

DANGEROUS DRUGS BOARD
Office of Undersecretary Grepur Butch Belgica

MEMORANDUM BRIEF

FOR: The Honorable Members, DANGEROUS DRUGS BOARD
RE: A Five-Year Program Towards a Drug-Free Filipino Nation
Date: October 2010

Please find attached a brief on a Comprehensive Anti-Illegal Drugs Program the undersigned personally prepared for consideration.

For brevity, he addressed only three major concerns but of vital importance in the campaign against illegal drugs, substance abuse and delinquency, with designed programs namely:

- 1. The Oplan EDSA-ILaw- to address the Demand Reduction Campaign**
 - a. Revitalizing Anti Drug Abuse Councils (ADAC) and Activating ADAC'S ADMINISTRATIVE BOARDS
 - b. Applying and Activating the Built-In Defenses of Each Social and Economic Sphere to Fight Delinquency and Substance Abuse
- 2. The Oplan EDSA ILaw - to address the Supply Reduction Campaign**
 - a. The Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA, As Mandated By Law
 - b. On A Unified DDB-PDEA as Per RA 9165, Articles IX and X For Better Accountability and Check and Balances; And For A More Effective Anti-Drug Campaign
- 3. The YouthGuide Initiative- to address the proliferation drug-influenced pseudo-fraternity/gang violence**

For 35 years, the undersigned has been in this advocacy of building a better and kinder society for the Filipino Youth to thrive and mature productively and competitively.

Herewith is a copy of the book "Remove the Evil from Our Midst" that was presented to then Justice Secretary Tito Guingona. This became a major resource material for the carving of a national policy on a comprehensive action against illegal drugs in January 1995, and eventually

in the enactment of RA 9165, known as the Comprehensive Dangerous Drugs Act of 2002.

Sad to note, some past officials mangled and masticated, wittingly or unwittingly, RA 9165 that made the law inutile.

For your consideration

Undersecretary GREPOR BUTCH BELGICA
Permanent Member, **Dangerous Drugs Board**

THE DANGEROUS DRUGS BOARD, IN A MEETING HELD AT DDB-PDEA BLDG. ON DECEMBER 16, 2010, APPROVED IN A BOARD RESOLUTION NO.148 SERIES OF 2010

DANGEROUS DRUGS BOARD
BOARD RESOLUTION NO. 148 S. 2010

A RESOLUTION ADOPTING “ERADICATE DELINQUENCY AND SUBSTANCE ABUSE THROUGH THE IMPLEMENTATION OF THE LAW” (OPLAN EDSA-ILAW) AS A PROGRAM, AMONG OTHERS, OF THE DANGEROUS DRUGS BOARD AND ALLOWING ITS LAUNCHING THROUGH A PROJECT CALLED “NEW LIFE CAMPAIGN”

WHEREAS, as provided by Section 77, Article IX of RA 9165, the Dangerous Drugs Board is the policy-making and strategy-formulating body in the planning and formulation of policies and programs on drug prevention and control and is mandated, among others, to develop and adopt a comprehensive, integrated, unified and balanced national drug abuse prevention and control strategy;

WHEREAS RA 9165 enjoins parents, teachers, clergy and various sectors of society to participate in the effort to contain this problem of substance abuse;

WHEREAS the laws prescribed in RA 9165 is comprehensive and adequate to neutralize if not eradicate delinquency and substance abuse, if

properly expounded and understood by these various sectors as to their respective roles and functions, and thus, need to be expounded;

WHEREAS a good comprehension of their mandates, roles and function of each and every concerned individuals, institutions, and sectors of society will reduce the cost of undertaking a national anti-drug abuse program nationwide;

WHEREAS, in recognition of the seriousness of drug abuse compounded with delinquency; the exigency of the demand for its resolution; and the complexity of the problem, an Operational Plan Eradicate Delinquency and Substance Abuse Through Implementation of the Law (Oplan EDSA-ILaw) are proposed for the adoption by the Board;

WHEREAS, Oplan EDSA-ILaw has an intervention aspect that encourages people to live righteous lives as law abiding citizens;

WHEREAS, the said Oplan is a campaign against youth restlessness as manifested by substance abuse, delinquency and immorality;

WHEREAS, a “New Life Campaign” shall be conducted by phases nationwide from Cagayan Valley to Davao visiting with local government officials, law enforcers, businessmen and professionals, in school campuses, jails and rehabilitation centers to launch OPLAN: EDSA ILaw with the assistance of the private sectors;

Now, THEREFORE, be it RESOLVED as it is hereby RESOLVED that OPLAN: EDSA –ILaw be adopted as a program, among others, of the Dangerous Drugs Board with existing programs on the Drug Demand Reduction which is being implemented in various keys setting and targeting all sectors of the society; and authorizing its launching through the “NEW LIFE CAMPAIGN”.

Secretary ANTONIO “BEBOT” A. VILLAR

(Original Signed)

Attested By:

Undersecretary EDGAR C. GALVANTE, Exec. Director

OPLAN: EDSA I Law - Five Years 2011-15
Towards a Drug-Free NATION

1. A COMPREHENSIVE DEMAND REDUCTION PROGRAM –
(Oplan: EDSA-I Law) A Holistic Three Dimensional Approach to the Demand Reduction Program as provided for by the Law: RA 9165.

A. Revitalizing Anti-Drug Abuse Councils (ADAC) And Activating ADAC'S ADMINISTRATIVE BOARDS

1. Reorganize a unified and uniformed Anti-Drug Abuse Councils (ADAC) in every local government units to implement the Dangerous Drugs Board's policies and programs on drug prevention and control, in coordination with the Philippine Drug Enforcement Agency;
2. The DDB shall delineate and redefine the Roles, Functions of DDB, and PDEA in the Demand Reduction Campaign by reiterating the provisions of the law under **Section 77 and 82 of RA 9165.**

3. Sustain the initiative of creating Administrative Boards as stated in RA 9165 Art. VII which defines the participation of Local Government Units to wit:

***Section 51. Local Government Units' Assistance.** – Local government units shall appropriate a substantial portion of their respective annual budgets to assist in or enhance the enforcement of this Act...*

Section 52. Abatement of Drug Related Public Nuisances.....

(1) Any city or municipality may, by ordinance, create an administrative board to hear complaints regarding the nuisances;

Section 53. Effect of Board Declaration.

4. Preparation of printed materials specifically defining the participation of the various sectors, their relevant roles and functions in the drug prevention and control, in a step-by-step, phase-by-phase implementation of the program. This is to be undertaken through the administrative and operational support of the various divisions of the Secretariat of the DDB. An **ADAC's Manual and Tool Kit** for Local Government Units will be produced that will define, among others:
 1. The **Council's and the Administrative Boards'** composition patterned akin to the DDB;
 2. Tasks and responsibilities, such as identifying drug-influenced communities, nuisance places, drug dependents, suspected drug pushers;

3. Guidelines and procedures in coordinating with DDB-PDEA in various matters concerning drug prevention, control and law enforcements, and its possible deputization in some specific concerns.
 4. The Manual/Kit will also contain the Draft Ordinance and/or Executive Order for LGUs, in creating their Administrative Boards as provided for by RA 9165.
 5. For the dissemination of the **ADAC Manuals and Kits** from the City, Province and Municipal to the Barangay level, **DDB** through its **Preventive Education, Training and Information Division** shall undertake the training of **PDEA's Preventive Education and Community Involvement Services** in all regions; after which PDEA will coordinate with the DILG for the proper implementation of the program.
- B. Applying And Activating The Built-In Defenses Of Each Social And Economic Sphere To Fight Delinquency And Substance Abuse**
1. In line with the provisions of the law, **Domicile Support Groups (DSG), School Support Groups (SSG) and Workplace Support Groups (WSG)** must be set in place by DDB-PDEA in coordination with concerned Government Agencies such as DILG, DSWD, DepEd, NYC and DOLE.
 2. Faith-based Family-oriented Organizations such as Couples for Christ, Christian Family Movement, etcetera, shall be tapped. Families must be supported by the government in enforcing discipline in their homes being the first line of defense against substance abuse, thus **Women's and Children's Desk** shall be expanded to **Domicile Disciplinary Support Desk**.
 3. Youth Camps and Group Counseling activities with a three-dimensional approach shall be encouraged with incentives from the government. Along this line, the Word Approach Counseling shall be implemented in the **Barkada Kontra Droga** Program.

ARTICLE IV the Participation of the Family, Students, Teachers and School Authorities in the Enforcement of this Act

Section 41. Involvement of the Family. – The family ...shall be primarily responsible for the education and awareness ...close monitoring of family members

Section 42. Student Councils and Campus Organizations. – All ...student councils and campus organizations shall include a program for the prevention of and deterrence in the use of... drugs, and referral for treatment and rehabilitation...

Section 43. School Curricula. – Instruction on drug abuse prevention and control shall be integrated in the ... curricula of all ...schools,

ARTICLE V Promotion of a National Drug-Free Workplace Program With the... Private and Labor Sectors and the Department of Labor and Employment

Section 47. Drug-Free Workplace. – It is deemed a policy of the State to promote drug-free workplaces using a tripartite approach...

Section 48. Guidelines for the National Drug-Free Workplace Program. The Board and the DOLE shall formulate the necessary guidelines for the implementation of the national drug-free workplace program.

ARTICLE VI Participation of the Private and Labor Sectors in the Enforcement of this Act

Section 49. Labor Organizations and the Private Sector. –

Section 50. Government Assistance. – The labor sector and... partners may... secure the technical assistance ... of the appropriate government and law enforcement agencies.

2. A COMPREHENSIVE SUPPLY REDUCTION PROGRAM

(Oplan: EDSA-IIaw) A Faithful Implementation and Application of RA 9165 With Active And Well-Defined Participation Of All Units Of Civil Government And All Sectors Of Society.

a. The Transfer, Absorption, And Integration Of All Operating Units On Illegal Drugs Into The PDEA, As Mandated By Law

For a start, these provisions of RA9165, for a well-coordinated, more potent Law Enforcement Supply Reduction Campaign must be implemented before any Drug Supply Reduction Program can be effectively drawn. Indeed, the law provides a superstructure for all law enforcement agencies in dangerous drugs control to flow together in a concerted effort, orchestrated by a sole agency (PDEA), with a common mandate and fully enabled by law.

