with monitoring of the implementation

rights policies and inmates and shall receive and evaluate the inmate's complaints relative to human rights violations.

All complaints for violation of the inmates' human rights shall be promptly acted upon and must be given due course to ensure that their rights are fully respected and ensure further that they are properly protected against retaliation by involved personnel or inmates.

B. TASKS

1. HRAO

a. Initiate advocacy measures to raise the consciousness and internalization of the BIMP personnel on human rights-based jail management;

b. Ensure the Bureau's compliance with pertinent provisions of R.A. 9745 otherwise known as the "Anti – Torture Act of 2009" and its implementing Rules and Regulation;

c. Ensure that education and information regarding prohibition against torture and other cruel, inhuman or degrading treatment or punishment shall be fully included in the training of recruits and schoolings of the regular members of the BIMP;

d. Conduct trainings on the "Istanbul Protocol" or the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

e. Lead the Bureau in participating or initiating human rights –driven events and activities such as Human Rights Week, International Human Rights Day, International Humanitarian Law Day, the National Correctional Consciousness Week (NACCOW) and other related human rights events;

f. Conduct regular and/or random inspections, dialogues, and field inquiries on human rights issues affecting members of the jail service, including violation of their own rights as human beings;

g. Conduct researches and case studies on human rights that derive on the cause, role patterns, capacity gaps, and institutional mechanisms leading to the improvement of the jail service;

h. Initiate inquiries on cases of human rights violations through walk-in complaints or memo propis, through electronic communications, and other means in order to take appropriate actions thereon and upon finding of proof, the same shall be submitted to the DIP or the concerned RD for appropriate action;

i. Adopt measures to ensure the safety and security of the complaining inmates and make sure that the personnel or inmates who are subjects of their complaint will not be able to intimidate, harass, harm or retaliate against them;

j. Monitor, assess, and document human rights issues and concerns for use as reference of the Chief, BIMP; and

k. Perform other tasks as may be directed.

2. Directorate for Human Resource Development

a. Orient the new KOI entrants on the basic aspects of human rights as regards the treatment of inmates; and

b. Perform other tasks as may be directed.

3. Directorate for Personnel and records Management

a. Issue assignment orders for HRAO personnel;

b. Submit names and credentials of HRAO officers for deputation by the CHR; and

c. Perform other tasks as may be directed.

4. Directorate for Comptrollership

a. Provide funding support and annual budget for the BIMP human rights development program to ensure sustainability of its implementation; and

b. Perform other tasks as may be directed.

5. Directorate for Intelligence

a. Provide intelligence on the Wardens and jail personnel who are suspected to be mistreating inmates or are involved in acts which constitute violations of the detainees' human rights and report the information to the HRAO; and

b. Perform other tasks as may be directed.

6. Directorate for Investigation and Prosecution

a. Conduct impartial investigation on human rights violations brought to it by the HRAO or upon order of the Chief, BIMP and prosecute the same if evidence so warrants;

b. Recommend appropriate measures for corrective disciplinary actions according to the nature of the cases investigated; and

c. Perform other tasks as may be directed.

7. Office of Legal Service

a. Conduct hearings on human rights violations pursuant to the BIMP Administrative Disciplinary Machinery;

b. Prepare resolutions/decisions on said cases and replies in cases of appeal;

c. Assist in the review and the revision of the BIMP Manual for it to conform with existing laws on human rights;

d. Assist in the formulation of policies on jail operations that promote and uphold human rights of inmates and personnel; and

a. Perform other tasks as may be directed.

8. Directorate for Operations

- a. Evaluate the existing operational policies and make sure that they are attuned to the human rights standards especially in the aspect of the custody and safekeeping of inmates, during the conduct of Ground Operations and in dealing with jail incidents such as escapes, riots, noise barrage, commotions, etc; and
- b. Perform other tasks as may be directed.

9. Regional Directors

- a. Issue assignment orders for all Human Rights Desk Personnel;
- b. Support the operations of the Human Rights Desks by providing the needed office equipment and supplies and their other needs;
- c. Conduct jail inspections to monitor compliance with laws, rules and regulations pertaining to the inmates' human rights, especially the Anti-Torture Law;
- d. Direct the Regional Investigation and Prosecution Division to act on complaints referred to it by the Chief, RIMP, the Provincial or Jail Human Rights Desks or other parties regarding human rights violations;
- e. Monitor, assess and document human rights issues and concerns for appropriate action, and submit reports on the same to HRAC, if deemed essential;
- f. Coordinate with the CHR's Regional Office with respect to human rights issues and concerns, especially with respect to their compliance with Sec.14 (j) of R.A.9745; and
- g. Perform other tasks as may be directed.

VIII – COORDINATING INSTRUCTIONS:

A. Concerned Directors of Directorates, Heads of Offices and the Regional Directors shall inform their personnel regarding this circular and make sure that they are made aware of their respective responsibilities for the successful implementation of the program; and

B. The Chief, RIMP shall be informed of complaints and the actions taken thereon.

IX – EFFECTIVITY:

This Memorandum Circular takes effect upon approval.


