



Compilation of Laws on **GRAFT AND CORRUPTION**



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Poverty Reduction through Good Governance

COMPILATION OF LAWS ON GRAFT AND CORRUPTION

This is a revised edition of the
Compilation of Laws relating to Graft and Corruption
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OFFICE OF THE OMBUDSMAN

Revised Edition @2004

By the

Office of the Ombudsman

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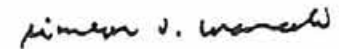
FOREWORD

This is a revised issue of the 2000 Compilation of Laws Relating to Graft and Corruption. The basic purpose of printing this compilation is to make said basic laws accessible to all and to serve as the principal reference material among the investigators, prosecutors, officials and employees of the Office of the Ombudsman, other government employees, private practitioners and even concerned non-governmental organizations. This compilation, since its first *crude* printing in the early 90's, has outgrown its initial intended use and modest objectives. Thus, the compilation now serves as a guidebook to the various Corruption Prevention Units (CPUs), Junior Graft-Watch Units (JGUs), non-governmental organizations, and to members of the academe involved in anti-corruption efforts and good governance.

The Office of the Ombudsman is grateful to the United Nations Development Programme (UNDP) in the Philippines for making the revision and reprinting of this compilation possible. The UNDP, through the National Economic and Development Authority (NEDA), is funding the reprinting of this compilation as the basic reference material in its sponsored nationwide (14 Regions) project of conducting capability building seminars-workshops entitled "*Strengthening Investigative and Prosecutory Capabilities: Focus on the Office of the Ombudsman Deputized Prosecutors.*"

We express our sincere appreciation for the generosity, efforts and untiring support of the UNDP relative to the anti-corruption campaign of the Office of the Ombudsman, in particular and the Government of the Philippines, in general.

Quezon City, Philippines, 04 February 2004.



Simeon V. Marcelo
Tanodbayan

**1987 CONSTITUTION OF THE PHILIPPINES
(ARTICLE XI)**

ACCOUNTABILITY OF PUBLIC OFFICERS

Section 1. Public Office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives.

Section 2. The President, the Vice-President, the Members of the Supreme Court, the Members of the Constitutional Commissions, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust. All other public officers and employees may be removed from office as provided by law, but not by impeachment.

Section 3. (1) The House of Representative shall have the exclusive power to initiate all cases of impeachment.

(2) A verified complaint for impeachment may be filed by any Member of the House of Representatives or by any citizen upon a resolution of endorsement by any Member thereof, which shall be included in the Order of Business within ten session days, and referred to the proper Committee within three session days thereafter. The Committee, after hearing, and by a majority vote of all its Members, shall submit its report to the House within sixty session days from such referral, together with the corresponding resolution. The resolution shall be calendared for consideration by the House within ten session days from receipt thereof.

(3) A vote of at least one-third of all the Members of the House shall be necessary either to affirm a favorable resolution with the Articles of Impeachment of the Committee, or override its contrary resolution. The vote of each Member shall be recorded.

(4) In case the verified complaint or resolution of impeachment is filed by at least one-third of all the Members of the House, the same shall constitute the Articles of Impeachment, and trial by the Senate shall forthwith proceed.

(5) No impeachment proceedings shall be initiated against the same official more than once within a period of one year.

(6) The Senate shall have the sole power to try and decide all cases of impeachment. When sitting for that purpose, the Senators shall be on oath or affirmation. When the President of the Philippines is on trial, the Chief Justice of the Supreme Court shall preside, but shall not vote. No person shall be convicted without the concurrence of two-thirds of all the Members of the Senate.

(7) Judgment in cases of impeachment shall not extend further than removal from office and disqualification to hold any office under the Republic of the Philippines, but the party convicted shall nevertheless be liable and subject to prosecution, trial, and punishment according to law.

(8) The Congress shall promulgate its rules on impeachment to effectively carry out the purpose of this section.

Section 4. The present anti-graft court known as the Sandiganbayan shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law.

Section 5. There is hereby created the independent Office of the Ombudsman, composed of the Ombudsman to be known as Tanodbayan, one overall Deputy and at least one Deputy each for Luzon, Visayas, and Mindanao. A separate Deputy for the military establishment may likewise be appointed.

Section 6. The officials and employees of the Office of the Ombudsman, other than the Deputies, shall be appointed by the Ombudsman according to the Civil Service Law.

Section 7. The existing Tanodbayan shall hereafter be known as the Office of the Special Prosecutor. It shall continue to function and exercise its powers as now or hereafter may be provided by law, except those conferred on the Office of the Ombudsman created under this Constitution.

Section 8. The Ombudsman and his Deputies shall be natural-born citizens of the Philippines, and at the time of their appointment, at least forty years old, of recognized probity and independence, and members of the Philippine Bar, and must not have been candidates for any elective office in the immediately preceding election. The Ombudsman must have for ten years or more been a judge or engaged in the practice of law in the Philippines.

During their tenure, they shall be subject to the same disqualification and prohibitions as provided for in Section 2 of Article IX-A of this Constitution.

Section 9. The Ombudsman and his Deputies shall be appointed by the President from a list of at least six nominees prepared by the Judicial and Bar Council, and from a list of three nominees for every vacancy thereafter. Such appointments shall require no confirmation. All vacancies shall be filled within three months after they occur.

Section 10. The Ombudsman and his Deputies shall have the rank of Chairman and Members, respectively, of the Constitutional Commissions, and they shall receive the same salary, which shall not be decreased during their term of office.

Section 11. The Ombudsman and his Deputies shall serve for a term of seven years without reappointment. They shall not be qualified to run for any office in the election immediately succeeding their cessation from office.

Section 12. The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against public officials or employees of the Government, or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and shall, in appropriate cases, notify the complainants of the action taken and the result thereof.

Section 13. The Office of the Ombudsman shall have the following powers, functions, and duties:

(1) Investigate on its own, or on complaint by any person, any act or omission of any public official, employee, office or agency, when such act or omission appears to be illegal, unjust, improper, or inefficient.

(2) Direct, upon complaint or at its own instance, any public official or employee of the Government, or any subdivision, agency or instrumentality thereof, as well as of any government-owned or controlled corporation with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties.

(3) Direct the officer concerned to take appropriate action against a public official or employee at fault, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith.

(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as may be provided by law, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action.

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents.

(6) Publicize matters covered by its investigation when circumstances so warrant and with due prudence.

(7) Determine the cause of inefficiency, red tape, mismanagement, fraud, and corruption in the Government and make recommendations for their elimination and the observance of high standards of ethics and efficiency.

(8) Promulgate its rules of procedure and exercise such other powers or perform such functions or duties as may be provided by law.

Section 14. The Office of the Ombudsman shall enjoy fiscal autonomy. Its approved annual appropriations shall be automatically and regularly released.

Section 15. The right of the State to recover properties unlawfully acquired by public officials or employees, from them or from their nominees or transferees, shall not be barred by prescription, laches, or estoppel.

Section 16. No loan, guaranty, or other form of financial accommodation for any business purpose may be granted, directly or indirectly, by any government-owned or controlled bank or financial institution to the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, and the Constitutional Commissions, the Ombudsman, or to any firm or entity in which they have controlling interest, during their tenure.

Section 17. A public officer or employee shall, upon assumption of office and as often thereafter as may be required by law, submit a declaration under oath of his assets, liabilities, and net worth. In the case of the President, the Vice-President, the Members of the Cabinet, the Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the Armed Forces with general or flag rank, the declaration shall be disclosed to the public in the manner provided by law.

Section 18. Public officers and employees owe the State and this Constitution allegiance at all times, and any public officer or employee who seeks to change his citizenship or acquire the status of an immigrant of another country during his tenure shall be dealt with by law.

AN ACT PROVIDING FOR THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE OFFICE OF THE OMBUDSMAN, AND FOR OTHER PURPOSES

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

Section 1. Title. — This Act shall be known as "The Ombudsman Act of 1989."

Section 2. Declaration of Policy. — The State shall maintain honesty and integrity in the public service and take positive and effective measures against graft and corruption.

Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, efficiency, act with patriotism and justice and lead modest lives.

Section 3. Office of the Ombudsman. — The Office of the Ombudsman shall include the Office of the Overall Deputy, the Office of the Deputy for Luzon, the Office of the Deputy for the Visayas, the Office of the Deputy for Mindanao, the Office of the Deputy for the Armed Forces, and the Office of the Special Prosecutor. The President may appoint other Deputies as the necessity for it may arise, as recommended by the Ombudsman.

Section 4. Appointment. — The Ombudsman and his Deputies, including the Special Prosecutor, shall be appointed by the President from a list of at least twenty-one (21) nominees prepared by the Judicial and Bar Council, and from a list of three (3) nominees for each vacancy thereafter, which shall be filled within three (3) months after it occurs, each of which list shall be published in a newspaper of general circulation.

In the organization of the Office of the Ombudsman for filling up of positions therein, regional, cultural or ethnic considerations shall be taken into account to the end that the Office shall be as much as possible representative of the regional, ethnic and cultural make-up of the Filipino nation.

Section 5. Qualifications. — The Ombudsman and his Deputies, including the Special Prosecutor, shall be natural-born citizens of the Philippines, at least forty (40) years old, of recognized probity and independence, members of the Philippine Bar, and must not have been candidates for any elective national or local office in the immediately preceding election whether regular or special. The Ombudsman must have, for ten (10) years or more, been a judge or engaged in the practice of law in the Philippines.

Section 6. Rank and Salary. — The Ombudsman and his Deputies shall have the same ranks, salaries and privileges as the Chairman and members, respectively, of a Constitutional Commission. Their salaries shall not be decreased during their term of office.

The members of the prosecution, investigation and legal staff of the Office of the Ombudsman shall receive salaries which shall not be less than those given to comparable positions in any office in the Government.

Section 7. Term of Office. — The Ombudsman and his Deputies, including the Special Prosecutor, shall serve for a term of seven (7) years without reappointment.

Section 8. Removal; Filling of Vacancy. — (1) In accordance with the provisions of Article XI of the Constitution, the Ombudsman may be removed from office on impeachment for, and conviction of, culpable violation of the Constitution, treason, bribery, graft and corruption, other high crimes, or betrayal of public trust.

(2) A Deputy, or the Special Prosecutor, may be removed from office by the President for any of the grounds provided for the removal of the Ombudsman, and after due process.

(3) In case of vacancy in the Office of the Ombudsman due to death, resignation, removal or permanent disability of the incumbent Ombudsman, the Overall Deputy shall serve as Acting Ombudsman in a concurrent capacity until a new Ombudsman shall have been appointed for a full term. In case the Overall Deputy cannot assume the role of Acting Ombudsman, the President may designate any of the Deputies, or the Special Prosecutor, as Acting Ombudsman.

(4) In case of temporary absence or disability of the Ombudsman, the Overall Deputy shall perform the duties of the Ombudsman until the Ombudsman returns or is able to perform his duties.

Section 9. Prohibitions and Disqualifications. — The Ombudsman, his Deputies and the Special Prosecutor shall not, during their tenure, hold any other office or employment. They shall not, during said tenure, directly or indirectly practice any other profession, participate in any business, or be financially interested in any contract with, or in any franchise, or special privilege granted by the Government or any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations or their subsidiaries. They shall strictly avoid conflict of interest in the conduct of their office. They shall not be qualified to run for any office in the election immediately following their cessation from office. They shall not be allowed to appear or practice before the Ombudsman for two (2) years following their cessation from office.

No spouse or relative by consanguinity or affinity within the fourth civil degree and no law, business or professional partner or associate of the Ombudsman, his Deputies or Special Prosecutor within one (1) year preceding the appointment may appear as counsel or agent on any matter pending before the Office of the Ombudsman or transact business directly or indirectly therewith.

This disqualification shall apply during the tenure of the official concerned. This disqualification likewise extends to the law, business or professional firm for the same period.

Section 10. Disclosure of Relationship. — It shall be the duty of the Ombudsman, his Deputies, including the Special Prosecutor to make under oath, to the best of their knowledge and/or information, a public disclosure of the identities of, and their relationship with the persons referred to in the preceding section.

The disclosure shall be filed with the Office of the President and the Office of the Ombudsman before the appointee assumes office and every year thereafter. The disclosures made pursuant to this section shall form part of the public records and shall be available to any person or entity upon request.

Section 11. Structural Organization. — The authority and responsibility for the exercise of the mandate of the Office of the Ombudsman and for the discharge of its

powers and functions shall be vested in the Ombudsman, who shall have supervision and control of the said office.

(1) The Office of the Ombudsman may organize such directorates for administration and allied services as may be necessary for the effective discharge of its functions. Those appointed as directors or heads shall have the rank and salary of line bureau directors.

(2) The Office of the Overall Deputy shall oversee and administer the operations of the different offices under the Office of Ombudsman. It shall likewise perform such other functions and duties assigned to it by the Ombudsman.

(3) The Office of the Special Prosecutor shall be composed of the Special Prosecutor and his prosecution staff. The Office of the Special Prosecutor shall be an organic component of the Office of the Ombudsman and shall be under the supervision and control of the Ombudsman.

(4) The Office of the Special Prosecutor shall, under the supervision and control and upon the authority of the Ombudsman, have the following powers:

- (a) To conduct preliminary investigation and prosecute criminal cases within the jurisdiction of the Sandiganbayan;
- (b) To enter into plea bargaining agreements; and
- (c) To perform such other duties assigned to it by the Ombudsman.

The Special Prosecutor shall have the rank and salary of a Deputy Ombudsman.

(5) The position structure and staffing pattern of the Office of the Ombudsman, including the Office of the Special Prosecutor, shall be approved and prescribed by the Ombudsman. The Ombudsman shall appoint all officers and employees of the Office of the Ombudsman, including those of the Office of the Special Prosecutor, in accordance with the Civil Service Law, rules and regulations.

Section 12. Official Stations. — The Ombudsman, the Overall Deputy, the Deputy for Luzon, and the Deputy for the Armed Forces shall hold office in Metropolitan Manila; the Deputy for the Visayas, in Cebu City; and the Deputy for Mindanao, in Davao City. The Ombudsman may transfer their stations within their respective geographical regions, as public interest may require.

Section 13. Mandate. — The Ombudsman and his Deputies, as protectors of the people, shall act promptly on complaints filed in any form or manner against officers or employees of the Government, or of any subdivision, agency or instrumentality thereof, including government-owned or controlled corporations, and enforce their administrative, civil and criminal liability in every case where the evidence warrants in order to promote efficient service by the Government to the people.

Section 14. Restrictions. — No writ of injunction shall be issued by any court to delay an investigation being conducted by the Ombudsman under this Act, unless there is a *prima facie* evidence that the subject matter of the investigation is outside the jurisdiction of the Office of the Ombudsman.

No court shall hear any appeal or application for remedy against the decision or findings of the Ombudsman, except the Supreme Court, on pure question of law.

Section 15. Powers, Functions and Duties. — The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of his primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;

(2) Direct, upon complaint or at its own instance, any officer or employee of the Government, or of any subdivision, agency or instrumentality thereof, as well as any government-owned or controlled corporations with original charter, to perform and expedite any act or duty required by law, or to stop, prevent, and correct any abuse or impropriety in the performance of duties;

(3) Direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglects to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act: *Provided*, That the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer;

(4) Direct the officer concerned, in any appropriate case, and subject to such limitations as it may provide in its rules of procedure, to furnish it with copies of documents relating to contracts or transactions entered into by his office involving the disbursement or use of public funds or properties, and report any irregularity to the Commission on Audit for appropriate action;

(5) Request any government agency for assistance and information necessary in the discharge of its responsibilities, and to examine, if necessary, pertinent records and documents;

(6) Publicize matters covered by its investigation of the matters mentioned in paragraphs (1), (2), (3) and (4) hereof, when circumstances so warrant and with due prudence: *Provided*, That the Ombudsman under its rules and regulations may determine what cases may not be made public: *Provided, further*, That any publicity issued by the Ombudsman shall be balanced, fair and true;

(7) Determine the causes of inefficiency, red tape, mismanagement, fraud, and corruption in the Government, and make recommendations for their elimination and the observance of high standards of ethics and efficiency;

(8) Administer oaths, issue *subpoena* and *subpoena duces tecum*, and take testimony in any investigation or inquiry, including the power to examine and have access to bank accounts and records;

(9) Punish for contempt in accordance with the Rules of Court and under the same procedure and with the same penalties provided therein;

(10) Delegate to the Deputies, or its investigators or representatives such authority or duty as shall ensure the effective exercise or performance of the powers, functions, and duties herein or hereinafter provided;

(11) Investigate and initiate the proper action for the recovery of ill-gotten and/or unexplained wealth amassed after February 25, 1986 and the prosecution of the parties involved therein.

The Ombudsman shall give priority to complaints filed against high ranking government officials and/or those occupying supervisory positions, complaints involving grave offenses as well as complaints involving large sums of money and/or properties.

Section 16. Applicability. — The provisions of this Act shall apply to all kinds of malfeasance, misfeasance, and non-feasance that have been committed by any officer or employee as mentioned in Section 13 hereof, during his tenure of office.

Section 17. Immunities. — In all hearings, inquiries, and proceedings of the Ombudsman, including preliminary investigations of offenses, no person subpoenaed to testify as a witness shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and/or other records on the ground that the testimony or evidence, documentary or otherwise, required of him, may tend to incriminate him or subject him to prosecution: *Provided*, That no person shall be prosecuted criminally for or on account of any matter concerning which he is compelled, after having claimed the privilege against self-incrimination, to testify and produce evidence, documentary or otherwise.

Under such terms and conditions as it may determine, taking into account the pertinent provisions of the Rules of Court, the Ombudsman may grant immunity from criminal prosecution to any person whose testimony or whose possession and production of documents or other evidence may be necessary to determine the truth in any hearing, inquiry or proceeding being conducted by the Ombudsman or under its authority, in the performance or in the furtherance of its constitutional functions and statutory objectives. The immunity granted under this and the immediately preceding paragraph shall not exempt the witness from criminal prosecution for perjury or false testimony nor shall he be exempt from demotion or removal from office.

Any refusal to appear or testify pursuant to the foregoing provisions shall be subject to punishment for contempt and removal of the immunity from criminal prosecution.

Section 18. Rules of Procedure. — (1) The Office of the Ombudsman shall promulgate its rules of procedure for the effective exercise or performance of its powers, functions, and duties.

(2) The rules of procedure shall include a provision whereby the Rules of Court are made supplementary.

(3) The rules shall take effect after fifteen (15) days following the completion of their publication in the *Official Gazette* or in three (3) newspapers of general circulation in the Philippines, one of which is printed in the national language.

Section 19. Administrative Complaints. — The Ombudsman shall act on all complaints relating, but not limited to acts or omissions which:

- (1) Are contrary to law or regulation;
- (2) Are unreasonable, unfair, oppressive or discriminatory;
- (3) Are inconsistent with the general course of an agency's functions, though in accordance with law;
- (4) Proceed from a mistake of law or an arbitrary ascertainment of facts;
- (5) Are in the exercise of discretionary powers but for an improper purpose; or
- (6) Are otherwise irregular, immoral or devoid of justification.

Section 20. Exceptions. — The Office of the Ombudsman may not conduct the necessary investigation of any administrative act or omission complained of if it believes that:

- (1) The complainant has an adequate remedy in another judicial or quasi-judicial body;
- (2) The complaint pertains to a matter outside the jurisdiction of the Office of the Ombudsman;
- (3) The complaint is trivial, frivolous, vexatious or made in bad faith;
- (4) The complainant has no sufficient personal interest in the subject matter of the grievance; or
- (5) The complaint was filed after one (1) year from the occurrence of the act or omission complained of;

Section 21. Officials Subject to Disciplinary Authority; Exceptions. — The Office of the Ombudsman shall have disciplinary authority over all elective and appointive officials of the Government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local government, government-owned or controlled corporations and their subsidiaries, except over officials who may be removed only by impeachment or over Members of Congress, and the Judiciary.

Section 22. Investigatory Power. — The Office of the Ombudsman shall have the power to investigate any serious misconduct in office allegedly committed by officials removable by impeachment, for the purpose of filing a verified complaint for impeachment, if warranted.

In all cases of conspiracy between an officer or employee of the government and a private person, the Ombudsman and his Deputies shall have jurisdiction to include such private person in the investigation and proceed against such private person as the evidence may warrant. The officer or employee and the private person shall be tried jointly and shall be subject to the same penalties and liabilities.

Section 23. Formal Investigation. — (1) Administrative investigations conducted by the Office of the Ombudsman shall be in accordance with its rules of procedure and consistent with due process.

(2) At its option, the Office of the Ombudsman may refer certain complaints to the proper disciplinary authority for the institution of appropriate administrative proceedings against erring public officers or employees, which shall be terminated within the period prescribed in the civil service law. Any delay without just cause in acting on any referral made by the Office of the Ombudsman shall be a ground for administrative action against the officers or employees to whom such referrals are addressed and shall constitute a graft offense punishable by a fine of not exceeding five thousand pesos (P5,000.00).

(3) In any investigation under this Act the Ombudsman may (a) enter and inspect the premises of any office, agency, commission or tribunal; (b) examine and have access

to any book, record, file, document or paper; and (c) hold private hearings with both the complaining individual and the official concerned.

Section 24. Preventive Suspension. — The Ombudsman or his Deputy may preventively suspend any officer or employee under his authority pending an investigation, if in his judgment the evidence of guilt is strong, and (a) the charge against such officer or employee involves dishonesty, oppression or grave misconduct or neglect in the performance of duty; (b) the charges would warrant removal from the service; or (c) the respondent's continued stay in office may prejudice the case filed against him.

The preventive suspension shall continue until the case is terminated by the Office of the Ombudsman but not more than six (6) months, without pay, except when the delay in the disposition of the case by the Office of the Ombudsman is due to the fault, negligence or petition of the respondent, in which case the period of such delay shall not be counted in computing the period of suspension herein provided.

Section 25. Penalties. — (1) In administrative proceedings under Presidential Decree No. 807, the penalties and rules provided therein shall be applied.

(2) In other administrative proceedings, the penalty ranging from suspension without pay for one (1) year to dismissal with forfeiture of benefits or a fine ranging from Five thousand pesos (P5,000.00) to twice the amount malversed, illegally taken or lost, or both at the discretion of the Ombudsman, taking into consideration circumstances that mitigate or aggravate the liability of the officer or employee found guilty of the complaint or charges.

Section 26. Inquiries. — (1) The Office of the Ombudsman shall inquire into acts or omissions of a public officer, employee, office or agency which, from the reports or complaints it has received, the Ombudsman or his Deputies consider to be:

- (a) contrary to law or regulation;
- (b) unreasonable, unfair, oppressive, irregular or inconsistent with the general course of the operations and functions of a public officer, employee, office or agency;
- (c) an error in the application or interpretation of law, rules or regulations, or a gross or palpable error in the appreciation of facts;
- (d) based on improper motives or corrupt considerations;
- (e) unclear or inadequately explained when reasons should have been revealed; or
- (f) inefficiently performed or otherwise objectionable.

(2) The Office of the Ombudsman shall receive complaints from any source in whatever form concerning an official act or omission. It shall act on the complaint immediately and if it finds the same entirely baseless, it shall dismiss the same and inform the complainant of such dismissal citing the reasons therefor. If it finds a reasonable ground to investigate further, it shall first furnish the respondent public officer or employee with a summary of the complaint and require him to submit a written answer within seventy-two (72) hours from receipt thereof. If the answer is found satisfactory, it shall dismiss the case.

(3) When the complaint consists in delay or refusal to perform a duty required by law, or when urgent action is necessary to protect or preserve the rights of the complainant, the Office of the Ombudsman shall take steps or measures and issue such orders directing the officer, employee, office or agency concerned to:

- (a) expedite the performance of duty;
- (b) cease or desist from the performance of a prejudicial act;
- (c) correct the omission;
- (d) explain fully the administrative act in question; or
- (e) take any other steps as may be necessary under the circumstances to protect and preserve the rights of the complainant.

(4) Any delay or refusal to comply with the referral or directive of the Ombudsman or any of his Deputies, shall constitute a ground for administrative disciplinary action against the officer or employee to whom it was addressed.

Section 27. Effectivity and Finality of Decisions. — (1) All provisional orders of the Office of the Ombudsman are immediately effective and executory.

A motion for reconsideration of any order, directive or decision of the Office of the Ombudsman must be filed within five (5) days after receipt of written notice and shall be entertained only on any of the following grounds:

- (1) New evidence has been discovered which materially affects the order, directive or decision;
- (2) Errors of law or irregularities have been committed prejudicial to the interest of the movant. The motion for reconsideration shall be resolved within three (3) days from filing: *Provided*, That only one motion for reconsideration shall be entertained.

Findings of fact by the Office of the Ombudsman when supported by substantial evidence are conclusive. Any order, directive or decision imposing the penalty of public censure or reprimand, suspension of not more than one (1) month's salary shall be final and unappealable.

In all administrative disciplinary cases, orders, directives, or decisions of the Office of the Ombudsman may be appealed to the Supreme Court by filing a petition for *certiorari* within ten (10) days from receipt of the written notice of the order, directive or decision or denial of the motion for reconsideration in accordance with Rule 45 of the Rules of Court.

The above rules may be amended or modified by the Office of the Ombudsman as the interest of justice may require.

Section 28. Investigation in Municipalities, Cities and Provinces. — The Office of the Ombudsman may establish offices in municipalities, cities and provinces outside Metropolitan Manila, under the immediate supervision of the Deputies for Luzon, Visayas and Mindanao, where necessary as determined by the Ombudsman. The investigation of complaints may be assigned to the regional or sectoral deputy concerned or to a special investigator who shall proceed in accordance with the rules or special instructions or directives of the Office of the Ombudsman. Pending investigation, the deputy or investigator may issue orders and provisional remedies which are immediately executory subject to review by the Ombudsman. Within three (3) days after

concluding the investigation, the deputy or investigator shall transmit, together with the entire records of the case, his report and conclusions to the Office of the Ombudsman. Within five (5) days after receipt of said report, the Ombudsman shall render the appropriate order, directive or decision.

Section 29. Change of Unjust Laws. — If the Ombudsman believes that a law or regulation is unfair or unjust, he shall recommend to the President and to Congress the necessary changes therein or the repeal thereof.

Section 30. Transmittal/Publication of Decision. — In every case where the Ombudsman has reached a decision, conclusion or recommendation adverse to a public official or agency, he shall transmit his decision, conclusion, recommendation or suggestion to the head of the department, agency or instrumentality, or of the province, city or municipality concerned for such immediate action as may be necessary. When transmitting his adverse decision, conclusion or recommendation, he shall, unless excused by the agency or official affected, include the substance of any statement the public agency or official may have made to him by way of explaining past difficulties with or present rejection of the Ombudsman's proposals.

Section 31. Designation of Investigators and Prosecutors. — The Ombudsman may utilize the personnel of his office and/or designate or deputize any fiscal, state prosecutor or lawyer in the government service to act as special investigator or prosecutor to assist in the investigation and prosecution of certain cases. Those designated or deputized to assist him herein provided shall be under his supervision and control.

The Ombudsman and his investigators and prosecutors, whether regular members of his staff or designated by him as herein provided, shall have authority to administer oaths, to issue *subpoena* and *subpoena duces tecum*, to summon and compel witnesses to appear and testify under oath before them and/or bring books, documents and other things under their control, and to secure the attendance or presence of any absent or recalcitrant witness through application before the Sandiganbayan or before any inferior or superior court having jurisdiction of the place where the witness or evidence is found.

Section 32. Rights and Duties of Witness. — (1) A person required by the Ombudsman to provide the information shall be paid the same fees and travel allowances as are extended to witnesses whose attendance has been required in the trial courts. Upon request of the witness, the Ombudsman shall also furnish him such security for his person and his family as may be warranted by the circumstances. For this purpose, the Ombudsman may, at its expense, call upon any police or constabulary unit to provide the said security.

(2) A person who, with or without service or compulsory process, provides oral or documentary information requested by the Ombudsman shall be accorded the same privileges and immunities as are extended to witnesses in the courts, and shall likewise be entitled to the assistance of counsel while being questioned.

(3) If a person refuses to respond to the Ombudsman's or his Deputy's *subpoena*, or refuses to be examined, or engages in obstructive conduct, the Ombudsman or his Deputy shall issue an order directing the person to appear before him to show cause why he should not be punished for contempt. The contempt proceedings shall be conducted pursuant to the provisions of the Rules of Court.

Section 33. Duty to Render Assistance to the Office of the Ombudsman. — Any officer or employee of any department, bureau or office, subdivision, agency or instrumentality of the Government, including government-owned or controlled corporations and local governments, when required by the Ombudsman, his Deputy or the Special Prosecutor shall render assistance to the Office of the Ombudsman.

Section 34. Annual Report. — The Office of the Ombudsman shall render an annual report of its activities and performance to the President and to Congress to be submitted within thirty (30) days from the start of the regular session of Congress.

Section 35. Malicious Prosecution. — Any person who, actuated by malice or gross bad faith, files a completely unwarranted or false complaint against any government official or employee shall be subject to a penalty of one (1) month and one (1) day to six (6) months imprisonment and a fine not exceeding Five thousand pesos (P5,000.00).