The success of any National Drug Abuse Prevention and Control Strategy and/or Program greatly depends on the faithful and rational application of this provision:

***Section 86. Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions.** – The Narcotics Group of the PNP, the Narcotics Division of the NBI and the Customs Narcotics Interdiction Unit are hereby abolished; however they shall continue with the performance of their task as detail service with the PDEA... until such time that ...the Agency is fully operational and the number of graduates of the PDEA Academy is sufficient to do the task themselves: ...*

(BACKGROUND: THE RATIONALE BEHIND SEC 86 PROVIDING THE TRANSFER, ABSORPTION AND INTEGRATION OF THE OPERATING UNITS ON ILLEGAL DRUGS INTO THE PDEA.

Submitted by Undersecretary Grepur Butch Belgica as a comment on the proposed amendment to Section 86 of RA9165

Decades ago when the problem of Substance Abuse ballooned, and parallel with it are Delinquency and the increase in drug-related Heinous Crimes, among the factors that were looked into is the efficiency and adequacy of the supply reduction policy, programs, and law enforcement setup and system prevailing during that period.

There were multiple law enforcement agencies with their respective elite groups and task forces involve in the drug supply reduction efforts during those times; as there were as much anti-drug enforcement agencies with some of their operatives protecting illegal drug syndicates. One of the more prominent of the problems was the involvement of law enforcers to illegal drug activities, and parallel with it was the increase of criminal drug traffickers with protection from law enforcers, thus making a mockery of the Law, and replacing the rule of law with the rule of agencies.

STEPS TO BE TAKEN AS ADDRESSED BY THIS SECTION 86 ARE:

- 1. The ABOLITION of all these agencies and their replacement with a super –drug enforcement agency (PDEA) with clear and direct accountability to a multi-departments super-body (DDB).*

2. Then, to ensure continuity of the drug prevention and control during the transition, the different anti-narcotic units of law enforcement agencies were integrated as detailed to PDEA “until such time that the organizational structure of the agency is fully operational...” with adequate options for every operatives in various anti-drug law enforcement agencies to join the Super-Anti-Drug Agency;
3. Take note of the phrase, “subject to screening”. This was intended to get rid of the “scalawags” protecting criminal syndicates, if not being syndicate members or leaders themselves; and/or of the notorious drug “recyclers” which had become extended drug syndicates using the same underground illegal drugs-network.

With a super drug-enforcement agency (PDEA), with clear and direct accountability to a multi-departments super-body (DDB), the emphasis of the majesty of the law, the upholding on the rule of law were believed to have been ensured (And the problem of “rule of agencies and elite task forces” addressed). Meaning, PDEA given time to develop, with the quasi-legislative powers of DDB when utilized to empower PDEA, to deputize as originally intended by Section 86, even a traffic policeman, an elected Barangay official can make arrests with the guidance of the DDB-PDEA and in accordance with the pertinent provisions of the law.

*The reinvigorated Dangerous Drugs Board crafted by RA9165 with 12 Cabinet-level Departments; and, 3 Permanent members and 2 other potent, reputable NGOs for continuity ensured a well-covered check-and-balance system; and combined with a Super-Agency (**PDEA**) as its **implementing arm**, ensured a super-potent supply reduction agency having overall supervision on all supply reduction efforts.*

The sad fact is that the provisions in Sec 86 was not properly implemented generally because of, perhaps, lack of perspective of this particular Section. The undersigned recommends that this be implemented smoothly in accordance with the provisions and intent of the law.)

b. On A Unified DDB-PDEA As Per Ra 9165, Articles IX And X For Better Accountability And Check And Balances; And For A More

Effective Anti-Drug Campaign (References: R.A. 9165, Article IX, Sections 77 & 82, and Article X, Sections 87 & 88)

The lawmakers who drafted RA 9165 had only one intention: that of having a unified and integrated system of planning, implementation and enforcement of anti-drug abuse policies, programs and projects. The rationale is for **better accountability and check and balances**; and for a **synchronized and more effective** anti-drug campaign. **Thus DDB and the creation of PDEA is lump in one and the same Article IX.**

Fact: ONE TITLE-NAME FOR IMPACT AND EFFICIENCY, ONE PURSE (BAG) FOR MAXIMIZED UTILIZATION OF FUNDS

Article IX - The Dangerous Drugs Board and the Philippine Drug Enforcement Agency

Section 77 “The Dangerous Drugs Board”– The Board shall be the policy-making and strategy-formulating body in the planning and formulation of policies and programs on drug prevention and control. It shall develop and adopt comprehensive, integrated, unified and balanced national drug abuse prevention and control strategy. It shall be under the Office of the President.”

Section 82 “Creation of the Philippine Drug Enforcement Agency (PDEA) – To carry out the provisions of this Act, the Philippine Drug Enforcement Agency (PDEA), which serves as the implementing arm of the Board, and shall be responsible for the efficient and effective law enforcement of all the provisions on any dangerous drug and/or controlled precursor and essential chemical as provided in this Act.

Article X: Appropriation, Management of Funds and Annual Report

Section 87 discusses appropriations, while Section 88 is on the management of funds and annual report of both the Board and PDEA.

A careful study and analysis of RA 9165, Article X, Sections 87 and 88, shows that there is only one purse as prescribed by the law (and not many as it is presently done) for the attainment of the objectives of the RA 9165. However, this is not being done or followed. For whatever reason, one can only speculate. This is, wittingly or unwittingly, a misinterpretation of the law, or a misconception.

A deeper study and analysis on important provisions of RA 9165 under Article X particularly on Sections 88– reveals that the misconception stems particularly from, **among others**, the inadvertent **insertion of the word**

“respective” in the IRR (Implementing Rules and Regulation) for RA 9165. The Law prevails over the IRR, is established jurisprudence.

Therefore, PDEA is the Board’s implementing arm and law enforcement agency, implementing policies and the national drug control strategy formulated by the Board. The DDB-PDEA set-up is similar to Executive Departments with their respective enforcement arm (eg. DILG-PNP, DOJ-NBI, etc.).

- I. The Chairman of the Board **alone** is mandated by law to report to the President and to both Houses of Congress all matters pertaining to the Dangerous Drugs situation, including programs and statistics, and needed legislations (such as appropriations, and matters relevant to drugs control)
- II. PDEA reports and is accountable to the Board.
- III. Further, as prescribed by RA 9165 Article IX, Section 83, **PDEA is to submit to the Board all changes in organizational set-up/staffing pattern for approval** and that all programs/projects, budget and accomplishments of PDEA is submitted and presented to the Board.
- IV. All the perceived but nonexistent overlapping functions of the DDB-PDEA, be synchronized according to the defined functions of the DDB as the policy-making/strategy-formulating body, PDEA as the implementing arm, and other interacting agencies on dangerous drugs control, particularly, among others, To wit:
 - In the DDB Divisions namely: Policy Studies, Research and Statistics (PSRSD); Preventive Education, Training and Information (PETID); Legal Affairs; and the Administrative and Financial Management; and,
 - In the PDEA Services, namely: Intelligence and Investigation; International Cooperation and Foreign Affairs; Preventive Education and Community Involvement (PECIS); Plans and Operations; Compliance; Legal and Prosecution; Administrative and Human Resource; Financial Management; Logistics Management; and Internal Affairs; and in the
 - DoH-TRC as the Rehab arm.

OPTIONS TO TAKE:

1. The Board or the ExeCom, thru resolutions, may correct and act on these issues above-presented particularly in the implementation of RA 9165, Articles IX and X, Sections 87 and 88.
2. The Chair may issue a memorandum circular to the effect that the Unified (Two in One) Board-Agency is to henceforth be presented, known, called, promoted as **DDB-PDEA, as defined by law in Article IX of RA 9165.**

CONCLUSION:

DDB-PDEA with a very broad membership of Department executives and supported by a very comprehensive law could be a very effective government institution in curbing the problem of illegal drugs and in neutralizing, among others:

1. Narco-Politics and their major Players
2. International and National Narcotic Syndicates
3. Criminal Drug Syndicates involving some Law Enforcers

Communications to the President and Congress may be prepared for other corrective legislations needed.

3. THE YOUTHGUIDE INITIATIVE

A Program on Anti-Delinquency and -Substance Abuse In Response to the Rise of Drug Related Violence among Youth Gangs and Pseudo Fraternities

RATIONALE

Proliferation of substance abusing youth gangs is phenomenal, instilling fear and anxiety to both parents and kids in the community, in and off campus. This phenomenon is complex and distinct but not much attention is given.

Youth involvement in substance abuse increased very significantly while gangs formed are more vicious and secretive. Their proliferation can be traced to several factors:

- First, the moral degeneracy which greatly contributes to the weakening of the youth's resistance to evil (curiosity) and peer pressure.
- Second, Neglect or lack of Parental guidance; lack of community vigilance and restrain.

- Third, because of RA 9344 or the Juvenile Justice and Welfare Act (Minors has no criminal liability); and other factors causing the proliferation of illegal Drugs.

Evidence suggests that there are “functional linkages” between organized crime and youth gangs in drug trafficking, substance abuse, extortion, theft, and murder. Ironically, youth groups have also been fertile ground for recruitment into insurgency.

DEFINITION OF TERMS on Youth and Minors

For legal, operational and administrative clarity: persons between 18 to 25 years of age shall be classified as “youth”; and those below 18 years old, are “minors” who are covered by the provisions of the law on the treatment of Juvenile offenders (Juvenile Justice and Welfare Act).

PLAN OF ACTION

Enlist support of like-minded civic organizations to pursue two objectives:

1. Implement the Three-Pronged Suppression-Intervention-Prevention (SIP) Program against delinquency and substance abuse.
2. Conduct a nationwide assessment of Anti-Delinquency and -Substance Abuse Programs and Strategies in localities severely affected.

A Detailed Study and Plan of Action on this regard shall be readied for each affected locality.

Implementing the Three-Pronged ‘SIP Program’ Suppression, Intervention, Prevention

a. Suppression – advocate, **thru ADAC**, formation of YouthGuide Drug Prevention and Control Office, to serve as Suppression and Intervention Unit/Office in the Cities or Towns where there is a proliferation of youth gangsterism, delinquency and substance abuse.