ROSENDO M. BUAL, CESO III
Jail Director
DPC

BJMP Mandatory Reporting on Torture



STANDARD OPERATING PROCEDURE

ISSUED BY	BJMP-DMD-SOP-002
ISSUED	
REVISION NO.	1
ISSUANCE DATE	AUGUST 17, 2018
FILE	SOPI

BJMP Revised Policy on Mandatory Reporting of Torture Cases

I. REFERENCES:

- 1987 Philippine Constitution;
- Republic Act No. 9745 otherwise known as Anti-Torture Act of 2009;
- Implementing Rules and Regulations of the Anti-Torture Act of 2009;
- UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Baguio Rules on Women Offenders and Prisoners;
- BJMP Manual Revised 2015;
- Policy on Mandatory Reporting of Torture Cases dated 02 April 2014; and
- Creation of the BJMP Human Rights Affairs Office (HRAO) dated 21 February 2011

II. BACKGROUND/ RATIONALE

“Torture” as defined in the Anti-Torture Act of 2009, refers to “an act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.”

The word “Victim” on the other hand, “refers to the person subjected to torture or

other cruel, inhuman and degrading treatment or punishment as defined above and any individual who has suffered harm as a result of any act(s) of torture, or other cruel, inhuman and degrading treatment or punishment”.

The act of torture in itself robs the victims of their dignity and has a tremendous effect on their physical, mental and emotional well-being. Torture does not only inflict physical pain on the victims but leaves psychological scars that may disable their normal coping and impede their emotional growth. The inmates in jails are vulnerable to abuse from both jail personnel and law enforcement agents prior to their commitment because they are deprived of liberty and are exposed to all forms of discrimination and unfavorable jail conditions.

The Bureau of Jail Management and Penology is an agency whose mission is to provide humane safekeeping and development of inmates under its custody. It is committed to provide services that will assure that the basic rights of inmates are upheld at all times. It has long been the practice of the Bureau to adhere to international and local laws that advocate the respect of the human rights of its clientele. This policy shall serve as a guideline for the jail personnel in the proper documentation and reporting of torture cases in jails.

III. DEFINITION OF TERMS

Anti-torture Law (R.A. 9745) – is an act penalizing torture and other cruel, inhuman and degrading treatment or punishment and prescribing penalties therefor

Bureau of Jail Management and Penology (BJMP) – is a line agency under the Department of the Interior and Local Government mandated to provide humane safekeeping and development of inmates in all district, city and municipal jails nationwide

BJMP Torture Assessment Form – is a set of tools or instruments used in the proper assessment and detection of torture incidents in the BJMP

Commission on Human Rights (CHR) – is an independent office created by the Constitution of the Philippines, with the primary function of investigating all forms of human rights violations involving civil and political rights

Directorate for Inmates Welfare and Development (DIWD) – is the directorate of BJMP in-charge in implementing inmates’ welfare and development programs and services

Human Rights – rights that are considered universal to humanity, regardless of citizenship, residency status, ethnicity, gender or other considerations

Human Rights Action Officers (HRAO) – refer to jail officers both Commissioned and Non-Commissioned in jail units assigned to attend and to address

the needs of alleged victims of human rights abuses and ensure that the rights of inmates under the custody of the RIMP are respected at all times.

Inmate—a person confined in an institution such as jail, prison or psychiatric hospital.

Inmate's Welfare and Development—is a set of physical, psychosocial, intellectual, vocational and spiritual activities or interventions that facilitate inmate's wellbeing and enhancement in accordance with the accepted social norms and ethical standard.

Inmate Health Record— is a set of documents used for the proper recording of medical findings of inmates under the custody of the RIMP.

Jail—a place for confinement of persons in lawful detention, especially persons awaiting trial under local jurisdiction.

Public Attorney's Office (PAO) – is an agency attached to the Department of Justice that provides free legal assistance to indigent litigants.

Rehabilitation—a process of returning a good or healthy condition, state or way of living.

IV. OBJECTIVES

This revised policy aims to provide a uniform and comprehensive system of screening, documentation and reporting of torture cases in RIMP manned jails. Such will serve as basis for the implementation of RIMP Torture Rehabilitation Program and necessary referrals to other agencies.

V. SCOPE AND APPLICABILITY

This policy shall be applicable to all inmates about to be committed and those under detention in all RIMP manned jails nationwide.

VI. SPECIFIC GUIDELINES

A. Upon Commitment

1. Upon commitment into the jail, an inmate shall be subjected to an initial medical examination by RIMP physician or nurse. The jail health personnel shall perform a thorough physical examination on the said inmate sought to be committed in a room that provides utmost privacy, noting down in the inmate's Health Record (HR) the overall appearance, physical abnormalities, injuries/lesions such as wounds, rashes, scratches, bruises and other identifying

marks of the individual.

2. A female inmate shall be examined by female health personnel. In jails with no female health personnel, the inmate can be examined by male health personnel provided that there is a written or oral consent from the person arrested, and the examination is done in the presence of a family member, preferably female, of sufficient age and discretion, or a representative of any organization authorized by the inmate. If a member of the family is unavailable, the inmate can be examined by male health personnel only in the presence of female jail personnel with a written or oral consent from the inmate.

3. If during the medical examination, signs and symptoms of torture are evident, the jail health personnel shall promptly accomplish the **RIMP Torture Assessment Form** (See attachment) to determine the occurrence of torture on the alleged victim.

4. If it has been determined that the inmate has been subjected to possible torture after the assessment, the jail health personnel shall promptly notify the Warden and the jail Human Rights Action Officer (HRAO) of the incident.

5. The health personnel shall inform the inmate of his/her absolute right to be examined by an independent and competent doctor of the inmate's own choice. If the person cannot afford the services of his/her own doctor, the RIMP shall provide him/her with a competent and independent doctor to conduct a physical examination or refer the case to CHR Forensic or government medical doctor.