Section 36. Penalties for Obstruction. — Any person who willfully obstructs or hinders the proper exercise of the functions of the Office of the Ombudsman or who willfully misleads or attempts to mislead the Ombudsman, his Deputies and the Special Prosecutor in replying to their inquiries shall be punished by a fine of not exceeding Five thousand pesos (P5,000.00).

Section 37. Franking Privilege. — All official mail matters and telegrams of the Ombudsman addressed for delivery within the Philippines shall be received, transmitted, and delivered free of charge: *Provided*, That such mail matters when addressed to private persons or nongovernment offices shall not exceed one hundred and twenty (120) grams. All mail matters and telegrams sent through government telegraph facilities containing complaints to the Office of the Ombudsman shall be transmitted free of charge, provided that the telegram shall contain not more than one hundred fifty (150) words.

Section 38. Fiscal Autonomy. — The Office of the Ombudsman shall enjoy fiscal autonomy. Appropriations for the Office of the Ombudsman may not be reduced below the amount appropriated for the previous years and, after approval, shall be automatically and regularly released.

Section 39. Appropriations. — The appropriation for the Office of the Special Prosecutor in the current General Appropriations Act is hereby transferred to the Office of the Ombudsman. Thereafter, such sums as may be necessary shall be included in the annual General Appropriations Act.

Section 40. Separability Clause. — If any provision of this Act is held unconstitutional, other provisions not affected thereby shall remain valid and binding.

Section 41. Repealing Clause. — All laws, presidential decrees, letters of instructions, executive orders, rules and regulations insofar as they are inconsistent with this Act, are hereby repealed or amended as the case may be.

Section 42. Effectivity. — This Act shall take effect after fifteen (15) days following its publication in the *Official Gazette* or in three (3) newspapers of general circulation in the Philippines.

Approved, November 17, 1989.

ANTI-GRAFT AND CORRUPT PRACTICES ACT

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

Section 1. Statement of policy. — It is the policy of the Philippine Government, in line with the principle that a public office is a public trust, to repress certain acts of public officers and private persons alike which constitute graft or corrupt practices or which may lead thereto.

Section 2. Definition of terms. — As used in this Act, the term —

(a) "Government" includes the national government, the local governments, the government-owned and government-controlled corporations, and all other instrumentalities or agencies of the Republic of the Philippines and their branches.

(b) "Public officer" includes elective and appointive officials and employees, permanent or temporary, whether in the classified or unclassified or exempt service receiving compensation, even nominal, from the government as defined in the preceding subparagraph.

(c) "Receiving any gift" includes the act of accepting directly or indirectly a gift from a person other than a member of the public officer's immediate family, in behalf of himself or of any member of his family or relative within the fourth civil degree, either by consanguinity or affinity, even on the occasion of a family celebration or national festivity like Christmas, if the value of the gift is under the circumstances manifestly excessive.

(d) "Person" includes natural and juridical persons unless the context indicates otherwise.

Section 3. Corrupt practices of public officers. — In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.

(b) Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law.

(c) Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person for whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in consideration for the help given or to be given, without prejudice to Section thirteen of this Act.

(d) Accepting or having any member of his family accept employment in a private enterprise which has pending official business with him during the pendency thereof or within one year after its termination.

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

(f) Neglecting or refusing, after due demand or request, without sufficient justification, to act within a reasonable time on any matter pending before him for the purpose of obtaining, directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for the purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.

(g) Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.

(h) Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection with which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having any interest.

(i) Directly or indirectly becoming interested, for personal gain, or having a material interest in any transaction or act requiring the approval of a board, panel or group of which he is a member, and which exercises discretion in such approval, even if he votes against the same or does not participate in the action of the board, committee, panel or group.

Interest for personal gain shall be presumed against those public officers responsible for the approval of manifestly unlawful, inequitable, or irregular transactions or acts by the board, panel or group to which they belong.

(j) Knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit, privilege or advantage, or of a mere representative or dummy of one who is not so qualified or entitled.

(k) Divulging valuable information of a confidential character, acquired by his office or by him on account of his official position to unauthorized persons, or releasing such information in advance of its authorized release date.

The person giving the gift, present, share, percentage or benefit referred to in subparagraphs (b) and (c); or offering or giving to the public officer the employment mentioned in subparagraph (d); or urging the divulging or untimely release of the confidential information referred to in subparagraph (k) of this section shall, together with the offending public officer, be punished under Section nine of this Act and shall be permanently or temporarily disqualified in the discretion of the Court, from transacting business in any form with the Government.

Section 4. Prohibition on private individuals. — (a) It shall be unlawful for any person having family or close personal relation with any public official to capitalize or exploit or take advantage of such family or close personal relation by directly or indirectly requesting or receiving any present, gift or material or pecuniary advantage from any other person having some business, transaction, application, request or contract with the government, in which such public official has to intervene. Family relation shall include the spouse or relatives by consanguinity or affinity in the third civil degree. The word "close personal relation" shall include close personal friendship, social and fraternal connections, and professional employment all giving rise to intimacy which assures free access to such public officer.

(b) It shall be unlawful for any person knowingly to induce or cause any public official to commit any of the offenses defined in Section 3 hereof.

Section 5. Prohibition on certain relatives. — It shall be unlawful for the spouse or for any relative, by consanguinity or affinity, within the third civil degree, of the President of the Philippines, the Vice-President of the Philippines, the President of the Senate, or the Speaker of the House of Representatives, to intervene, directly or indirectly, in any business, transaction, contract or application with the Government: *Provided*, That this section shall not apply to any person who, prior to the assumption of

office of any of the above officials to whom he is related, has been already dealing with the Government along the same line of business, nor to any transaction, contract or application already existing or pending at the time of such assumption of public office, nor to any application filed by him the approval of which is not discretionary on the part of the official or officials concerned but depends upon compliance with requisites provided by law, or rules or regulations issued pursuant to law, nor to any act lawfully performed in an official capacity or in the exercise of a profession.

Section 6. Prohibition on Members of Congress. — It shall be unlawful hereafter for any Member of the Congress during the term for which he has been elected, to acquire or receive any personal pecuniary interest in any specific business enterprise which will be directly and particularly favored or benefited by any law or resolution authored by him previously approved or adopted by the Congress during the same term.

The provision of this section shall apply to any other public officer who recommended the initiation in Congress of the enactment or adoption of any law or resolution, and acquires or receives any such interest during his incumbency.

It shall likewise be unlawful for such member of Congress or other public officer, who, having such interest prior to the approval of such law or resolution authored or recommended by him, continues for thirty days after such approval to retain such interest.

Section 7. Statement of assets and liabilities. — Every public officer, within thirty days after assuming office and, thereafter, on or before the fifteenth day of April following the close of every calendar year, as well as upon the expiration of his term of office, or upon his resignation or separation from office, shall prepare and file with the office of the corresponding Department Head, or in the case of a Head of Department or Chief of an independent office, with the Office of the President, a true detailed sworn statement of assets and liabilities, including a statement of the amounts and sources of his income, the amounts of his personal and family expenses and the amount of income taxes paid for the next preceding calendar year: *Provided*, That public officers assuming office less than two months before the end of the calendar year, may file their first statement on or before the fifteenth day of April following the close of the said calendar year. (As amended by RA 3047, PD 677, PD 1288, January 24, 1978).

Section 8. Prima facie evidence of and dismissal due to unexplained wealth. — If in accordance with the provisions of Republic Act Numbered One thousand three hundred seventy-nine, a public official has been found to have acquired during his incumbency, whether in his name or in the name of other persons, an amount of property and/or money manifestly out of proportion to his salary and to his other lawful income, that fact shall be a ground for dismissal or removal. Properties in the name of the spouse and dependents of such public official may be taken into consideration, when their acquisition through legitimate means cannot be satisfactorily shown. Bank deposits in the name of or manifestly excessive expenditures incurred by the public official, his spouse or any of their dependents including but not limited to activities in any club or association or any ostentatious display of wealth including frequent travel abroad of a non-official character by any public official when such activities entail expenses evidently out of proportion to legitimate income, shall likewise be taken into consideration in the enforcement of this section, notwithstanding any provision of law to the contrary. The circumstances hereinabove mentioned shall constitute valid ground for the administrative suspension of the public official concerned for an indefinite period until the investigation of the unexplained wealth is completed. (As amended by BP Blg. 195, March 16, 1982)

Section 9. Penalties for violations. — (a) Any public officer or private person committing any of the unlawful acts or omissions enumerated in Sections 3, 4, 5 and 6 of

this Act shall be punished with imprisonment for not less than six years and one month nor more than fifteen years, perpetual disqualification from public office, and confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.

Any complaining party at whose complaint the criminal prosecution was initiated shall, in case of conviction of the accused, be entitled to recover in the criminal action with priority over the forfeiture in favor of the Government, the amount of money or the thing he may have given to the accused, or the fair value of such thing.

(b) Any public officer violating any of the provisions of Section 7 of this Act shall be punished by a fine of not less than one thousand pesos nor more than five thousand pesos, or by imprisonment not exceeding one year and six months, or by both such fine and imprisonment, at the discretion of the Court.

The violation of said section proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public officer, even if no criminal prosecution is instituted against him. (Amended by BP Blg. 195, March 16, 1982).

Section 10. Competent court. — Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan. (As amended by BP Blg. 195, March 16, 1982)

Section 11. Prescription of offenses. — All offenses punishable under this Act shall prescribe in fifteen years.

Section 12. Termination of office. — No public officer shall be allowed to resign or retire pending an investigation, criminal or administrative, or pending a prosecution against him, for any offense under this Act or under the provisions of the Revised Penal Code on bribery.

Section 13. Suspension and loss of benefits. — Any incumbent public officer against whom any criminal prosecution under a valid information under this Act or under Title Seven Book II of the Revised Penal Code or for any offense involving fraud upon government or public funds or property whether as a simple or as complex offense and in whatever stage of execution and mode of participation, is pending in court shall be suspended from office. Should he be convicted by final judgement, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and benefits which he failed to receive during suspension, unless in the meantime administrative proceedings have been filed against him.

In the event that such convicted officer, who may have been separated from the service has already received such benefits he shall be liable to restitute the same to the government. (As amended by BP Blg. 195, March 16, 1982).

Section 14. Exception. — Unsolicited gifts or presents of small or insignificant value offered or given as a mere ordinary token of gratitude or friendship according to local customs or usage, shall be excepted from the provisions of this Act.

Nothing in this Act shall be interpreted to prejudice or prohibit the practice of any profession, lawful trade or occupation by any private person or by any public officer who under the law may legitimately practice his profession, trade or occupation, during his incumbency, except where the practice of such profession, trade or occupation involves conspiracy with any other person or public official to commit any of the violations penalized in this Act.

Section 15. Separability clause. — If any provision of this Act or the application of such provision to any person or circumstances is declared invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

Section 16. Effectivity. — This Act shall take effect on its approval, but for the purpose of determining unexplained wealth, all property acquired by a public officer since he assumed office shall be taken into consideration.

Approved, August 17, 1960.

AN ACT DECLARING FORFEITURE IN FAVOR OF THE STATE ANY
PROPERTY FOUND TO HAVE BEEN UNLAWFULLY ACQUIRED BY ANY
PUBLIC OFFICER OR EMPLOYEE AND PROVIDING FOR THE
PROCEEDINGS THEREFOR.

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

Section 1. Definitions. - (a) For the purposes of this Act, a "public officer or employee" means any person holding any public office or employment by virtue of an appointment, election or contract, and any person holding any office or employment, by appointment or contract, in any State owned or controlled corporation or enterprise.

(b) "Other legitimately acquired property" means any real or personal property, money or securities which the respondent has at any time acquired by inheritance and the income thereof, or by gift *inter vivos* before he has become a public officer or employee, or any property (or income thereof) already pertaining to him when he qualified for public office or employment, or the fruits and income of the exclusive property of the respondent's spouse. It shall not include:

1. Property unlawfully acquired by the respondent, but its ownership is concealed by its being recorded in the name of, or held by, the respondent's spouse, ascendants, descendants, relatives, or any other person.
2. Property unlawfully acquired by the respondent, but transferred by him to another person or persons on or after the effectivity of this Act.
3. Property donated to the respondent during his incumbency, unless he can prove to the satisfaction of the court that the donation is lawful.

Section 2. Filing of petition. - Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed *prima facie* to have been unlawfully acquired. The Solicitor General, upon complaint by any taxpayer to the city or provincial fiscal who shall conduct a previous inquiry similar to preliminary investigations in criminal cases and shall certify to the Solicitor General that there is reasonable ground to believe that there has been committed a violation of this Act and the respondent is probably guilty thereof, shall file, in the name and on behalf of the Republic of the Philippines, in the Court of First Instance of the city or province where said public officer or employee resides or holds office, a petition for a writ commanding said officer or employee to show cause why the property aforesaid, or any part thereof, should not be declared property of the State: *Provided*, That no such petition shall be filed within one year before any general election or within three months before any special election.

The resignation, dismissal or separation of the officer or employee from his office or employment in the Government or in the Government-owned or controlled corporation shall not be a bar to the filing of the petition: *Provided, however*, That the right to file such petition shall prescribe after four years from the date of the resignation, dismissal or separation or expiration of the term of the officer or employee concerned, except as to those who have ceased to hold office within ten years prior to the approval of this Act, in which case the proceedings shall prescribe after four years from the approval hereof.

Section 3. The petition. - The petition shall contain the following information:

- (a) The name and address of the respondent.
- (b) The public office or employment he holds and such other public offices or employment which he has previously held.
- (c) The approximate amount of property he has acquired during his incumbency in his past and present offices and employments.
- (d) A description of said property, or such thereof as has been identified by the Solicitor General.
- (e) The total amount of his government salary and other proper earnings and incomes from legitimately acquired property, and
- (f) Such other information as may enable the court to determine whether or not the respondent has unlawfully acquired property during his incumbency.

Section 4. Period for the answer. - The respondent shall have a period of fifteen days within which to present his answer.

Section 5. Hearing. - The Court shall set a date for a hearing, which may be open to the public, and during which the respondent shall be given ample opportunity to explain, to the satisfaction of the court, how he has acquired the property in question.

Section 6. Judgment. - If the respondent is unable to show to the satisfaction of the court that he has lawfully acquired the property in question, then the court shall declare such property, forfeited in favor of the State, and by virtue of such judgment the property aforesaid shall become property of the State: *Provided*, That no judgment shall be rendered within six months before any general election or within three months before any special election. The Court may, in addition, refer this case to the corresponding Executive Department for administrative or criminal action, or both.

Section 7. Appeal. - The parties may appeal from the judgment of the Court of First Instance as provided in the Rules of Court for appeals in civil cases.

Section 8. Protection against self-incrimination. - Neither the respondent nor any other person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to prosecution; but no individual shall be prosecuted criminally for or on account of any transaction, matter or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or

produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and conviction for perjury or false testimony committed in so testifying or from administrative proceedings.

Section 9. Immunity. — The Solicitor General may grant immunity from criminal prosecution to any person who testifies to the unlawful manner in which the respondent has acquired any of the property in question in cases where such testimony is necessary to prove violations of this Act.

Section 10. Effect of record of title. — The fact that any real property has been recorded in the Registry of Property or office of the Register of Deeds in the name of the respondent or of any person mentioned in paragraphs (1) and (2) of subsection (b) of section one hereof shall not prevent the rendering of the judgment referred to in section six of this Act.

Section 11. Laws on prescription. — The laws concerning acquisitive prescription and limitation of actions cannot be invoked by, nor shall they benefit the respondent, in respect of any property unlawfully acquired by him.

Section 12. Penalties. — Any public officer or employee who shall, after the effective date of this Act, transfer or convey any unlawfully acquired property shall be repressed with imprisonment for a term not exceeding five years, or a fine not exceeding ten thousand pesos, or both such imprisonment and fine. The same repression shall be imposed upon any person who shall knowingly accept such transfer or conveyance.

Section 13. Separability of provisions. — If any provision of this Act or the application thereof to any person or circumstance, is held invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 14. Effective date. — This Act shall take effect on its approval, and shall apply not only to property thereafter unlawfully acquired but also to property unlawfully acquired before the effective date of this Act.

Approved, June 18, 1955

[REPUBLIC ACT NO. 6713]

AN ACT ESTABLISHING A CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES, TO UPHOLD THE TIME-HONORED PRINCIPLE OF PUBLIC OFFICE BEING A PUBLIC TRUST, GRANTING INCENTIVES AND REWARDS FOR EXEMPLARY SERVICE, ENUMERATING PROHIBITED ACTS AND TRANSACTIONS AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF AND FOR OTHER PURPOSES

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

Section 1. Title. — This Act shall be known as the "Code of Conduct and Ethical Standards for Public Officials and Employees."

Section 2. Declaration of Policies. — It is the policy of the State to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence, and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest.

Section 3. Definition of Terms. — As used in this Act, the term:

(a) "Government" includes the national government, the local governments, and all other instrumentalities, agencies or branches of the Republic of the Philippines including government-owned or controlled corporations, and their subsidiaries.

(b) "Public Officials" includes elective and appointive officials and employees, permanent or temporary, whether in the career or non-career service, including military and police personnel, whether or not they receive compensation, regardless of amount.

(c) "Gift" refers to a thing or a right disposed of gratuitously, or any act of liberality, in favor of another who accepts it, and shall include a simulated sale or an ostensibly onerous disposition thereof. It shall not include an unsolicited gift of nominal or insignificant value not given in anticipation of, or in exchange for, a favor from a public official or employee.

(d) "Receiving any gift" includes the act of accepting, directly or indirectly, a gift from a person other than a member of his family or relative as defined in this Act, even on the occasion of a family celebration or national festivity like Christmas, if the value of the gift is neither nominal nor insignificant, or the gift is given in anticipation of, or in exchange for, a favor.

(e) "Loan" covers both simple loan and *commodatum* as well as guarantees, financing arrangements or accommodations intended to ensure its approval.

(f) "Substantial stockholder" means any person who owns, directly or indirectly, shares of stock sufficient to elect a director of a corporation. This term shall also apply to the parties to a voting trust.

(g) "Family of public officials or employees" means their spouses and unmarried children under eighteen (18) years of age.

(h) "Person" includes natural and juridical persons unless the context indicates otherwise.

(i) "Conflict of interest" arises when a public official or employee is a member of a board, an officer, or a substantial stockholder of a private corporation or owner or has a substantial interest in a business, and the interest of such corporation or business, or his rights or duties therein, may be opposed to or affected by the faithful performance of official duty.

(j) "Divestment" is the transfer of title or disposal of interest in property by voluntarily, completely and actually depriving or dispossessing oneself of his right or title to it in favor of a person or persons other than his spouse and relatives as defined in this Act.

(k) "Relatives" refers to any and all persons related to a public official or employee within the fourth civil degree of consanguinity or affinity, including *bilas*, *inso* and *balae*.

Section 4. Norms of Conduct of Public Officials and Employees. — (A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:

(a) *Commitment to public interest.* — Public officials and employees shall always uphold the public interest over and above personal interest. All government resources and powers of their respective offices must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and revenues.

(b) *Professionalism.* — Public officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and dedication to duty. They shall endeavor to discourage wrong perceptions of their roles as dispensers or peddlers of undue patronage.

(c) *Justness and sincerity.* — Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. They shall not dispense or extend undue favors on account of their office to their relatives whether by consanguinity or affinity except with respect to appointments of such relatives to positions considered strictly confidential or as members of their personal staff whose terms are coterminous with theirs.

(d) *Political neutrality.* — Public officials and employees shall provide service to everyone without unfair discrimination and regardless of party affiliation or preference.

(e) *Responsiveness to the public.* — Public officials and employees shall extend prompt, courteous, and adequate service to the public. Unless otherwise provided by law or when required by the public interest, public officials and employees shall provide information of their policies and procedures in clear and understandable language, ensure openness of information, public consultations and hearings whenever appropriate, encourage suggestions, simplify and systematize policy, rules and procedures, avoid red tape and develop an understanding and appreciation of the socio-

economic conditions prevailing in the country, especially in the depressed rural and urban areas.

(f) *Nationalism and patriotism.* — Public officials and employees shall at all times be loyal to the Republic and to the Filipino people, promote the use of locally produced goods, resources and technology and encourage appreciation and pride of country and people. They shall endeavor to maintain and defend Philippine sovereignty against foreign intrusion.

(g) *Commitment to democracy.* — Public officials and employees shall commit themselves to the democratic way of life and values, maintain the principle of public accountability, and manifest by deeds the supremacy of civilian authority over the military. They shall at all times uphold the Constitution and put loyalty to country above loyalty to persons or party.

(h) *Simple living.* — Public officials and employees and their families shall lead modest lives appropriate to their positions and income. They shall not indulge in extravagant or ostentatious display of wealth in any form.

(B) The Civil Service Commission shall adopt positive measures to promote (1) observance of these standards including the dissemination of information programs and workshops authorizing merit increases beyond regular progression steps, to a limited number of employees recognized by their office colleagues to be outstanding in their observance of ethical standards; and (2) continuing research and experimentation on measures which provide positive motivation to public officials and employees in raising the general level of observance of these standards.

Section 5. Duties of Public Officials and Employees. — In the performance of their duties, all public officials and employees are under obligation to:

(a) *Act promptly on letters and requests.* — All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.

(b) *Submit annual performance reports.* — All heads or other responsible officers of offices and agencies of the government and of government-owned or controlled corporations shall, within forty-five (45) working days from the end of the year, render a performance report of the agency or office or corporation concerned. Such report shall be open and available to the public within regular office hours.

(c) *Process documents and papers expeditiously.* — All official papers and documents must be processed and completed within a reasonable time from the preparation thereof and must contain, as far as practicable, not more than three (3) signatories therein. In the absence of duly authorized signatories, the official next-in-rank or officer-in-charge shall sign for and in their behalf.

(d) *Act immediately on the public's personal transactions.* — All public officials and employees must attend to anyone who wants to avail himself of the services of their offices and must, at all times, act promptly and expeditiously.

(e) *Make documents accessible to the public.* — All public documents must be made accessible to, and readily available for inspection by, the public within reasonable working hours.

Section 6. System of Incentives and Rewards. — A system of annual incentives and rewards is hereby established in order to motivate and inspire public servants to uphold the highest standards of ethics. For this purpose, a Committee on Awards to Outstanding Public Officials and Employees is hereby created composed of the following: the Ombudsman and Chairman of the Civil Service Commission as Co-Chairmen, and the Chairman of the Commission on Audit, and two government employees to be appointed by the President, as members.

It shall be the task of this Committee to conduct a periodic, continuing review of the performance of public officials and employees, in all the branches and agencies of Government and establish a system of annual incentives and rewards to the end that due recognition is given to public officials and employees of outstanding merit on the basis of the standards set forth in this Act.

The conferment of awards shall take into account, among other things, the following: the years of service and the quality and consistency of performance, the obscurity of the position, the level of salary, the unique and exemplary quality of a certain achievement, and the risks or temptations inherent in the work. Incentives and rewards to government officials and employees of the year to be announced in public ceremonies honoring them may take the form of bonuses, citations, directorships in government-owned or controlled corporations, local and foreign scholarship grants, paid vacations, and the like. They shall likewise be automatically promoted to the next higher position with the commensurate salary suitable to their qualifications. In case there is no next higher position or it is not vacant, said position shall be included in the budget of the office in the next General Appropriations Act. The Committee on Awards shall adopt its own rules to govern the conduct of its activities.

Section 7. Prohibited Acts and Transactions. — In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

(a) *Financial and material interest.* — Public officials and employees shall not, directly or indirectly, have any financial or material interest in any transaction requiring the approval of their office.

(b) *Outside employment and other activities related thereto.* — Public officials and employees during their incumbency shall not:

(1) Own, control, manage or accept employment as officer, employee, consultant, counsel, broker, agent, trustee or nominee in any private enterprise regulated, supervised or licensed by their office unless expressly allowed by law;

(2) Engage in the private practice of their profession unless authorized by the Constitution or law, provided, that such practice will not conflict or tend to conflict with their official functions; or

(3) Recommend any person to any position in a private enterprise which has a regular or pending official transaction with their office.

These prohibitions shall continue to apply for a period of one (1) year after resignation, retirement, or separation from public office, except in the case of subparagraph (b) (2) above, but the professional concerned cannot practice his profession in connection with any matter before the office he used to be with, in which case the one-year prohibition shall likewise apply.

(c) *Disclosure and/or misuse of confidential information.* — Public officials and employees shall not use or divulge, confidential or classified information officially known to them by reason of their office and not made available to the public, either:

- (1) To further their private interests, or give undue advantage to anyone; or
- (2) To prejudice the public interest.

(d) *Solicitation or acceptance of gifts.* — Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

As to gifts or grants from foreign governments, the Congress consents to —

- (i) The acceptance and retention by a public official or employee of a gift of nominal value tendered and received as a souvenir or mark of courtesy;
- (ii) The acceptance by a public official or employee of a gift in the nature of a scholarship or fellowship grant or medical treatment; or
- (iii) The acceptance by a public official or employee of travel grants or expenses for travel taking place entirely outside the Philippine (such as allowances, transportation, food, and lodging) of more than nominal value if such acceptance is appropriate or consistent with the interests of the Philippines, and permitted by the head of office, branch or agency to which he belongs.

The Ombudsman shall prescribe such regulations as may be necessary to carry out the purpose of this subsection, including pertinent reporting and disclosure requirements.

Nothing in this Act shall be construed to restrict or prohibit any educational, scientific or cultural exchange programs subject to national security requirements.

Section 8. Statements and Disclosure. — Public officials and employees have an obligation to accomplish and submit declarations under oath of, and the public has the right to know, their assets, liabilities, net worth and financial and business interests including those of their spouses and of unmarried children under eighteen (18) years of age living in their households.

(A) *Statements of Assets and Liabilities and Financial Disclosure.* — All public officials and employees, except those who serve in an honorary capacity, laborers and casual or temporary workers, shall file under oath their Statement of Assets, Liabilities and Net Worth and a Disclosure of Business Interests and Financial Connections and those of their spouses and unmarried children under eighteen (18) years of age living in their households.

The two documents shall contain information on the following:

- (a) real property, its improvements, acquisition costs, assessed value and current fair market value;
- (b) personal property and acquisition cost;
- (c) all other assets such as investments, cash on hand or in banks, stocks, bonds, and the like;
- (d) liabilities; and
- (e) all business interests and financial connections.

The documents must be filed:

- (a) within thirty (30) days after assumption of office;
- (b) on or before April 30, of every year thereafter; and
- (c) within thirty (30) days after separation from the service.

All public officials and employees required under this section to file the aforesaid documents shall also execute, within thirty (30) days from the date of their assumption of office, the necessary authority in favor of the Ombudsman to obtain from all appropriate government agencies, including the Bureau of Internal Revenue, such documents as may show their assets, liabilities, net worth, and also their business interests and financial connections in previous years, including, if possible, the year when they first assumed any office in the Government.

Husband and wife who are both public officials or employees may file the required statements jointly or separately.

The Statements of Assets, Liabilities and Net Worth and the Disclosure of Business Interests and Financial Connections shall be filed by:

- (1) Constitutional and national elective officials, with the national office of the Ombudsman;
- (2) Senators and Congressmen, with the Secretaries of the Senate and the House of Representatives, respectively; Justices, with the Clerk of Court of the Supreme Court; Judges, with the Court Administrator; and all national executive officials with the Office of the President;
- (3) Regional and local officials and employees, with the Deputy Ombudsman in their respective regions;
- (4) Officers of the armed forces from the rank of colonel or naval captain, with the Office of the President, and those below said ranks, with the Deputy Ombudsman in their respective regions; and

(5) All other public officials and employees, defined in Republic Act No. 3019, as amended, with the Civil Service Commission.

(B) *Identification and disclosure of relatives.* — It shall be the duty of every public official or employee to identify and disclose, to the best of his knowledge and information, his relatives in the Government in the form, manner and frequency prescribed by the Civil Service Commission.

(C) *Accessibility of documents.* — (1) Any and all statements filed under this Act, shall be made available for inspection at reasonable hours.

(2) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law.

(3) Any person requesting a copy of a statement shall be required to pay a reasonable fee to cover the cost of reproduction and mailing of such statement, as well as the cost of certification.

(4) Any statement filed under this Act shall be available to the public for a period of ten (10) years after receipt of the statement. After such period, the statement may be destroyed unless needed in an ongoing investigation.

(D) *Prohibited acts.* — It shall be unlawful for any person to obtain or use any statement filed under this Act for:

- (a) any purpose contrary to morals or public policy; or
- (b) any commercial purpose other than by news and communications media for dissemination to the general public.

Section 9. Divestment. — A public official or employee shall avoid conflicts of interest at all times. When a conflict of interest arises, he shall resign from his position in any private business enterprise within thirty (30) days from his assumption of office and/or divest himself of his shareholdings or interest within sixty (60) days from such assumption.

The same rule shall apply where the public official or employee is a partner in a partnership.

The requirement of divestment shall not apply to those who serve the Government in an honorary capacity nor to laborers and casual or temporary workers.

Section 10. Review and Compliance Procedure. — (a) The designated Committees of both Houses of the Congress shall establish procedures for the review of statements to determine whether said statements have been submitted on time, are complete, and are in proper form. In the event a determination is made that a statement is not so filed, the appropriate Committee shall so inform the reporting individual and direct him to take the necessary corrective action.