Composed of LGU officials and law enforcers, the head of office is appointed by the Mayor, preferably a lawyer or a law graduate, who shall oversee the functions of the office. Law Enforcers/Social workers shall be assigned for operations and the conduct of Law Enforcement activities.

Civic Groups Participation as per RA 9165

DDB Change Agents to support/assist operations of these gang suppression and intervention units, for proper 'Law Enforcement' of local ordinances and laws on delinquency and substance abuse, and until precise 'Arrest', and successful 'Prosecution' is effected.

b. INTERVENTION – train/develop Change Agents and pursue Advocacies

Intervention through Change Agents--YouthGuide advocates the formation of Change Agents from volunteers. They shall be actively involved in Transformation Programs for youth offenders and gang men.

Ministries on Youth Transformation and reformation to train Trainors as Change Agents, including those transformed from gangsterism or wayward life but are now leading righteous lives.

Trainors' Training shall be on "A Strength-based Intervention" strategy to provide practical models for turning destructive patterns into opportunities. Training shall be on intervention techniques in communities and institutions, and in running an aftercare home for juvenile and high-risk youth offenders, and in intervening in the activities of Youth gangs/fraternities. Trainors shall be culled from volunteers of Civic and Church groups

Intervention Through Interventionary Advocacies

Segregation of youth wards and minors in custodial institutions (jails, prisons, penal farms, rehab centers, etc.) for implementation of transformation programs for youth.

Monitoring of Habitual Delinquents, Recidivists and Probationers in jails and prisons. An initial and informal inquiry undertaken by the YouthGuide volunteers revealed incidences of multiple probation application of offenders.

Applying the three (3) strike rule in rehabilitation or reformatory centers. A drug addict sent for rehabilitation three times may be prosecuted to serve time in jail. Further legislations in local and national level be advocated.

Pursue the construction of Youth Centers for Transformation by private or government sector, both for High Risk offenders and minors in conflict with the law.

c. PREVENTION—develop speakers bureau and encourage productive youth groups; Parenting and Counseling, Lectures and Youth Counter forces and activities

Initiate/coordinate a network of priests and pastors, religious leaders to function as a “Speakers’ Bureau” for this Initiative. Seminars, Lectures and Sermons in Churches and educational institutions, supported with basic materials on good/godly parenting to inculcate parental responsibility and authority; providing a healthy lifestyle to their kids; and community watch on the youth.

Support and encourage the formation of “Youth Counterforce” under the **Barkada Kontra Droga** program, such groups as KBB (Kabataan Bagong Buhay), other civic-oriented and faith-based group be asked to participate.

OTHER CONCERNS

Conduct a nationwide assessment of Anti Delinquency and Substance Abuse Programs and Strategies

Surveys, Profiles and Data Gathering on Youth Gangs and psuedo-fraternities involved in substance abuse and drug pushing shall be done.

Parallel Civic and Religious groups shall be encouraged to give input in the assessment of substance abuse, drug related cases and gang violence in their community; and assist in the formulation of strategies and programs in combating this menace.

ADDENDUM

**LEGAL EXPLANATION to a Unified DDB-PDEA
Excerpted from the Report of JC Calida and Associates Law Firm**

To gain a better perspective, it is imperative to look at Article IX of RA 9165 which provides for the creation, organization and conferment of powers and duties of the DDB and PDEA¹. As envisioned by the Congress, DDB was crafted to function like a department. That is why the Chairman of the DDB was conferred the rank of Secretary².

DDB was designed to be a “*Superbody*” in the field of drug prevention and control as borne out by the following:

- a) it was granted plenary and pervasive powers to plan, formulate and strategize policies and programs on drug prevention and control as well as to develop and adopt a comprehensive, integrated, unified and balanced national drug abuse prevention and control strategy;
- b) it is placed directly under the Office of the President;
- c) the composition of the Board, where at least nine (9) ex-officio members of whom, are Cabinet Secretaries of front line departments show the importance given to it by the legislature;
- d) it was given an implementing arm – the PDEA;
- e) the Director of the NBI and the Chief of the PNP are permanent consultants of the Board; and
- f) the Chairman of the DDB is the one tasked to submit an annual report to the President and to the presiding officers of both houses of Congress regarding the dangerous drugs situation in the country including detailed account of programs and projects undertaken, statistics on crimes related to dangerous drugs, **expenses incurred pursuant to the provision of RA 9165** and recommended remedial legislation, if any.³ (boldface supplied)

To carry out its mandate under the law, the DDB was given vast powers and duties.⁴ In the discharge of its functions, DDB was gifted its own Secretariat⁵ headed by an Executive Director with the rank of Undersecretary and its implementing arm, the PDEA⁶, headed by a Director General with the rank of Undersecretary. In fact, the DDB Executive Director was made the Secretary of the Board while the PDEA Director General was made an ex-officio member of the Board.

All these factors point to the fact that PDEA cannot exist and operate independently of the Board. For one, PDEA cannot implement a national drug control strategy except that formulated by DDB.⁷

While the PDEA Director General is appointed by the President, there is no express provision in the RA 9165 placing PDEA directly under the Office of the President unlike that of the DDB.⁸ PDEA's role is that of an "Implementing Arm" and that arm is attached to the body of DDB.

¹ Sections 77-84

² Paragraph 2, Section 78

³ Section 88, RA 9165

⁴ Section 81, RA 9165

⁵ Section 80, RA 9165

⁶ Section 82, RA 9165

⁷ Section 84 (a), RA 9165

⁸ Section 77, RA 9165

Section 84 of RA 9165 details, among others the duties of PDEA in implementing the strategies, policies and programs of the DDB including the submission of annual and periodic reports to the DDB. This shows the DDB's oversight power over PDEA.

To illustrate further the control of DDB over PDEA, the latter cannot effect any changes in its organizational set-up without DDB's approval⁹. Even the establishment of a PDEA Academy from where the operating units of PDEA can be recruited is also subject to the approval of the DDB.¹⁰

Turning now to the query at hand, Section 88 of RA 9165 provides:

"Management of funds under this act; Annual report by the Board and PDEA. – The Board shall manage the funds as it may deem proper for the attainment of the objectives of this Act. In addition to the periodic reports as may be required under this Act, the Chairman of the Board shall submit to the President of the Philippines and to the presiding officers of both houses of Congress, within fifteen (15) days from the opening of the regular session, an annual report on the dangerous drugs situation in the country which shall include detailed account of the programs and projects undertaken, statistics on crimes related to dangerous drugs, expense incurred pursuant to the provision of this Act, recommend remedial

legislation, if needed, and such other relevant facts as it may be deem proper.

Under this section, only the Board (DDB) was given the right and fiscal autonomy to manage the funds as it may deem proper for the attainment of the objectives of the law. The verb “manage” plainly means “to be in charge of; to administer and regulate resources under one’s control.”¹¹.

These “funds” refer to the funds included in the annual General Appropriations Act ¹², all receipts derived from fines, fees and other income authorized by RA 9165, including 10% of all unclaimed and forfeited sweepstakes and lotto prizes not less than Php 12,000,000.00 per year from the PCSO, and Php 5,000,000.00 a month from PAGCOR and funds derived from grants, donations and endowment from domestic or foreign sources. While the funds may come from various sources, under Section 88, there is only one authorized fund manager – DDB.

On the other hand, the “objective of the law” include, among others, the creation of PDEA as the implementing arm of DDB¹³, its organization¹⁴, its powers and duties¹⁵, the establishment of PDEA Academy¹⁶, and transfer, absorption and integration of all operating units on illegal drugs into the PDEA. ¹⁷ Under Section 88, the authority to manage the funds needed to implement these objectives was given only to DDB.

⁹ Section 83, RA 9165

¹⁰ Section 85, RA 9165

¹¹ *The Oxford Dictionary of English, 1998, p. 1122*

¹² Section 87, RA 9165

¹³ Section 82, RA 9165

¹⁴ Section 83, RA 9165

¹⁵ Section 84, RA 9165

¹⁶ Section 85, RA 9165

¹⁷ Section 86, RA 9165

Stated differently, under Section 88, PDEA was not conferee the authority to manage any fund under RA 9165. Applying the rule of “*Expressio Unius Est Exclussio Alterius*” to determine legislative intent, the express mention of the Board (DDB) means the exclusion of others not expressly mentioned. While it is true that under Section 89, the Commission on Audit (COA) shall audit all accounts and expenses of the Board and PDEA, this

section does not grant PDEA any authority to manage its funds. Managing of funds and auditing thereof are two distinct and separate concepts.

This brings us to Section 88 of the IRR. For ease of reference, we quote the pertinent portions thereof:

“Management of Funds Under the Act: Annual Report by the Board and the PDEA. –

(a) Fund Management – The Board and the PDEA shall manage their respective funds, whether appropriated by Congress or coming from other sources, as each may deem proper for the attainment of the objectives of the Act, and respectively account for the same, subject to the observance of the terms and conditions set in the annual general appropriations act and pertinent budgeting, accounting and auditing rules and regulations.”
(underscoring supplied)

Evidently, Section 88 of the IRR expanded the number of the entity authorized by Section 88 of RA 9165 to manage the funds by adding PDEA, contrary to express and plain legislative intent to repose the authority only to DDB.

It is a fundamental rule that regulation cannot enlarge the law. If a conflict or discrepancy occurs between the basic law and an implementing rule or regulation, the former prevails.

In *Boie-Takeda Chemicals, Inc. v. De La Serna*,¹⁸ Supreme Court ruled that “ Implementing Rules cannot add to or detract from the provisions of the law it is designed to implement. Administrative regulations adopted under legislative authority by a particular department must be in harmony with the provisions of the law they are intended to carry into effect. They cannot widen its scope. An administrative agency cannot amend an act of Congress.”

To cite a particular case, an IRR changed the phrase in the law from the disjunctive “and/or” to the conjunctive “and”. The Supreme Court nullified the regulation, stating that if the law intended that the employee should have both a superior provident plan and a housing plan in order to qualify for exemption, it would have use the words “and” , instead of “and/or”.¹⁹ Applying the rationale of the said case law, if Congress intended DDB and PDEA to manage their respective funds separately, then it would have so stated in Section 88 of RA 9165.

But it did not.