6. If the inmate refused to be re-examined, he/she shall sign a waiver in the presence and assistance of a legal counsel of his/her own choice in a language that he/she understands. Said waiver shall be duly witnessed by any member of his/her immediate family of legal age and sufficient discretion.

7. The jail HRAO shall report within twenty-four (24) hours, through telephone call or writing, the case to the concerned CHR Regional Office/Sub-Regional Office or to the Commission on Human Rights (CHR). The telephone call shall be followed by an incident report to be submitted to the RIMP Regional Office and National Headquarters (NHQ)-HRAO/Regional Human Rights Affairs Office (RHRAO).

8. The case shall likewise be referred to the Public Attorney's Office (PAO) for their legal assistance in the investigation and/or filing of complaint pursuant to Section 11, RA 9745.

9. The victim shall undergo psychological evaluation to determine his/her mental/psychological state. An inmate manifesting signs and symptoms of mental health problems as a result of the torture shall be referred to the jail psychiatrist for further evaluation and treatment.

10. In areas where a jail psychiatrist or psychologist is not available,

the inmate shall be referred to a government psychiatric hospital upon the issuance of a court order at the instance of the Warden on the basis of the assessment of the jail health personnel.

11. If the victim manifests physical signs and symptoms of torture, he/she shall be referred to the jail physician/inmate's physician of choice for evaluation and treatment. An inmate, whose injuries need further treatment that cannot be performed in the jail, shall be referred to inmate's doctor or hospital of choice, otherwise, to the nearest government hospital.

12. If the person cannot afford the services of his/her own doctor or hospitalization, the RIMP shall provide means by coordinating with other agencies that provide financial assistance from different office like the Local Government Units (LGU) Philippine Charity Sweepstakes Office (PCSO), Philippine Amusement Gaming Corporation (PAGCOR) as well as charitable Non-Government Organizations (NGOs).

13. All treatment to be done outside of the jail premises shall be carried out only after the issuance of a court order, except in emergency cases where an inmate shall be transported to the nearest hospital immediately. The court shall then be notified and a court order secured.

14. The RIMP physician or the independent and competent doctor of inmate's choice shall prepare a medical report which will form part of the inmate's medical record and shall be made available upon the written consent of the inmate, provided, that any person who seeks to avail of the medical record has legal interest in the same and upon submission of a valid request.

15. The jail psychologist shall likewise prepare a psychological report on the case.

16. The health personnel shall take photographs of the alleged victim which include his/her facial profile and bodily injuries after obtaining an oral or written consent from the inmate. The photographs will form part of the medical records of inmate and shall be kept confidential at all times.

17. All interviews, findings and recommended actions shall be properly documented and shall be handled with utmost confidentiality without media leakage.

II. While in Detention

1. If the alleged torture is committed inside the jail, the jail Human Rights Action Officer (HRAO), the Chief, Inmate Welfare and Development (IWD) Section and the Warden shall immediately be notified.

2. The jail HRAO shall cause the alleged torture victim to be examined by

jail health personnel for signs and symptoms of torture in a room that provides utmost privacy.

3. A female inmate shall be examined by female health personnel. In the absence of female health personnel, a female inmate can be examined by male health personnel provided that there is an oral or written consent from the inmate and the examination is done in the presence of a family member, preferably female, of sufficient age and discretion, or a representative of any organization authorized by the inmate. If no family member is available, the inmate can be examined by male health personnel only in the presence of female personnel with a written or oral consent from the inmate. All medical findings shall be recorded in the Inmate Health Record (IHR).

4. If during the medical examination, signs and symptoms of torture are evident, the health personnel shall promptly accomplish the RIMP Torture Assessment Form (see attachment) to determine the occurrence of torture on the alleged victim.

5. If it has been determined that the inmate has been subjected to possible torture after the assessment, the jail health personnel shall inform the alleged victim of his/her absolute right to be examined by an independent and competent doctor of his/her own choice.

6. If the inmate cannot afford the services of his/her own doctor, the RIMP shall provide him/her with an independent and competent doctor to conduct physical examination or refer the case to CHR Forensic or a government doctor.

7. If the inmate refused a re-examination, he/she shall sign a waiver in the presence and assistance of a legal counsel of his/her own choice in a language that he/she understands. The waiver shall be duly witnessed by any member of his/her immediate family of legal age and sufficient discretion.

8. The jail HRAO shall report within twenty four (24) hours thru telephone call or in writing, the case to the concerned CHR Regional Office/ Sub-Regional Office or the Commission on Human Rights (CHR). The telephone call shall be followed by an incident report to be submitted to the Regional RIMP Office and NHQ HRAO/Regional HRAO.

9. The case shall, likewise, be referred to the Public Attorney's Office (PAO) for legal assistance in the investigation and/or filing of complaint pursuant to Section 11, RA 9745.

10. The jail HRAO shall report the case to the RIMP Regional Director, attention: Investigation and Prosecution Division for the conduct of a parallel investigation and filing of administrative case against the perpetrator if evidence so warrant.

11. The victim shall undergo psychological examination to determine his/her mental/psychological state. An inmate with signs and symptoms of mental health

problems as a result of torture shall be referred to the jail psychiatrist for further evaluation and management.

12. In areas where there are no jail psychiatrist/psychologists, the inmate shall be referred to a government psychiatric hospital upon the issuance of a court order or the issuance of the Warden on the basis of the assessment of the jail health personnel.

13. If the victim manifests physical signs and symptoms of torture, he/she shall be referred to the jail physician or the inmate's physician of choice for evaluation and treatment. Those needing further treatment or hospitalization shall be referred to the inmate's doctor or hospital of choice upon the issuance of a court order except in emergency cases where the inmate shall be transported to the nearest hospital immediately. The Court shall then be notified and a Court Order secured.