(b) In order to carry out their responsibilities under this Act, the designated Committees of both Houses of Congress shall have the power within their respective jurisdictions, to render any opinion interpreting this Act, in writing, to persons covered by this Act, subject in each instance to the approval by affirmative vote of the majority of the particular House concerned.

The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in this Act.

(c) The heads of other offices shall perform the duties stated in subsections (a) and (b) hereof insofar as their respective offices are concerned, subject to the approval of the Secretary of Justice, in the case of the Executive Department and the Chief Justice of the Supreme Court, in the case of the Judicial Department.

Section 11. Penalties. — (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.

(b) Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of a public official or employee, even if no criminal prosecution is instituted against him.

(c) Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with public officials or employees, in violation of this Act, shall be subject to the same penal liabilities as the public officials or employees and shall be tried jointly with them.

(d) The official or employee concerned may bring an action against any person who obtains or uses a report for any purpose prohibited by Section 8 (D) of this Act. The Court in which such action is brought may assess against such person a penalty in any amount not to exceed twenty-five thousand pesos (P25,000.00). If another sanction hereunder or under any other law is heavier, the latter shall apply.

Section 12. Promulgation of Rules and Regulations, Administration and Enforcement of this Act. — The Civil Service Commission shall have the primary responsibility for the administration and enforcement of this Act. It shall transmit all cases for prosecution arising from violations of this Act to the proper authorities for appropriate action: *Provided, however,* That it may institute such administrative actions and disciplinary measures as may be warranted in accordance with law. Nothing in this provision shall be construed as a deprivation of the right of each House of Congress to discipline its Members for disorderly behavior.

The Civil Service Commission is hereby authorized to promulgate rules and regulations necessary to carry out the provisions of this Act, including guidelines for

individuals who render free voluntary service to the Government. The Ombudsman shall likewise take steps to protect citizens who denounce acts or omissions of public officials and employees which are in violation of this Act.

Section 13. Provisions for More Stringent Standards. — Nothing in this Act shall be construed to derogate from any law, or any regulation prescribed by any body or agency, which provides for more stringent standards for its officials and employees.

Section 14. Appropriations. — The sum necessary for the effective implementation of this Act shall be taken from the appropriations of the Civil Service Commission. Thereafter, such sum as may be needed for its continued implementation shall be included in the Annual General Appropriations Act.

Section 15. Separability Clause. — If any provision of this Act or the application of such provision to any person or circumstance is declared invalid, the remainder of the Act or the application of such provision to other persons or circumstances shall not be affected by such declaration.

Section 16. Repealing Clause. — All laws, decrees and orders or parts thereof inconsistent herewith, are deemed repealed or modified accordingly, unless the same provide for a heavier penalty.

Section 17. Effectivity. — This Act shall take effect after thirty (30) days following the completion of its publication in the *Official Gazette* or in two (2) national newspapers of general circulation.

Approved, February 20, 1989.

RULES IMPLEMENTING THE CODE OF CONDUCT AND ETHICAL STANDARDS FOR PUBLIC OFFICIALS AND EMPLOYEES

Pursuant to the provisions of Section 12 of Republic Act No. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees," approved on February 20, 1989, and which took effect on March 25, 1989, conformably to Section 17 thereof, the following Rules are hereby adopted in order to carry out the provisions of the said Code:

Rule I Coverage

Section 1. These Rules shall cover all officials and employees in the government, elective and appointive, permanent or temporary, whether in the career or non-career service, including military and police personnel, whether or not they receive compensation, regardless of amount.

Rule II Interpretation

Section 1. These Rules shall be interpreted in the light of the Declaration of Policy found in Section 2 of the Code:

"It is the policy of the State to promote a high standard of ethics in public service. Public officials and employees shall at all times be accountable to the people and shall discharge their duties with utmost responsibility, integrity, competence and loyalty, act with patriotism and justice, lead modest lives, and uphold public interest over personal interest."

Rule III Reforms on Public Administrative Systems

Section 1. Every department, office and agency shall, as soon as practicable and in no case later than ninety (90) days from the effectivity of these Rules, start conducting value development programs for its officials and employees in order to strengthen their commitment to public service and help promote the primacy of public interest over personal interest in the performance of their duties. Such programs and other parallel efforts on value development shall include, among other things, the following subject:

- a) *Ethical and moral values;*
- b) *Rights, duties and responsibilities of public servants;*
- c) *Nationalism and patriotism;*
- d) *Justice and human rights;*
- e) *Democracy in a free and just society;*

- f) *Philippine history, culture and tradition; and*
- g) *Socio-economic conditions prevailing in the country, especially in the depressed areas, and the need for a Code of Conduct and Ethical Standards.*

Continuing refresher courses and seminars and/or workshops to promote a high standard of ethics in public service shall be conducted.

Section 2. Professional, scientific, technical trainings and education programs shall enhance to the highest degree, professionalism, excellence, intelligence and skills in the performance and discharge of duties and responsibilities of officials and employees. These programs shall be conducted in all offices of the government and may include subjects that are enumerated in the preceding section.

Section 3. It is the responsibility of every head of department, office and agency to ensure that officials and employees attend the value development program and participate in parallel value development efforts.

Section 4. Every department, office and agency shall conduct continuing studies and analyses of their work systems and procedures to improve delivery of public services. Towards this end, such studies and analyses shall: (1) identify systems and procedures that lead or contribute to negative bureaucratic behavior; (2) simplify rules and procedures to avoid red tape; and (3) devise or adopt systems and procedures that promote official and employee morale and satisfaction.

Each department, office or agency shall develop a service guide or its functional equivalent which shall be regularly updated and made available to the transacting public. A workflow chart showing procedures or flow of documents shall likewise be posted in conspicuous places in the department, office or agency for the information and guidance of all concerned.

Upon request, the Department of Budget and Management shall assist departments, offices and agencies in the evaluation and adoption of work systems and procedures that will institutionalize a management climate conducive to public accountability.

Section 5. Every department, office and agency shall consult the public they serve for the purpose of gathering feedback and suggestions on the efficiency, effectiveness and economy of services. They shall establish mechanisms to ensure the conduct of public consultation and hearings.

Section 6. Every department, office and agency shall continuously conduct research and experimentation on measures and adopt innovative programs which will provide motivation to officials and employees in raising the level of observance of public service ethical standards.

Section 7. Every department, office and agency shall, in consultation with the Office of the Ombudsman, appoint or designate a Resident Ombudsman who shall act immediately on all requests for public assistance referred to him by the Ombudsman and his Deputies. He shall be held accountable for the disposition of all requests for assistance.

Section 8. Government officials shall make themselves available to their staff for consultation and dialogues.

Rule IV
Transparency of Transaction and Access to Information

Section 1. Subject to reasonable conditions prescribed by law, the State adopts and implements a policy of full public disclosure of all its transactions involving public interest.

Section 2. It is the responsibility of heads of departments, offices and agencies to establish measures and standards that will ensure transparency of and openness in public transactions in their respective offices, such as in biddings, purchases, other financial transactions including contracts, status of projects, and all other matters involving public interest.

They shall establish information system that will inform the public of the following: (a) policies, rules, and procedures; (b) work programs, projects, and performance targets; (c) performance reports; and (d) all other documents as may hereafter be classified as public information.

Such information shall be utilized solely for the purpose of informing the public of such policies, programs and accomplishments, and not to build the public image of any official or employee or to advance his own personal interest.

Section 3. Every department, office or agency shall provide official information, records or documents to any requesting public, except if:

- (a) such information, record or document must be kept secret in the interest of national defense or security or the conduct of foreign affairs;
- (b) such disclosure would put the life and safety of an individual in imminent danger;
- (c) the information, record or document sought falls within the concepts of established privilege or recognized exceptions as may be provided by law or settled policy or jurisprudence;
- (d) such information, record or document comprises drafts of decisions, orders, rulings, policy decisions, memoranda, etc.;
- (e) it would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- (f) it would disclose investigatory records compiled for law enforcement purposes or information which if written would be contained in such records, but only to the extent that the production of such records or information would (i) interfere with enforcement proceedings, (ii) deprive a person of a right to a fair trial or an impartial adjudication, (iii) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential

source, or (iv) unjustifiably disclose investigative techniques and procedures; or

- (g) it would disclose information the premature disclosure of which would (i) in the case of a department, office or agency which regulates currencies, securities, commodities, or financial institutions, be likely to lead to significant financial speculation in currencies, securities, or commodities, or significantly endanger the stability of any financial institution; or (ii) in the case of any department, office or agency be likely or significantly to frustrate implementation of a proposed official action, except that subparagraph (f) (ii) shall not apply in any instance where the department, office or agency has already disclosed to the public the content or nature of its proposed action, or where the department, office or agency is required by law to make such disclosure on its own initiative prior to taking final official action on such proposal.

Section 4. Every head of department, office and agency shall establish information systems and networks that will effect the widest possible dissemination of information regarding the provisions of the Code, and the policies and programs relative thereto.

Rule V
Incentives and Rewards System

Section 1. Incentives and rewards shall be granted officials and employees who have demonstrated exemplary service and conduct on the basis of their observance of the norms of conduct laid down in Section 4 of the Code, namely:

- (a) *Commitment to public interest* - Officials and employees shall always uphold the public interest over personal interest. All government resources and powers of their respective departments, offices and agencies must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds and revenues.
- (b) *Professionalism* - Officials and employees shall perform and discharge their duties with the highest degree of excellence, professionalism, intelligence and skill. They shall enter public service with utmost devotion and dedication to duty. They shall endeavor to discourage wrong perceptions of their roles as dispensers or peddlers of undue patronage.
- (c) *Justness and sincerity* - Officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall at all times respect the rights of others, and shall refrain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. They shall not dispense or extend undue favors on account of their office to their relatives, whether by consanguinity or affinity, except with respect to appointments of such relatives to positions considered strictly confidential or as members of their personal staff whose terms are coterminous with theirs.
- (d) *Political neutrality* - Officials and employees shall provide service to everyone without unfair discrimination regardless of party affiliation or preference.
- (e) *Responsiveness to the public* - Officials and employees shall extend prompt, courteous, and adequate service to the public. Unless otherwise provided by law or when required by the public interest, officials and employees shall provide information on their policies and procedures in clear and understandable language, ensure openness of information, public

consultations and hearings whenever appropriate, encourage suggestions, simplify and systematize policy, rules and procedures, avoid red tape and develop an understanding and appreciation of the socio-economic conditions prevailing in the country, especially in the depressed rural and urban areas.

- (f) *Nationalism and patriotism* - Officials and employees shall at all times be loyal to the Republic and to the Filipino people, promote the use of locally produced goods, resources and technology and encourage appreciation and pride of country and people. They shall endeavor to maintain and defend Philippine sovereignty against foreign intrusion.
- (g) *Commitment to democracy* - Officials and employees shall commit themselves to the democratic way of life and values, maintain the principle of public accountability and manifest by deeds the supremacy of civilian authority over the military. They shall at all times uphold the Constitution and put loyalty to country above loyalty to persons or party.
- (h) *Simple living* - Officials and employees and their families shall lead modest lives appropriate to their positions and income. They shall not indulge in extravagant or ostentatious display of wealth in any form.

Section 2. The following criteria shall be considered in the conferment of awards:

- (a) Years of service;
- (b) Quality and consistency of performance;
- (c) Obscurity of the position;
- (d) Level of salary;
- (e) Unique and exemplary quality of achievement;
- (f) Risk or temptation inherent in the work; and
- (g) Any similar circumstances or considerations in favor of the particular awardee.

Section 3. Incentives and rewards to government officials and employees of the year may take the form of any of the following, as may be determined by the Committee on Awards established under the Code:

- (a) Bonuses; or
- (b) Citations; or
- (c) Directorships in government-owned or controlled corporations; or
- (d) Local and foreign scholarship grants; or
- (e) Paid vacations; and
- (f) Automatic promotion to the next higher positions suitable to his qualifications and with commensurate salary; provided, that if there is no next higher position or it is not vacant, said position shall be included in the next budget of the office; except when the creation of a new position will result in distortion in the organizational structure of the department, office or agency. Where there is no next higher position immediately available, a salary increase equivalent to the next higher position shall be given and incorporated in the base pay. When a new position is created, that which is vacated shall be deemed abolished.

The grants of awards shall be governed by the merit and fitness principle.

Section 4. (a) The System shall be administered by a Committee on Awards for Outstanding Public Officials and employees composed of:

- (1) Ombudsman - Co-Chairman
- (2) Chairman, CSC - Co-Chairman
- (3) Chairman, COA - Member
- (4) Two (2) Government Employees to be appointed by the President - Members

b) For this purpose, the Committee shall perform the following functions and responsibilities:

- (1) Conduct a periodic, continuing review of performance of officials and employees in all departments, offices and agencies;
- (2) Establish a system of annual incentives and rewards to the end that due recognition is given to officials and employees of outstanding merit on the basis of standards set forth in Section 2, Rule V hereof;
- (3) Determine the form of rewards to be granted;
- (4) Formulate and adopt its own rules to govern the conduct of its activities, which shall include guidelines for evaluating nominees, the mechanism for recognizing the awardees in public ceremonies and the creation of sub-committees;

c) In the evaluation of nominees, the Committee may be assisted by technical experts selected from the government and the private sectors.

Section 5. The Civil Service Commission shall provide secretariat service to the Committee.

Section 6. Nothing herein provided shall inhibit any department, office or agency from instituting its own rewards program in addition to those provided by, but not inconsistent with, these rules.

Section 7. The budget to cover all expenses in the implementation of this Rule shall be incorporated in the appropriations of the Civil Service Commission.

Rule VI

Duties of Public Officials and Employees

Section 1. As a general rule, when a request or petition, whether written or verbal, can be disposed of promptly and expeditiously, the official or employee in charge to whom the same is presented shall do so immediately, without discrimination, and in no case beyond fifteen (15) days from receipt of the request or petition.

Section 2. In departments, offices or agencies that are usually swamped with persons calling for a particular type of service, the head of the department, office or agency shall devise a mechanism so as to avoid long queues such as by giving each person a ticket number duly countersigned which shall specify the time and the date

when the person, whose name and address shall be indicated, can be served without delay. Said person shall have the right to prompt service upon presentation of said ticket number.

Section 3. In case of written requests, petitions, or motions, sent by means of letters, telegrams, or the like, the official or employee in charge shall act on the same within fifteen (15) working days from receipt thereof, provided that:

(a) If the communication is within the jurisdiction of the office or agency, the official or employee must:

- (1) Write a note or letter of acknowledgement where the matter is merely routine or the action desired may be acted upon in the ordinary course of business of the department, office or agency, specifying the date when the matter will be disposed of and the name of the official or employee in charge thereof.
- (2) Where the matter is non-routine or the issues involved are not simple or ordinary, write a note or letter of acknowledgement, informing the interested party, petitioner or correspondent of the action to be taken or when such requests, petitions or motions can be acted upon. Where there is a need to submit additional information, requirements, or documents, the note or letter of acknowledgment shall so state, specifying reasonable period of time within which they should be submitted, and the name of the particular official or employee in charge thereof. When all the documents or requirements have been submitted to the satisfaction of the department, or office of agency concerned, the particular official or employee in charge shall inform the interested party, petitioner, or correspondent of the action to be taken and when such action or disposition can be expected, barring unforeseen circumstances.

(b) If communication is outside its jurisdiction, the official or employee must:

- (1) Refer the letter, petition, telegram, or verbal request to the proper department, office or agency.
- (2) Acknowledge the communication by means of a note or letter, informing the interested party, petitioner, or correspondent of the action taken and attaching a copy of the letter of referral to the proper department, office or agency.

The department, office and agency to which the letter, petition, telegram or verbal request was referred for appropriate action must take action in accordance with subsection (a), pars. 1 & 2 hereof.

The period of fifteen (15) days herein provided shall be counted from date of receipt of the written or verbal communication by the department, office or agency concerned.

Section 4. All official papers and documents must be processed and completed within a reasonable time from the preparation thereof. Reasonable time shall be determined in accordance with the following rules:

a) When the law or the applicable rule issued in accordance therewith prescribes a period within which a decision is to be rendered or an action taken, the same shall be followed;

b) When the law or the applicable rule issued in accordance therewith does not prescribe a period, the head of the department, office or agency shall issue rules and regulations prescribing, among other things, what is reasonable time, taking into account the following factors:

- (1) Nature, simplicity or complexity of the subject matter of the official papers or documents processed by said department, office or agency;
- (2) Completeness or inadequacy of requirements or of data and information necessary for decision or action;
- (3) Lack of resources caused by circumstances beyond the control of the department, office or agency or official or employee concerned;
- (4) Legal constraints such as restraining orders and injunctions issued by proper judicial, quasi-judicial or administrative authorities;
- (5) Fault, failure or negligence of the party concerned which renders decision or action not possible or premature; and
- (6) Fortuitous events or force majeure.

Section 5. Except as otherwise provided by law or regulation, and as far as practicable, any written action or decision must contain not more than three (3) initials or signatures. In the absence of the duly authorized signatory, the official next-in-rank or officer-in-charge or the person duly authorized shall sign for and in his behalf.

The head of the department, office or agency shall prescribe, through an appropriate office order, the rules on the proper authority to sign in the absence of the regular signatory, as follows:

- (1) If there is only one official next in rank, he shall automatically be the signatory.
- (2) If there are two or more officials next in rank, the appropriate office order shall prescribe the order of priority among the officials next in rank within the same organizational unit; or
- (3) If there is no official next in rank present and available, the head of the department, office or agency shall designate an officer-in-charge from among those next lower in rank in the same organizational unit.

Section 6. All public documents must be made accessible to, and readily available for inspection by, the public during working hours, except those provided in Section 3, Rule IV.

Section 7. All heads or other responsible officers of departments, offices and agencies of the government and of government-owned or controlled corporation shall, within forty five (45) working days from the end of the year, render a full and complete report of performance and accomplishments, as prescribed by existing laws and regulations.

Another report of compliance with the provisions of the Code and these Rules shall be prepared and submitted to the Civil Service Commission. The Commission may require officials to provide additional information or furnish documents, if necessary.

Section 8. Officials and employees and their families shall lead modest and simple lives appropriate to their positions and income. They shall not indulge in extravagant or ostentatious display of wealth in any form.

Basically, modest and simple living means maintaining a standard of living within the public official or employee's visible means of income as correctly disclosed in his income tax returns, annual statement of assets, liabilities and net worth and other documents relating to financial and business interests and connections.

Public funds and property for official use and purpose shall be utilized with the diligence of a good father of a family.

Rule VII

Public Disclosure

Section 1. Every official and employee, except those who serve in an official honorary capacity, without service credit or pay, temporary laborers and casual or temporary and contractual workers, shall file under oath their statements of assets, liabilities and networth and a disclosure of business interest and financial connections including those of their spouses and unmarried children under eighteen (18) years of age living in their households, in the prescribed form, Annex A.

a) Contents of Statement

- 1) The Statement of Assets and Liabilities and Net Worth shall contain information on the following:
 - (a) real property, its improvements, acquisition costs, assessed value, and current fair market value;
 - (b) personal property and acquisition cost;
 - (c) all other assets such as investments, cash on hand or in banks, stock bonds, and the like; and
 - (d) all financial liabilities, both current and long term.
- 2) The Disclosure of Business Interest and Financial Connections shall contain information on any existing interest in, or any existing connections with, any business enterprises or entities, whether as proprietor, investor, promoter, partner, shareholder, officer, managing director, executive, creditor, lawyer, legal consultant or adviser, financial or business consultant, accountant, auditor, and the like, the names and addresses of the business enterprises or entities, the dates when such

interests or connections were established, and such other details as will show the nature of the interests or connections.

b) When to File

The above documents under the Code must be filed:

- (1) Within thirty (30) days after assumption of office, statements of which must be reckoned as of his first day of service.
- (2) On or before April 30 of every year thereafter, statements of which must be reckoned as of the end of the preceding year; or
- (3) Within thirty (30) days after separation from the service, statements of which must be reckoned as of his last day of office.

c) Where to File

The Statements of Assets, Liabilities and Net Worth and the Disclosure of Business Interest and Financial Connections shall be filed by the:

- (1) President, Vice-President and Constitutional Officials, with the National Office of the Ombudsman;
- (2) Senators and Congressmen, with the Secretaries of the Senate and the House of Representatives, respectively; Justices, with the Clerk of Court of the Supreme Court; Judges, with the Court Administrator; and national executive officials such as Members of the Cabinet, Undersecretaries and Assistant Secretaries, including the foreign service and heads of government-owned or controlled corporations with original charters and their subsidiaries and state colleges and universities, with the Office of the President;
- (3) Regional and local officials and employees, both appointive and elective, including other officials and employees of government-owned or controlled corporations and their subsidiaries and state colleges and universities, with the Deputy Ombudsman in their respective regions;
- (4) Officers of the Armed Forces from the rank of Colonel or Naval Captain, with the Office of the President, and those below said ranks, with the Deputy Ombudsman in their respective regions; and
- (5) All other officials and employees defined in Republic Act No. 3019, as amended, with the Civil Service Commission.

A copy of said statements shall also be filed with their respective departments, offices or agencies.

(d) All Statements of Assets, Liabilities and Networth, as of December 31, 1998, now on file with their respective agencies shall constitute sufficient compliance with the

requirements of the Code and they shall be required to accomplish and file the new form as prescribed in these Rules on or before April 30, 1990, and every year thereafter.

(e) Every official and employee shall also execute, within thirty (30) days from date of their assumption of office, the necessary authority in favor of the Ombudsman to obtain, from all the appropriate government agencies, including the Bureau of Internal Revenue, such documents as may show their assets, liabilities, net worth, and also their business interests, and financial connections in previous years, including, if possible, the year when they first assumed any office in the government.

(f) Married couples who are both public officials or employees may file the required statements jointly or separately.

Section 2. Every official or employee shall identify and disclose under oath to the best of his knowledge and information, his relatives in the government, up to the fourth civil degree of relationship, either of consanguinity or affinity, including *bilas*, *inso* and *balae*, in the prescribed form, Annex A, which shall be filed; (a) within thirty (30) days after assumption of office, the information contained therein must be reckoned as of his first day of office; (b) on or before April 30 of every year thereafter, the information contained therein must be reckoned as of the end of the preceding year; or (c) within thirty (30) days after separation from the service, the information contained therein must be reckoned as of his last day of office.

Section 3. (a) Any and all statements filed in accordance with the preceding sections shall be made available for public inspection at reasonable hours;

(b) Such statements shall be made available for copying or reproduction after ten (10) working days from the time they are filed as required by law unless extended for meritorious reasons.

(c) Any duly authorized person requesting a copy of a statement shall be required to pay a reasonable fee as may be determined and prescribed by the Civil Service Commission to cover the cost of reproduction and mailing of such statement, as well as the cost of certification.

(d) Any statement filed under the Code shall be available to the public, subject to the foregoing limitations, for a period of ten (10) years after receipt of the statement. The statement may be destroyed after such period unless needed in an on-going investigation.

Rule VIII

Review and Compliance Procedure

Section 1. The following shall have the authority to establish compliance procedures for the review of statements to determine whether said statements have been properly accomplished:

(a) In the case of Congress, the designated committees of both Houses of Congress subject to approval by the affirmative vote of the majority of the particular House concerned;

(b) In the case of the Executive Department, the heads of the departments, offices and agencies insofar as their respective departments, offices and agencies are concerned subject to approval of the Secretary of Justice.

(c) In the case of the Judicial Department, the Chief Justice of the Supreme Court; and

(d) In the case of the Constitutional Commissions and other Constitutional Offices, the respective Chairman and members thereof; in the case of the Office of the Ombudsman, the Ombudsman.

The above official shall likewise have the authority to render any opinion interpreting the provisions on the review and compliance procedures in the filing of statements of assets, liabilities, net worth and disclosure of information.

In the event said authorities determine that a statement is not properly filed, they shall inform the reporting individual and direct him to take the necessary corrective action.

The individual to whom an opinion is rendered, and any other individual involved in a similar factual situation, and who, after issuance of the opinion acts in good faith in accordance with it shall not be subject to any sanction provided in the Code.

Rule IX

Conflict of Interest and Divestment

Section 1. (a) An official or employee shall avoid conflict of interest at all times.

(b) Conflict of interest occurs:

(1) When the official or employee is:

a) a substantial stockholder; or

b) a member of the Board of Directors; or

c) an officer of the corporation; or

- d) an owner or has substantial interest in a business; or
- e) a partner in a partnership; and
- (2) The interest of such corporation or business, or his rights or duties therein, are opposed to or affected by the faithful performance of official duty.

(c) A substantial stockholder is any person who owns, directly or indirectly, shares of stock sufficient to elect a director of a corporation. This term shall also apply to the parties to a voting trust.

(d) A voting trust means an agreement in writing between one or more stockholders of a stock corporation for the purpose of conferring upon a trustee or trustees the right to vote and other rights pertaining to the shares for certain periods and subject to such other conditions provided for in the Corporation Law.

Section 2. (a) When a conflict of interest arises, the official or employee involved shall resign from his position in any private business enterprise within thirty (30) days from his assumption of office and/or divest himself of his share-holdings or interests within sixty (60) days from such assumption. For those who are already in the service, and conflict of interest arises, the officer or employee must resign from his position in the private business enterprise and/or divest himself of his shareholdings or interest within the periods herein-above provided, reckoned from the date when the conflict of interest had arisen. The same rule shall apply where the public official or employee is a partner in a partnership.

(b) If the conditions in Section 1 (b) concur, divestment shall be mandatory for any official or employee even if he has resigned from his position in any private business enterprise.

(c) Divestment shall be to a person or persons other than his spouse and relatives within the fourth civil degree of consanguinity or affinity.

(d) The requirements for divestment shall not apply to those specifically authorized by law and those who served the government in an honorary capacity nor to laborers and casual or temporary workers.

Rule X

Grounds for Administrative Disciplinary Action

Section 1. In addition to the grounds for administrative disciplinary action prescribed under existing laws, the acts and omissions of any official or employee, whether or not he holds office or employment in a casual, temporary, hold-over, permanent or regular capacity, declared unlawful or prohibited by the Code, shall constitute grounds for administrative disciplinary action, and without prejudice to criminal and civil liabilities provided herein, such as:

(a) Directly or indirectly having financial and material interest in any transaction requiring the approval of his office. Financial and material interest is defined as a pecuniary or proprietary interest by which a person will gain or lose something;

(b) Owning, controlling, managing or accepting employment as officer, employee, consultant, counsel, broker, agent, trustee, or nominee in any private enterprise regulated, supervised or licensed by his office, unless expressly allowed by law;

(c) Engaging in the private practice of his profession unless authorized by the Constitution, law or regulation, provided that such practice will not conflict or tend to conflict with his official functions;

(d) Recommending any person to any position in a private enterprise which has a regular or pending official transaction with his office, unless such recommendation or referral is mandated by (1) law, or (2) international agreements, commitment and obligation, or as part of the functions of his office;

These acts shall continue to be prohibited for a period of one (1) year after resignation, retirement, or separation from public office, except in the case of paragraph (c) above, but the professional concerned cannot practice his profession in connection with any matter before the office he used to be with, within one year after such resignation, retirement, or separation, provided that any violation hereof shall be a ground for administrative disciplinary action upon re-entry to the government service.

e) Disclosing or misusing confidential or classified information officially known to him by reason of his office and not made available to the public, to further his private interests or give undue advantage to anyone, or to prejudice the public interest;

(f) Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of, his office. The propriety or impropriety of the foregoing shall be determined by its value, kinship or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature.

Gift refers to a thing or a right disposed of gratuitously, or any act of liberality, in favor of another who accepts it, and shall include a simulated sale or an ostensibly onerous disposition thereof.

Loan covers both simple loan and commodatum as well as guarantees, financing arrangement or accommodation intended to ensure its approval. Commodatum refers to a contract whereby one of the parties delivers to another something not consumable so that the latter may use the same for a certain time and return it.

This prohibition shall not include:

- (1) Unsolicited gift of nominal or insignificant value not given in anticipation of, or in exchange for, a favor from a public official or employee or given after the transaction is completed, or service is rendered. As to what is a gift of nominal value will depend on the circumstances of each case taking into account the salary of the official or employee, the frequency or infrequency of the giving, the expectation of benefits, and other similar factors.

- (2) A gift from a member of his family or relative as defined in the Code on the occasion of a family celebration, and without any expectation of pecuniary gain or benefit.
- (3) Nominal donations from persons with no regular, pending, or expected transactions with the department, office or agency with which the official or employee is connected, and without any expectation of pecuniary gain or benefit.
- (4) Donations coming from private organizations whether local or foreign, which are considered and accepted as humanitarian and altruistic in purpose and mission.
- (5) Donations from government to government entities.

As to gift or grants from foreign governments, the Congress consents to:

- (i) The acceptance and retention by public official or employee of a gift of nominal value tendered and received as a souvenir or mark of courtesy;
- (ii) The acceptance by a public official or employee of a gift in the nature of a scholarship or fellowship grant or medical treatment; or
- (iii) The acceptance by a public official or employee of travel grant or expenses for travel taking place entirely outside the Philippines (such as allowances transportation, food and lodging) of more than nominal value if such acceptance is appropriate or consistent with the interest of the Philippines, and permitted by the head of office, branch, or agency to which he belongs.