¹⁸ *Boie-Takeda Chemicals, Inc. v De La Serna*, 228 SCRA 329, 340 [1993]

¹⁹ *China Banking Corporation v. Members of the Board of Trustees, Home Development Mutual Fund*, 307 SCRA 44, 457-458 [1999].

It is axiomatic that the delegate, in exercising the power to promulgate implementing regulations, cannot contradict the law from which the regulations derive their very existence.²⁰ The fact that it has been the practice of both DDB and PDEA to manage its respective funds for years did not validate the void IRR in question for an illegal act confers no right and imposes no obligation.²¹ Just like a spring, the offending IRR cannot rise higher than its source which is the law.

In conclusion, it is our considered opinion that Section 88 of the IRR which expanded the scope of Section 88 of RA 9165 to include PDEA that can manage the funds under said Act is null and void for only Congress can repeal or amend the Law.²² The law cannot be broadened by a mere administrative issuance.

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²⁰ *Granger Associates v. Microwave Systems, Inc.* 189 SCRA 631, 639-640

²¹ *GMCR v. Bell telecommunications Phil., Inc.* 271 SCRA 790 [1997]

²² *Romulo, Mabanta, Buenaventura, Sayoc & Los Angeles v. National Wage and Productivity Commission*, 289 SCRA 667

PART II

ADAC TOOL KIT

BACKGROUND

As mandated by the Constitution, the government shall promote the quality of life of the people. The Local Government Code of 1991 provides that local government units shall pursue undertakings to improve public morals and maintain peace and order, among other equally significant concerns. Thus, the increasing use of illegal drugs has significantly contributed to the incidence of heinous crimes.

The creation of Anti-Drug Abuse Council can be traced back in 1998 when it was first created under DILG issuance, Memorandum Circular No. 98-227, dated December 2, 1998, designating the Governor/Mayor/Punong Barangay as its chairman.

Supplementing the said circular, the DILG issued Memorandum Circular 99-106 to include provincial Vice-Governor/City Vice-Mayors and Municipal Vice Mayors as members of the Provincial, City and Municipal Anti-drug Abuse Councils respectively.

The Department of Interior and Local Government (DILG) issued Memorandum Circular No. 2009-09, dated January 29, 2009, and emphasized that provincial governors shall ensure that the mandated tasks and responsibilities cited under Section 51-53 of RA 9165 are implemented. Under Section 52 (1) of RA 9165, an Administrative Board may be created, to hear complaints regarding the nuisances.

Article VII of RA 9165, Section 51 mandated the participation of Local Government Units in addressing the drug problem in their locality, giving priority to preventive or educational programs and the treatment and rehabilitation of drug dependents.

In the same Article, Section 52 states that any place or premises which has been used on two (2) or more occasions as the site of unlawful sale or delivery of dangerous drugs may be declared to be a public nuisance, and such nuisance may be abated, pursuant to the following procedures:

1. Any city or municipality may, by an ordinance create an administrative board to hear complaints regarding the nuisances.
2. Any employee, officer or resident of the city or municipality may bring a complain before the Board after giving not less than three (3) days written notice of such complain to the owner of the place or premises at his/her last known address; and
3. After hearing in which the Board may consider any evidence, including evidence of the general reputation of the place or premises, and which the owner of the premises shall have an opportunity to present evidence in his/her defense, the Board may declare the place or premises to be public nuisance.

For the furtherance of anti-drug abuse prevention program, most LGUs have already set in place anti-drug abuse councils. Through these drug abuse prevention councils, the extent of drug problem in their jurisdiction is evaluated and the necessary action to address them is executed.

A comprehensive and balance process on treatment and rehabilitation program is also here presented.

The (3) three-dimensional approach (Body, Soul and Spirit) is a rehabilitative and reform program that deals not only on the physical and psychological aspect of a delinquent. Moreover, it reaches out to touch the very core (heart and spirit) of those who have gone astray in society and help them realigned their path and get back to their norms.

I. The ADMINISTRATIVE BOARD (AB)

RA 9165, mandates Local Government Units to address the drug problem in their respective localities, addressing the main concerns related to drug abuse prevention, anti-drug education programs and the rehabilitation or treatment of drug dependents.

It provides power to LGUs through the creation of an Administrative Board (AB) to declare any place or premises which have been used in the unlawful sale or delivery of dangerous drugs as a public nuisance, and such nuisance may be abated.

Article VII , Section 52 of the RA 9165 states that any place or premises which have been used on two (2) or more occasions as the site of the unlawful sale or delivery of dangerous drugs maybe declared to be a public nuisance, and such nuisance may be abated, pursuant to the following procedures:

- a) Any city or municipality may, by an ordinance create an administrative board to hear complaints regarding the nuisances.
- b) Any employee, officer or resident of the city or municipality may bring a complain before the Board after giving not less than three (3) days written notice of such complain to the owner of the place or premises at his/her last known address; and
- c) After hearing in which the Board may consider any evidence, including evidence of the general reputation of the place or premises, and which the owner of the premises shall have an opportunity to present evidence in his/her defense, the Board may declare the place or premises to be public nuisance.

If the Board declares a place or premises to be a public nuisance, it may declare an order immediately prohibiting the conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance. An order entered under this section shall expire after one (1) year or at such earlier time as stated in the order. The Board may bring a complaint seeking a permanent injunction against any nuisance described under this Section.

This article does not restrict the right of any person to proceed under the Civil Code against any public nuisance.

EXPLANATION TO THE CREATION OF AN ADMINISTATIVE BOARD HEADED BY THE LGU CHIEF EXECUTIVE AND ITS PREFERRED COMPOSITION

Whereas Section 52 of the Implementing Rules and Regulations of RA 9165 states that a City or Municipality may by ordinance create an Administrative Board (AB) to be composed of: 1) The City or Municipal Health Officer as Chairperson; 2) the City /Municipal Legal Officer or, in the absence of which, the Municipal Administrator and, 3) the Local Chief of Police as members;

However, Section 53 of the same Implementing Rules and Regulations provides that “the City or Municipal Mayor shall implement the order of the Administrative Board *and assume full responsibility* in seeing to it that the order is immediately complied with”.

It seems incongruent that the City or Municipal Mayor shall act upon orders of a Board whose chair and members are either his appointees and/or his subordinates, under his direct supervision. This ludicrous situation that the Chief Executive of the Local Government unit takes full responsibility in implementing a subordinates’ decision (and not of his making!) is also illogical.

The original provisions in Sections 52 and 53 of RA9165 show the clear intent of the Law: to give more teeth to the LGUs, in accordance with local autonomy, in dealing with the drug problem in their locality. The law provisions do not jive with the IRR. Whenever there are conflicts between a law and an IRR, the law prevails.

Therefore, a legal remedy to this asymmetrical situation between the Law and the IRR is hereby forwarded: *the crafting of an Ordinance, as provided for by RA9165 Section 52 that creates an Administrative Board with the Governor or the City/Municipal Mayor as Chairperson*. If an ordinance already exists, let the appropriate amendments be introduced.

It is recommended further that the following set up cited hereunder in this handbook be instituted in the Ordinance for proper implementation of the law.

FUNCTIONS OF THE ADMINISTRATIVE BOARD (AB)

It shall have the following duties and responsibilities:

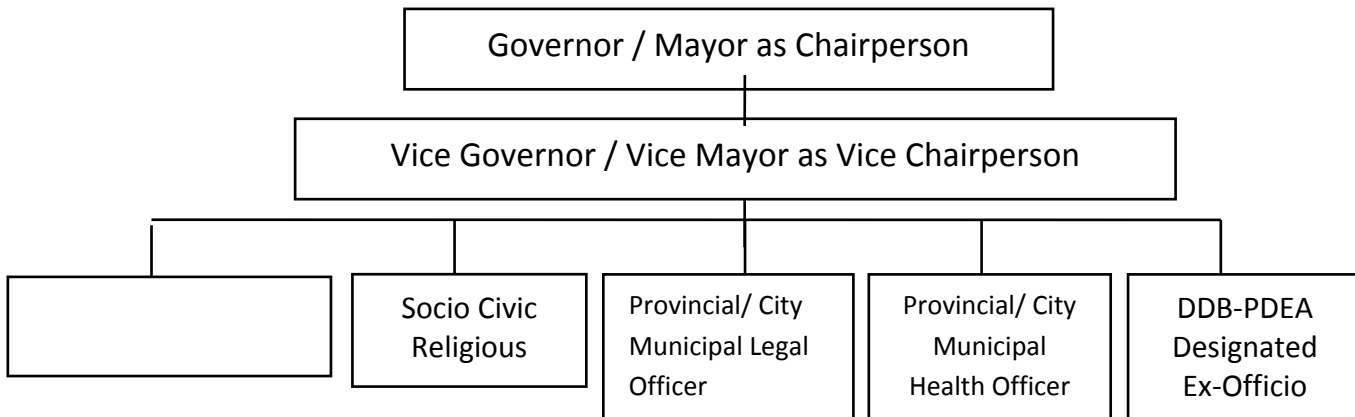
1. Operates under the Office of the Governor or Mayor
2. Hears drug – related complaints and coordinates with concerned agencies in resolving drug – related complaints;
3. Develops a comprehensive, integrated, unified and balanced drug abuse prevention program and control strategy;
4. Ensures full compliance, participation and support to the provisions of RA 9165 and oversee the operations and implementations of the Councils.

5. Ensure that the Anti-Drug Abuse Councils at all levels perform their functions and responsibilities as embodied in relevant Department issuances.
6. Ensures a sustainable anti-drug abuse program in matters relating to rehabilitation or treatment program of drug dependents.
7. Coordinates with the Dangerous Drugs Board

Composition of the ADMINISTRATIVE BOARD (AB)

1. Governor/ Mayor – Chairperson
2. Vice-Governor/Vice Mayor – Vice Chairperson (Optional)
3. Provincial / Municipal / City Legal Officer
4. Provincial / Municipal / City Health Officer
5. Socio-Civic Religious leader
6. DDB-PDEA Designated/Deputized– as *ex-officio member*

**Organizational chart of the
ADMINISTRATIVE BOARD***



- *Operates under the Office of the Governor / Mayor*
- *Reference: Creation of Quezon City Anti-Drug Board (AB) and Anti-Drug Abuse Council (ADAC) per 65th Resolution Session. Ord. No. SP 1264, s-2003 Page 10, PO 2002-273 (See Annex G)*

Meeting of the ADMINISTRATIVE BOARD (AB):

The Board shall meet once a month or as often as necessary at the discretion of the chairperson or at the call of a majority of the members of the Board.