14. If the person cannot afford to pay the services of the doctor/hospital of his/her own choice, the RBMP shall provide means by coordinating with other agencies that provide financial assistance e.g. LGU, PCSO, PAGCOR, as well as charitable NGOs.

15. The RBMP physician or the independent and competent doctor of inmate's choice shall prepare a medical report which will form part of the inmate's medical record and shall be made available with the written consent of the inmate, provided, that any person who seeks to avail of the medical record has legal interest in the same and upon submission of a valid request.

16. The jail psychologist shall likewise prepare a psychological report on the case.

17. The health personnel shall take photographs of the alleged victim which include his/her facial profile and bodily injuries after obtaining an oral or written consent from the inmate. The photographs will form part of the medical records of inmate and shall be kept confidential at all times.

18. All interviews, findings and recommended actions shall be properly documented and shall be handled with utmost confidentiality without media mileage.

19. The RBMP Regional Director and the Warden shall ensure utmost protection of the alleged victim consistent with the provisions of Section 16 of the Implementing Rules and Regulations of R.A. 9745.

VII. MONITORING

Monitoring of the implementation of this policy shall be jointly undertaken by the RBMP National Headquarters, specifically the Human Rights Action Office (HRAO), Directorate for Inmate Welfare and Development (DWD) and the Legal Service Office, with the assistance of the Commission on Human Rights (CHR). All jail units shall submit

a monthly report on the incidence of torture cases in jails using the Monthly Human Rights Violation Report.

VIII. REPORTING FORMS (Annexes)

- RBMP Torture Assessment Form
- Form for Medical Report of physician
- Form for Psychological Report of jail psychologist
- Monthly Human Rights Violation Report

IX. PENALTY CLAUSE

Violations of this directive shall be dealt with accordingly pursuant to RBMP Administrative Disciplinary Machinery and other related laws, rules and regulations.

X. SEPARABILITY CLAUSE

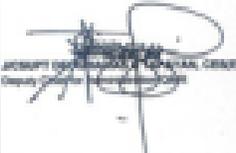
In the event that any provision or part of this policy be declared illegal or rendered invalid by competent authority, those provisions not affected by such declaration shall remain valid and effective.

XI. REPEALING CLAUSE

All issuances inconsistent with this policy are hereby rescinded or modified accordingly.

XII. EFFECTIVITY

This policy shall take effect immediately.

Prepared By:	Reviewed By:	Approved By:
 Joseph Carolina C. Bernardino Director for Inmate Welfare and Development	 Joseph Paul Chongco Chief, Legal Service	 J. R. P. Reyes Regional Director



10 December 2014

**BJMP HQ
 STANDARD OPERATING PROCEDURES
 NUMBER 2014-04**

Comprehensive Rehabilitation Program for Torture Victims and their Families and those who Committed Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment

I. References:

- a. R.A 9745 (Anti-torture Law)
- b. First Indictment from DILG USPS PETER IRVING C. COSVERA dated 18 March 2014
- c. Letter from HON. LORETTA ANN F. ROSALES, Chairperson, Commission on Human Rights (CHR) to BJMP's Rehabilitation Program for Torture Victims and Those who Committed Torture.
- d. BJMP's Policy on Mandatory Reporting of Torture Cases dated 02 April 2004

II. Rationale:

The Bureau of Jail Management and Penology is a strong advocate in the upholding of human rights of the inmates and is opposed to the commission of torture or any inhuman and degrading treatment towards inmates. In line with this advocacy, the BJMP has released a Policy on Mandatory Reporting of Torture Cases as a guideline in the proper assessment and reporting of any suspected cases of torture among inmates. If not addressed appropriately, torture may inflict physical, mental and psychological damage to the victim. As a fulfillment of the Bureau's commitment to eradicate any form of torture, mitigate the impact of any torture acts against the inmates and to prevent the perpetrator from recommitting the same act, the BJMP crafted this guideline in the implementation of Rehabilitation Program for Torture Victims and their Families and Those who Committed Torture.

III. Objectives:

1. To provide a comprehensive guideline for BJMP personnel in the implementation of Rehabilitation Program for Torture Victims

Comprehensive Rehabilitation Program for Torture Victims and their Families and those who Committed Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment

and their Families and Those who Committed Torture.

2. To strengthen the human's stance in the eradication and prevention of torture cases in jail.

3. To mitigate the impact of torture on the victims thereby preventing any physical, mental and psychological damage and/or the restoration of their dignity as human beings.

4. To provide interventions for the perpetrators for their realization of their wrongdoings thereby preventing them from recommencing the same act.

IV. Definition of Terms:

1. Alternative Learning System – refers to a ladderized, modular and non-formal education program for drop outs in the elementary and secondary levels.

2. Case Manager – refers to a focal person of the agency (Social Worker, psychologist, Nurse) who is responsible for the provision and monitoring of services of a particular victim of torture, his/her family and the perpetrator.

3. Inmate Welfare and Development – refers to a set of physical, psychosocial, vocational and spiritual activities or interventions that facilitates inmates' wellbeing and enhancement in accordance with the accepted societal norms and ethical standards.

4. Informed Consent – is a process of getting permission before conducting any form of intervention on a person.

5. Paralegal – a person qualified through education and training to perform substantial legal work that requires legal knowledge of the law and procedures but is not a qualified solicitor or barrister.