Nothing in the Code shall be construed to restrict or prohibit any educational, scientific or cultural exchange programs subject to national security requirements.

(g) Obtaining or using any statement filed under the Code for any purpose contrary to morals or public policy or any commercial purpose other than by news and communications media for dissemination to the general public;

(h) Unfair discrimination in rendering public service due to party affiliation or preference;

(i) Disloyalty to the Republic of the Philippines and to the Filipino people;

(j) Failure to act promptly on letters and request within fifteen (15) days from receipt, except as otherwise provided in these Rules;

(k) Failure to process documents and complete action on documents and papers within a reasonable time from preparation thereof, except as otherwise provided in these Rules;

(l) Failure to attend to anyone who wants to avail himself of the services of the office, or to act promptly and expeditiously on public personal transactions;

(m) Failure to file a sworn statements of assets, liabilities and net worth, and disclosure of business interests and financial connections; and

(n) Failure to resign from his position in the private business enterprise within thirty (30) days from assumption of public office when conflict of interest arises, and/or failure to divest himself of his shareholdings or interests in private business enterprise within sixty (60) days from such assumption of public office when conflict of interest arises: *Provided*, however, that for those who are already in the service and a conflict of interest arises, the official or employee must either resign or divest himself of said interests within the periods herein-above provided, reckoned from the date when the conflict of interest had arisen.

Rule XI

Penalties

Section 1. Any official or employee regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of the Code shall be punished with a fine not exceeding the equivalent of six (6) months salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. Violations of Section 7, 8, or 9 of the Code shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000.00) or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.

Any violation hereof proven in a proper administrative proceeding shall be sufficient cause for removal or dismissal of an official employee, even if no criminal prosecution is instituted against him.

Private individuals who participate in conspiracy as co-principals, accomplices or accessories, with officials or employees, in violation of the Code, shall be subject to the same penal liabilities as the officials or employees and shall be tried jointly with them.

The official or employee concerned may bring an action against any person who obtains or uses a report for any purpose prohibited by Section 8 (d) of the Code. The Court in which such action is brought may assess against such person a penalty in any amount not to exceed twenty-five thousand pesos (P25,000.00). If another sanction hereunder or under any other law is heavier, the latter shall apply.

Section 2. Administrative proceedings for violation of these Rules shall be in accordance with the Civil Service Law and Rules.

Rule XII

Free Voluntary Service

Section 1. (a) Free voluntary service refers to services rendered by persons who are in government without pay or compensation.

b) The requirements of free voluntary service are as follows:

- (1) Issuance of an appropriate document;
- (2) Fitness and suitability for the duties and responsibilities of the particular position;
- (3) Compliance with the rule on nepotism.

c) The following are the functions or services that volunteers can perform:

- (1) Advisory;
- (2) Consultancy or counseling;
- (3) Recommendatory;
- (4) Professional Services;
- (5) Staff work such as planning or research; or
- (6) Humanitarian.

d) Those who render free voluntary service to the government are covered by the following:

- 1) Laws on rewards and incentives;
- 2) Norms of conduct and ethical standards;
- 3) Duties and obligations of public officers and employees;
- 4) Prohibitions and sanctions enumerated in these Rules; and
- 5) Civil and criminal liability.

e) Those who render free voluntary service are, however, exempted from the filing of statements of assets, liabilities and networth and financial disclosures, the requirement on divestment and the appropriate eligibility requirement, for their designations, and shall not enjoy security of tenure.

Unless otherwise provided in the terms of their designations, volunteers are prohibited from:

- (1) Exercising supervisory functions over personnel;
- (2) Exercising functions of positions involving national security;
- (3) Having access to confidential or classified information unless authorized by proper authorities;

- (4) Occupying regular plantilla positions;
- (5) Having such services credited as government service and availing themselves of retirements benefits;
- (6) Using facilities and resources of the office for partisan political purposes; and
- (7) Receiving any pecuniary benefits such as honoraria, allowances and other perquisites of office.

Rule XIII

Amendment

Section 1. The Civil Service Commission may amend or modify these Rules as may be necessary.

Rule XIV

Effectivity

Section 1. These Rules shall take effect thirty (30) days following the completion of their publication in the Official Gazette or in a newspaper of general circulation.

Quezon City, April 21, 1989.

REVISED PENAL CODE

TITLE TWO

CRIMES AGAINST THE FUNDAMENTAL LAWS
OF THE STATE

Chapter One

ARBITRARY DETENTION OR EXPULSION, VIOLATION
OF DWELLING, PROHIBITION, INTERRUPTION, AND
DISSOLUTION OF PEACEFUL MEETINGS AND
CRIMES AGAINST RELIGIOUS WORSHIP

Section One. - *Arbitrary Detention and Expulsion*

Art. 124. *Arbitrary detention.* - Any public officer or employee who, without legal grounds, detains a person, shall suffer:

1. The penalty of *arresto mayor*, in its maximum period to *prision correccional* in its minimum period, if the detention has not exceeded three days;
2. The penalty of *prision correccional* in its medium and maximum periods, if the detention has continued more than three but not more than fifteen days;
3. The penalty of *prision mayor*, if the detention has continued for more than fifteen days but not more than six months; and
4. That of *reclusion temporal*, if the detention shall have exceeded six months.

The commission of a crime, or violent insanity or any other ailment requiring the compulsory confinement of the patient in a hospital, shall be considered legal grounds for detention of any person.

Art. 125. *Delay in the delivery of detained persons to the proper judicial authorities.* - The penalties provided in the next preceding article shall be imposed upon the public officer or employee who shall detain any person for some legal ground and shall fail to deliver such person to the proper judicial authorities within the period of: twelve (12) hours, for crimes or offenses punishable by light penalties, or their equivalent; eighteen (18) hours, for crimes or offenses punishable by correctional penalties, or their equivalent; and thirty-six (36) hours, for crimes or offenses punishable by afflictive or capital penalties, or their equivalent.

In every case, the person detained shall be informed of the cause of his detention and shall be allowed, upon his request, to communicate and confer at any time with his attorney or counsel. (As amended by EO No. 272, promulgated July 25, 1987. This EO No. 272 shall take effect thirty (30) days following its publication in the Official Gazette.)

Art. 126. *Delaying release.* - The penalties provided for in article 124 shall be imposed upon any public officer or employee who delays for the period of time specified therein the performance of any judicial or executive order for the release of a prisoner or detention prisoner, or unduly delays the service of the notice of such order to said prisoner or the proceedings upon any petition for the liberation of such person.

Art. 127. *Expulsion.* - The penalty of *prision correccional* shall be imposed upon any public officer or employee who, not being thereunto authorized by law, shall expel any person from the Philippine Islands or shall compel such person to change his residence.

Section Two- *Violation of Domicile*

Art. 128. *Violation of Domicile.* - The penalty of *prision correccional* in its minimum period shall be imposed upon any public officer or employee who, not being authorized by judicial order, shall enter any dwelling against the will of the owner thereof, search papers or other effects found therein without the previous consent of such owner, or, having surreptitiously entered said dwelling, and being required to leave the premises, shall refuse to do so.

If the offense be committed in the nighttime, or if any papers or effects not constituting evidence of a crime be not returned immediately after the search made by the offender, the penalty shall be *prision correccional* in its medium and maximum periods.

Art. 129. *Search warrants maliciously obtained and abuse in the service of those legally obtained.* - In addition to the liability attaching to the offender for the commission of any other offense, the penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period and a fine not exceeding 1,000 pesos shall be imposed upon any public officer or employee who shall procure a search warrant without just cause, or, having legally procured the same, shall exceed his authority or use unnecessary severity in executing the same.

Art. 130. *Searching domicile without witnesses.* - The penalty of *arresto mayor* in its medium and maximum periods shall be imposed upon a public officer or employee who, in cases where a search is proper, shall search the domicile, papers, or other belongings of any person, in the absence of the latter, any member of his family, or in their default, without the presence of two witnesses residing in the same locality.

Section Three. - *Prohibition, interruption, and dissolution of peaceful meetings*

Art. 131. *Prohibition, interruption, and dissolution of peaceful meetings.* - The penalty of *prision correccional* in its minimum period shall be imposed upon any public officer or employee who, without legal ground, shall prohibit or interrupt the holding of a peaceful meeting, or shall dissolve the same.

The same penalty shall be imposed upon a public officer or employee who shall hinder any person from joining any lawful association or from attending any of its meetings.

The same penalty shall be imposed upon any public officer or employee who shall prohibit or hinder any person from addressing, either alone or together with others, any petition to the authorities for the correction of abuses or redress of grievances.

Section Four. - *Crimes against religious worship*

Art. 132. *Interruption of religious worship.* - The penalty of *prision correccional* in its minimum period shall be imposed upon any public officer or employee who shall prevent or disturb the ceremonies or manifestations of any religion.

If the crime shall have been committed with violence or threats, the penalty shall be *prision correccional* in its medium and maximum periods.

Art. 133. *Offending the religious feelings.* - The penalty of *arresto mayor* in its maximum period to *prision correccional* in its minimum period shall be imposed upon anyone who, in a place devoted to religious worship or during the celebration of any religious ceremony shall perform acts notoriously offensive to the feelings of the faithful.

REVISED PENAL CODE

TITLE SEVEN

CRIMES COMMITTED BY PUBLIC OFFICERS

Chapter One

PRELIMINARY PROVISIONS

Art 203. *Who Are Public Officers.* - For the purpose of applying the provisions of this and the preceding titles of this book, any person who, by direct provision of the law, popular election or appointment by competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in said Government, or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class, shall be deemed to be a public officer.

Chapter Two

MALFEASANCE AND MISFEASANCE IN OFFICE

Section One - Dereliction of Duty

Art. 204. *Knowingly rendering unjust judgment.* - Any judge who shall knowingly render an unjust judgment in any case submitted to him for decision, shall be punished by *prision mayor* and perpetual absolute disqualification.

Art. 205. *Judgment rendered through negligence.* - Any judge who, by reason of inexcusable negligence or ignorance shall render a manifestly unjust judgment in any case submitted to him for decision shall be punished by *arresto mayor* and temporary special disqualification.

Art. 206. *Unjust interlocutory order.* - Any judge who shall knowingly render an unjust interlocutory order or decree shall suffer the penalty of *arresto mayor* in its minimum period and suspension; but if he shall have acted by reason of inexcusable negligence or ignorance and the interlocutory order or decree be manifestly unjust, the penalty shall be suspension.

Art. 207. *Malicious delay in the administration of justice.* - The penalty of *prision correccional* in its minimum period shall be imposed upon any judge guilty of malicious delay in the administration of justice.

Art. 208. *Prosecution of offenses; negligence and tolerance.* - The penalty of *prision correccional* in its minimum period and suspension shall be imposed upon any public officer, or officer of the law, who, in dereliction of the duties of his office, shall maliciously refrain from instituting prosecution for the punishment if violators of the law, or shall tolerate the commission of offenses.

Art. 209. *Betrayal of trust by an attorney or solicitor - Revelation of secrets.* - In addition to the proper administrative action, the penalty of *prision correccional* in its minimum period or a fine ranging from 200 to 1,000 pesos, or both, shall be imposed upon any attorney-at-law or solicitor (*procurador judicial*) who, by any malicious breach of professional duty or of inexcusable negligence or ignorance shall prejudice his client or reveal any of the secrets of the latter learned by him in his professional capacity.

The same penalty shall be imposed upon any attorney-at-law or solicitor (*procurador judicial*), who, having undertaken the defense of a client or having received confidential information from said client in a case, shall undertake the defense of the opposing party in the same case, without the consent of his first client.

Section Two - Bribery

Art. 210. *Direct bribery.* - Any public officer who shall agree to perform an act constituting a crime, in connection with the performance of his official duties, in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another, shall suffer the penalty of *prision mayor* in its medium and minimum periods and a fine of not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed.

If the gift was accepted by the officer in consideration of the execution of an act which does not constitute a crime, and the officer executed said act, he shall suffer the same penalty provided in the preceding paragraph; and if said act shall not have been accomplished, the officer shall suffer the penalties of *prision correccional*, in its medium period and a fine of not less than twice the value of such gift.

If the object for which the gift was received or promised was to make the public officer refrain from doing something which it was his official duty to do, he shall suffer the penalties of *prision correccional* in its maximum period to *prision mayor* in its minimum period and a fine of not less than three times the value of such gift.

In addition to the penalties provided in the preceding paragraphs, the culprit shall suffer the penalty of special temporary disqualification.

The provisions contained in the preceding paragraphs shall be made applicable to assessors, arbitrators, appraisal and claim commissioners, experts or any other persons performing public duties. (As amended by Batas Pambansa Blg. 871, approved May 29, 1985.)

Art. 211. *Indirect bribery.* - The penalties of *prision correccional* in its medium and maximum periods, suspension and public censure shall be imposed upon any public officer who shall accept gifts offered to him by reason of his office. (As amended by BP Blg. 871, approved May 29, 1985.)

Art. 211-A. *Qualified Bribery.* - if any public officer is entrusted with law enforcement and he refrains from arresting or prosecuting an offender who has committed a crime punishable by *reclusion perpetua* and/or death in consideration of any offer, promise, gift or present, he shall suffer the penalty for the offense which was not prosecuted.

If it is the public officer who asks or demands such gift or present, he shall suffer the penalty of death. (As added by Section 4, RA No. 7659.)

Art. 212. *Corruption of Public officials.* - The same penalties imposed upon the officer corrupted, except those of disqualification and suspension, shall be imposed upon any person, who shall have made the offers or promises or given the gifts or presents as described in the preceding articles.

Chapter Three
FRAUDS AND ILLEGAL EXACTIONS AND TRANSACTIONS

Art. 213. *Frauds against the public treasury and similar offenses.* - The penalty of *prision correccional* in its medium period to *prision mayor* in its minimum period or a fine ranging from 200 to 10,000 pesos, or both, shall be imposed upon any public officer who:

1. In his official capacity, in dealing with any person with regard to furnishing supplies, the making of contracts, or the adjustment or settlement of accounts relating to public property or funds, shall enter into an agreement with any interested party or speculator or make use of any other scheme, to defraud the Government.

2. Being entrusted with the collection of taxes, licenses, fees and other imposts, shall be guilty of any of the following acts or omissions:

a) Demanding directly or indirectly, the payment of sums different from or larger than those authorized by law.

b) Failing voluntarily to issue a receipt, as provided by law, for any sum of money collected by him officially.

c) Collecting or receiving, directly or indirectly, by way of payment or otherwise, things or objects of a nature different from that provided by law.

When the culprit is an officer or employee of the Bureau of Internal Revenue or the Bureau of Customs, the provisions of the Administrative Code shall be applied.

Art. 214. *Other frauds.* - In addition, to the penalties prescribed in the provisions of Chapter Six, Title Ten, Book Two, of this Code, the penalty of temporary special disqualification in its maximum period to perpetual special disqualification shall be imposed upon any public officer who, taking advantage of his official position, shall commit any of the frauds or deceits enumerated in said provisions.

Art. 215. *Prohibited transactions.* - The penalty of *prision correccional* in its minimum period or a fine ranging from 200 to 1,000 pesos, or both, shall be imposed upon any appointive public officer who, during his incumbency, shall directly or indirectly become interested in any transaction of exchange or speculation within the territory subject to his jurisdiction.

Art. 216. *Possession of prohibited interest by a public officer.* - The penalty of *arresto mayor* in its medium period to *prision correccional* in its minimum period, or a fine ranging from 200 to 1,000 pesos, or both, shall be imposed upon a public officer who directly or indirectly, shall become interested in any contract or business in which it is his official duty to intervene.

This provision is applicable to experts, arbitrators, and private accountants who, in like manner, shall take part in any contract or transaction connected with the estate or property in the appraisal distribution or adjudication of which they shall have acted and to the guardians and executors with respect to the property belonging to their wards or estate.

Chapter Four
MALVERSATION OF PUBLIC FUNDS OR PROPERTY

Art. 217. *Malversation of public funds or property - Presumption of malversation.* - Any public officer who, by reason of the duties of his office, is accountable for public funds or property, shall appropriate the same, or shall take or misappropriate or shall consent, or through abandonment or negligence, shall permit any other person to take such public funds or property, wholly or partially, or shall otherwise be guilty of the misappropriation or malversation of such funds or property, shall suffer:

1) The penalty of *prision correccional* in its medium and maximum periods, if the amount involved in the misappropriation or malversation does not exceed two hundred pesos.

2) The penalty of *prision mayor* in its minimum and medium periods, if the amount involved is more than 200 pesos but does not exceed 6,000 pesos.

3) The penalty of *prision mayor* in its maximum period to *reclusion temporal* in its minimum period, if the amount involved is more than 6,000 pesos but is less than 12,000 pesos.

4) The penalty of *reclusion temporal* in its medium and maximum periods, if the amount involved is more than 12,000 pesos but is less than 22,000 pesos. If the amount exceeds the latter, the penalty shall be *reclusion temporal* in its maximum period to *reclusion perpetua*.

In all cases, persons guilty of malversation shall also suffer the penalty of perpetual special disqualification and a fine equal to the amount of the funds malversed or equal to the total value of the property embezzled.

The failure of a public officer to have duly forthcoming any public funds or property with which he is chargeable, upon demand by any duly authorized officer shall be *prima facie* evidence that he has put such missing funds of property to personal uses. (As amended by RA 1060 approved June 12, 1954.)

Art. 218. *Failure of accountable officer to render accounts.* - Any public officer, whether in the service or separated therefrom by resignation or any other cause, who is required by law or regulation to render account to the Insular Auditor (Now Commission on Audit), or to a provincial auditor and who fails to do so for a period of two months after such accounts should be rendered, shall be punished by *prision correccional* in its minimum period, or by a fine ranging from 200 to 6,000 pesos, or both.

Art. 219. *Failure of a responsible public officer to render accounts before leaving the country.* - Any public officer who unlawfully leaves or attempts to leave the Philippine Islands without securing a certificate from the Insular Auditor showing that his accounts have been finally settled, shall be punished by *arresto mayor*, or a fine ranging from 200 to 1,000 pesos or both.

Art. 220. *Illegal use of public funds or property.* - Any public officer who shall apply any public fund or property under his administration to any public use other than that for which such fund or property were appropriated by law or ordinance shall suffer the penalty of *prision correccional* in its minimum period or a fine ranging from one-half to the total value of the sum misapplied, if by reason of such misapplication, any damage or embarrassment shall have resulted to the public service. In either case, the offender shall also suffer the penalty of temporary special disqualification.

If no damage or embarrassment to the public service has resulted, the penalty shall be a fine from 5 to 50 percent of the sum misapplied.

Art. 221. *Failure to make delivery of public funds or property.* - Any public officer under obligation to make payment from Government funds in his possession, who shall fail to make such payment, shall be punished by *arresto mayor* and a fine from 5 to 25 percent of the sum which he failed to pay.

This provision shall apply to any public officer who, being ordered by competent authority to deliver any property in his custody or under his administration, shall refuse to make such delivery.

The fine shall be graduated in such case by the value of the thing, provided that it shall not be less than 50 pesos.

Art. 222. *Officers included in the preceding provisions.* - The provisions of this chapter shall apply to private individuals who, in any capacity whatever, have charge of any insular (now national), provincial or municipal funds, revenues or property and to any administrator or depository of funds or property attached, seized or deposited by public authority, even if such property belongs to a private individual.

Chapter Five INFIDELITY OF PUBLIC OFFICERS

Section One - Infidelity in the custody of prisoners

Art. 223. *Conniving with or consenting to evasion.* - Any public officer who shall consent to the escape of a prisoner in his custody or charge, shall be punished:

1. By *prision correccional* in its medium and maximum periods and temporary special disqualification in its maximum period to perpetual special disqualification, if the fugitive shall have been sentenced by final judgment to any penalty.
2. By *prision correccional* in its minimum period and temporary special disqualification, in case the fugitive shall not have been finally convicted but only held as a detention prisoner for any crime or violation of law or municipal ordinance.

Art. 224. *Evasion through negligence.* - If the evasion of the prisoner shall have taken place through the negligence of the officer charged with the conveyance or custody of the escaping prisoner, said officer shall suffer the penalties of *arresto mayor* in its maximum period to *prision correccional* in its minimum period and temporary special disqualification.

Art. 225. *Escape of prisoner under the custody of a person not a public officer.* - Any private person to whom the conveyance or custody of a prisoner or person under arrest shall have been confided, who shall commit any of the offenses mentioned in the two preceding articles, shall suffer the penalty next lower in degree than that prescribed for the public officer.

Section Two - Infidelity in the custody of documents

Art. 226. *Removal, concealment or destruction of documents.* - Any public officer who shall remove, destroy or conceal documents or papers officially entrusted to him, shall suffer:

1. The penalty or *prision mayor* and a fine not exceeding 1,000 pesos, whenever serious damage shall have been caused thereby to a third party or to the public interest.
2. The penalty of *prision correccional* in its minimum and medium periods and a fine not exceeding 1,000 pesos, whenever the damage caused to a third party or to the public interest shall not have been serious.

In either case, the additional penalty of temporary special disqualification in its maximum period to perpetual special disqualification shall be imposed.

Art. 227. *Officer breaking seal.* - Any public officer charged with the custody of papers or property sealed by proper authority, who shall break the seals or permit them to be broken, shall suffer the penalties of *prision correccional* in its minimum and medium periods, temporary special disqualification and a fine not exceeding 2,000 pesos.

Art. 228. *Opening of closed documents.* - Any public officer not included in the provisions of the next preceding article who, without proper authority, shall open or shall permit to be opened any closed papers, documents or objects entrusted to his custody, shall suffer the penalties of *arresto mayor*, temporary special disqualification and a fine not exceeding 2,000 pesos.

Section Three - Revelation of Secrets

Art. 229. *Revelation of secrets by an officer.* - Any public officer who shall reveal any secret known to him by reason of his official capacity, or shall wrongfully deliver papers or copies of papers of which he may have charge and which should not be published, shall suffer the penalties of *prision correccional* in its medium and maximum periods, perpetual special disqualification and a fine not exceeding 2,000 pesos if the revelation of such secrets or the delivery of such papers shall have caused serious damage to the public interest; otherwise, the penalties of *prision correccional* in its minimum period, temporary special disqualification and a fine not exceeding 500 pesos shall be imposed.

Art. 230. *Public officer revealing secrets of private individual.* - Any public officer to whom the secrets of any private individual shall become known by reason of his office who shall reveal such secrets, shall suffer the penalties of *arresto mayor* and a fine not exceeding 1,000 pesos.

Chapter Six
OTHER OFFENSES OR IRREGULARITIES BY PUBLIC OFFICERS

Section One - Disobedience, refusal of assistance and maltreatment of prisoners

Art. 231. *Open disobedience* - Any judicial or executive officer who shall openly refuse to execute the judgment, decision or order of any superior authority made within the scope of the jurisdiction of the latter and issued with all the legal formalities, shall suffer the penalties of *arresto mayor* in its medium period to *prision correccional* in its minimum period, temporary special disqualification in its maximum period and a fine not exceeding 1,000 pesos.

Art. 232. *Disobedience to order of superior officer, when said order was suspended by inferior officer.* - Any public officer who, having for any reason suspended the execution of the orders of his superiors, shall disobey such superiors after the latter have disapproved the suspension, shall suffer the penalties of *prision correccional* in its minimum and medium periods and perpetual special disqualification.

Art. 233. *Refusal of assistance* - The penalties of *arresto mayor* in its medium period to *prision correccional* in its minimum period, perpetual special disqualification and a fine not exceeding 1,000 pesos, shall be imposed upon a public officer who, upon demand from competent authority, shall fail to lend his cooperation towards the administration of justice or other public service, if such failure shall result in serious damage to the public interest or to a third party; otherwise, *arresto mayor* in its medium and maximum periods and a fine not exceeding 500 pesos shall be imposed.

Art. 234. *Refusal to discharge elective office* - The penalty of *arresto mayor* or a fine not exceeding 1,000 pesos, or both, shall be imposed upon any person who, having been elected by popular election to a public office, shall refuse without legal motive to be sworn in or to discharge the duties of said office.

Art. 235. *Maltreatment of prisoners* - The penalty of *prision correccional* in its medium period to *prision mayor* in its minimum period, in addition to his liability for the physical injuries or damage caused, shall be imposed upon any public officer or employee who shall overdo himself in the correction or handling of a prisoner or detention prisoner under his charge, by the imposition of punishments not authorized by the regulations, or by inflicting such punishments in a cruel and humiliating manner.

If the purpose of the maltreatment is to extort a confession, or to obtain some information from the prisoner, the offender shall be punished by the *prision mayor* in its minimum period, temporary absolute disqualification and a fine not exceeding six thousand pesos (P6,000.00), in addition to his liability for the physical injuries or damage caused. (As amended by EO No. 62, Nov. 7, 1986.)

Section Two. - Anticipation, prolongation, and abandonment of the duties and powers of public office

Art. 236. *Anticipation of duties of a public office.* - Any person who shall assume the performance of the duties and powers of any public office or employment without first being sworn in or having given the bond required by law, shall be suspended from such office or employment until he shall have complied with the respective formalities and shall be fined from 200 to 500 pesos.

Art. 237. *Prolonging performance of duties and powers.* - Any public officer who shall continue to exercise the duties and powers of his office, employment or commission, beyond the period provided by law, regulations or special provisions applicable to the case, shall suffer the penalties of *prision correccional* in its minimum period, special temporary disqualification in its minimum period and a fine not exceeding 500 pesos.

Art. 238. *Abandonment of office or position.* - Any public officer who, before the acceptance of his resignation, shall abandon his office to the detriment of the public service shall suffer the penalty of *arresto mayor*.

If such office shall have been abandoned in order to evade the discharge of the duties of preventing, prosecuting or punishing any of the crimes falling within Title One, and Chapter One of the Title Three of Book Two of this Code, the offender shall be punished by *prision correccional* in its minimum and medium periods, and by *arresto mayor* if the purpose of such abandonment is to evade the duty of preventing, prosecuting or punishing any other crime.

Section Three. - Usurpation of powers and unlawful appointments

Art. 239. *Usurpation of legislative powers.* - The penalties of *prision correccional* in its minimum period, temporary special disqualification and a fine not exceeding 1,000 pesos, shall be imposed upon any public officer who shall encroach upon the powers of the legislative branch of the Government, either by making general rules or regulations beyond the scope of his authority, or by attempting to repeal a law or suspending the execution thereof.

Art. 240. *Usurpation of executive functions.* - Any judge who shall assume any power pertaining to the executive authorities, or shall obstruct the latter in the lawful exercise of their powers, shall suffer the penalty of *arresto mayor* in its medium period to *prision correccional* in its minimum period.

Art. 241. *Usurpation of judicial functions.* - The penalty of *arresto mayor* in its medium period to *prision correccional* in its minimum period shall be imposed upon any officer of the executive branch of the Government who shall assume judicial powers or shall obstruct the execution of any order or decision rendered by any judge within his jurisdiction.

Art. 242. *Disobeying request for disqualification.* - Any public officer who, before the question of jurisdiction is decided, shall continue any proceeding after having been lawfully required to refrain from so doing, shall be punished by *arresto mayor* and a fine not exceeding 500 pesos.

Art. 243. *Orders or request by executive officers to any judicial authority* - Any executive officer who shall address any order or suggestion to any judicial authority with respect to any case or business coming within the exclusive jurisdiction of the courts of justice shall suffer the penalty of *arresto mayor* and a fine not exceeding 500 pesos.

Art. 244. *Unlawful appointments* - Any public officer who shall knowingly nominate or appoint to any public office any person lacking the legal qualifications therefore, shall suffer the penalty of *arresto mayor* and a fine not exceeding 1,000 pesos

Section Four. - Abuses against chastity

Art. 245. *Abuses against chastity - Penalties.* - The penalties of *prision correccional* in its medium and maximum periods and temporary special disqualification shall be imposed:

1. Upon any public officer who shall solicit or make immoral or indecent advances to a woman interested in matters pending before such officer for decision, or with respect to which he is required to submit a report to or consult with a superior officer;

2. Any warden or other public officer directly charged with the care and custody of prisoners or persons under arrest who shall solicit or make immoral or indecent advances to a woman under his custody.

If the person solicited be the wife, the daughter, sister or relative within the same degree by affinity of any person in the custody of such warden or officer, the penalties shall be *prision correccional* in its minimum and medium periods and temporary special disqualification.

PRESIDENTIAL DECREE NO. 46

MAKING IT PUNISHABLE FOR PUBLIC OFFICIALS AND EMPLOYEES TO RECEIVE, AND FOR PRIVATE PERSONS TO GIVE, GIFTS ON ANY OCCASION, INCLUDING CHRISTMAS

WHEREAS, under existing laws and the civil service rules, it is prohibited to receive, directly or indirectly, any gift, present or any other form of benefit in the course of official duties;

WHEREAS, it is believed necessary to put more teeth to existing laws and regulations to wipe out all conceivable forms of graft and corruption in the public service, the members of which should not only be honest but above suspicion and reproach; and

WHEREAS, the stoppage of the practice of gift-giving to government men is a concrete step in the administration's program of reforms for the development of new moral values in the social structure of the country, one of the main objectives of the New Society;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081 dated September 21, 1972, and General Order No. 1 dated September 22, 1972, do hereby make it punishable for any public official or employee, whether of the national or local governments, to receive, directly or indirectly, and for private persons to give, or offer to give, any gift, present or other valuable thing on any occasion, including Christmas, when such gift, present or other valuable thing is given by reason of his official position, regardless of whether or not the same is for past favor or favors or the giver hopes or expects to receive a favor or better treatment in the future from the public official or employee concerned in the discharge of his official functions. Included within the prohibition is the throwing of parties or entertainments in honor of the official or employee or his immediate relatives.