II.THE ANTI-DRUG ABUSE COUNCIL (ADAC):

The increasing use of illegal drugs has significantly contributed to the incidence of heinous crimes. The problem on illegal drugs has to be addressed much more effectively by involving a broad spectrum of the community. (Refer to Annex A)

COMPOSITION OF THE ANTI-DRUG ABUSE COUNCIL (ADAC):

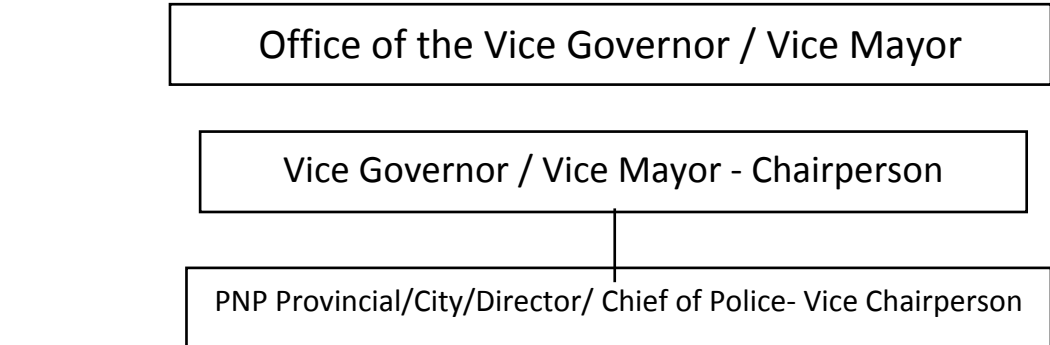
All provinces, cities, municipalities are hereby enjoined to create their respective Anti-Drug Abuse Council (ADAC) as Advisor to the LGU Chief Executive and Administrative Board, composed of the following member:

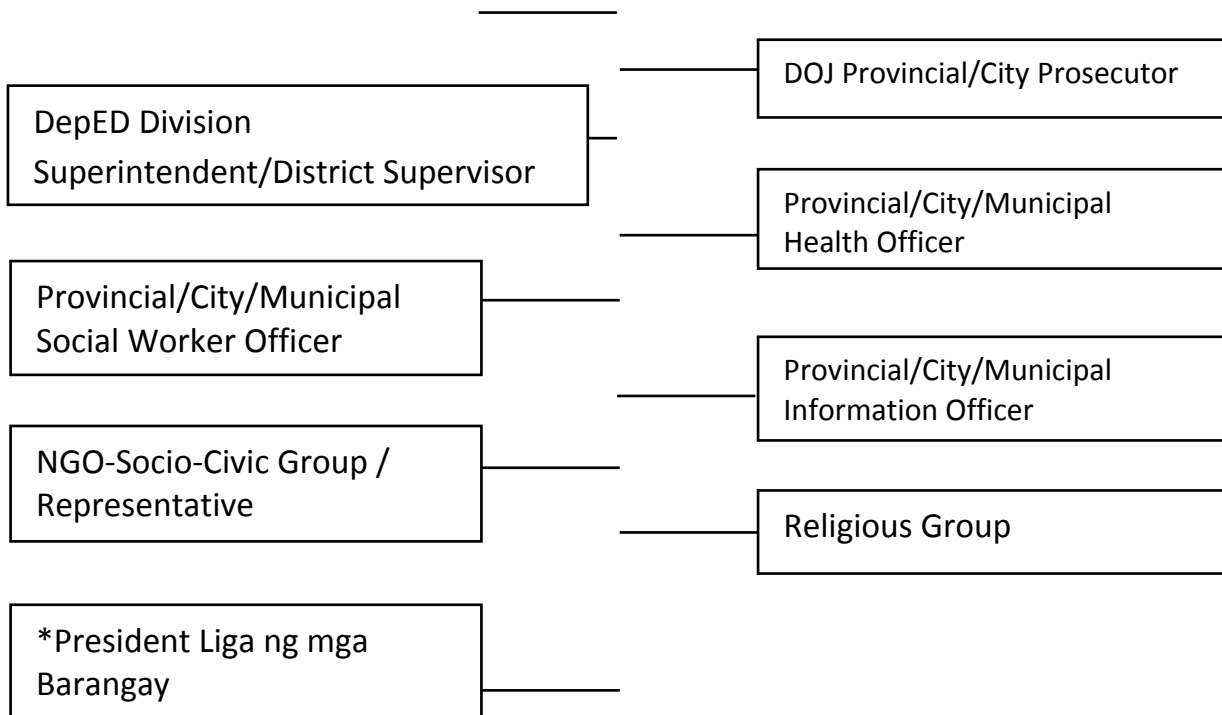
- 1. Vice Governor /Vice Mayor – Chairperson
- 2. PNP Provincial/City Director/Chief of Police
- Vice Chairperson

Members:

DILG- Provincial/City Director/CLGOO/MLGOO
DepED Division Superintendent/District Supervisor
DOJ Provincial/City Prosecutor
Provincial/City/Municipal Health Officer
Provincial/City/Municipal Information Officer
Provincial/ Municipal / City/ Social Worker Officer
Provincial/ City Probation and Parole Officer
President league of the SK Chairmen
*President Liga ng mga Barangay
NGO-Socio-Civic Group / Representative
Religious Group

Organizational chart of the ANTI DRUG ABUSE COUNCIL





FUNCTIONS OF THE ANTI – DRUG ABUSE COUNCIL (ADAC):

The Council shall be the implementing arm of the Administrative Board and shall be responsible for:

1. Implementing the policy and programs of the Administrative Board.
2. Serve as a focal point through which various organizations and individuals work together cooperatively in the planning, implementation and evaluation of programs on drug abuse prevention;
3. Provide for an effective mechanism for the coordination of existing services and programs and those which might be developed in the immediate futures;
4. Provide for an mechanism to obtain funds, volunteers, facilities and technical expertise; and
5. Perform other related responsibilities as may be assigned by competent authorities.

Meeting of ANTI – DRUG ABUSE COUNCIL (ADAC):

The Council shall meet once a month or as often as necessary at the discretion of the chairperson or at the call of a majority of the members of the council.

III. BARANGAY ANTI-DRUG ABUSE COUNCIL (BADAC)

To accelerate the drive against illegal drugs and promote the participation of local institutions up to grassroots level in the suppression of drug trafficking and abuse, Anti-Drug Abuse Councils are created in the Barangays. *(Please Refer to Annex A)*

ROLE OF THE BARANGAY ANTI-DRUG ABUSE COUNCILS (BADAC)

To consolidate all anti-drug efforts at the grassroots and instill commitments among Barangay residents to fight the problem of drug menace and eradicate incidence of drug related crimes. The expansion of the anti-drug abuse council in the Barangay level was established.

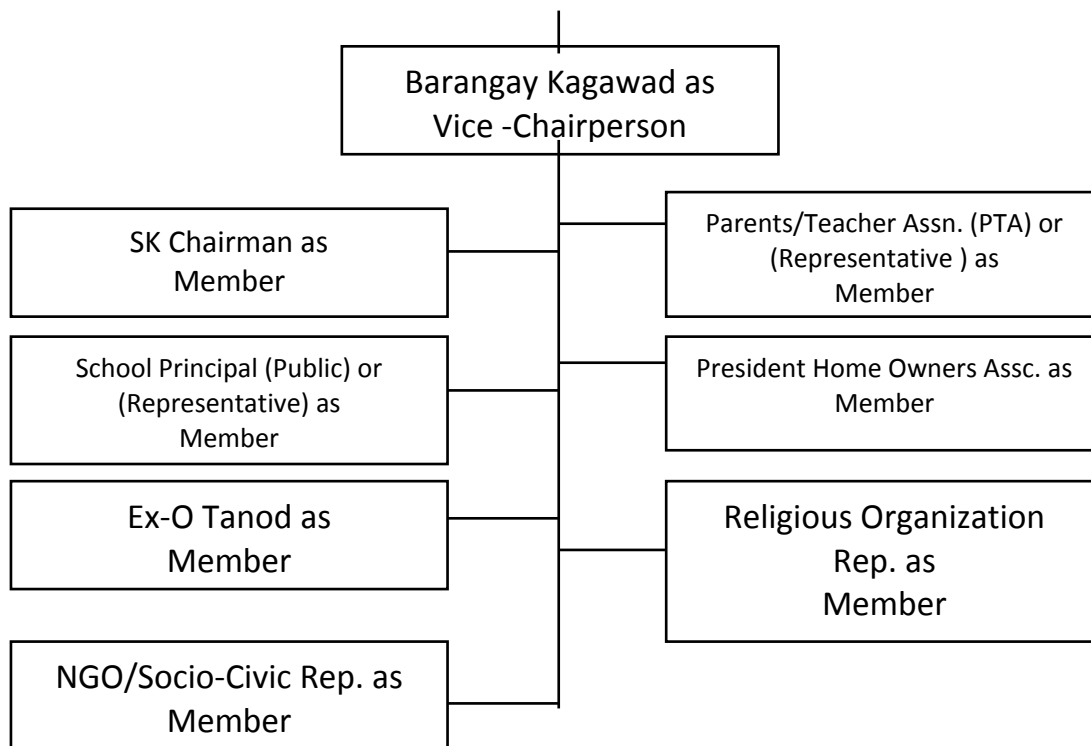
The DILG issued Memorandum Circular 98-227 creating the... Barangay Anti-Drug Abuse Councils (BADAC).

FUNCTIONS OF BADAC

1. Plan, Strategize, implement and evaluate programs and projects on drug abuse prevention in the Barangay.
2. Coordinate and collaborate with other institutions implementing programs and projects on drug abuse at the Barangay level.
3. Continuously gather and update data on drug abuse and its effect on the peace and order situation in the Barangay including listing of drug abusers and pushers.
4. Submit a monthly report to the Provincial / Municipal / City field office.
5. Refer users and pushers to the police and other institutions for corresponding sanctions, rehabilitation and/or counseling.
6. Perform other related functions.