6. Perpetrator – refers to a person who commits acts of torture, cruel, inhuman and degrading treatment or punishment to an individual.

7. Psychosocial – refers to one's psychological development or mental health and interaction with the social environment.

8. Rehabilitation – refers to a process of returning to a good or healthy condition, state or a way of living.

9. Restorative Justice – refers to a philosophical framework and a series of programs for the criminal justice system that emphasizes the need to repair the harm done to crime victims through a process of negotiation, mediation, victim empowerment and reparation.

10. Therapeutic Community Modality Program – is a self-help social learning modality that help drug users recover from addiction and utilizes group dynamics to shape an individual's behavior towards productive directions.

11. Torture – refers to an act by which severe pain or suffering, whether physical or mental is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third party has committed or is suspected of having committed; or intimidating or coercing him/her or a third person; or for any reason based on the discrimination of any kind, where such pain or suffering is inflicted or at the instigation of or with the consent or acquiescence of a person in authority or agent of a person in authority.

12. Victim – refers to the person subjected to torture and other cruel, inhuman or degrading treatment or punishment and/or any individual who has suffered harm as a result of any act/s of torture and other cruel, inhuman or degrading treatment or punishment.

V. Scope/Coverage:

These guidelines shall be implemented in all RIMP-managed jails nationwide.

VI. Implementing Guidelines:

The RIMP formulated the following guidelines for implementation in all RIMP-managed jails nationwide:

FOR VICTIMS OF TORTURE

Before any assistance can be provided, the torture victim must have full **informed consent** on the policies, procedures and interventions to be conducted on him/her.

A. Medical/Surgical Intervention

1. Upon admission, all inmates shall be subjected to a thorough medical examination to determine their physical status. The Medical Personnel shall examine the medical certificate of the person being detained to ensure the accurateness of the document.

2. An inmate who is suspected to be a victim of torture upon admission or while in any detention facility of the RIMP, shall immediately be attended to by the Jail Physician or Nurse.

3. All marks, lesions, injuries and psychological symptoms shall be documented in detail using the RIMP Torture Incident Form. Injuries that necessitate treatment will be addressed immediately.

4. A female victim shall be examined by a female Jail Physician or Nurse.

5. Immediate action followed by a written report shall be undertaken pursuant to the RIMP's Policy on Mandatory Reporting of Torture Cases (Memorandum dated 02 April 2014).

6. In the event that no RIMP medical personnel is available, the alleged torture victim shall be brought to the nearest government hospital or inmate's hospital of choice for examination and treatment. For inmates in detention, he/she shall be brought to the nearest hospital/clinic only after the issuance of a court order except in extreme

case of emergency. Should the inmate opt to be brought to a private hospital, he/she shall bear all the expenses that will accrue during his/her hospitalization.

7. If the inmate refuses to be examined and brought to a hospital, he/she shall sign a waiver to that effect. The jail personnel, however, shall report the incident to the Commission on Human Rights (CHR) for further investigation.

8. The Jail Physician or Nurse shall closely monitor the condition of the alleged torture victim until he/she fully recovers.

9. The Jail Warden shall ensure inmate's access to medical, dental and social services while in incarceration.

10. The Jail Warden shall ensure that the victim is being served with adequate, nutritious and palatable food to promote recovery.

11. The Jail Warden shall ensure that the victim's living quarters is clean and sanitary in accordance with the UN minimum standards and that he/she is provided with jail uniforms and hygienic supplies.

B. Case Management

1. Each torture victim shall be assigned to a Case Manager who is either a Psychologist, Social Worker or Nurse, who will handle the case, consolidate the assessment results and monitor the progress of the victim in relation to the different rehabilitation programs that he/she has to undertake in his/her journey towards recovery.

2. The Social Worker shall come up with a Social Case Study to determine the victim's personal, family and social background to aid in the prescription of the right rehabilitation program that best fit to the inmate's needs and motivations.

3. In the event that the Case Manager is not a Social Worker, he/she shall request from the Regional Office for an available Social Worker to conduct the Social Case Study.

C. Psychiatric/Psychological Intervention

1. The alleged torture victim shall immediately be referred to the Jail Psychiatrist or Psychologist or any trained Mental Health professional to undergo Mental Health and Psychological Support (MHPS) to provide psychological first aid in order to mitigate the possible psychological damage that the incident might have inflicted on the victim.

2. The Jail Psychiatrist shall conduct an in-depth Mental Status Examination to determine any signs and symptoms of mental illness and shall initiate psychiatric treatment, if warranted.

3. The alleged torture victim shall undergo a series of counseling under the Jail Psychiatrist or Psychologist to aid the victim in formulating mechanisms of coping with the event, with due respect given to the victim's culture, religion and traditional beliefs.

4. In the absence of a Jail Psychiatrist or Psychologist, the inmate shall be referred to the nearest government hospital that provides the above-mentioned services or any hospital of the inmate's choice only after the issuance of a court order. For hospital of inmate's choice, expenses will be personally borne by the inmate.

5. The Jail Psychiatrist/Psychologist may conduct family counseling sessions if warranted or if requested by the victim.

6. The Jail Warden shall ensure that the victim's visitation right is respected as family support forms an integral part of recovery from trauma.

7. The Psychiatrist/Psychologist shall ensure that gender sensitivity is practiced and that gender issues are being discussed during counseling sessions with emphasis on confidentiality.

D. Economic Empowerment and Assistance

1. Livelihood Training

Based on the assessment of the inmate's capability and interests, he/she will be encouraged to join in any available livelihood programs in the jail. This will provide the alleged torture victim a possible source of income while in jail and once released, at the same time provide him/her with a sense of purpose thereby helping boost his/her self-esteem.