For violation of this Decree, the penalty of imprisonment for not less than one (1) year nor more than five (5) years and perpetual disqualification from public office shall be imposed. The official or employee concerned shall likewise be subject to administrative disciplinary action and, if found guilty, shall be meted out the penalty of suspension or removal, depending on the seriousness of the offense.

Any provision of law, executive order, rule or regulation or circular inconsistent with this Decree is hereby repealed or modified accordingly.

This Decree shall take effect immediately after its publication.

Done in the City of Manila, this 10th day of November, in the year of Our Lord, nineteen hundred and seventy-two.

PRESIDENTIAL DECREE NO. 749

GRANTING IMMUNITY FROM PROSECUTION TO GIVERS OF BRIBES AND OTHER GIFTS AND TO THEIR ACCOMPLICES IN BRIBERY AND OTHER GRAFT CASES AGAINST PUBLIC OFFICERS

WHEREAS, public office is a public trust: public officers are but servants of the people, whom they must serve with utmost fidelity and integrity;

WHEREAS, it has heretofore been virtually impossible to secure the conviction and removal of dishonest public servants owing to the lack of witnesses: the bribe or gift-givers being always reluctant to testify against the corrupt public officials and employees concerned for fear of being indicted and convicted themselves of bribery and corruption;

WHEREAS, it is better by far and more socially desirable, as well as just, that the bribe or gift giver be granted immunity from prosecution so that he may freely testify as to the official corruption, than that the official who receives the bribe or gift should be allowed to go free, insolently remaining in public office, and continuing with his nefarious and corrupt practices, to the great detriment of the public service and the public interest.

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby decree and order that:

Section 1. Any person who voluntarily gives information about any violation of Articles 210, 211 and 212 of the Revised Penal Code; Republic Act Numbered Three Thousand Nineteen, as amended; Section 345 of the Internal Revenue Code and Section 3604 of the Tariff and Customs Code and other provisions of the said Codes penalizing abuse or dishonesty on the part of the public officials concerned; and other laws, rules and regulations punishing acts of graft, corruption and other forms of official abuse; and who willingly testifies against any public official or employee for such violation shall be exempt from prosecution or punishment for the offense with reference to which his information and testimony were given, and may plead or prove the giving of such information and testimony in bar of such prosecution: *Provided*, that this immunity may be enjoyed even in cases where the information and testimony are given against a person who is not a public official but who is a principal, or accomplice, or accessory in the commission of any of the above-mentioned violations; *Provided, further*, that this immunity may be enjoyed by such informant or witness notwithstanding that he offered or gave the bribe or gift to the public official or is an accomplice for such gift or bribe-giving; and *Provided, finally*, that the following conditions concur:

1. The information must refer to consummated violations of any of the above-mentioned provisions of law, rules and regulations;

2. The information and testimony are necessary for the conviction of the accused public officer;
3. Such information and testimony are not yet in the possession of the State;
4. Such information and testimony can be corroborated on its material points; and
5. The informant or witness has not been previously convicted of a crime involving moral turpitude.

Section 2. The immunity granted hereunder shall not attach should it turn out subsequently that the information and/or testimony is false and malicious or made only for the purpose of harassing, molesting or in any way prejudicing the public officer denounced shall be entitled to any action, civil, administrative or criminal, against said informant or witness: *Provided*, however, That such action may be commenced only after preliminary investigation or after the latter's acquittal by a competent court.

The prescriptive periods for the various actions under the provisions of this section shall start to run from the time such actions may be commenced as herein provided. (*As amended by BP Blg. 242, approved Nov. 11, 1982.*)

Section 3. All preliminary investigations conducted by a prosecuting fiscal, judge or committee, and all proceedings undertaken in connection therewith, shall be strictly confidential or private in order to protect the reputation of the official under investigation in the event that the report proves to be unfounded or no *prima facie* case is established.

Section 4. All acts, decrees and rules and regulations inconsistent with the provisions of this Decree are hereby repealed or modified accordingly.

Section 5. This Decree shall take effect immediately.

DONE in the City of Manila, this 18th day of July, in the year of Our Lord, nineteen hundred and seventy-five.

AN ACT DEFINING AND PENALIZING
THE CRIME OF PLUNDER

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

Section 1. Definition of Terms. — As used in this Act, the term —

a) "Public Officer" means any person holding any public office in the Government of the Republic of the Philippines by virtue of an appointment, election or contract.

b) "Government" includes the National Government, and any of its subdivisions, agencies or instrumentalities, including government-owned or -controlled corporations and their subsidiaries.

c) "Person" includes any natural or juridical person, unless the context indicates otherwise.

d) "Ill-gotten wealth" means any asset, property, business enterprise or material possession of any person within the purview of Section Two (2) hereof, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes :

1) Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;

2) By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any other form of pecuniary benefit from any person and/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;

3) By the illegal or fraudulent conveyance or disposition of assets belonging to the National Government or any of its subdivisions, agencies or instrumentalities or government-owned or -controlled corporations and their subsidiaries;

4) By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;

5) By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or

6) By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

"Section 2. Definition of the Crime of Plunder; Penalties. — Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1(d) hereof in the aggregate amount or total value of at least Fifty million pesos (P50,000,000.00) shall be guilty of the crime of plunder and shall be punished by *reclusion perpetua* to death. Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State." (As amended by RA 7659, approved Dec. 13, 1993.)

Section 3. Competent Court. — Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan.

Section 4. Rule of Evidence. — For purposes of establishing the crime of plunder, it shall not be necessary to prove each and every criminal act done by the accused in furtherance of the scheme or conspiracy to amass, accumulate or acquire ill-gotten wealth, it being sufficient to establish beyond reasonable doubt a pattern of overt or criminal acts indicative of the overall unlawful scheme or conspiracy.

Section 5. Suspension and Loss of Benefits. — Any public officer against whom any criminal prosecution under a valid information under this Act whatever stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted, he shall be entitled to reinstatement and to the salaries and other benefits which he failed to receive during suspension, unless in the meantime, administrative proceedings have been filed against him.

Section 6. Prescription of Crimes. — The crime punishable under this Act shall prescribe in twenty (20) years. However, the right of the State to recover properties unlawfully acquired by public officers from them or from their nominees or transferees shall not be barred by prescription, laches, or estoppel.

Section 7. Separability of Provisions. — If any provisions of this Act or the application thereof to any person or circumstance is held invalid, the remaining provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Section 8. Scope. — This Act shall not apply to or affect pending prosecutions or proceedings, or those which may be instituted under Executive Order No. 1, issued and promulgated on February 28, 1986.

Section 9. Effectivity. — This Act shall take effect after fifteen (15) days from its publication in the Official Gazette and in a newspaper of general circulation.

Approved: July 12, 1991

PRESIDENTIAL DECREE NO. 1606, as amended by
R.A. NO. 7975* and R.A. NO. 8249*

(REVISING PRESIDENTIAL DECREE NO. 1486 CREATING A SPECIAL
COURT TO BE KNOWN AS "SANDIGANBAYAN" AND FOR
OTHER PURPOSES)

WHEREAS, the new Constitution declares that a public office is a public trust and ordains that public officers and employees shall serve with a highest degree of responsibility, integrity, loyalty and efficiency and shall remain at all times accountable to the people;

WHEREAS, to attain the highest norms of official conduct required of public officers and employees, Section 5, Article XIII of the New Constitution provides for the creation of a special court to be known as *Sandiganbayan*;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers in me vested by the Constitution, do hereby order and decree as follows:

Section 1. *Sandiganbayan*; composition; qualifications; tenure; removal; and compensation. — A special court, of the same level as the Court of Appeals and possessing all the inherent powers of a court of justice, to be known as the *Sandiganbayan* is hereby created composed of a Presiding Justice and fourteen Associate Justices who shall be appointed by the President. (As amended by R.A. No. 8249)

No person shall be appointed Presiding Justice or Associate Justice of the *Sandiganbayan*; unless he is natural-born citizen of the Philippines, at least 40 years of age and for at least ten years has been a judge of a court of record or been engaged in the practice of law in the Philippines or has held office requiring admission to the bar as a pre-requisite for a like period.

The Presiding Justice shall be so designated in his commission and the other Justices shall have precedence according to the dates of their respective of commission, or, when the commission of two or more of them shall bear the same date, according to the order in which their commissions have been issued by the President.

The Presiding Justice and the Associate Justices shall not be removed from office except on impeachment upon the grounds and in the manner provided for in Section 2, 3 and 4 of Article XIII of the 1973 Constitution.

The Presiding Justice shall receive an annual compensation of P60, 000.00 and each Associate Justice P 55, 000.00 which shall be diminished during their continuance in office. They shall have the same rank, privileges and other emoluments, be subject to the same inhibition and disqualifications, and enjoy the same retirement and other benefits as those provided for under existing laws for the Presiding Justice and Associate Justices of the Court of Appeals.

*R.A. No. 8249 took effect on February 23, 1997

*R.A. No. 7975 took effect on May 6, 1995

Whenever the salaries of the Presiding Justice and Associate Justices of the Court of Appeals are increased, such increases in salaries shall be correspondingly extended to and enjoyed by the Presiding Justice and Associate Justices of the *Sandiganbayan*.

They shall hold office until they reach the age of 65 years or become incapacitated to discharge the duties of their office.

Section 2. *Official Station; Place of Holding Sessions.* — The *Sandiganbayan* shall have its principal office in the Metro Manila area and shall hold sessions thereat for the trial and determination of cases filed with it: *Provided, however, That cases originating from the principal geographical regions of the country, that is, from Luzon, Visayas, or Mindanao, shall be heard in their respective regions of origin except only when the greater convenience of the accused and of the witnesses, or other compelling considerations require the contrary, in which instance a case originating from one geographical region: Provided, further, That for this purpose the presiding justice shall authorize any division or divisions of the court to hold sessions at any time and place outside Metro Manila and, where the interest of justice so requires, outside the territorial boundaries of the Philippines.* "The *Sandiganbayan* may require the services of the personnel and the use of facilities of the courts or other government offices where any of the divisions is holding sessions and the personnel of such courts or offices shall be subject to the orders of the *Sandiganbayan*. (As amended by R.A. NO. 8249)

Section 3. *Division of the Court; Quorum* — The *Sandiganbayan* shall sit in five (5) divisions of three Justices each. The five (5) may sit at the same time.

Three Justices shall constitute a quorum for sessions in divisions: *Provided, that when the required quorum for the particular division cannot be had due to the legal qualification or temporary disability of a Justice or of a vacancy occurring therein, the Presiding Justice may designate an Associate Justice of the Court, to be determined by strict rotation on the basis of the reverse order of precedence, to sit as a special member of said division with all the rights and prerogatives of a regular member of said division in the trial and determination of a case or cases assigned thereto, unless the operation of the court will be prejudice thereby, in which case the President shall, upon the recommendation of the Presiding Justice, designate any Justice or Justices of the Court of Appeals to sit temporarily therein.* (As amended by R.A. No. 7975)

Section 4. *Jurisdiction* — The *Sandiganbayan* shall exercise exclusive original jurisdiction in all cases involving:

- (A) Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corruption Practices Act, and Republic Act No. 1379, and Chapter II, Section 2, Title VII Book II of the Revised Penal Code, where one or more of the accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

- (1) Officials of the executive branch occupying the positions of regional director and higher, otherwise classified as Grade "27" and higher of the Compensation and Position Classification Act of 1989 (Republic Act No. 6758), specifically including:
 - (a) Provincial governors, vice-governors, members of the *sangguniang panlalawigan*, and provincial treasurers, assessors, engineers, and other provincial department heads;
 - (b) City mayors, vice-mayors, members of the *sangguniang panlungsod*, city treasurers, assessors, engineers, and other city department heads,
 - (c) Officials of the diplomatic service occupying the position of consul and higher;
 - (d) Philippine army and air force colonels, naval captains, and all officers of higher rank;
 - (e) Officers of the Philippine National Police while occupying the position of provincial director and those holding the rank of senior superintendent or higher;
 - (f) City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
 - (g) Presidents, directors or trustees, or managers of government-owned or controlled corporations, state universities or educational institutions or foundations;
- (2) Members of Congress and officials thereof classified as Grade "27" and up under the Compensation and Position Classification Act of 1989;
- (3) Members of the judiciary without prejudice to the provisions of the Constitution;
- (4) Chairmen and members of Constitutional Commissions, without prejudice to the provisions of the Constitution; and
- (5) All other national and local officials classified as Grade "27" and higher under the Compensation and Position Classification Act of 1989.

(B) Other offenses or felonies whether simple or complexed with other crimes committed by the public officials and employees mentioned in subsection of this section in relation to their office.

(C) Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In cases where none of the accused are occupying positions corresponding to Salary Grade "27" or higher, as prescribed in the said Republic Act No. 6758, or military and PNP officers mentioned above, exclusive original jurisdiction thereof shall be vested in the proper regional trial court, metropolitan trial court, municipal trial court, and municipal circuit trial court, as the case may be, pursuant to their respective jurisdictions as provided in *Batas Pambansa Blg. 129*, as amended.

The *Sandiganbayan* shall exercise exclusive appellate jurisdiction over final judgments, resolutions or orders of regional trial courts whether in the exercise of their own original jurisdiction or of their appellate jurisdiction as herein provided.

The *Sandiganbayan* shall have exclusive original jurisdiction over petitions for the issuance of the *writs of mandamus*, prohibition, *certiorari*, *habeas corpus*, injunctions, and other ancillary writs and processes in aid of its appellate jurisdiction and over petitions of similar nature, including *quo warranto*, arising or that may arise in cases filed or which may be filed under Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986: *Provided*, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.

The procedure prescribed in *Batas Pambansa Blg. 129*, as well as the implementing rules that the Supreme Court has promulgated and may hereafter promulgate, relative to appeals/petitions for review to the Court of Appeals, shall apply to appeals and petitions for review filed with the *Sandiganbayan*. In all cases elevated to the *Sandiganbayan* and from the *Sandiganbayan* to the Supreme Court, the Office of the Ombudsman through its special prosecutor, shall represent the People of the Philippines, except in cases filed pursuant to Executive Order Nos. 1, 2, 14 and 14-A, issued in 1986.

In case private individuals are charged as co-principals, accomplices or accessories with the public officers or employees, including those employed in government-owned or controlled corporations, they shall be tried jointly with said public officers and employees in the proper courts which shall exercise exclusive jurisdiction over them.

Any provision of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action for the recovery of civil liability shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the *Sandiganbayan* or to appropriate courts, the filing of the criminal action being deemed to necessarily carry with it the filing of civil action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized:

Provided, however, That where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the *Sandiganbayan* or the appropriate court, said civil action shall be transferred to the *Sandiganbayan* or the appropriate court, as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned. (As amended by R.A. No. 8249)

Section 5. Proceedings, how conducted; votes required. – The unanimous vote of the three justices in a division shall be necessary for the pronouncement of a judgment. In the event that the three justices do not reach a unanimous vote, the Presiding Justice shall designate two other justices from among the members of the Court to sit temporarily with them, forming a division of five justices, and the concurrence of a majority of such division shall be necessary for rendering judgment.

Section 6. Maximum period for termination of cases. – As far as practicable, the trial of cases before the *Sandiganbayan* once commenced shall be continuous until terminated and the judgment shall be rendered within three (3) months from the date the case was submitted for decision.

Section 7. Form, Finality and Enforcement of Decisions. – All decisions and final orders determining the merits of a case or finally disposing of the action or proceedings of the *Sandiganbayan* shall contain complete findings of the facts and the law on which they are based, on all issues properly raised before it and necessary in deciding the case.

A petition for reconsideration of any final order or decision may be filed within fifteen (15) days from promulgation or notice of the final order or judgement, and such motion for reconsideration shall be decided within thirty (30) days from submission thereon.

Decisions and final orders of the *Sandiganbayan* shall be appealable to the Supreme Court by petition for review on *certiorari* raising pure questions of law in accordance with Rule 45 of the Rules of Court. Whenever, in any case decided by the *Sandiganbayan*, the penalty of *reclusion perpetua*, life imprisonment or death is imposed, the decision shall be appealable to the Supreme Court in the manner prescribed in the Rules of Court.

Judgements and orders of the *Sandiganbayan* will be executed and enforced in the manner provided by law.

Decisions and final orders of other courts in cases cognizable by said courts under this decree as well as those rendered by them in exercise of their appellate jurisdiction shall be appealable to, or be reviewable by, the *Sandiganbayan* in the manner provided by Rule 122 of the Rules of Court.

In case, however, the imposed penalty by the *Sandiganbayan* or the regional trial court in the proper exercise of their respective jurisdiction, is death, review by the Supreme Court shall be automatic, whether or not the accused files an appeal. (As amended by R.A. No. 8249)

Section 8. Transfer of cases. – As of the date of the effectivity of this decree any case cognizable by the *Sandiganbayan* within its exclusive jurisdiction where none of the accused has been arraigned shall be transferred to the *Sandiganbayan*.

Section 9. Rules of Procedure. – The Rules of Court promulgated by the Supreme Court shall apply to all cases and proceedings filed with the *Sandiganbayan*. The *Sandiganbayan* shall have no power to promulgate its own rules of procedure, except to adopt internal rules governing the allotment of cases among the division, the rotation of justices among them, and other matters relating to the internal operations of the court which shall be enforced until repealed or modified by the Supreme Court. (As amended by R.A. No. 7975)

Section 10. (Repealed by R.A. No. 7975)

Section 11. Proceeding free of charge. – All proceedings in the *Sandiganbayan* shall be conducted at no cost to the complainant and/or his witnesses.

No criminal information or complaint shall be entertained by the *Sandiganbayan* except upon a certification by the Investigating Prosecutor of the existence of a *prima facie* case to be determined after a preliminary investigation conducted in accordance with applicable laws and approved by the Chief Special Prosecutor.

Section 12. Administrative personnel. – The *Sandiganbayan* shall select and appoint such personnel as it may deem necessary to discharge its functions under this Decree including a Clerk of Court and three (3) Deputy Clerks of Court who shall be members of the Bar.

The Clerk of Court shall have an annual compensation of P36,000.00 and the Deputy Clerks of Court P30,000.00.

All other subordinate employees of the *Sandiganbayan* shall be governed by the provisions of the Civil Service Law; *Provided*, that the *Sandiganbayan* may, by resolution *en banc*, remove any of them for cause.

Section 13. Report to the President. – The *Sandiganbayan* shall submit an annual report to the President, including all disbursements of funds entrusted to it, within two months from the end of the Fiscal Year.

Section 14. Funding. – There is hereby immediately appropriated the sum of Five Million Pesos (P5,000,000.00) out of any funds in the National Treasury to carry out

the provisions of this Decree and thereafter to be included in the general appropriations act. The appropriations for the *Sandiganbayan* shall be automatically released in accordance with a schedule submitted by the *Sandiganbayan*.

Section 15. Separability of Provisions. - If for any reason, any section or provision of this Decree is declared to be unconstitutional or invalid, other sections or provisions thereof which are not affected thereby, shall continue in full force and effect.

Section 16. Repealing Clause. - This Decree hereby repeals Presidential Decree No. 1486 and all other provisions of law, General Orders, Presidential Decrees, Letters of Instructions, rules or regulations inconsistent herewith.

Section 17. Effectivity. - This Decree shall take effect immediately.

Done in the City of Manila, this 10th day of December, in the year of Our Lord, nineteen hundred and seventy-eight.

REPUBLIC OF THE PHILIPPINES
SUPREME COURT
MANILA

REVISED INTERNAL RULES
of the
SANDIGANBAYAN

PURSUANT to Section 9 of Presidential Decree No. 1606, as amended, the *Sandiganbayan* adopts and promulgates the following REVISED INTERNAL RULES OF THE SANDIGANBAYAN.

PART I
GENERAL PROVISIONS

RULE I
TITLE, COVERAGE AND CONSTRUCTION

Section 1. *Title of the Rules.* - These Rules shall be known and cited as the REVISED INTERNAL RULES OF THE SANDIGANBAYAN.

Section 2. *Coverage.* - These Rules shall apply to the internal operations of the *Sandiganbayan*.

The Rules of Court, resolutions, circulars, and other issuances promulgated by the Supreme Court relating to or affecting the Regional Trial Courts and the Court of Appeals, insofar as applicable, shall govern all actions and proceedings filed with the *Sandiganbayan*.

Section 3. *Construction.* - These Rules shall be liberally construed to promote a just, expeditious and inexpensive determination of every action and proceeding brought before the *Sandiganbayan*.

RULE II
ORGANIZATIONAL SET-UP

Section 1. *Composition of the Court and Rule on Precedence.* -

(a) *Composition* - The *Sandiganbayan* is composed of a Presiding Justice and fourteen (14) Associate Justices appointed by the President of the Philippines.

(b) *Rule on Precedence* - The Presiding Justice shall enjoy precedence over the other members of the *Sandiganbayan* in all official functions. The Associate Justices shall have precedence according to the order of their appointments.

(c) The Rule on Precedence shall apply:

- 1) In the seating arrangement;
- 2) In the choice of office space, facilities and equipment, transportation and cottages;

(d) The Rule on Precedence shall not be observed:

- 1) In social and other non-official functions.
- 2) To justify any variation in the assignment of cases, amount of compensation, allowances or other forms of remuneration.

Section 2. *Sandiganbayan En banc*. - The Sandiganbayan *en banc* shall have exclusive control, direction and supervision of all matters pertaining to the conduct of its affairs. The Presiding Justice shall implement the policies and resolutions adopted by the Sandiganbayan *en banc*.

Section 3. *Constitution of the Divisions*. - The Sandiganbayan shall sit in five (5) Divisions of three (3) Justices each, including the Presiding Justice. The five (5) Divisions may sit separately at the same time. Each of the five (5) most senior Associate Justices including the Presiding Justice, shall be the Chairman of a Division; each of the five (5) Associate Justices next in rank shall be the Senior Member of a Division; and each of the last five (5) Associate Justices shall be the Junior Member of a Division.

Section 4. *Filling up of Vacancy due to Absence or Temporary Incapacity*. -

- (a) In the office of the Presiding Justice - In the absence or temporary incapacity of the Presiding Justice to exercise the powers and perform the duties of his office, the most senior Associate Justice shall act as Presiding Justice until the regular Presiding Justice returns and re-assumes his office, or his incapacity is removed.
- (b) In the position of Division Chairman - In the absence or temporary incapacity of a Chairman of a Division, the Senior Member of said Division shall act as Chairman; in the absence of temporary incapacity of both the Chairman and Senior Member of a Division, the Junior Member of said Division shall act as Chairman, notwithstanding the seniority of the Special Members designated to complete the membership of said Division. The Senior Member or Junior Member, as the case may be, shall act as Chairman until the regular Chairman reassumes his office or his incapacity is removed.
- (c) In the position of Senior or Junior Member - In the absence or temporary incapacity of a Senior or Junior Member of a Division, the Presiding Justice shall designate an Associate Justice of the Court from any of the other Divisions, to be determined by rotation on the basis of the reverse order of precedence or, if this be not feasible, by raffle among those available, to sit as Special Member of said Division until the regular member re-assumes his office or his incapacity is removed. The Associate Justice so designated shall continue as a regular member of his own Division.
- (d) Authority and Prerogatives of Acting Chairman and Special Member - The Acting Chairman or Special Member so designated pursuant to paragraphs (b) and (c) above shall exercise the authority and prerogatives of a regular Chairman or Member of said Division, as the case may be, in the trial or resolution of cases assigned thereto.

Section 5. *Filling Up of Permanent Vacancy*. -

- (a) In the position of the Presiding Justice - A permanent vacancy in the position of Presiding Justice shall be filled by a new Presiding Justice duly appointed by the President of the Philippines. In the interim, the most senior Associate Justice shall exercise the powers and perform the duties of the Presiding Justice.

- (b) In the position of a Division Chairman - If a permanent vacancy occurs in the position of Chairman of a Division, the most senior Associate Justice in the Sandiganbayan who is not yet a Chairman shall become Chairman of that Division.
- (c) In the position of Senior Member of a Division - If a permanent vacancy occurs in the position of Senior Member of a Division, the most senior ranking among the Junior members of the Sandiganbayan shall become Senior Member of the Division.
- (d) In the position of Junior Member of a Division - If a permanent vacancy occurs in the position of Junior Member of a Division, the Associate Justice appointed by the President of the Philippines shall be the Junior Member of the Division.
- (e) In the positions of Senior and Junior Members of a Division - If permanent vacancies occur simultaneously in the positions of Senior and Junior Members of a Division, the vacancies shall be filled in the manner stated in the preceding paragraphs (c) and (d).
- (f) Effect of the Appointment of a New Associate Justice - The appointment of a new Associate Justice and his assumption of the vacant position in the Division as its Junior Member shall not disturb the composition of the other Divisions and shall not prejudice the consequent changes in the ranking or seniority among the Associate Justices.
- (g) Ranking Within a Division Does Not Affect Seniority in the Sandiganbayan - The ranking of the Associate Justices within each Division does not affect their seniority in the Sandiganbayan which is based on the order of their respective appointments.

Section 6. *Court Officials and their Duties*. -

(a) Clerk of Court - The Clerk of Court is the administrative officer of the Sandiganbayan. He shall discharge his functions under the control and supervision of the Sandiganbayan *en banc* through the Presiding Justice.

As administrative officer, he shall take direct charge of the administrative operations of the Sandiganbayan and exercise general supervision over its subordinate officials and employees except those belonging to the staff of the Presiding Justice and the Associate Justices. He shall assist the Presiding Justice in the formulation of programs and policies for consideration and action of the Sandiganbayan *en banc*. The Clerk of Court shall act as its Secretariat and prepare its agenda, minutes of meetings and resolutions.

(b) Division Clerks of Court - Each Division of the Sandiganbayan shall have a staff composed of one (1) Division Clerk of Court and such personnel as the exigencies of the service may require.

- (1) In the exercise of their functions, the Division Clerk of Court and the staff shall be under the control and supervision of the Division through its Chairman.
- (2) The Division Clerk of Court shall have, among other duties and responsibilities, direct control and supervision over the staff of the Division; keep watch over the status and progress of cases assigned to the Division; monitor papers, pleadings and motions filed with the Receiving Section in connection with any pending case and update the records of cases to be acted

upon by the Division, both in the completion process and decisional stage, such as, but not limited to, the filing of briefs, memoranda and other legal papers within the allowable periods, preparation of the agenda of motions and other incidental matters for action by the Division; release minute resolutions, notices of decisions, resolutions and hearings, summonses, subpoenas, writs and other processes by and under the authority of the Chairman of the Division; supervise the stenographers in the recording of the proceedings and preparation of its minutes; receive the decisions and resolutions of the Division for promulgation; and make entries of judgment in accordance with the Rules of Court.

(3) The Division Clerk of Court shall immediately report to the Chairman and Members of the Division the failure of any party to comply with any resolution or order of the Sandiganbayan within the period prescribed therefore.

Section 7. Appointment of Court Officials and Other Employees. -

The Supreme Court shall appoint the Clerk of Court, the Division Clerks of Court and all other personnel of the Sandiganbayan upon recommendation of the Sandiganbayan *en banc* chosen from a list of qualified applicants prepared in accordance with the Civil Service Law, rules and regulations.

All resignations and terminations of services of officials and employees of the Court shall be submitted by the Sandiganbayan *en banc* through the Presiding Justice to the Supreme Court for appropriate action.

Section 8. Standing Committees. - The following standing committees, each composed of a Chairman and at least two (2) members, all of whom are appointed by the Sandiganbayan *en banc*, shall assist the Sandiganbayan in the following administrative matters:

- (a) Committee on Personnel - On matters involving personnel such as recruitment, appointment, monitoring of leaves of absence, training, change of organizational structure, creation of positions, discipline, retirement and termination of services.
- (b) Committee on Budget and Finance - On matters involving: (1) the preparation of annual budget for submission to the Sandiganbayan *en banc* for approval, (2) allotment of funds, (3) accounting, and (4) all financial transactions.
- (c) Committee on Security and Safety - On matters involving: (1) formulation of security policies, (2) enforcement and implementation of safety measures such as wearing of I.D. cards, control of visitors, etc.
- (d) Committee on Records Management and Information Service - On matters involving the management of records, information, statistical data and computerization.
- (e) Committee on Employee Welfare and Benefits - On matters involving: (1) creation and maintenance of medical and dental services, (2) establishment and operation of a health and welfare plan, (3) establishment and supervision of canteen for Justices, officials and employees, cultural and sports activities, (4) maintenance of shuttle buses and other equipment for employees and, (5) other related matters regarding employee welfare and benefits.