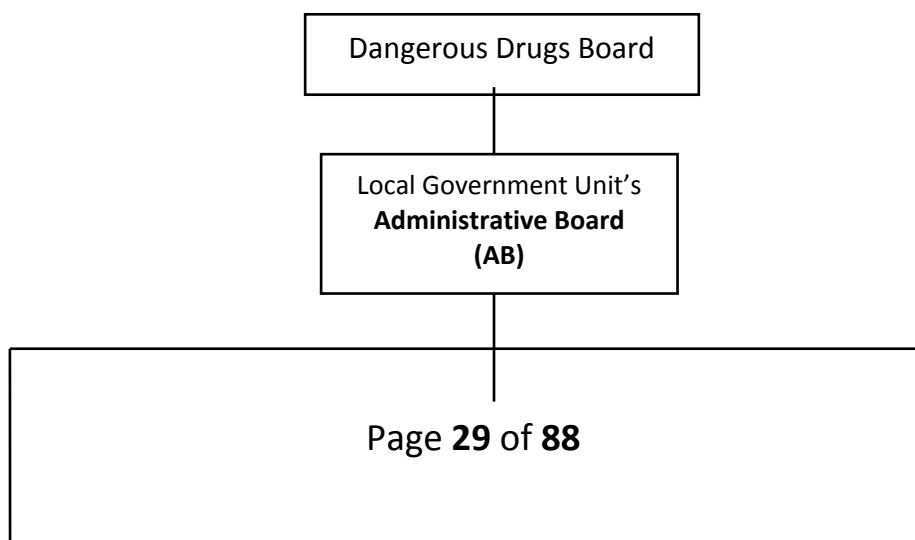
Organizational Chart of Barangay Anti-Drug Abuse Council (BADAC)

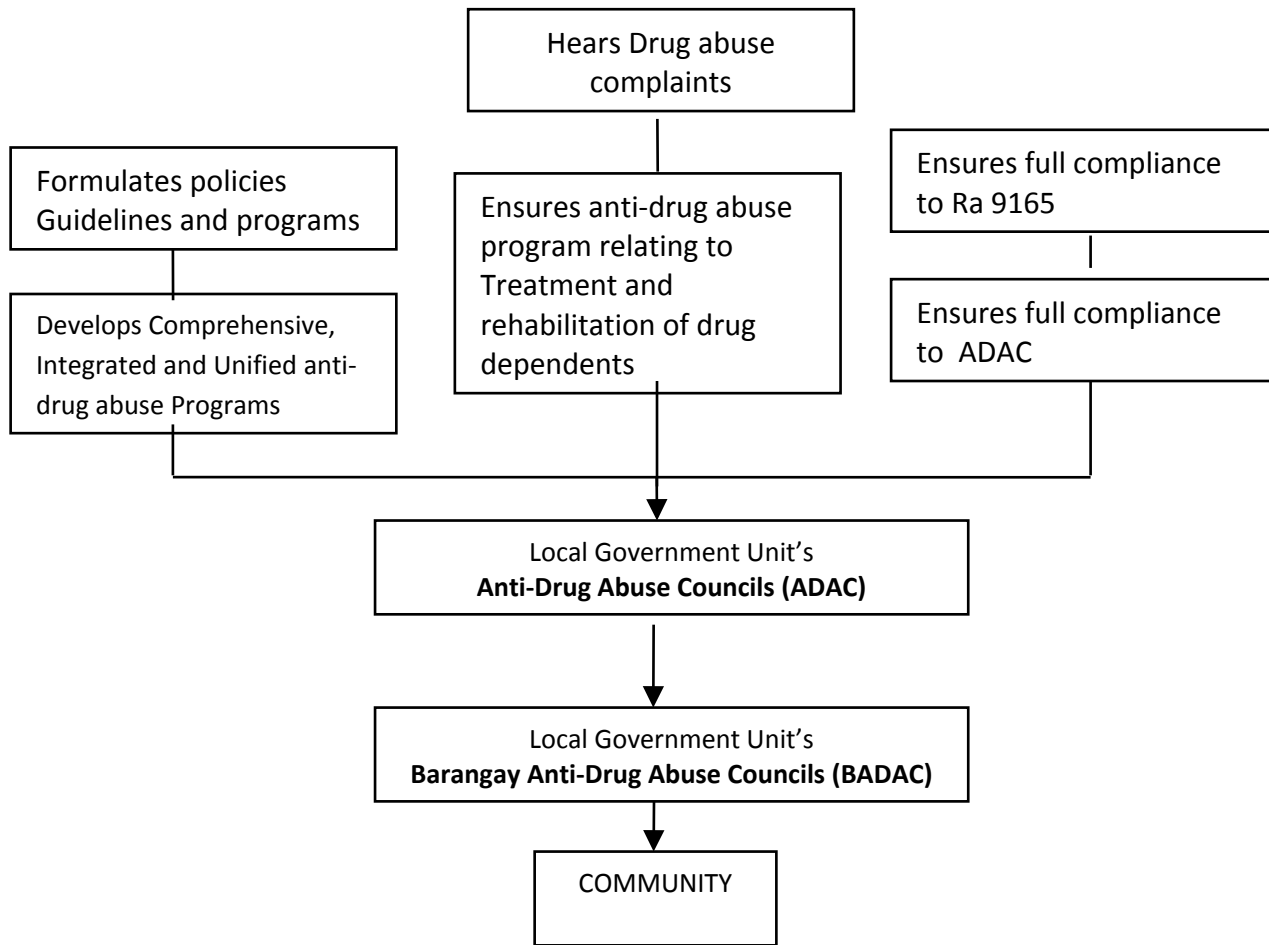
Punong Barangay as Chairperson



The DILG through the National Barangay Operations Office (NBOO) shall monitor compliance of the BADAC while the National Drug Law Enforcement and Prevention Coordinating Center (NDLEPCC) of the PNP shall provide technical assistance in anti-drug abuse activities at all levels. The DILG Regional Directors shall disseminate the said existence and function of BADAC to all Barangays within their respective jurisdiction.

**CORRELATION BETWEEN Dangerous Drugs Board,
Administrative Board (AB), Anti-drug Abuse Council (ADAC) and
Barangay Anti-Drug Abuse Councils**





IV. TREATMENT and REHABILITATION

It is a declared policy of the State to provide effective mechanisms or measures to re-integrate into society individuals who have fallen victims to drug abuse or dangerous drug dependence through sustainable programs of treatment and rehabilitation;

Article VII of RA 9165 provides for a program for the treatment and rehabilitation drug dependents. Section 81 (b) of RA 9165 empowers the Dangerous Drugs Board to promulgate rules and regulations as maybe necessary to carry out the purposes of the said Act.

(Please refer to Annex F)

Application for Voluntary Confinement

- a) Any drug dependent may by himself/herself or through his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity, may file a verified application to the Board for voluntary confinement for treatment and rehabilitation.
- b) Upon receipt of the verified application, the Board shall order that the applicant or the person in whose behalf the application is filed be examined for drug dependency by a DOH-accredited physician. The certification by the examining physician shall state, among others, whether the immediate confinement of the drug dependent is recommended, taking into consideration his/her level of drug dependency and the potential danger he/she may pose to himself/herself, his/her family and the community.
- c) Upon issuance of a certification by the examining physician that the applicant or the person in whose behalf the application is filed is a drug dependent and his/her confinement in a treatment and rehabilitation center is recommended, the Board shall file a petition with the appropriate Court for the confinement of the said drug dependent for treatment and rehabilitation pursuant to Section 54 of R.A. 9165.
- d) If the examining physician recommends the immediate confinement of the drug dependent, the Board shall order his/her temporary confinement in a government or private treatment and rehabilitation center, at the option of the applicant, at his/her expense, pending the issuance of the commitment order of the Court. The temporary confinement of the drug dependent shall not exceed fifteen (15) days and it shall be duly alleged in the petition of the Board to be filed with the Court.
- e) Upon the petition of the Board, the Court shall order that the applicant be examined for drug dependency or shall take cognizance of the certification of the examining physician mentioned in paragraphs (b) and (c) hereof. If the examination by a DOH-accredited physician results in the issuance of a certification that the applicant is a drug dependent, he/she shall be ordered by the Court to undergo treatment and rehabilitation in a Center designated by the Board for a period of not less than six (6) months: *Provided*, That a drug dependent may be placed under the care of a DOH-accredited physician where there is no Center near or accessible to the residence of the drug dependent or where said drug dependent is below eighteen (18) years of age and is a first-time offender and non-confinement in a Center will not pose a serious danger to himself/herself, his/her family or the community.

- f) Confinement in a Center for treatment and rehabilitation shall not exceed one (1) year, after which time the Court, as well as the Board, shall be apprised by the head of the Center of the status of said drug dependent and determine whether further confinement will be for the welfare of the drug dependent and his/her family or the community.