2. Skills Training

The torture victim can avail of skills training being offered by the jail in coordination with GOs and NGOs. The training will provide the inmate with skills that will enable him to become productive once released from jail.

3. Educational training

The torture victim may avail of the Alternative Learning System (ALS) being implemented in jails. Adequate intellectual learning will help the victim pursue his goals after release from jail.

4. Paralegal Assistance

The Paralegal team of the RIMP will assist the inmate for the speedy disposition of his/her case for his/her early release pursuant to pertinent laws.

5. After Care

The torture victim may be assisted by the Jail Social Worker in finding a possible job placement once released from jail and may also be endorsed to other government agencies like the DSWD and NGOs for further assistance while adjusting to life outside of jail.

E. Behavioral Management

1. Therapeutic Community Modality Program

The Bureau is implementing the Therapeutic Community Modality Program (TCMP) as its backbone program for behavioral modification. Through TCMP, the inmate will develop the impetus to change with the help of his peers. It will likewise help him develop a sense of responsibility by helping others as well.

2. Spiritual Intervention

With the help of various religious organizations and the Bureau's Chaplaincy service, the victim will be provided with spiritual guidance in his/her pursuit for answers to his/her existence.

3. Sports/ Physical Conditioning

With the guidance of the health personnel, the victim will be given the opportunity to engage in sports and other physical activities to strengthen his/her physical endurance and develop the spirit of teamwork by working closely with peers in the spirit of fun and competition.

4. Seminars

The victim will be provided with information through seminars and mentoring on human rights issues for him/her to be aware of his/her options at self-preservation.

F. Security Measures

1. While in jail, the victim shall be segregated from the alleged perpetrator to prevent the latter from possibly inflicting more harm to the victim.

2. The Jail Warden shall ensure that the victim is safe and free from any form of threat and intimidation from the alleged perpetrator and others in accordance with Section 14 of the Implementing rules and Regulations of Republic Act 9745.

3. The victim shall be closely monitored to ensure his/her safety while in custody.

4. The jail management shall ensure that the victim will not be subjected to any form of discrimination because of his race, sex and age.

5. The management shall ensure that the needs and privacy of women be respected at all times.

6. The victim shall be oriented as to the availability of a Human Rights Affairs Office (HRAO) in jail.

7. Inmates with special needs, specifically the women, senior citizens, persons with disability, LGBTs and foreigners shall be segregated from the general population.

8. The management shall ensure that the needs of victims with special needs are being addressed appropriately.

G. Legal Assistance

1. The RIMP shall immediately inform the lawyer of the torture victim, if there is any. Should there be none, the jail bureau shall coordinate with the Public Attorney's Office (PAO) or the Commission on Human Rights (CHR) to ensure the protection of all the rights of the victim.

2. The jail bureau shall also conduct a separate investigation of the incident and file appropriate charges against the jail personnel who had committed the alleged torture acts against an inmate under its custody.

H. Preventive Measures

1. The Jail Management shall ensure that no inmate will be subjected to any form of torture, cruel, degrading, or inhuman treatment while in custody.

2. The jail management shall establish a monitoring and reporting mechanism to prevent any torture incident from happening.

3. The Therapeutic Community Modality Program shall be implemented and strengthened as it advocates zero violence as one of its cardinal rules.

4. Inmates with special needs specifically the women, senior citizens, persons with disability, LGBTs, and foreigners shall be segregated from the general jail population as they are prone to abuses from other inmates.

5. Human rights issues and RIMP's anti-torture stance shall be discussed during PARE.

6. Mental Health and Legal professionals of the RIMP shall conduct information and education on inmate's rights and the various services available to prevent the occurrence of human rights violations in jail.

7. The RIMP shall enforce rigorously its disciplinary measures to deter personnel from committing torture acts towards inmates.

FOR THOSE WHO COMMITTED TORTURE

For RIMP personnel who is suspected of committing torture acts against an inmate but has not been convicted for the violation of Anti-torture Law and for an inmate who is a suspected perpetrator but has not been convicted of similar acts of torture, he/she shall be subjected to the following procedures on a voluntary basis while those convicted of the above-mentioned crimes shall undergo the following procedures on a mandatory basis.

A. Psychiatric/ Psychological Intervention

1. If the person who is suspected to have committed similar acts of torture is also an inmate who is in the custody of the RIMP, he/she shall be subjected to a series of psychiatric and psychological evaluation to determine his/her present mental state.

2. The perpetrator shall undergo counseling under the Psychiatrist or Psychologist for him/her to develop the necessary insight as to the cause and effect of his/her actions.

3. If the perpetrator is suffering from a mental disorder that necessitates medical intervention, the Psychiatrist shall initiate the treatment.

4. The perpetrator shall undergo seminars on anger management, stress management, drug abuse and other seminars necessary for him/her to develop better coping skills.

5. If the perpetrator is a jail personnel, he/she shall undergo all the foregoing procedures and shall undergo mandatory drug testing to determine the possibility of drug use. If found positive, he shall undergo Drug Rehabilitation Program under the Health Service Office. Depending on the gravity or severity of drug use, the personnel shall either undergo an out-patient treatment under the RIMP Psychiatrist or shall be referred to a government or private residential drug rehabilitation facility. If the personnel opt for a private drug rehabilitation facility, all the expenses shall be borne by him/her personally.