- (f) Committee on Legal and Research Services - On matters involving library services, publication of decisions and circulars of the Sandiganbayan, research on legal issues and other related matters referred to it by the Sandiganbayan.
- (g) Committee on Buildings and Grounds - On matters involving: (1) the construction, repairs, improvements and maintenance of buildings and grounds, (2) the installation of safety and necessary devices, (3) formulation and submission of proposals for the acquisition of sites, construction and maintenance of buildings for the Sandiganbayan's sessions outside Metro Manila.
- (h) Committee on Purchase and Acquisition of Facilities, Equipment and Supplies - On matters involving the purchase, acquisition, maintenance and disposal of vehicles, office equipment, supplies, books, computers and furniture of the Sandiganbayan, and conducting required biddings and awards in relation thereto.
- (i) Committee on Rules - On matters involving the revision of the internal rules, circulars and administrative orders of the Sandiganbayan.
- (j) Committee on Raffle of Cases - On matters involving the raffle and assignment of cases, the conduct of the regular raffle of cases filed with the Sandiganbayan, classification of cases for purposes of consolidation before the scheduled raffle, and the propriety and legality of conducting a special raffle of particular cases *motu proprio* or upon motion of a litigant.
- (k) Committee on Social Affairs and Liaison - On matters involving the social activities of the Sandiganbayan, and liaison with other government offices and agencies.

The Presiding Justice shall be a non-voting *ex-officio* member of all standing committees. The members of the standing committee shall serve for a term of one (1) year from date of appointment by the Sandiganbayan *en banc*.

The foregoing notwithstanding, the Sandiganbayan may create *ad hoc* committees for specific projects or undertakings. It may also modify the functions and responsibilities of the standing committees as the need therefore arises.

The various standing and *ad hoc* committees shall submit their recommendations to the Sandiganbayan *en banc* for appropriate action.

RULE III

POWERS AND FUNCTIONS OF THE SANDIGANBAYAN

Section 1. Exercise of Adjudicatory Powers and Functions. - The Sandiganbayan shall exercise its adjudicatory powers, functions and duties through its five (5) Divisions. It sits *en banc* for the exercise of its administrative, ceremonial and non-adjudicatory functions.

Section 2. Matters Cognizable by the Sandiganbayan *En Banc*. - The Sandiganbayan shall sit *en banc* to:

- (a) Promulgate rules or orders, amend, revise or repeal existing rules or orders or parts thereof, and formulate and adopt policies relative to administrative

matters, such as the distribution of cases and the internal operation and management of the Court.

(b) Recommend to the Supreme Court the appointment of the Clerk of Court, Division Clerks of Court and other court employees chosen from a list of all qualified applicants for each vacant position prepared in accordance with the Civil Service Law rules and regulations, except for positions that are confidential in nature and coterminous with the term of office of a particular Associate Justice to whom they are assigned who shall make the proper endorsement to the Sandiganbayan *en banc* for recommendation to the Supreme Court.

(c) Act on organizational matters, such as the creation or abolition of offices, unit or service or their regrouping or merger as the exigencies of the service may require.

(d) Receive foreign and local dignitaries, important guests and visitors, honor a colleague or retiring member of the Sandiganbayan, and hold appropriate funeral services for deceased members.

(e) Adopt uniform administrative measures, procedures, and policies for the protection and preservation of the integrity of the judicial processes, the speedy disposition of cases and the promotion of efficiency of the personnel.

(f) Provide a forum for discussion of various issues or matters.

(g) Take up other administrative matters which the Presiding Justice or any member of the Sandiganbayan may suggest for consideration.

Section 3. *Supreme Court Creation of Special Division.* - The Sandiganbayan *en banc* may request or recommend to the Supreme Court the creation of a Special Division to try cases where compelling reasons and the interest of justice so require.

PART II

ORIGINAL ACTIONS

RULE IV SESSIONS AND TRIALS

Section 1. *Official Station; Place of Holding Sessions.* - The Sandiganbayan shall have its principal office in the Metro Manila area and shall hold sessions thereat for the trial and resolution of cases filed with it: Provided, however, that cases originating from Luzon, Visayas and Mindanao, shall be heard in the region of origin, except only when the greater convenience of the parties and of the witnesses or other compelling considerations require the contrary, in which instance a case originating from one region may be heard in another region: Provided, further, that for this purpose the Presiding Justice shall authorize any Division or Divisions of the Sandiganbayan to hold sessions at any time and place outside Metro Manila, and, where the greater interest of justice so requires, outside the Philippines.

Section 2. *Support Personnel and Facilities In Sessions Outside of Principal Office in Metro Manila.* - In sessions outside of its principal office in Metro Manila, the Sandiganbayan may require the services of the personnel and the use of facilities of the courts or other government offices where any of the Divisions is holding sessions and the personnel of such courts or offices shall be subject to the orders of the Sandiganbayan acting through the Chairman of the Division.

Section 3. *Regular Court Sessions.* -

(a) *Sandiganbayan En banc* - The regular sessions of the Sandiganbayan *en banc* shall be held at least twice a month on a Friday morning, particularly on the first and third week of the month. The Presiding Justice or at least eight (8) Associate Justices may call a special session at another date and time.

(b) *Divisions* - Regular sessions for trial of cases brought to and cognizable by the Sandiganbayan shall be from 8:30 A.M. to 12:00 noon or from 2:00 P.M. to 4:30 P.M., from Monday to Friday. The Division Chairman, however, for urgent and valid reasons, may schedule the hearing of a case assigned to his Division on other dates and time after consultation with the parties.

RULE V

ISSUANCE OF PROCESSES

Section 1. *Writs and Processes Issued By The Court.* - Writs and processes of the Sandiganbayan, such as arrest or search warrants, which by requirement of law or the Rules of Court must be signed by a Justice, shall be issued by the Chairman of the Division, or in his absence, the Senior Member in the Division, or, in the absence of the latter, the Junior Member. However, where there is an urgent necessity for the issuance thereof before the case is raffled to a Division, the writ or process shall be issued by the Presiding Justice. In the absence of the Presiding Justice, the same shall be issued by the most senior Associate Justice of the Sandiganbayan in attendance.

Section 2. *Writs and Processes Issued by Clerks of Court.* - All other writs and processes shall be issued by the Clerk of Court or the Division Clerk of Court, upon order of the Division through the Chairman or anyone acting as such, under the seal of the Sandiganbayan.

RULE VI

BAIL

Section 1. *How Amount Fixed; Approval.* - The amount of bail to be posted in cases of bailable offenses shall be fixed by the Chairman of the Division to which they are assigned or any Justice of the Division acting in his behalf. Such bail may be approved by any Justice of the Division to where the case is assigned or in their absence, by any Justice of the Sandiganbayan. The approved bail shall be immediately submitted to the members of the Division for confirmation. Where none of the Justices of the Sandiganbayan is available or where the accused is arrested, detained or otherwise placed in custody outside the Metro Manila area, Sections 17 and 19, Rule 114 of the Rules of Criminal Procedure shall apply.

RULE VII

MOTIONS

Section 1. *Motion Day.* - Except for motions which may be acted upon *ex parte*, all motions shall be scheduled for hearings on a Friday, or if that day is a non-working holiday, on the next working day.

Motions requiring immediate action may be acted upon on shorter notice.

In appealed cases, the provision of Sec. 3, Rule 49 of the 1997 Rules of Civil Procedure, as amended, on Motions shall apply.

Section 2. *Resolution on Interlocutory or Incidental Motions.* - Rulings on all written motions on interlocutory or incidental matters submitted to any regular Division for resolution shall be reached in consultation among and by the unanimous vote of the three (3) Justices participating in the consideration thereof: Provided, however, that rulings on oral motions or objections made in the course of the trial or hearings shall be made by the Chairman of the Division: Provided, further, that oral motions or objections on substantial but interlocutory or incidental matters may be ordered reduced into writing and shall likewise be resolved by the unanimous vote of the three (3) Justices of the Division.

In case a unanimous vote cannot be obtained, a Special Division of five (5) Justices shall be constituted pursuant to Section 1 (b), Rule VIII. A majority vote of such Special Division shall suffice to decide interlocutory or incidental motions.

A demurrer to evidence shall be resolved or decided within ninety (90) days from its submission.

RULE VIII

RENDITION OF JUDGMENT OR FINAL ORDER

Section 1. *Votes Required to Decide.* -

(a) *En banc* - The vote of at least eight (8) members of the Sandiganbayan shall be required for the adoption of a resolution.

(b) *In Division* - The unanimous vote of three (3) Justices in a Division shall be necessary for the rendition of a judgment or final order. In the event a unanimous vote is not obtained, the Presiding Justice shall designate by raffle and on rotation basis two (2) Justices from all the other members of the Sandiganbayan to sit temporarily with them, forming a Special Division of five (5) Justices, and the vote of a majority of such Special Division shall be necessary for the rendition of a judgment or final order.

Section 2. *Procedure in Deciding Cases.* - The conclusions of a regular or Special Division of the Sandiganbayan in any case submitted to it for decision shall be reached in consultation among the members thereof before the case is assigned to one of them for the writing of the opinion of the Division.

A certification to this effect signed by the Presiding Justice shall be issued and a copy thereof attached to the record of the case and served upon the parties. Any Member who took no part, dissented or abstained from a decision or resolution must state the reason therefore.

Section 3. *Judgment in Joint Trials.* - In a joint trial involving more than one case, the Division may render a joint or separate judgment when appropriate. In case there are more than one (1) accused, the Division may also render judgment, for or against one or more of the accused, when proper. In either case, where the required unanimous vote is not secured, a Special Division of five (5) Justices shall be constituted to resolve the remaining case or the criminal or civil liability of the remaining accused. In such case, a vote of the majority shall be required.

Section 4. *Promulgation of Judgment.* - A judgment in a criminal case of a Division of the Sandiganbayan shall be promulgated by reading the judgment or sentence in the presence of the accused and any member of the Division which rendered the judgment.

In case an incident arises during the promulgation, the same shall be submitted in writing for resolution to the Division which rendered the judgment.

Where the judgment is promulgated outside Metro Manila, the Division which rendered the judgment may authorize another Division sitting outside Metro Manila to promulgate the judgment and resolve all incidents during the promulgation therein.

In the absence of the accused, Sec. 6, Rule 120 of the Revised Rules of Court shall apply.

RULE IX

MOTION FOR NEW TRIAL OR RECONSIDERATION

Section 1. *Period to File Motion For New Trial or Reconsideration.* - A Motion for New Trial or Reconsideration of a decision or final order may be filed within fifteen (15) days from promulgation of the judgment or from notice of the final order or judgment, and such Motion shall be decided within thirty (30) days from its submission.

Section 2. *The Justices Who Shall Act on a Motion for New Trial or Reconsideration.* -

(a) Motions for New Trial or Reconsideration of a decision or resolution shall be acted upon by the *Ponente* and the other members of the Division who participated in the decision or resolution sought to be reconsidered, irrespective of whether or not such members are already in other divisions at the time the said motions were filed. They shall be deemed constituted as a Special Division of the Division to which the *Ponente* belonged at the time of the promulgation of the decision or resolution.

(b) If the *Ponente* is no longer a member of the Sandiganbayan or is disqualified or has inhibited himself from acting on the motion, he shall be replaced by another Justice who shall be chosen by raffle from among the remaining members of the Division who participated in the decision or resolution and who concurred therein.

(c) If only one (1) member of the Division who participated and concurred in the decision or resolution remains, he shall be the *Ponente*.

(d) Any vacancy in the Special Division shall be filled by raffle from among the other members of the Sandiganbayan to constitute a Special Division of five (5) members.

(e) If the *Ponente* and all members of the Division that rendered the decision or resolution are no longer members of the Sandiganbayan, the new Chairman may assign the case to any member of the Division and the motion shall be acted upon by him with the participation of the other members of the Division.

(f) Motions for reconsideration shall be resolved by a Division by unanimous vote of its members, and in case of a Special Division of five (5), by the concurrence of at least three (3) of its members.

Section 3. *Grounds for New Trial in Civil Cases.* - A new trial may be granted in civil cases decided by the Sandiganbayan in the exercise of its original jurisdiction on the grounds provided in Section 1 of Rule 37 of the 1997 Rules of Civil Procedure.

In civil cases appealed to or decided by the Sandiganbayan, a new trial may be granted on the ground provided in Section 1 of Rule 53 of the 1997 Rules of Civil Procedure.

Section 4. *Grounds for New Trial in Criminal Cases.* - A new trial may be granted in criminal cases decided by the Sandiganbayan in the exercise of its original jurisdiction on the grounds provided in Sec. 2 of Rule 121 or on the ground provided in Sec. 14,

Rule 124 of the Rules of Criminal Procedure in criminal cases appealed to or decided by the Sandiganbayan.

Section 5. *Effect of Granting a New Trial.* - When a new trial is granted in civil cases, the provisions of Rule 37 or Rule 53 shall apply in the proper case. When a new trial is granted in criminal cases, Rule 121 or Rule 124 shall apply in the proper case.

Section 6. *Period to Decide Case on New Trial.* - When a New Trial is granted in the cases under the immediately preceding Sections 3, 4, and 5, the same period of time granted to the Sandiganbayan to decide a case submitted for decision shall apply.

Section 7. *Form of Disposition.* - In all cases where the Sandiganbayan grants new trial or reconsideration, the original judgment shall be set aside or vacated and a new or amended judgment rendered accordingly.

Section 8. *Effect of Filing an Appeal in the Supreme Court.* - No Motion for Reconsideration or New Trial shall be acted upon if the movant has filed with the Supreme Court an appeal by *certiorari* or a motion for extension of time to file such petition. The Motion for Reconsideration or New Trial pending with the Sandiganbayan shall be deemed abandoned upon the filing of the petition.

RULE X

REVIEW OF JUDGMENTS AND FINAL ORDERS

Section 1. *Method of Review.* -

(a) In General - A party may appeal from a judgment or final order of the Sandiganbayan imposing or affirming a penalty less than death, life imprisonment or *reclusion perpetua* in criminal cases, and, in civil cases, by filing with the Supreme Court a petition for review on *certiorari* in accordance with Rule 45 of the 1997 Rules of Civil Procedure.

(b) Exceptions - Where the judgment or final order of the Sandiganbayan, in the exercise of its original jurisdiction, imposes the penalty of life imprisonment or *reclusion perpetua* or where a lesser penalty is imposed involving offenses committed on the same occasion or which arose out of the same occurrence that gave rise to the more serious offense for which the penalty of death, *reclusion perpetua* or life imprisonment is imposed, the appeal shall be taken by filing a notice of appeal with the Sandiganbayan and serving a copy thereof to the adverse party.

(c) Automatic Appeal - Whenever the Sandiganbayan in the exercise of its original jurisdiction imposes the death penalty, the records shall be forwarded to the Supreme Court for automatic review and judgment within five (5) days after the fifteenth (15th) day following the promulgation of the judgment or notice of denial of a Motion for New Trial or Reconsideration. The transcript shall also be forwarded within ten (10) days after the filing thereof by the stenographic reporter.

Whenever the Sandiganbayan, in the exercise of its appellate jurisdiction, finds that the penalty of death, *reclusion perpetua* or life imprisonment should be imposed, it shall render judgment accordingly. However, it shall refrain from entering the judgment and forthwith certify the case and elevate its entire record to the Supreme Court for review.

(d) Form, Finality and Enforcement of Decisions and Final Orders - Section 7 of Presidential Decree No. 1606, as amended, governs the form, finality and enforcement of decisions and final orders rendered by the Sandiganbayan through its Divisions.

PART III

MODES OF APPEAL TO THE SANDIGANBAYAN

RULE XI

APPEAL AND PETITION FOR REVIEW

Section 1. *Ordinary Appeal.* - Appeal to the Sandiganbayan from a decision rendered by a Regional Trial Court in the exercise of its original jurisdiction shall be by ordinary appeal under Rules 41 and 44 of the 1997 Rules of Civil Procedure or Rules 122 and 124 of the Rules of Criminal Procedure as amended, as the case may be.

Section 2. *Petition for Review* - Appeal to the Sandiganbayan from a decision of the Regional Trial Court in the exercise of its appellate jurisdiction shall be by Petition for Review under Rule 42 of the 1997 Rules of Civil Procedure.

PART IV

PROVISIONS COMMON TO ORIGINAL AND APPEALED CASES AND PETITIONS FOR REVIEW

RULE XII

ASSIGNMENT, DISTRIBUTION AND CONSOLIDATION OF CASES

Section 1. *Distribution of Cases* - All cases filed with the Sandiganbayan shall be distributed among the five (5) Divisions for hearing and decision by regular raffle at 1:30 P. M. of every Friday or if that day is non-working day, on the next succeeding working day, at the session hall of the First Division. A special raffle of a case may be conducted by the Raffle Committee before the next regular raffle day for valid and urgent reasons determined by the Chairman of the Raffle Committee or, in his absence, by any of the members thereof.

Section 2. *Consolidation of Cases.* - Cases arising from the same incident or series of incidents, or involving common questions of fact and law, may be consolidated in the Division to which the case bearing the lowest docket number is raffled.

(a) Before Cases Are Raffled - Should the propriety of consolidation appear upon the filing of the cases concerned as determined by the Raffle Committee, all such cases shall be consolidated and considered as one case for purposes of the raffle and inventory of pending cases assigned to each of the Divisions.

(b) After Cases Are Raffled - Should the propriety of such consolidation become apparent only after the cases are raffled, consolidation may be effected upon written motion of a litigant concerned filed with the Division taking cognizance of the case to be consolidated. If the motion is granted, consolidation shall be made to the Division in which the case with the lowest docket number is assigned. The Division to which the cases are consolidated shall transfer to the Division from which the consolidated cases came, an equivalent number of cases of approximately the same age, nature and stage in the proceedings, with proper notice to the parties in said cases.

Section 3. *Assignment of Cases; Permanent.* - Cases assigned to a Division of the Sandiganbayan shall remain with said Division notwithstanding changes in its composition. All matters raised therein shall be resolved by all the Justices who are members of the Division at the time said matters were submitted for resolution. However, only such Justices who are members of the Division at the time the case is

submitted for decision shall take part in the resolution of the case. If a member of the Division ceases to be a member of the Sandiganbayan for any reason whatsoever, the Associate Justice chosen to fill the vacancy in accordance with the manner provided in sec. 4 or 5, Rule II of these Rules shall participate in the resolution of said case.

Section 4. *Cases Submitted for Decision; Assignment to Ponente.* -

(a) In original actions, a case shall be considered submitted for decision upon the filing of the last pleading, brief or memorandum required by the Rules of Court or by the Sandiganbayan or the expiration of the period to do so.

(b) In appealed cases and petitions for review, the case shall be deemed submitted for decision or resolution upon the filing of the last pleading, brief or memorandum required by the Revised Rules of Court or by the Court itself.

(c) Motions and other incidents in a case shall be deemed submitted for resolution when so declared by the Court.

(d) Within five (5) days from submittal of the case or matter for decision or resolution, the Chairman of the Division shall assign by raffle a member thereof to study and make a report on the case or matter. If the Chairman fails to make the assignment, he shall be deemed to be the one to study and report on the case.

(e) Within ninety (90) days from the time the case was submitted for decision or resolution, the Justice to whom the case is assigned for study and report shall submit a written report thereon to the other members of the Division for consultation. The Chairman shall include the case in an agenda for a meeting of the Division for its deliberation.

(f) After such deliberation, if the other members of the Division agree with the report, the member to whom the case is assigned for study and report shall write the decision for signature and immediate promulgation. Minutes of the meeting shall be kept.

(g) Within ten (10) days from the date of the deliberation, a justice may submit his dissent to the other members of the Division. The written dissenting opinion shall not be attached to the rollo. The Chairman of the Division shall then refer the case to the Presiding Justice who shall designate by raffle two justices on rotation basis from all the other members of the Sandiganbayan to sit temporarily with them, forming a Special Division of Five.

(h) After a member of the Division has expressed his dissent in writing and the Special Division of Five is thus constituted, it shall retain the case until its final disposition despite changes in its membership caused by reorganization or other causes.

(i) After due consultation, the members of the Special Division of Five whose opinion constitute the majority shall choose from among them the *ponente*. Any member may write a separate concurring or dissenting opinion, which, together with the majority opinion shall be duly promulgated and attached to the rollo.

(j) If the consultation in the Special Division of Five results in a unanimous concurrence, all its members shall sign the decision or resolution.

(k) If the justice to whom the case is assigned for study and report is transferred to another Division as its permanent member, he shall bring with him and write his report of the cases assigned to him in his original Division together with the other members of the Division to which the case was submitted for decision.

The Division from which the Justice to whom the case is assigned for study and report came shall be known as a Special Division.

(l) If the Justice to whom the case is assigned for study and report ceases to be a member of the Sandiganbayan, due to retirement, resignation or for any other cause, his pending cases shall remain with the Division to which they were assigned. However, in appropriate cases and for compelling reasons, the Chairman may assign said cases to the new appointee for study and report.

(m) An Associate Justice who is about to retire shall not be assigned cases for study and report three (3) months before his retirement date.

Section 5. *Grounds for Inhibition of Division Members* -

A Division member may inhibit himself from a case on the following grounds:

(a) When he was the *Ponente* of the appealed decision of the lower court;

(b) When he was counsel or member of a law firm which was counsel in a case before the Division; or he, his wife or child is pecuniarily interested in said case as heir, legatee, creditor or otherwise; or he is related to either party in the case within the sixth degree of consanguinity or affinity or to counsel within the fourth degree, computed according to the rules of the civil law; or he has been executor, administrator, guardian or trustee in the case.

A Division member may inhibit himself for any compelling reason other than those mentioned above.

Section 6. *Effect of Inhibition from Particular Cases* - Should the Chairman of a Division inhibit himself or is disqualified from participating in a case, it shall be transferred to any of the four (4) other Divisions by raffle. If a Senior or Junior Member inhibits himself or is disqualified in a case, he shall be replaced in accordance with the procedure stated in Section 4 (c) of Rule II but the case shall remain with the Division.

RULE XIII

MISCELLANEOUS PROVISIONS

Section 1. *Publication of Decision* - The decision of the Sandiganbayan may be published in the *Official Gazette* in the language in which they have been originally written. The syllabi for the decisions shall be prepared by the Clerk of Court in consultation with the writers thereof.

Section 2. *Seal of The Sandiganbayan* - The seal of the Sandiganbayan shall be of standard size, circular in form, consisting of two concentric circles as its margin with the inscription, running from left to right, on the upper margin the word "*Sandiganbayan*" and, on the lower margin, the words "*Republika ng Pilipinas*", with 13 stars representing the existing judicial regions immediately along the outer edge of the inner circle; and with a design at the center, of a triangle with a trisected area composed of the national colors of white on its upper part, blue on the left and red on the right, with the words "*KATAPATAN*" on the left side, "*KAPANAGUTAN*" on the right side, and "*KARANGALAN*" on the base; a star in each corner of the triangle representing Luzon, Visayas and Mindanao; and a bolo inside the triangle on which is superimposed a balance.

Section 3. *Repealing Clause* - Upon effectivity of these Rules, all rules, circulars and administrative orders of the Sandiganbayan inconsistent therewith are hereby repealed.

Section 4. *Effectivity Clause* - These Rules shall take effect on October 1, 2002 following its publication in two (2) newspapers of general circulation.

Administrative Order No. 07

RULES OF PROCEDURE OF THE OFFICE OF THE OMBUDSMAN

Pursuant to the authority vested in the Office of the Ombudsman under Sections 18, 23 and 27 of Republic Act No. 6770, otherwise known as "The Ombudsman Act of 1989" the following Rules of Procedure of the Office of the Ombudsman are hereby prescribed and promulgated:

Rule 1

PRELIMINARY PROVISIONS

Section 1. Title - These rules shall be known as the RULES OF PROCEDURE OF THE OFFICE OF THE OMBUDSMAN.

Section 2. Coverage - These rules shall apply to all criminal and administrative complaints, grievances or requests for assistance and such other matters cognizable by the Office of the Ombudsman.

Section 3. Form of complaints, grievances or requests for assistance. Complaints may be in any form, either verbal or in writing. For a speedier disposition of the complaint, however, it is preferable that it be in writing and under oath. A complaint which does not disclose the identity of the complainant will be acted upon only if it merits appropriate consideration, or contains sufficient leads or particulars to enable the taking of further action.

Grievances or requests for a assistance may likewise be verbal or in writing. In any case, the requesting or complaining party must indicate his address and telephone number, if any.

Rule II

PROCEDURE IN CRIMINAL CASES

Section 1. Grounds - A criminal complaint may be brought for an offense in violation of R.A. 3019, as amended, R.A. 1379 as amended, R.A. 6713, Title VII, Chapter II, Section 2 of the Revised Penal Code, and for such other offenses committed by public officers and employees in relation to office.

Section 2. Evaluation - Upon evaluating the complaint, the investigating officer shall recommend whether it may be:

- a) dismissed outright for want of palpable merit;
- b) referred to respondent for comment;
- c) indorsed to the proper government office or agency which has jurisdiction over the case;
- d) forwarded to the appropriate office or official for fact-finding investigation;
- e) referred for administrative adjudication; or
- f) subjected to a preliminary investigation.

Section 3. Preliminary investigation; who may conduct. Preliminary Investigation may be conducted by any of the following:

- 1) Ombudsman Investigators;
- 2) Special Prosecuting Officers;
- 3) Deputized Prosecutors;
- 4) Investigating Officials authorized by law to conduct preliminary investigations or
- 5) Lawyers in the government service, so designated by the Ombudsman.

Section 4. Procedure - The preliminary investigation of cases falling under the jurisdiction of the Sandiganbayan and Regional Trial Courts shall be conducted in the manner prescribed in Section 3, Rule 112 of the Rules of Court, subject to the following provisions:

a) If the complaint is not under oath or is based only on official reports, the investigating officer shall require the complainant or supporting witnesses to execute affidavits to substantiate the complaints.

b) After such affidavits have been secured, the investigating officer shall issue an order, attaching thereto a copy of the affidavits and other supporting documents, directing the respondents to submit, within ten (10) days from receipt thereof, his counter-affidavits and controverting evidence with proof of service thereof on the complainant. The complainant may file reply affidavits within ten (10) days after service of the counter-affidavits.

c) If the respondents does not file a counter-affidavit, the investigating officer may consider the comment filed by him, if any, as his answer to the complaint. In any event, the respondent shall have access to the evidence on record.

d) No motion to dismiss shall be allowed except for lack of jurisdiction. Neither may a motion for a bill of particulars be entertained. If respondents desires any matter in the complainant's affidavit to be clarified, the particularization thereof may be done at the time of clarificatory questioning in the manner provided in paragraph (f) of this section.

e) If the respondents cannot be served with the order mentioned in paragraph 6 hereof, or having been served, does not comply therewith, the complaint shall be deemed submitted for resolution on the basis of the evidence on the record.

f) If, after the filing of the requisite affidavits and their supporting evidences, there are facts material to the case which the investigating officer may need to be clarified on, he may conduct a clarificatory hearing during which the parties shall be afforded the opportunity to be present but without the right to examine or cross-examine the witness being questioned. Where the appearance of the parties or witnesses is impracticable, the clarificatory questioning may be conducted in writing, whereby the questions desired to be asked by the investigating officer or a party shall be reduced into writing and served on the witness concerned who shall be required to answer the same in writing and under oath.

g) Upon the termination of the preliminary investigation, the investigating officer shall forward the records of the case together with his resolution to the designated authorities for their appropriate action thereon.

h) No information may be filed and no complaint may be dismissed without the written authority or approval of the Ombudsman in cases falling within the jurisdiction of the Sandiganbayan, or of the proper Deputy Ombudsman in all other cases.

Section 5. Cases falling under the jurisdiction of municipal trial courts. - Cases falling under the jurisdiction of the Office of the Ombudsman which are cognizable by municipal trial courts, including those subject to the Rule on Summary Procedure may only be filed in court by information approved by the Ombudsman or the proper Deputy Ombudsman.

Section 6. Notice to parties. - The parties shall be served with a copy of the resolution as finally approved by the Ombudsman or by the proper Deputy Ombudsman.

Section 7. Motion for reconsideration -

a) Only one motion for reconsideration or reinvestigation of an approved order or resolution shall be allowed, the same to be filed within five (5) days from notice thereof with the Office of the Ombudsman, or the proper Deputy Ombudsman as the case may be, with corresponding leave of court in cases where information has already been filed in court;

b) The filing of a motion for reconsideration/reinvestigation shall not bar the filing of the corresponding information in Court on the basis of the

finding of probable cause in the resolution subject of the motion. (As amended by Administrative Order No. 15, dated February 16, 2001)

*RULE III PROCEDURE IN ADMINISTRATIVE CASES

Section 1. Grounds for administrative complaint. - An administrative complaint may be filed for acts or omissions which are:

- a) contrary to law or regulations;
- b) unreasonable, unfair, oppressive or discriminatory;
- c) inconsistent with the general course of an agency's functions though in accordance with law;
- d) based on a mistake of law or an arbitrary ascertainment of facts;
- e) in the exercise of discretionary powers but for an improper purpose;
- f) otherwise irregular, immoral or devoid of justification;
- g) due to any delay or refusal to comply with the referral or directive of the Ombudsman or any of his deputies against the officer or employee to whom it was addressed; and
- h) such other grounds provided for under E.O. 292 and other applicable laws.

Section 2. Public officers covered; exceptions. - All elective and appointive officials of the government and its subdivisions, instrumentalities and agencies, including Members of the Cabinet, local governments, government-owned or controlled corporations and their subsidiaries are subject to the disciplinary authority of the Office of the Ombudsman.