The Authorized Representative of the Board:

- a. In connection with the implementation of the provisions of Section 2 hereof, the Executive Director of the Board is hereby authorized to act for and in behalf of the Board, and is further authorized to designate any Provincial or City Health Officer, Provincial or City Social Welfare and Development Officer, Provincial or City Local Government Operations Officer of the DILG, Provincial or City Schools Division Superintendent of the DepEd and Regional, Provincial or City Parole and Probation Officer of the PPA to perform the aforesaid delegated authority. The Representatives of the Board designated by the Executive Director shall be assisted by the Department of Justice, through the Public Attorney's Office, in the performance of their delegated authority, unless the applicant retains the services of a private counsel at his/her expense. The Executive Director and all other authorized representatives shall render a monthly report to the Board on all applications for voluntary confinement received, the corresponding actions taken, and the status thereof.
- b. The document to be issued by the Executive Director of the Board designating the Provincial or City Representatives of the Board shall state their specific duties and responsibilities, as follows:
1. To receive verified applications for voluntary confinement for treatment and rehabilitation;
 2. To order the drug dependency examination of the applicant or the person in whose behalf the application is filed by a DOH-accredited physician;
 3. To order the temporary confinement, not exceeding fifteen (15) days, of the drug dependent;
 4. To file the petition for voluntary confinement for treatment and rehabilitation, for and in behalf of the Board, with the appropriate Court;
 5. To appear and represent the Board during the hearing of the petition with authority to make stipulation of facts;

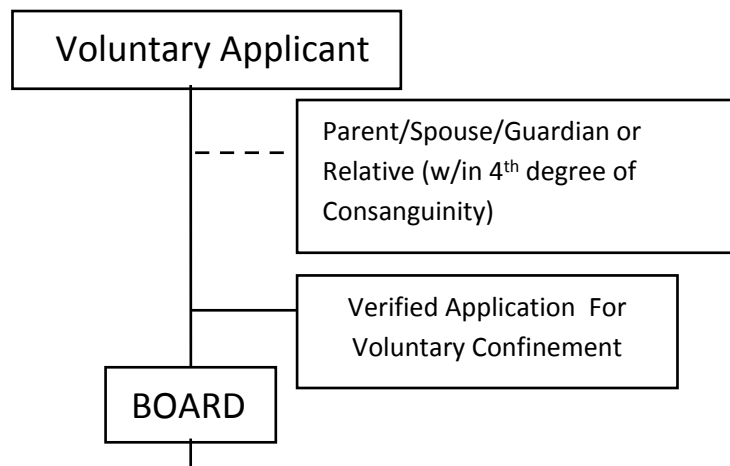
6. To designate the Center where the drug dependent shall be confined or the DOH-accredited physician in whose care the drug dependent shall be placed under;
7. To receive reports from the head of the Center or DOH-accredited physician regarding the status of the drug dependent; and
8. To furnish the Board with copies of all applications, issued orders, petitions and other pleadings, reports and other documents in connection with the exercise of their delegated authority.

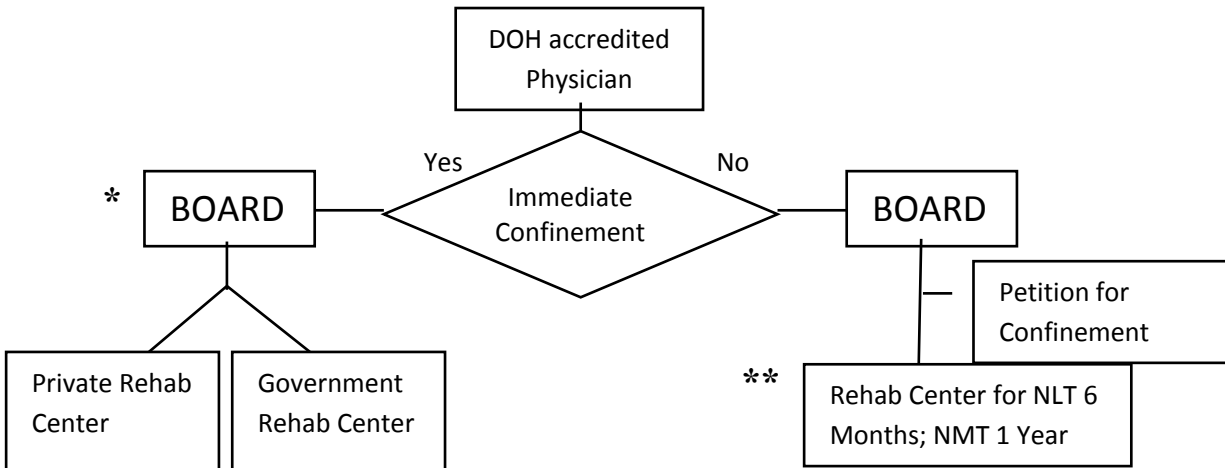
Confidentiality of Records

a) Judicial and medical records of drug dependents under the voluntary submission program shall be confidential and shall not be used against him/her for any purpose, except to determine how many times, by himself/herself or through his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity, he/she voluntarily submitted himself/herself for confinement, treatment and rehabilitation or has been committed to a Center under this program.

b) However, where the drug dependent is not exempt from criminal liability under Section 55 of R.A. 9165, or when he/she is not rehabilitated under the voluntary submission program, or when he/she escapes again from confinement after recommitment, the records mentioned in the immediately preceding provisions, which are necessary for his/her conviction, may be utilized as evidence in court against him/her.

FLOWCHART FOR VOLUNTARY CONFINEMENT FOR DRUG REHABILITATION





**(Immediate Confinement) The Temporary Confinement of a drug dependent shall not exceed fifteen (15) days and it shall be duly alleged in the petition of the Board to be filed with the Court.*

***Provided: That a drug dependent maybe placed under the care of a DOH accredited physician where there is no Center near or accessible to the residence of the drug dependent or where said drug dependent is below eighteen (18) years of age and is a first time offender and non confinement in a Center will not pose a serious danger to himself/herself, his/her family or the community.*

TEMPORARY RELEASE AND AFTER CARE PROGRAM

- a. Upon certification of the Center that the drug dependent within the voluntary submission program may be temporarily released, the Court shall order his/her release on condition that said drug dependent shall report to the DOH for aftercare and follow-up treatment, including urine testing, for a period not exceeding eighteen (18) months under such terms and conditions that the Court may impose and subject to the guidelines on aftercare provided for in Board Regulation No. 1, Series of 2006.
- b. If, during the period of aftercare and follow-up, the drug dependent is certified to be rehabilitated, he/she may be discharged by the Court,

subject to the provisions of Section 55 of R.A. 9165, without prejudice to the outcome of any pending case filed in court.

- c. However, should the DOH find that during the initial after-care and follow-up program of eighteen (18) months, the drug dependent requires further treatment and rehabilitation in the Center, he/she shall be recommitted to the Center for confinement. Thereafter, he/she may again be certified for temporary release and ordered released for another aftercare and follow-up program pursuant to this Section.
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COORDINATION BETWEEN PDEA AND OTHER AGENCIES AND LAW ENFORCERS

PDEA AND OTHER LAW ENFORCERS

- 1) The PDEA shall be the lead agency in the enforcement of the Act, while the PNP, the NBI and other law enforcement agencies shall continue to conduct anti-drug operations in support of the PDEA: *Provided*, that the said agencies shall, as far as practicable, coordinate with the PDEA prior to anti-drug operations; *Provided, further*, that, in any case, said agencies shall inform the PDEA of their anti-drug operations within twenty-four (24) hours from the time of the actual custody of the suspects or seizure of said drugs and substances, as well as paraphernalia and transport equipment used in illegal activities involving such drugs and/or substances, and shall regularly update the

PDEA on the status of the cases involving the said anti-drug operations; *Provided, furthermore*, that raids, seizures, and other anti-drug operations conducted by the PNP, the NBI, and other law enforcement agencies prior to the approval of this IRR shall be valid and authorized; *Provided, finally*, that nothing in this IRR shall deprive the PNP, the NBI, other law enforcement personnel and the personnel of the Armed Forces of the Philippines (AFP) from effecting lawful arrests and seizures in consonance with the provisions of Section 5, Rule 113 of the Rules of Court.

- 2) Roles of the PNP, NBI, Bureau of Customs and Other Law Enforcement Agencies – The PDEA may enter into a Memorandum of Agreement (MOA) with the PNP, the NBI, the Bureau of Customs and other law enforcement agencies to carry out the implementation of the Act, provided that the respective MOAs shall include specific roles of enumerated agencies in the administrative and operational matters. Said MOAs shall be entered into by the PDEA and the respective agencies fifteen (15) days after the implementation of this IRR. *

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- *IRR of RA 9165 “Comprehensive Dangerous Drugs Act of 2002. Article 9 Section 86 par. (b) and (c)*
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THE CLEANSING OF DRUG INFESTED BARANGAYS

Dangerous Drugs Board Resolution No. 12, Series of 2004, which provides for guidelines on clearing of drug-affected Barangays, was issued empowering the Barangay Anti-Drug Abuse Councils (BADAC) to implement government strategic policies on drug prevention and control given the political and police powers of the Barangay to administer the affairs of the community;

There are shortcomings in the implementation of the Barangay drug-clearing operations due to the dynamics of the drug problem. There are confused roles and responsibilities of the agencies involved, inadequate resources, and lack of management commitment.

In order to make the clearing of drug-affected Barangays more effective, **Dangerous Drugs Board Regulation No. 2 S. of 2007** was formulated.

There is need to craft a more practical set of guidelines, considering the number of agencies involved and the complexity of said operations, a prescribe **Guidelines in the Conduct of Barangay Drug-Clearing Operations** is strengthened hereunder.

BARANGAY DRUG-CLEARING OPERATIONS

The clearing of drug-affected Barangays shall be conducted in three (3) phases, namely: (a) Pre-Operation Phase; (b) Operation Phase; and (c) Post-Operation Phase. **All Phases shall be closely monitored, supervised by DDB-PDEA.**

A. Pre-Operation Phase – The activities to be undertaken under this stage shall commence with laying the groundwork and bases for effective and sustainable clearing operations against drug-affected Barangays:

1. Activation of BADACs, BADAC Auxiliary Teams and SK in each barangay, definition, and allocation of responsibilities for barangay drug-clearing activities. **[OPR: CLGOO/ MLGOO supported by Local PNP Unit]**
2. Capability enhancement of all stakeholders in Barangay clearing operations through the conduct of basic drug prevention and control seminars, giving emphasis to collection and analysis of drug-related information and prevention education. **[OPR: Local PNP Unit supported by Local Government Health Officer, Local Government Social Welfare Officer, DECS Representative, & SK Chairman]**
3. Identification, recruitment and training of local counselors by Change Agents/NGO who will take charge of persuading parents of drug dependents to submit the later for voluntary rehabilitation or counsel those who will be treated outside of the center. **[OPR: DDB-PDEA supported by Religious/NGO/ChangeAgents, PNP, DEPED/CHED, Local Government Social Welfare, & SK Chariman]**
4. Organization of house clusters with designated cluster leader in each Barangay. The cluster leader shall directly report to the BADAC Chairman all essential facts of any illegal drug activities within his/her cluster, such as name(s) of pushers/users, marijuana cultivation activities, clandestine laboratory operations and other drug-related data. **[OPR: Local PNP Unit supported by Local Government Social Welfare Officer, Local Government Health Officer & BADAC]**
5. Submission by the BADAC Chairman of consolidated information report to CADAC/MADAC and local police unit concerned for the

formulation and validation of watchlist of drug personalities in every Barangay. **[OPR: BADAC Chairman supported by Local PNP Unit]**

6. Determination of priority drug-affected Barangays, taking into consideration the number of drug users/pushers and the gravity of the drug problem in the area, for the conduct of police operations and advocacy/preventive education seminar. **[OPR: Local PNP Unit supported by Local Government Health Officer, Local Government Social Welfare Officer, DECS Rep & SK Chairman]**
7. Enactment of city or municipal ordinances creating Administrative Boards to hear and act on complaints regarding public nuisances pursuant to Section 52, Article VII of Republic Act 9165. **[OPR: Local Sanggunians]**
8. **Establishment of Rehabilitation Referral Desk in every barangay** to endorse drug dependents to the duly authorized representative of the Dangerous Drugs Board pursuant to Article VIII of RA 9165 and pertinent issuances of the Board. **[OPR: Local Government Health Officer and Local Government Social Welfare Officer in coordination with the Treatment and Rehabilitation Center (TRC) Administrator]**

B. Operation Phase – The objective of the operation phase is the actual implementation of the drug supply and demand reduction strategies in priority drug-affected Barangays.