6. The jail bureau shall as far as practicable, initiate a mediation process between the perpetrator, the victim and possibly the families of the victim to be facilitated by a trained mediator, to discuss the offense committed, its aftermath and the steps needed to repair the damage done in the spirit of Restorative Justice.

B. Behavior Management

1. Behavioral intervention

If the perpetrator is an inmate, he/she shall participate with the Therapeutic Community program of the bureau for him to develop the impetus to initiate change within himself.

2. Spiritual intervention

The perpetrator shall be subjected to sessions with a spiritual advisor of his choice for counseling.

C. Security Measures

1. The perpetrator shall be segregated from the victim. He/she shall be denied access to the area where the victim is held to prevent him from further inflicting any form of harm to the latter.

2. The perpetrator's movement in jail shall be monitored to prevent a repeat of his actions.

3. The jail management shall ensure the safety of the victim in accordance with Section 16 of the Implementing Rules and Regulations of Republic Act No. 9745.

4. The jail management shall likewise ensure the safety of the perpetrator from possible retaliation from the victim, family and others.

D. Legal Intervention/Disciplinary Mechanism

1. Apart from the investigation or complaint filed by the CHR or PWD, the jail management will initiate a parallel investigation on the incident. If the perpetrator is a jail personnel, the proceeding will be spearheaded by the Directorate for Investigation and Prosecution subject to the provisions on Sec. 16 of the Implementing Rules and Regulations of R.A. 9745.

2. If the perpetrator is a fellow inmate who committed similar acts of torture, the jail bureau will assist the victim together with the CHR or PWD in filing appropriate criminal case against the said fellow inmate.

VII. Monitoring and Evaluation

The jail PWD Officer shall submit a monthly report on the number of alleged torture case in his/her area of responsibility to the Regional office. The regional PWD officer shall then collate all the data and submit a regional report to the DPWD.

The DPWD will then make a periodic evaluation as to the effectiveness of the program implementation nationwide.

VIII. Separability Clause

In the event that any provision or part of the policy be declared unauthorized or rendered invalid by a competent authority, those provisions not affected by such declaration shall remain valid and effective.

IX. Repealing Clause

All other existing issuances which are inconsistent with this policy are hereby rendered rescinded or modified accordingly.

X. Effectivity

This policy shall take effect immediately upon approval.



EUSEBIO MACANAY MAMARIL, JR.
Jail Director
Chief, RJMP

Torture Assessment Forms



Republic of the Philippines
Department of the Interior and Local Government
BUREAU OF JAIL MANAGEMENT AND PENOLOGY
Directorate for Inmates Welfare and Development
BJMP Building, 144 Mindanao Avenue, Project 8, Quezon City



TORTURE ASSESSMENT FORM

INMATE'S PERSONAL INFORMATION		
Name:		Alias:
Age:	Birth Date (mm/dd/yyyy)	Birth Place:
Gender:	Civil Status:	Religion:
Address:		
Citizenship:	Highest Educational Attainment:	Occupation:
Height:	Weight:	Distinguishing Marks (Moles, Scars, Tattoos):
Date and Time of Commitment:	Nature of Case:	Name of Jail:
Person to contact in case of emergency (Indicate relationship):	Address:	Contact details:

**ARTICULATED EFFECTS OF TORTURE (DESCRIBE)
(CATEGORIES SUBJECT TO ENFORCEMENT)**

Physical	Psychological	Emotional	Behavioral

Medical Attention

Was the victim notified of his right to a medical examination? Yes No

If so, when? _____

Was the victim examined by a doctor/health worker at any point during or after the incident? Yes No

Name of Doctor/Health Workers: _____ Hospital/Clinic of Doctor: _____

Address of Doctor: _____

Doctor of choice? Yes No If not, who provided doctor? _____

Describe the nature of the examination performed by the doctor and how long the examination took place (please be as specific as possible)

Other persons present during medical examination, if any: _____

Address(es) of other persons present during medical examination, if any: _____

Did the victim receive appropriate treatment for the injuries sustained? Yes No

Describe the treatment received:

Were any medical reports or certificate/s issued? Yes No

If so, what did the reports or certificate/s reveal?/Diagnosis

Physical _____

Mental _____

Consistency of facts alleged and findings

If the victim died in custody, was an autopsy or forensic examination performed? Yes No

If so, what were the results of the autopsy or forensic examination?

Name of person who performed autopsy or forensic examination	Address of Person who performed autopsy or forensic examination
_____	_____

Name and Signature of Inmate

Name and Signature of Witness

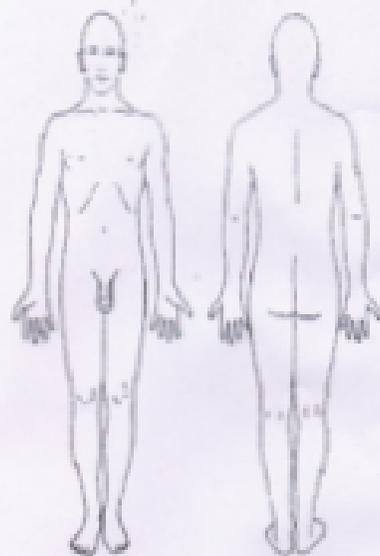
Name and signature of the person accompanying the inmate