Excepted from the foregoing are Members of Congress, the Judiciary, and officials removable only by impeachment; provided, however, that the Office of the Ombudsman may investigate any serious misconduct in office allegedly committed by officials removable by impeachment for the purpose of filing a verified complaint for impeachment, if warranted.

Section 3. How initiated. - An administrative case may be initiated by a written complaint under oath accompanied by affidavits of witnesses and other evidence in support of the charge. Such complaint shall be accompanied by a Certificate of Non-Forum Shopping duly subscribed and sworn to by the complainant or his counsel. An administrative proceeding may also be ordered by the Ombudsman or the respective Deputy Ombudsman on his initiative or on the basis of a complaint originally filed as a criminal action or a grievance complaint or request for assistance.

Section 4. Evaluation. - Upon receipt of the complaint, the same shall be evaluated to determine whether the same may be:

- a) dismissed outright for any of the grounds stated under Section 20 of RA 6770, provided, however, that the dismissal thereof is not mandatory and shall be discretionary on the part of the Ombudsman or the Deputy Ombudsman concerned;
- b) treated as a grievance/request for assistance which may be referred to the Public Assistance Bureau, this Office, for appropriate action under Section 2, Rule IV of this Rules;
- c) referred to other disciplinary authorities under paragraph 2, Section 23, RA 6770 for the taking of appropriate administrative proceedings;
- d) referred to the appropriate office/agency or official for the conduct of further fact-finding investigation; or
- e) docketed as an administrative case for the purpose of administrative adjudication by the Office of the Ombudsman.

Section 5. Administrative adjudication; How conducted. -

- a) If the complaint is docketed as an administrative case, the respondent shall be furnished with a copy of the affidavits and other evidence submitted by

the complainant, and shall be ordered to file his counter-affidavits and other evidence in support of his defense, within ten (10) days from receipt thereof, together with proof of service of the same on the complainant who may file his reply-affidavit within ten (10) days from receipt of the counter-affidavit of the respondent;

- b) If the hearing officer finds no sufficient cause to warrant further proceedings on the basis of the affidavits and other evidence submitted by the parties, the complaint may be dismissed. Otherwise, he shall issue an Order (or Orders) for any of the following purposes:

1. To direct the parties to file, within ten (10) days from receipt of the Order, their respective verified position papers. The position papers shall contain only those charges, defenses and other claims contained in the affidavits and pleadings filed by the parties. Any additional relevant affidavits and/or documentary evidence may be attached to the parties to their position papers. On the basis of the position papers, affidavits and other pleadings filed, the Hearing Officer may consider the case submitted for resolution.

2. If the Hearing Officer decides not to consider the case submitted for resolution after the filing of the position papers, affidavits and pleadings, to conduct a clarificatory hearing regarding facts material to the case as appearing in the respective position papers, affidavits and pleadings filed by the parties. At this stage, he may, at his discretion and for the purpose of determining whether there is a need for a formal trial or hearing, ask clarificatory questions to further elicit facts or information;

In the conduct of clarificatory hearings, the parties shall be afforded the opportunity to be present but without the right to examine or cross-examine the party/witness being questioned. The parties may be allowed to raise clarificatory questions and elicit answers from the opposing party/witness, which shall be coured through the Hearing Officer who shall determine whether or not the proposed questions are necessary and relevant. In such cases, the Hearing Officer shall ask the question in such manner and phrasing as he may deem appropriate.

3. If the Hearing Officer finds no necessity for further proceedings on the basis of the clarificatory hearings, affidavits, pleadings and position papers filed by the parties, he shall issue an Order declaring the case submitted for resolution. The Hearing Officer may also require the parties to simultaneously submit, within ten (10) days from receipt of the Order, their Reply Position Papers. The parties, if new affidavits and/or exhibits are attached to the other party's Position Paper, may submit only rebutting evidence with their Reply Position Papers.

4. If the Hearing Officer finds the need to conduct a formal investigation on the basis of the clarificatory hearings, pleadings, affidavits and the position papers filed by the parties, an Order shall be issued for the purpose. In the same Order, the parties shall be required to file within ten (10) days from receipt of the Order their respective pre-trial briefs which shall contain, among others, the nature of the charge(s) and defenses, proposed stipulation of facts, a definition of the issues, identification and marking of exhibits, limitation of witnesses, and such other matters as would expedite the proceedings. The parties are not allowed to introduce matters in the pre-trial briefs which are not covered by the position papers, affidavits and pleadings filed and served prior to issuance of the Order directing the conduct of a formal investigation.

- c) The conduct of formal proceedings by the Office of the Ombudsman in administrative cases shall be non-litigious in nature. Subject to the requirements of due process in administrative cases, the technicalities of law, procedure and evidence shall not strictly apply thereto. The Hearing Officer may avail himself of all reasonable means to ascertain speedily the

(As amended by Administrative Order No. 17, dated September 7, 2003. Published in the Official Gazette on Nov. 3, 2003, Vol. 99, No. 44.)

facts of the case. He shall take full control of the proceedings, with proper regard to the right of the parties to due process, and shall limit the presentation of evidence to matters relevant to the issue(s) before him and necessary for a just and speedy disposition of the case.

- d) In the conduct of formal administrative investigation, the Hearing Officer shall set the case for continuous trial. The parties shall be notified at least ten (10) days before the date of the initial hearing. Failure of any or both of the parties to appear at the scheduled hearing(s) is not necessarily a cause for the dismissal of the complaint. A party who appears may be allowed to present his evidence in the absence of the adverse party who was duly notified of the hearing; however, if the absent party is able to show that there is a valid cause for his absence, he shall be afforded the opportunity to cross-examine the witness(es) presented during his absence. In case of two (2) successive unjustified non-appearances of any party in the proceedings, it shall be the option of the party who is present to submit the case for resolution on the basis of the records of the case and the evidence so far presented;
- e) Only witnesses whose affidavits have been submitted by the parties and served on the adverse party prior to the issuance of the Order directing the conduct of a formal investigation may be allowed to testify at the hearing. The affidavit of any witness shall constitute his direct testimony, subject to cross-examination, re-direct examination and re-cross examination. Unless the testimony of the witness involves newly discovered evidence, the Hearing Officer may not allow the presentation of witnesses whose affidavits have not been filed by the parties and served on the adverse party prior to the issuance of the Order to conduct formal investigation. If a witness whose testimony involves newly discovered evidence is allowed to testify, the adverse party shall have the right to cross-examine such witness and to submit rebuttal evidence, if any, relevant to said newly discovered evidence;
- f) The parties shall be allowed the assistance of counsel and the right to the production of evidence thru the compulsory process of subpoena ad testificandum and subpoena duces tecum;
- g) The following pleading shall be deemed prohibited in the cases covered by these Rules:
1. Motion to dismiss, although any ground justifying the dismissal of the case may be discussed in the counter-affidavit/pleadings of the party;
 2. Motion for bill of particulars; and
 3. Dilatory motions including, but not limited to, motions for extension of time, for postponement, second motions for reconsideration and/or re-investigation.

Said pleadings shall be stricken off the records of the case.

Section 6. Rendition of decision. - Not later than thirty (30) days after the case is declared submitted for resolution, the Hearing Officer shall submit a proposed decision containing his findings and recommendation for the approval of the Ombudsman. Said proposed decision shall be reviewed by the Directors, Assistant Ombudsmen and Deputy Ombudsmen concerned. With respect to low ranking public officials, the Deputy Ombudsman concerned shall be the approving authority. Upon approval, copies thereof shall be served upon the parties and the head of the office or agency of which the respondent is an official or employee for his information and compliance with the appropriate directive contained therein.

Section 7. Finality and execution of decision. - Where the respondent is absolved of the charge, and in case of conviction where the penalty imposed is public censure or reprimand, suspension of not more than one month, or a fine equivalent to one month salary, the decision shall be final, executory and unappealable. In all other cases, the decision may be appealed to the Court of Appeals on a verified petition for review under the requirements and conditions set forth in Rule 43 of the Rules of

Court, within fifteen (15) days from receipt of the written Notice of the Decision or Order denying the Motion for Reconsideration.

An appeal shall not stop the decision from being executory. In case the penalty is suspension or removal and the respondent wins such appeal, he shall be considered as having been under preventive suspension and shall be paid the salary and such other emoluments that he did not receive by reason of the suspension or removal.

A decision of the Office of the Ombudsman in administrative cases shall be executed as a matter of course. The Office of the Ombudsman shall ensure that the decision shall be strictly enforced and properly implemented. The refusal or failure by any officer without just cause to comply with an order of the Office of the Ombudsman to remove, suspend, demote, fine, or censure shall be a ground for disciplinary action against said officer.

Section 8. Motion for reconsideration or reinvestigation: Grounds. - Whenever allowable, a motion for reconsideration or reinvestigation may only be entertained if filed within ten (10) days from receipt of the decision or order by the party on the basis of any of the following grounds:

- a) New evidence had been discovered which materially affects the order, directive or decision;
- b) Grave errors of facts or laws or serious irregularities have been committed prejudicial to the interest of the movant.

Only one motion for reconsideration or reinvestigation shall be allowed, and the Hearing Officer shall resolve the same within five (5) days from the date of submission for resolution.

Section 9. Preventive Suspension. - Pending investigation, the respondent may be preventively suspended without pay if, in the judgment of the Ombudsman or his proper deputy, the evidence of guilt is strong and (a) the charge against such officer or employee involves dishonesty, oppression or gross misconduct, or gross neglect in the performance of duty; or (b) the charge would warrant removal from the service; or (c) the respondent's continued stay in office may prejudice the just, fair and independent disposition of the case filed against him.

The preventive suspension shall continue until the case is terminated; however, the total period of preventive suspension should not exceed six months. Nevertheless, when the delay in the disposition of the case is due to the fault, negligence or any cause attributable to the respondent, the period of such delay shall not be counted in computing the period of suspension herein provided.

Section 10. Penalties. - (a) In administrative charges under Executive Order No. 292 or such other executive orders, laws or rules under which the respondent is charged, the penalties provided thereat shall be imposed by the Office of the Ombudsman (b) in administrative proceedings conducted under these Rules, the Office of the Ombudsman may impose the penalty of reprimand, suspension without pay for a minimum period of one (1) month up to a maximum period of one (1) year; demotion, dismissal from the service, or a fine equivalent to his salary for one (1) month up to one (1) year, or from Five Thousand Pesos (P5,000.00) to twice the amount malversed, illegally taken, or lost, or both, at the discretion of the Ombudsman, taking into consideration circumstances that mitigate or aggravate the liability of the officer or employee found guilty of the complaint or charge.

The penalty of dismissal from the service shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for re-employment in the government service, unless otherwise provided in the decision.

This is without prejudice to the exercise of authority of the Ombudsman to exercise his authority under Section 15, paragraph (3) of RA 6770.

RULE IV
PROCEDURE IN GRIEVANCES/REQUEST FOR ASSISTANCE

Section 1. Grievance or request for assistance; nature of - A grievance or request for assistance may consist of a complaint or request seeking redress or relief concerning an act or omission of public official or employee, office or agency alleged to be unreasonable, unfair, oppressive, discriminatory, improper or inefficient, and which does not necessarily amount to a criminal or administrative offense.

Section 2. By whom handled.- Grievance or request for assistance shall be acted upon by the Public Assistance Office in the Central Office of the Ombudsman, or in the Office of the respective Deputy Ombudsman.

Section 3. Action thereon - A grievance or request for assistance shall be acted upon immediately upon receipt.

- a) Where the grievance or request for assistance appears to be manifestly frivolous, vexatious, or made in bad faith, or where it involves a matter purely between private parties, the same may be dismissed outright and the complainant/requesting party informed of the reasons for such dismissal;
- b) Where the redress, relief or assistance sought may be acted upon by another office, the same may be referred to the office concerned, with the Public Assistance Office following it up in behalf of the complainant;
- c) In all other cases which the Office of the Ombudsman may take cognizance of, the procedure in the following section shall be observed.

Section 4. Procedure -

- a) If the grievance or request is relatively simple and/or requires immediate action, the same may be acted upon by telegram, telephone, or other means of communication or given personal attention by going to the office or agency concerned.
- b) Whenever deemed necessary or advisable, a copy of the grievance or request for assistance, together with pertinent documents shall be sent to the public official, employee or agency concerned, copy furnished its head and the Resident Ombudsman, if any, for the taking of immediate remedial action; or, if the relief requested may not be complied with, to submit a written explanation therefore.
- c) If such explanation is found satisfactory, and/or appropriate action had already been taken on the grievance or request, the same shall be dismissed and the parties informed accordingly.
- d) The Public Assistance Office may arrange a conference between the complainant/requesting party, and the public official concerned with a view to a satisfactory and expeditious resolution of the grievance/request.
- e) Upon consideration of the facts or information gathered, a resolution on the grievance or request shall be made within two (2) days of which the parties shall be notified, and appropriate steps taken to insure compliance therewith.

Section 5. Effect of non-compliance - Any delay or refusal to comply with the referral or directive of the Ombudsman or any of the deputies shall constitute a ground for administrative disciplinary action against the officer or employee to whom it was addressed pursuant to Section 26, paragraph (4) of R.A. 6770

RULE V
GENERAL PROVISIONS

Section 1. Immunity from prosecution -

a) Any person whose testimony or production of documents or other evidence is necessary to determine the truth in any inquiry, hearing, or proceeding being conducted by the Office of the Ombudsman or under its authority in the performance or furthermore of its constitutional functions and statutory objectives, including preliminary investigation, may be granted immunity from criminal prosecution by the

Ombudsman, upon such terms and conditions as the Ombudsman may determine, taking into account the pertinent provisions of the Rules of Court.

Such immunity may be granted upon application of the concerned party, the investigating, hearing, or prosecuting officer, or at the instance of the Ombudsman. Provided, however, that in all cases, the concerned party shall execute an affidavit reciting the substance of his proposed testimony and/or the nature of the evidence in his possession.

b) In all hearings, inquiries, and proceedings of the Office of the Ombudsman, including preliminary investigation of offenses, no person subpoenaed to testify as a witness shall be excused from attending and testifying or from producing books, papers correspondence, memoranda and/or other records on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to prosecution: *Provided*, that no person shall be prosecuted criminally for or on account of any matter, concerning which he is compelled to testify and produce evidence, after having claimed the privilege against self-incrimination.

c) The grant of immunity from criminal prosecution under the preceding paragraphs may be revoked upon proper notice in the event that person granted immunity subsequently retracts his statement, or fails or refuses to testify or produce evidence in court in accordance with the sworn statement upon which his immunity was granted.

Neither shall such grant of immunity exempt the party concerned from criminal prosecution for perjury or false testimony, nor shall he be exempt from demotion or removal from office.

Section 2. Public disclosure; exemption - When circumstances so warrant and with due prudence, the Office of the Ombudsman may publicize in a fair and balanced manner the filing of a complaint, grievance, or request for assistance, and the final resolution, decision or action taken thereon: *Provided*, however, that prior to such final action, no publicity shall be made of matters which may adversely affect national security or public interest, prejudice the safety of witnesses or the disposition of the case, or unduly expose persons complained against to ridicule or public censure.

Section 3. Rules of Court, application - In all matters not provided in these rules, the Rules of Court shall apply in a suppletory character, or by analogy whenever practicable and convenient.

Section 4. Effectivity - These rules shall take effect following the completion of their publication in the Official Gazette or in three (3) newspapers of general circulation in the Philippines, one of which is printed in the national language.

They shall govern all cases brought after they take effect and to further proceedings in cases then pending, except to the extent that their application would not be feasible or would cause injustice to any party.

Section 5. Separability clause - If any provision of these rules is held unconstitutional, other provisions not affected thereby shall remain valid and binding.

Makati, Metro Manila, April 10, 1990.

(sgd) CONRADO M. VASQUEZ
Ombudsman

CLARIFYING AND MODIFYING CERTAIN RULES OF PROCEDURE

It has been observed that there are certain aspects in the handling of Ombudsman cases which have been the subject of doubts and confusion, resulting in unnecessary delays in the disposition of such cases. To clarify such matters, the following guidelines are hereby promulgated:

1. *What are Ombudsman cases?*

A complaint filed in or taken cognizance of by the Office of the Ombudsman charging any public officer or employee including those in the government-owned or controlled corporations, with an act or omission alleged to be illegal, unjust, improper or inefficient is an Ombudsman case. Such a complaint may be the subject of criminal or administrative proceedings, or both.

For purposes of investigation and prosecution, Ombudsman cases involving criminal offenses may be subdivided into two classes, to wit, (1) those cognizable by the Sandiganbayan, and (2) those failing under the jurisdiction of the regular courts. The difference between the two, aside from the category of the courts wherein they are filed, is on the authority to investigate, as distinguished from the authority to prosecute, such cases.

The power to investigate or conduct a preliminary investigation in any Ombudsman case may be exercised by any investigator or prosecutor of the Office of the Ombudsman, or by any Provincial or City Prosecutor or their assistants, either in their regular capacities or as deputized Ombudsman prosecutors.

The prosecution of cases cognizable by the Sandiganbayan shall be under the direct exclusive control and supervision of the Office of the Ombudsman. In cases cognizable by the regular Courts, the control and supervision by the Office of Ombudsman is only in Ombudsman cases in the sense defined above. The law recognizes a concurrence of jurisdiction between the Office of the Ombudsman and other investigative agencies of the government in the prosecution of cases cognizable by regular courts.

2. *Necessity for Ombudsman clearance.*

The need of getting a clearance from the Office of the Ombudsman before a complaint involving a public officer or employee may be investigated was imposed in cases cognizable by the Sandiganbayan. Such requirement has been done away with by the enactment of Republic Act 6770, otherwise known as the Ombudsman Act of 1989. In Section 15 paragraph (1) of said law, the jurisdiction of the Office of the Ombudsman to investigate cases cognizable by the Sandiganbayan is stated to be "primary", and no longer "exclusive", subject to the authority of the Office of the Ombudsman to take over the investigation of such cases at any stage of the proceeding.

3. *Offenses in "relation to office."*

It has been noticed that several cases have been dismissed, or recommended for dismissal, for alleged lack of jurisdiction upon a finding that the offense was not committed by the respondent in relation to his office. This view has resulted in nullifying preliminary investigations conducted by regular or deputized Ombudsmen Investigators in such cases, thereby necessitating another preliminary investigation to be conducted by the appropriate regular prosecutors or Ombudsman investigators as the case may be. This handling of Ombudsman cases must have to be discontinued not merely because of its unfavorable results, but basically due to its not being in accordance with the applicable laws. A deputized Ombudsman prosecutor does not have to determine whether he is investigating a complaint filed against a public official or employee in his capacity as a regular prosecutor or as a deputized Ombudsman prosecutor. It must be remembered that all prosecutors are now deputized Ombudsman prosecutors.

There is no law which limits the jurisdiction of the Office of the Ombudsman to cases against public officers and employees involving acts or omissions in "relation to their office". Such a qualification is imposed only with respect to the jurisdiction of the Sandiganbayan over crimes included in section 4 (b) of Presidential Decree No. 1606, as amended by Presidential Decree No. 1861. Stated differently, the need for showing that the crime is office related is only if the information for the crime involved is to be filed in the Sandiganbayan. If the case is for a violation of Republic Act 3019 or Republic Act 1379, or any of the crimes included in Chapter Two, Section Two, Title Seven of the Revised Penal Code (Arts. 210 to 212), the element of the offense being in relation to office is an inherent ingredient, and does not have to be shown independently of the crime charged.

4. *To whom resolutions are submitted.*

Resolutions in Ombudsman cases against public officers and employees prepared by a deputized assistant prosecutor shall be submitted to the Provincial or City prosecutor concerned who shall, in turn, forward the same to the Deputy Ombudsman of the area with his recommendation for the approval or disapproval thereof. The Deputy Ombudsman shall take appropriate final action thereon, including the approval of its filing in the proper regular court or the dismissal of the complaint, if the crime charged is punishable by prison correccional or lower, or fine of not more than P6,000.00 or both. Resolutions involving offenses falling within the jurisdiction of the Sandiganbayan shall be forwarded by the Deputy Ombudsman with his recommendation thereon to the Office of the Ombudsman.

5. *Procedure in preliminary investigation of Ombudsman cases.*

The Preliminary investigation of an Ombudsman case does not have to be conducted strictly in accordance with Section 3, Rule 112 of the Rules of Court. Said rule shall be applied as modified by Rule II of Administrative Order No. 07 of the Office of the Ombudsman. Particular attention is directed to the provisions thereof which are not exactly in conformity with Section 3, Rule 112 of the Rules of Court, such as those on the (1) issuance of an order in lieu of subpoena for the filing of counter-affidavits; (2) prohibition against a motion to dismiss, motion for a bill of particulars, and second motion for reconsideration or

reinvestigation; (3) manner of conducting clarificatory questioning; and the (4) form of affidavits and counter-affidavits.

It is to be understood, however that the preliminary investigation of an Ombudsman case in accordance with Rule 112 of the Rules of Court is perfectly valid. The changes in such procedure effected by Administrative Order No. 07, are designed merely to expedite the process preliminary investigation and to conform with the provisions of Republic Act. No. 6770.

6. Modification of existing rules.

Any provision of Administrative Order No. 07, or of any other issuance by the Office of the Ombudsman shall be deemed superseded or otherwise modified insofar as it is inconsistent herewith.

Strict adherence to these amendatory rules of procedure is hereby enjoined.

Manila, November 2, 1990.

(sgd.) CONRADO M. VASQUEZ
Ombudsman

**ADMINISTRATIVE ORDER No. 10 (As Amended)
Series of 2001**

**Guidelines on the Installation of
Resident Ombudsman (NON-ORGANIC)**

In the interest of the service, and in accordance with the authority vested in me by law and the constitution, all heads of departments, offices and agencies of the government, including government-owned or controlled corporations, are hereby urged and requested to cause the installation of a Resident Ombudsman in their respective offices in accordance with the following rules and guidelines.

1. **Concept.** - A Resident Ombudsman may be appointed for a department, bureau, office, commission, government-owned or controlled corporation or any unit of the national government, as well as provincial, city or municipal governments.
2. **By whom appointed.** - the Resident Ombudsman shall be appointed
 - a. By the Ombudsman or the Overall Deputy Ombudsman for offices, agencies or entities in the National Capital Region;
 - b. By the Deputy Ombudsmen for offices, agencies or entities in their respective areas.
3. **Procedure for appointment.** - The appointment shall be made from a list of at least three (3) nominees submitted by the head of the office, agency or entity concerned, who belong to the following categories:
 - a. **First nominee representing the rank and file employees;**
 - b. **Second nominee representing the officials in the supervisory level;**
 - c. **Third nominee representing all officials and employees of the concerned agency recommended by an accredited Corruption Prevention Unit (CPU) or any recognized Non-Government Organizations (NGOs) or religious organization in the locality.**

However, the Ombudsman or his Deputies, on his own initiative, may appoint or designate any official or employee of a particular government office as Resident Ombudsman of said agency and may revoke said appointment *motu proprio*. (N)
4. **Qualifications.** - The Resident Ombudsman must be (a) in the active service of the office, agency, or entity concerned; (b) of recognized probity, independence of mind, and proven integrity and competence; and (c) not be related or beholden to the head of the office, agency or entity.
5. **Term of office.** - A Resident Ombudsman shall serve for a term of two (2) years from the date of his appointment or until his tenure is terminated by the Ombudsman or his deputy.
6. **Duties and functions.** - A Resident Ombudsman shall:
 - a. attend to requests for assistance filed directly with the Office, or assigned to him by its head or by the Office of the Ombudsman or by accredited

Corruption Prevention Units (CPUs) and Junior Graftwatch Units (JGUs) and expedite and facilitate action thereon;

- b. report anomalies, irregular acts, unethical conduct or illegal activities committed by the officials and employees of the office;
- c. aid the Office of the Ombudsman in gathering evidence in cases under investigation by the latter;
- d. make a study of standing procedures and systems in the office with a view to suggesting improvements therein, or recommending changes in the same as would prevent the incidence of graft and other irregularities perceived to have been facilitated by the existing systems and procedures;
- e. perform such other functions as may be assigned to him by the Office of the Ombudsman;
- f. submit an accomplishment/progress report to the Office of the Ombudsman at least once a month, or oftener as circumstances may require. The report should not be coursed thru the head or any other official of the office.

Powers. - All Resident Ombudsmen are hereby deputized as Ombudsman investigators with authority to conduct fact-finding inquiries in matters falling within their above-mentioned functions and, for such purpose, shall be deemed empowered to issue subpoena and subpoena duces tecum.

Status of Incumbent Resident Ombudsman. - All Resident Ombudsmen shall continue in such capacity until replaced by a successor appointed in accordance with this Administrative Order.

The Office of the Ombudsman strongly urges full cooperation and prompt compliance with the foregoing directives which are assigned primarily to implement and give reality to the constitutional precept that "public office is a public trust".

Effectivity. - This Administrative Order shall take effect upon completion of its publication in a newspaper of general circulation. (N)

This Administrative Order as amended shall supersede, modify or repeal all other previous issuances relating to the Resident Ombudsman, Non-Organic Program.
(N)

Manila, Philippines, January 4, 2001. (N)

(Sgd.) ANIANO A. DESIERTO
Ombudsman

ADMINISTRATIVE ORDER NO. 11

Series of 1994

- To** : The Deputy Ombudsmen for Visayas and Mindanao, All Provincial and City Prosecutors (except those in the National Capital Judicial Region)
- RE** : Supreme Court Circular No. 18-94
Delegation of Authority to approve Information in Inquest Cases Cognizable by the Sandiganbayan

The Ombudsman has called the attention of the Supreme Court on the problem of prosecutors in the filing of information in inquest cases cognizable by the Sandiganbayan and must therefore be filed only in the Sandiganbayan with seat in Manila. The problem arises when an arrest without warrant occurs in a distant place making it physically impossible to file the information with the Sandiganbayan within the reglementary periods of detention under Article 125 of the Revised Penal Code. If the person arrested does not sign waiver of the provisions of said article, the inquest prosecutor is constrained to order the arresting officer to release him.

Taking due cognizance of this problem, the Supreme Court issued Administrative Circular No. 18-94 dated November 29, 1994 promulgating the following guidelines:

1. All Clerks of Court of Regional Trial Courts all over the country (except those in the National Capital Judicial Region) are hereby designated as Ex-Officio Clerks of Court of the Sandiganbayan with the limited duty of receiving informations resulting from inquest investigations of offenses cognizable by the Sandiganbayan which were conducted by authorized prosecutors within their territorial jurisdiction, and transmitting the same to the Sandiganbayan within five (5) days from the filing thereof.
2. The information shall be filed with the Clerk of Court of the Regional Trial Court whose territorial area includes the place where the crime was committed. The filing with the said Clerk of Court shall have the effect of such information being filed directly with the Sandiganbayan.
3. The Executive Judge of the Regional Trial Court where the information was filed is hereby authorized to approve the application of the accused for bail, except in offenses punishable by death, reclusion perpetua or life imprisonment, and to order his release from detention subject to further orders by the Sandiganbayan. This authority does not include the power to act on any motion for reduction of the amount of the bail recommended by the prosecutor.

It will be noted that the above-quoted Administrative Order no. 18-94 does not provide as to who may sign or approve the information in such cases. Under present procedures, only the Ombudsman may approve information to be filed in the Sandiganbayan. Inasmuch as the Ombudsman, like the Sandiganbayan, holds office in Manila, thereby rendering it similarly impossible for him to approve the informations in inquest cases cognizable by the Sandiganbayan involving offenses committed in distant places, authority is hereby given to all Provincial and City Prosecutors (except those in the National Capital Judicial Region) to approve or sign informations resulting from inquest of Sandiganbayan cases and to file the same with the appropriate Ex-Officio Clerks of Court of the Sandiganbayan as designated in Administrative Circular No. 18-94.

Attached herewith is a copy of Administrative Circular No. 18-94 dated November 29, 1994 for your reference.

Manila, Philippines, December 8, 1994.

(sgd) CONRADO M. VASQUEZ
Ombudsman

SUPREME COURT ADMINISTRATIVE CIRCULAR NO. 18-94

SUBJECT: Designation of Clerks of Court of Regional Trial Courts as Ex-Officio Clerks of the Court of the Sandiganbayan

To: All Executive Judges and Clerks of Court of the Regional Trial Courts (Except those in the National Capital Judicial Region)

The attention of the Court has been called to the problem of prosecutors in the filing of informations in inquest cases cognizable by the Sandiganbayan. Presently, such informations may be filed only in the Sandiganbayan with seat of Manila. The problem arises when an arrest without warrant occurs in a distant place making it physically impossible to file the information with the Sandiganbayan within the reglementary period of detention under Article 125 of the Revised Penal Code. If the person arrested does not sign a waiver of the provisions of said article, the inquest prosecutor is oftentimes constrained to order the arresting officer to release the person arrested.

In order to obviate this problem, the Court RESOLVED to promulgate the following guidelines:

1. All Clerks of Court of Regional Trial Courts all over the country (except those in the National Capital Judicial Region) are hereby designated as Ex-Officio Clerks of Court of the Sandiganbayan with the limited duty of receiving informations resulting from inquest investigations of offenses cognizable by the Sandiganbayan which were conducted by authorized prosecutors within their territorial jurisdiction, and transmitting the same to the Sandiganbayan within five (5) days from the filing thereof.

2. The information shall be filed with the Clerk of Court of the Regional Trial Court whose territorial area includes the place where the crime was committed. The filing with the said Clerk of Court shall have the effect of such information being filed directly with the Sandiganbayan.

3. The Executive judge of the Regional Trial Court where the information was filed is hereby authorized to approve the application of the accused for bail, except in offenses punishable by death, reclusion perpetua or life imprisonment, and to order his release from detention subject to further orders of the Sandiganbayan. This authority does not include the power to act on any motion for reduction of the amount of the bail recommended by the prosecutor.

Strict compliance is hereby enjoined.

November 29, 1994.

(sgd) ANDRES R. NARVASA
Chief Justice

Administrative Order No. 13

GUIDELINES IN THE HANDLING AND PROSECUTION OF OMBUDSMAN CASES FILED WITH OR PENDING BEFORE REGULAR COURTS PURSUANT TO THE PROVISIONS OF R.A. 7975

Pursuant to the Authority vested in the Office of the Ombudsman under Sections 18, and 27 of Republic Act 6670, otherwise known as the Ombudsman Act of 1989, the following guidelines are hereby promulgated:

Reinvestigation

1. All Petitions/Motions for reinvestigation of cases already filed in court shall not be entertained and the same shall, instead, be addressed to the court trying the case.

2. Where the trial court orders/directs the conduct of reinvestigation proceedings, the same shall be undertaken by the prosecutor assigned to prosecute the case in the court and shall, as far as practicable, be limited to the reception and evaluation of such evidence as the court may deem fit to present for the purpose of overturning the finding of probable cause arrived at during the inquest or preliminary investigation proceedings; without prejudice, however, to the right of the complainant/offended party to be notified of such proceedings and to submit, in appropriate cases, proof in contravention of the evidence adduced by the court used.

3. Resolutions of the reinvestigating prosecutor as well as review resolutions of the city/provincial prosecutor recommending:

- a) Dismissal of the case; or
- b) Withdrawal of the complaint or information filed in court; or
- c) Substantial amendments to the complaint or information such as, but not limited to:
 - 1) charging an offense different from or lesser than that originally charged; or
 - 2) downgrading the degree of participation of an accused;
 - 3) excluding an accused from the original complaint or information; or
 - 4) including other persons as additional accused

shall be subject to the approval of the Ombudsman or his Deputies, as the case may be, and no motion praying for such dismissal, withdrawal or amendment of the original complaint or information shall be filed in court without the prior written approval of the Ombudsman or his Deputies.

4. Resolution of the reinvestigating prosecutor recommending the remand of the case to the trial court for further proceedings under the original complaint or information, concurred in or approved by the city / provincial prosecutor, as well as resolution of city / provincial prosecutors disapproving recommendations of their assistants for the dismissal,

withdrawal or amendment of the original complaint or information, need not be submitted to the Office of the Ombudsman for further action.

B. Plea Bargaining

1. City / Provincial Prosecutors are authorized to approve plea bargaining agreements entered into, concurred in or consented to by the prosecutors under them in all cases where the penalty to be imposed on the accused as a result of the plea bargaining is lower by not more than one degree than that prescribed by law for the offense charged in the complaint or information.

2. No plea bargaining agreement entailing:

- a) The imposition of a penalty lower by more than one degree from that prescribed by law for the offense charged in the complaint or information; or
- b) The imposition of a penalty different in nature from that prescribed by law for the offense charged in the complaint or information; or
- c) The dismissal of other charges filed or pending in court against the same accused.

shall be entered into, concurred in or consented to by the city / provincial prosecutors and their assistants without the prior written approval of the Ombudsman or his Deputies.

C. Procedural Matters

1. In cases falling under the provision of paragraph A-3 hereinabove, the following documents shall be transmitted to the Office of the Ombudsman or his Deputies.

- a) The records of the reinvestigation proceedings;
- b) The original and a copy resolution/recommendation of the reinvestigating prosecutor;
- c) The original and a copy of the motion for dismissal, withdrawal or amendment, as the case may be, of the original complaint or information, duly signed by the reinvestigating prosecutor.

2. In cases falling under the provisions of paragraph B-2 hereinabove, the following documents shall be transmitted to the Office of the Ombudsman or his Deputies.

- a) The written offer of the accused to enter into a plea bargaining agreement.
- b) The recommendation of the trial prosecutor stating, among others, the reason(s) justifying the acceptance of the offer of the accused;
- c) The original and a copy of the manifestation of consent to the plea bargaining offer of the accused, duly signed by the trial prosecutor and the offended party and the latter's counsel, if any.

D. Motions For Suspension

1. Pursuant to the provisions of Sec. 13 of RA 3019, as amended, otherwise known as the "Anti-graft and Corrupt Practices Act", any incumbent public officer against whom any valid criminal information has been filed in court for:

- a) Violations of RA 3019, as amended;
- b) Offenses defined and penalized under Title 7, Book II of the Revised Penal Code;
- c) Any offense involving fraud upon government or public funds or property penalized under the Revised Penal Code and other special laws such as, but not limited to, falsification and bribery or malversation,

whether as a simple or as a complex offense and in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office.

2. For purposes of complying with the foregoing provision of law, trial prosecutors shall, immediately upon filing of the information, filed with the trial court the corresponding Motion for Suspension of the accused from office.

E. Repealing Clause

All previous Orders, Rules and Procedures inconsistent with this Administrative Order are repealed or modified accordingly.

F. Effectivity

This Administrative Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

For strict compliance.

Manila, Philippines, 07 February 1996.

(sgd) ANIANO A. DESIERTO
Ombudsman

ADMINISTRATIVE ORDER NO. 16 Series of 2003

CREATION OF AN INTERNAL AFFAIRS BOARD

Pursuant to the authority vested in the Office of the Ombudsman under Section 11 and 18 of Republic Act No. 6770, otherwise known as the "Ombudsman Act of 1989," cognizant of the principle that public office is a public trust and that all public officer and employees, including the officials and employees of the Office of the Ombudsman must at all times be accountable to the people, the Office of the Ombudsman deems it imperative to create the Internal Affairs Board and staffs to ensure the highest integrity of its officials and employees. Accordingly, the Office hereby promulgates the following rules and guidelines:

I. STATEMENT OF POLICY

- A. The Office of the Ombudsman shall inculcate among its officials and employees the faithful observance of the Code of Conduct and Ethical Standards for Public Officials and Employees, all laws, rules and regulation concerning the civil service and public accountability, and rules and regulations of the Office of the Ombudsman.
- B. The Office of the Ombudsman shall promulgate and execute programs and procedures that shall ensure the highest integrity of its officials and employees.
- C. The Office of the Ombudsman shall act on all complaints filed in any form or manner against any incumbent or former official or employee of the Office of the Ombudsman, and for this purpose, shall adopt and promulgate stringent rules that shall ensure fairness, impartiality, propriety and integrity in all its actions.

II. FUNCTIONS OF THE INTERNAL AFFAIRS BOARD AND STAFFS

The functions, duties and responsibilities of the Internal Affairs Board (IAB) Board, for brevity) and the IAB staffs are as follows:

A. INTERNAL AFFAIRS BOARD

1. The Board shall recommend to the Ombudsman policies, programs and procedures that shall ensure strict compliance by officials and employees of the Office of the Ombudsman with the Code of Conduct and Ethical Standards for Public Officials and Employees, all laws, rules and regulations concerning the civil service and public accountability, as well as rules and regulations of the Office of the Ombudsman. These policies, programs, and procedures may pertain to sustainable systems for the conduct of integrity checks, performance audit, personnel background investigations, lifestyle checks and the like.
2. The Board shall recommend to the Ombudsman the promulgation of code of conduct and ethical standards for all officials and employees of the Office of the Ombudsman, and separate codes that shall apply to various positions, groups of positions or component units of the Office. Provided, that said codes shall form part of office rules and regulations: *Provided, further*, that said codes shall be consistent with the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713), and all other laws, rules and regulation concerning the civil service and public accountability.
3. The Board shall recommend to the Ombudsman the promulgation of manuals of operations that shall apply to bureaus, offices and/c component units of the Office to ensure the faithful performance of its mandated functions, duties and responsibilities, in accordance with the eight norms of conduct of public officials and employees as provided for in Section 4 of R.A. No. 6713.

4. The Board may direct any official or employee to render assistance to the IAB in the formulation of policies, programs, procedures, codes of conduct and manuals of operations.
5. The Board shall act on all complaints against any official or employee of the Office of the Ombudsman involving charge(s) allegedly committed singly or in conspiracy with any person.
6. The Board, consistent with the policies provided herein, may, with the approval of the Ombudsman, request any intelligence or investigating agency or direct any official, employee, or component unit of the Office of the Ombudsman other than the IAB Staffs, to conduct an intelligence operation or fact-finding investigation on any official or employee of the Office of the Ombudsman.

B. IAB PROGRAM STAFF (PS)

The IAB-PS, under the supervision of the IAB Chairman, shall render legal, technical and administrative assistance to the IAB in the performance of its functions mentioned in parts (II)(A)(1) to (II)(A)(4) hereof.

C. INVESTIGATING STAFF (IS)

The IAB-IS, under the supervision of the Board Chairman, shall conduct the necessary intelligence operation or fact-finding investigation, preliminary investigation and/or administrative adjudication, and shall render such other legal, technical and administrative assistance as the IAB may require in the performance of its functions set forth in parts (II)(A)(5) and (II)(A)(6) hereof.

D. IAB ADMINISTRATIVE OFFICER

The IAB Administrative Officer, under the supervision of the Board Chairman, shall render administrative assistance to the Board in the management of records, in the raffling for the selection of evaluating officers, investigators, members of investigating panels, and IAB Division team leaders and members, in the calendaring of hearings and meetings of the Board, and perform such other functions, duties and responsibilities that may be assigned to the Administrative Officer.

I. COMPOSITION OF THE INTERNAL AFFAIRS BOARD AND STAFFS

- A. The Internal Affairs Board (IAB) is hereby constituted with the following membership:
 1. The Overall Deputy Ombudsman
 2. The Special Prosecutor
 3. The Deputy Ombudsman for Luzon
 4. The Deputy Ombudsman for the Visayas
 5. The Deputy Ombudsman for Mindanao
 6. The Deputy Ombudsman for the Military

The Chairman and the Vice Chairman of the IAB shall be designated by the Ombudsman from among the members of the IAB for a term of one year. They may be redesignated at the discretion of the Ombudsman.

B. The IAB shall have its support staff composed of the following:

1. The IAB Program Staff or the IAB-PS shall be composed of the (a) Human Resource Management Officer V of the Central Office; (b) the Human Resource Management Officers of the Area/Sectoral Offices, including the Office of the Special Prosecutor; (c) the Head Executive Assistant; and (d) other officials and employees of the Office who may be recommended by the IAB for designation by the Ombudsman for a term of one year and who may be redesignated at the discretion of the Ombudsman.

The Coordinator of the IAB Program Staff (PS) shall be designated by the Ombudsman from among the members of the PS.

2. The IAB Investigating Staff or IAB-IS shall be composed of officers and employees of the Office of the Ombudsman who are of known integrity and probity, and who shall be designated by the Ombudsman to act as investigators and/or hearing officers in cases cognizable by the IAB; *Provided*, that the Ombudsman shall designate as members of the IAB-IS at least two (2) officers/employees from each of the Area/Sectoral Offices, including the Office of the Special Prosecutor; *Provided, further*, that the members of the IAB-IS shall have a term of office of one (1) year and may be redesignated at the discretion of the Ombudsman.
3. The IAB Administrative Officer shall be designated by the Ombudsman for a term of one year and may be redesignated at the discretion of the Ombudsman.

IV. PROCEDURES IN HANDLING COMPLAINTS

- A. **Form of Complaints.** The Office of the Ombudsman, through the IAB, shall act on all complaints in any form against its officials and employees, involving charge(s) allegedly committed singly or in conspiracy with any other person, filed by the public or by any official or employee of the Office, whether said complaint is made orally or in writing, signed or unsigned, verified or not verified or in any other form.
- B. **Receipt of Complaints.** All complaints against any official or employee of the Office of the Ombudsman, involving charge(s) allegedly committed singly or in conspiracy with any other person, may be addressed to:

The Chairman
Internal Affairs Board
Office of the Ombudsman
Agham Road, Quezon City

The complaint may be received by any of the component units of the Office, which shall immediately forward it to the IAB Administrative Officer.

For purposes of this Order, the component units of the Office of the Ombudsman are the Central Office, Office of the Special Prosecutor, Office of the Deputy Ombudsman for Luzon, Office of the Deputy Ombudsman for the Visayas, Office of the Deputy Ombudsman for Mindanao, and Office of the Deputy Ombudsman for the Military.

C. **Assignment of a Reference Number.** Upon receipt of the complaint by the IAB Administrative Officer, the same shall be assigned a sequential reference number and forwarded to the IAB Chairman for assignment to an investigator for the conduct of evaluation.

D. **Assignment of Complaints for Evaluation.** Upon receipt of the complaint, the Board Chairman, with the assistance of the IAB Administrative Officer, shall assign the same to a member of the IAB-IS by raffle, for the conduct of an initial evaluation thereof.

In the absence of the Board Chairman or where the Board Chairman is disqualified or has voluntarily inhibited himself from participating in the proceedings, the IAB Vice-Chairman or the IAB member designated by the Ombudsman, in that order of priority, shall act in his stead.

E. **Conduct of Evaluation.** Upon receipt of the complaint, the investigator shall evaluate the complaint and submit to the IAB Chairman, within five (5) days from receipt thereof, an evaluation report, which shall contain, among others, the following:

1. A statement as to the form and substance of the complaint;
2. The identity and rank of the respondent(s);
3. The actions recommended to be taken, which may be any of the following:
 - a. To proceed with the conduct of a preliminary investigation and/or administrative adjudication and to further recommend the issuance of preventive suspension where applicable; *Provided*, that the complaint is sufficient in form and substance; *Provided, further*, that if the complaint is not under oath, the investigator shall first require the complainant to subscribe to it under oath;
 - b. To conduct a fact-finding investigation or intelligence operations;
 - c. To dismiss the complaint outright; or
 - d. To refer the complaint to an official, bureau, board, committee or such other unit in the Office of the Ombudsman, for appropriate action, such as, but, not limited to any of the following:
 - 1) Directing the respondent and/or his immediate supervisor to immediately act on a particular matter;
 - 2) Referral of the complaint to the appropriate board, committee or office unit such as, but not limited to the Decorum and Investigation Committee (for cases pertaining to sexual harassment), or the Grievance Committee (for work-related issues giving rise to employee dissatisfaction such as interpersonal relationship and linkages, protests on appointments, non-implementation of policies, practices and procedure on economic and financial issues, as well as those affecting recruitment, promotion, transfer, retirement, termination and the like) or the public assistance unit; or
 - 3) Recommending to the authorized official non-disciplinary management action.

F. Action on the Evaluation Report

1. Where the Evaluation Report recommends the conduct of preliminary investigation and/or administrative adjudication against any official or employee of the Office of the Ombudsman, the Chair shall approve the same, and the case shall immediately be docketed, assigned by raffle, with the assistance of the IAB Administrative Officer to an IAB Investigator or panel, or to the IAB, either in division or *en banc*, when proper.
2. Where the Evaluation Report recommends the conduct of a fact-finding investigation, the case shall immediately be assigned by raffle with assistance of the IAB Administrative Officer, to an IAB-IS investigator or a panel of IAB-IS investigators, at the discretion of the IAB Chairman.
3. In case the IAB Chairman disagrees with the recommendation to conduct an intelligence operation, fact-finding investigation, preliminary investigation and/or administrative adjudication, the decision of the Chairman shall prevail. The report shall be approved by the following:
 - a. The IAB Chairman, where the respondent or highest rank respondent occupies a position belonging to the first level in career service, or who is in the non-career service with Salary Gr. 13 and below;
 - b. The IAB *en banc*, where the respondent or highest ranking respondent occupies a position belonging to the second level of the career service with Salary Grade not higher than 24, or who is in the non-career service with Salary Grade 14 to 24;
 - c. The Ombudsman, upon recommendation of the IAB, where respondent or the highest ranking respondent occupies a position with Salary Grade 25 or above.
4. The preventive suspension order, when proper, shall be approved in accordance with the immediately preceding section.
5. Where the evaluation report recommends any action other than conduct of preliminary investigation and/or administrative adjudication or fact-finding investigation/intelligence operation, approval required in part (IV)(F)(3) above should likewise be obtained.

G. Conduct of Fact-Finding Investigation or Intelligence Operation

1. Where the conduct of a fact-finding investigation or intelligence operation is found to be proper on the basis of a complaint, or at the instance of the IAB Chairman, IAB *en banc* or the Ombudsman, the IAB Chairman, with the assistance of the IAB Administrative Officer, shall assign the case by raffle to an IAB-IS investigator or to a panel of IAB investigators.
2. The IAB-IS investigator or panel of IAB-IS investigators shall submit an Intelligence or Fact-Finding Report, together with his/recommendation, to the IAB Chairman within sixty (60) days from his/its receipt of the complaint.

H. Action on the Intelligence or Fact-Finding Investigation Report

1. Where the Intelligence or Fact-Finding Report recommends the conduct of a preliminary investigation and/or administrative adjudication against an official or employee of the Office of the Ombudsman, the Chairman shall approve the same and direct the investigator or panel of IAB-IS investigators to prepare the necessary complaint. The case shall immediately be docketed and assigned by raffle, with the assistance of the IAB Administrative Officer, to another IAB investigator or panel, to the IAB, either in division or *en banc*, when proper.

2. In case the IAB Chairman disagrees with the recommendation to conduct preliminary investigation and/or administrative adjudication, the decision of the Board Chairman shall prevail.

The report shall be approved by the following:

- a. The IAB Chairman, where the respondent or the highest ranking respondent occupies a position belonging to the first level in the career service, or who is in the non-career service with Salary Grade 13 and below;
 - b. The IAB *en banc*, where the respondent or the highest ranking respondent occupies a position belonging to the second level of the career service with Salary Grade not higher than 24, or who is in the non-career service with Salary Grade 14 to 24;
 - c. The Ombudsman, upon recommendation of the IAB, where the respondent or the highest ranking respondent occupies a position with Salary Grade 25 or above.
3. The preventive suspension order, when proper, shall be approved in accordance with the immediately preceding section.
 4. Where the intelligence or fact-finding report recommends any action other than the conduct of preliminary investigation and/or administrative adjudication, the approval required in part (IV)(H)(2) above should likewise be obtained.

I. Docketing of Cases

The Board Chairman shall direct the Records Officer V of the Central Records Division to assign a Central Office docket number to the case which has been recommended for preliminary investigation and/or administrative adjudication.

J. Assignment of Cases by Raffle

1. Where the respondent or the highest ranking respondent has a Salary Grade not higher than 24, the Board Chairman, with the assistance of the IAB Administrative Officer, shall assign by raffle an IAB-IS investigator or constitute, also by raffle, an IAB-IS investigating team who shall conduct the preliminary investigation and/or administrative adjudication.
2. Where the respondent or the highest ranking respondent occupies a position with Salary Grade 25 to 29, the IAB acting in a division of three, shall conduct the preliminary investigation and/or administrative adjudication; *Provided*, that the IAB division may avail of the assistance of the investigating staff; *Provided, further*, that the investigating staff who will assist the IAB division shall be selected by a majority vote of the members of the IAB Division.

The assignment of cases to an IAB Division shall be done in the following manner:

- a. The IAB Chairman, with the assistance of the IAB Administrative Officer, shall first draw by raffle from among the qualified members of the IAB, the Team Leader of the First Division.
- b. Thereafter, the two members of the First Division shall be drawn by raffle from among the remaining qualified IAB members.
- c. The remaining three (3) members of the IAB shall then constitute the Second Division, whose Team Leader shall be drawn by raffle conducted by the IAB Chairman, with the assistance of the IAB Administrative Officer.
- d. The Overall Deputy Ombudsman, however, shall automatically act as the Team Leader of whichever IAB Division he may belong.

- e. In no case shall the Deputy Ombudsman for the Visayas and the Deputy Ombudsman for Mindanao sit at the same time in one division.
 - f. The first case filed with the IAB shall be assigned to the IAB First Division; while the next case shall then be assigned to the IAB Second Division.
 - g. Thereafter, the IAB Chairman, with the assistance of the IAB Administrative Officer, shall conduct another round of raffle to determine the composition of the IAB Divisions which shall handle the subsequent cases filed with the IAB.
 - h. The foregoing procedure shall be repeated after every two (2) cases that are referred to the IAB for preliminary investigation and/or administrative adjudication.
 - i. Where the Team Leader or a member of a division is subsequently found to be disqualified or has voluntarily inhibited himself from participating in the proceeding, the IAB Chairman shall request the Ombudsman to designate a substitute from among the members of the other division.
 - j. The presence of at least two members of an IAB Division is required to constitute a quorum. The vote of at least two members of a Division is required to pass a resolution or validate an act of the Division.
3. Where the respondent or the highest ranking respondent is the Chairman, Vice Chairman or member of the Board, the IAB *en banc* shall conduct the preliminary investigation and/or administrative adjudication; *Provided*, that the respondent member, Vice Chairman or Chairman shall automatically be disqualified from participating in the proceeding except as respondent; *Provided, further*, that the IAB may avail of the assistance of the Investigating Staff who shall be selected by a majority vote of the IAB *en banc*.

The presence of a simple majority of the qualified IAB members shall constitute a quorum.

The vote of a simple majority of all the qualified members of the IAB shall be required to pass a resolution or decision of the IAB *en banc*; *Provided, however*, that in case of a tie or lack of quorum for two (2) scheduled sessions of the IAB at which the matter is supposed to be taken up, the matter shall be deemed automatically submitted to the Ombudsman.

K. Conduct of Preliminary Investigation and Administrative Adjudication

Preliminary investigation and administrative adjudication shall be conducted within sixty (60) days from docketing of the complaint. Unless otherwise herein provided, the Rules and Regulations of the Office of the Ombudsman shall apply in all cases cognizable by the IAB. The recommended resolution or decision shall be submitted to the approving authority within thirty (30) days upon termination of the proceedings.

L. Approval of Resolutions and Decisions

1. Resolutions and decisions on cases where the respondent or highest ranking respondent has a Salary Grade not higher than Salary Grade 24 shall be approved by the IAB *en banc*. The provision in part (IV)(I)(3) hereof on quorum and number of votes required to pass a resolution or decision of the IAB *en banc* shall be observed.

2. Resolutions and decisions on cases where the respondent or highest ranking respondent occupies a position with Salary Grade 25 or above shall be submitted by the IAB to the Ombudsman for final action.

M. Motion for Reconsideration

A motion for reconsideration of any order, directive or decision of the Chairman, the IAB *en banc* or the Ombudsman, must be filed within five (5) days from receipt of a written notice thereof and may be entertained only on any of the following grounds:

1. New evidence has been discovered which materially affects the order, directive or decision; or
2. Serious errors of law or irregularities have been committed prejudicial to the interest of the movant.

The motion for reconsideration shall be resolved within five (5) days from filing; *Provided*, that only one motion for reconsideration shall be entertained.

Findings of fact of the Office of the Ombudsman, when supported by substantial evidence, shall be conclusive. Any order, directive or decision imposing the penalty of public censure, reprimand, suspension of not more than one month and/or forfeiture of not more than one month salary, shall be final and unappealable.

N. Disqualifications

The Chairman, Vice Chairman or any member of the IAB, as well as any member of the IAB Investigating Staff, shall be automatically disqualified from acting on a complaint or participating in a proceeding under the following circumstances:

1. He is a party to the complaint, either as a respondent or complainant;
2. He belongs to the same component unit as any of the parties to the case;
3. He belongs or belonged to the same component unit as any of the parties to the case during the period when the act complained of transpired;
4. He is pecuniarily interested in the case or is related to any of the parties within the sixth degree of affinity or consanguinity, or to counsel within the fourth degree, computed according to the provisions of civil law; or
5. He has, at one time or another, acted upon the matter subject of the complaint or proceeding.

For purposes of this Administrative Order, the Overall Deputy Ombudsman shall be considered part of the Central Office.

The Chairman, Vice Chairman or any member of the IAB, as well as any member of the IAB-IS, may, in the exercise of his sound discretion, inhibit himself from acting on a complaint or participating in a proceeding for just and valid reasons other than those mentioned above.

Where the Chairman of the IAB is disqualified or has voluntarily inhibited himself from participating in a case, the Vice-Chairman of the IAB shall act in his stead. Where the Vice Chairman of the IAB is also disqualified or has inhibited himself from participating in a case, the Ombudsman shall appoint an Acting Chairman from among the qualified members of the IAB.

V. GENERAL PROVISIONS

- A. **Separability Clause.** If any provision of this Order is unconstitutional or invalid, other provisions not affected thereby remain valid and binding.
- B. **Modification Of Existing Issuances.** All issuances or provisions of issuance of the Office of the Ombudsman which may be inconsistent any of the provisions of this Order are hereby repealed or modified accordingly.
- C. **Action on Cases Pending upon the Effectivity of this Order.** All or complaints filed against or involving any official or employee of the Office of the Ombudsman, pending at any stage upon the effectivity of this Order, shall immediately be forwarded to the IAB Administrative Officer for transmittal to and for appropriate action of the IAB.
- D. **Applicability of the Rules of Court.** The provisions of the Rules of Court shall apply in a suppletory character, insofar as they are inconsistent herewith and whenever practicable and convenient.
- E. **Effectivity.** This Order shall take effect after fifteen (15) days following the completion of its publication in the Official Gazette or in three newspapers of general circulation in the Philippines, one of which printed in the national language, and upon the filing with the University of the Philippines Law Center of three (3) certified copies thereof.

(sgd) SIMEON V. MARCE
Ombudsman

July 31, 2003

Memorandum Circular No. 14
Series of 1995

TO : The Deputies for Luzon, Visayas, Mindanao and Military, The Special Prosecutor, The Chief of the Central Records Section and All Deputized City/Provincial Prosecutors

Subject: Cases/Complaints Against Personnel of the Philippine National Police (PNP); Bureau of Fire Protection (BFP); Bureau of Jail Management and Penology (BJMP)

Date : October 10, 1995

In pursuance of the Office's mandate to promote efficient service to the people and conformably with the powers vested in the Ombudsman under Section 15, par. 10 and Section 31 of RA 6770, the Deputy Ombudsman for the Military shall continue to investigate all cases against personnel of the PNP; BFP and BJMP.

Hence, such cases which are now with the Office of the Deputies for Luzon, Visayas and Mindanao, the Office of the Special Prosecutor and the Central Records Section, where preliminary investigation has not been commenced or where no action has yet been taken and all other cases against the aforementioned personnel which may thereafter be filed with said offices, should be promptly forwarded to the Deputy Ombudsman for the Military.

The Deputized City/Provincial Prosecutors and their Assistants shall continue with the preliminary investigation of the aforementioned cases pursuant to the guidelines laid down in DOJ Memorandum Circular No. 2, dated April 15, 1994, but shall henceforth forward their recommendations directly to the Deputy Ombudsman for Military who shall act on the same in accordance with said Office Order No. 103, series of 1995.

For your guidance and compliance.

(sgd) ANIANO A. DESIERTO
Ombudsman

JOINT RESOLUTION No. 2-97

Subject : Resolution Constituting the Inter-Agency Consultative

WHEREAS, on June 11, 1997, the Heads of Agencies engaged in Maintaining Integrity and Efficiency in Government have entered into and signed a Memorandum of Agreement (MOA) binding themselves to coordinate with one another in the fight against graft and corruption;

WHEREAS, Section 1 (b) of the MOA provides for the setting up of an Inter-Agency Committee to discuss techniques and strategies in the prevention, detection, investigation and prosecution of graft cases;

WHEREAS, the Inter-Agency Consultative Committee is to be composed of a representative from each agency with a rank not lower than a deputy Commission Secretary, or an officer of equivalent rank;

WHEREAS, considering the activities to be attended to by the Inter-Agency Consultative Committee in the implementation of the MOA, there is need to provide for per diem expenses in the amount of Five Hundred pesos (P500.00) per meeting for each member of the Inter-Agency Consultative Committee but not to exceed the per diem ceiling under National Compensation Circular No. 75 issued by the Department of Labor and Management;

NOW, THEREFORE, on motion of Ombudsman Aniano A. Desierto be it resolved that the Inter-Agency Consultative Committee be constituted with the following members:

RESOLVED FURTHER, that this aforementioned out-of-pocket expense shall be enjoyed effective July 1, 1997 chargeable against the savings of the representative Agencies.

Signed this 11th day of June, 1997, at Quezon City, Philippines.

(sgd) ANIANO A. DESIERTO
Ombudsman

(sgd) CORAZON ALMA G. DE LEON
Chairman, Civil Service Commission

(sgd) CELSO D. GANGAN
Chairman, Commission on Audit

(sgd) SANTIAGO Y. TOLEDO
Director, National Bureau of Investigation

(sgd) EUFEMIO C. DOMINGO
Chairman, Presidential
Commission Against Graft
and Corruption

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Date

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