Name and signature of Evaluator

Position

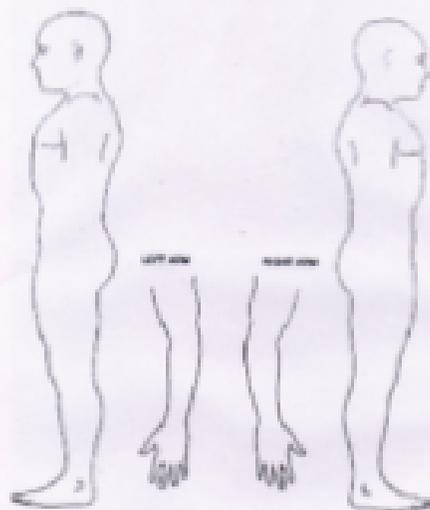
Date

FIGURE 3-11 ANTERIOR AND POSTERIOR VIEWS OF THE HUMAN BODY

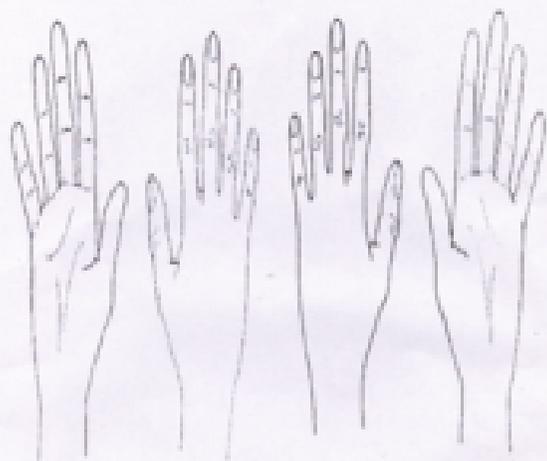


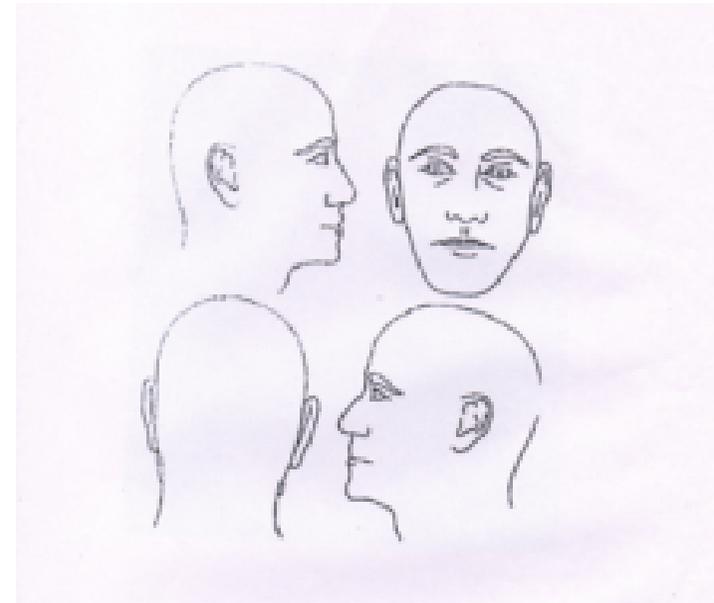
Name: _____ Contact Number: _____
Date: _____

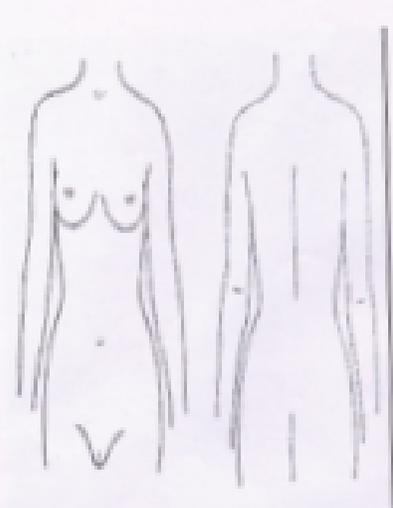
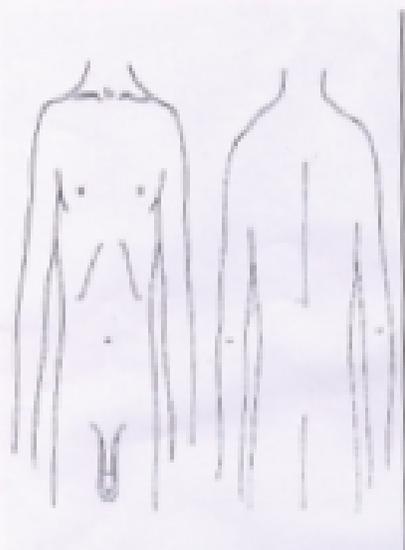
FIGURE 3-12 THE HUMAN BODY - LATERAL VIEW



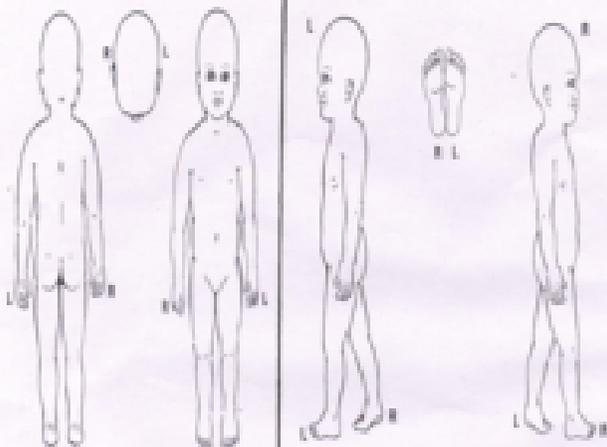
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Commission on Human Rights

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Address: 11-B Malaya Street, Binangay
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Contact Number: (02) 476-7149

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ARMED FORCES OF THE PHILIPPINES HUMAN
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