1. Arrest of identified drug users/pushers through “citizen’s arrest”, buy-bust operation, and service of Search Warrants and Warrants of Arrest. **[OPR: PDEA, Local PNP & City/Mun. Prosecutor]**
2. Administrative searches (regulatory inspections) of suspected drug dens, clandestine laboratories and chemical warehouses in coordination with City/Municipal regulatory offices. **[OPR: Local PNP Unit, Local Government Health Officer, Local BFP Unit & other concerned local offices]**
3. Filing of complaints for abatement of public nuisance with the City/Provincial/Municipal Administrative Boards against places or premises used as sites of unlawful sale or delivery of dangerous drugs pursuant to Section 52, Article VII of RA 9165. **[OPR: Local PNP Unit, Local Govt. Health Officer & Local BFP Unit]**
4. Conduct of advocacy and/or preventive education seminars, giving emphasis to the role of parents and children in the anti-drug campaign, ill-effects of drugs and consequences of drug abuse. This includes the conduct of lectures on the proper procedures on rehabilitation of drug dependents pursuant to RA 9165 and pertinent DDB

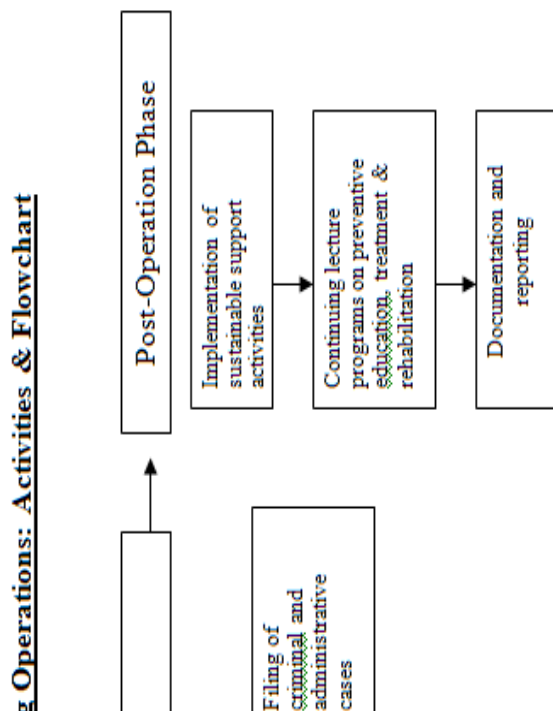
Regulations. [OPR: Local Government Social Welfare Officer, Local Government Health Officer, DECS Representative, BADAC, Religious/NGO & Local PNP Unit]

5. Processing of application for voluntary or compulsory rehabilitation pursuant to pertinent DDB Regulations. [OPR: Local Government Health Officer & Local Government Social Welfare Officer]

C. **Post - Operation Phase** -This phase aims to maintain the “*DRUG-CLEARED*” status of the Barangays after drug-clearing operations thru support activities to be funded from the general fund of the Barangay.

1. Implementation of sustainable support projects such as sports religious and social activities in the Barangay. [OPR: SK Chairman supported by Church Group Representative, Local PNP Unit, Local Government Social Welfare Officer, Local Government Health Officer & Local Sanggunian]
2. Conduct of regular lectures, programs or fora on the ill-effects of drug abuse and the implementation of measures towards drug abuse prevention and eradication. [OPR: Local PNP Unit supported by Local Govt. Health Officer, Local Govt. Social Welfare Officer, DECS Representative, SK Chairman & Local Sanggunian]

FLOW CHART OF THE CLEARING PROGRAM FOR DRUG-INFESTED BARANGAY.....



REHAB/REFORM PROGRAM FOR SUBSTANCE ABUSERS

i. Rehabilitation Or Reformation?

The principles involved in the rehabilitation or reformation of either a delinquent or a substance abuser are almost similar. The only difference is that the reformation of substance abuser includes a meticulous consideration of the physical-medical aspect, which is “Detoxification”: the process which an abuser undergo to relieve him from his addiction which severely impairs his/her normal responses and physical condition. Thus, this area needs careful attention by a physician while a program is laid out for her/his rehabilitation and reformation.

The physical aspect is therefore more in the realm of rehabilitation while the behavioral aspect is more in the realm of reformation.

ii. Approaches In Rehabilitation Of Substance Abuser

Basically, there are two approaches used today in the treatment and rehabilitation of a substance abuser: The drug-substitute approach; and the Drug-free or Drug-less approach.

As their names suggest, the former approach makes use of substitute drugs to cushion supposedly the effects of withdrawal from the substance abused; while the latter approach simply allow the natural or normal course of withdrawal to transpire.

The former approach allegedly aims to help ease the pain and sufferings of the addict; the latter deliberately aims to allow the substance abuser **to experience the pains of withdrawal as part of the reformation strategy**. Of course, the professional-clinical eye of a physician is sought for any eventualities. This is vital, thus a general physical examination is done to the subject at the start of the program.

It is also believed by most drug-free approach advocates that this is the most effective approach to rehabilitation. With the support of natural techniques such as “cold shower”, “water therapy”, “sweat shop exercise” etc., the ability of the body chemistry to normalize is believed to be hastened. Believers of the drug-free approach usually disallow even the use of nicotine or tobacco-cigarette smoking in the center.

REFORMATION PROGRAM: A THREE DIMENSIONAL APPROACH

iii. Basis for a Three-Dimensional Approach

In designing a rehab/reform program for any nation or country, it is but logical for the cultural orientation of the people to be considered. The Philippines is a Christian nation, predominantly Catholics, whose belief and faith is primarily based on the bible. Therefore, a faith-based approach for Christianity-oriented wards is basically a bible-based one.

The biblical precept is that man is a triune being, made after the image and likeness of the Triune God. Man is triune because he is body, soul and spirit—this is after God’s image.

The bible says God took dust and formed man’s body with His own hands and He breathed (imparted His Spirit) into man’s nostrils and thus became a “living soul”.

Man, the inner man, is therefore a soul.

And the Soul is after God's likeness—triune: The Will, the Intellect, and the Emotion. All these emanates from the Soul: Emotion which includes feelings is a manifestation of a living soul; so is the intelligence and the will-power of a man.

In preparing a rehab/reform program both for the delinquents and substance abuser, the triune being of a man must primarily be acknowledge and considered. This is the basics of rehab-reform programs, from a biblical perspective. In fact, THIS IS THE BASIS FOR ALL ASPECTS OF HUMAN DEVELOPMENT, whether in educational or industrial institutions—including penology, corrections or juvenile delinquent reformation. This is basic.

For consistency and for the purpose of developing a structured, systematic rehab/reform program from a biblical perspective (applying biblical principles, a three-phased program addressing the three or dimensions of human development (body, soul, spirit) is hereinafter presented. A similar approach in the Christian mission parlance is called the holistic ministry or ministrations.

The program is subdivided into three-phases, each phase correspondingly focuses on a particular dimensions, to wit:

PHASE I – Body or Physical Dimension

PHASE II – Soul or Psyche Dimension

PHASE III – Spirit or Pneuma Dimension

Despite this type of sequencing, each phase from I to III actually addresses and takes into consideration the total man (body, soul, and spirit), a constant three-dimensional approach.

In every phase, the program of activities, disciplinary requirements and rules confront, touch, and deal with all the three dimensions of man. Only, the emphasis is placed to zero-in or focus on the particular dimension corresponding to the phase.

For example, Phase I, the emphasis and focus of the program is on the physical (body), yet a lot of disciplinary rules, requirement and activities is simultaneously and consequently aimed at the person's *psyche* (soul)

and *pneuma* (spirit). And this goes on to Phase II and III, where the emphasis and focus shifts to the corresponding dimension, but WITHOUT (and this is important!) relaxing or depleting what has been accomplished previously.

In short, the program intensifies as it proceeds. The previous gains add on to the current, as the process goes on to mold and remold the man; develop a benevolent pattern for living; impressed a bright; godly outlook in life; build and strengthen a positive response mechanism in the inner man to face and handle stresses, challenges and trials in life.

THE PROCESS OF REHAB/REFORM PROGRAM

iv. First Phase And The First Dimension: Body

The substance abuser is generally of poor health condition- physically and mentally. Upon confinement, withdrawal symptoms are first to be observed. He usually project a cynical and circumspect attitude, specially of his confinement is involuntary (due to arrest or parental representations)

Delinquents and substance abusers are basically liars and at times could be very arrogant and self-righteous. He is very evasive to queries and wily. Spiritually speaking, there is a controlling spirit that overpowers his will. Thus, program starts with **Reception & Diagnostic (R&D)**

v. The Total Stripping Process Or Method (TSP) –

As a preliminary process, upon admission for confinement, a substance abuser (or delinquent for that matter) is stripped of all his personal possession. Meaning, he is allowed and given only a pair of confinement clothes and underwear and nothing more. This is for security precaution as well as the first attempt on his physical rehab and mental reformation.

This process is: the “Total Stripping Process”(TSP). The bible teaches that apart from God (Christ) we are nothing and can do nothing. For indeed the creature was created for the ultimate purpose of the Creator. On its own (apart from the Creator) the creature loses its purpose and meaning for existence. Yes, purpose – meaning is the first and basic principle in appreciating existence and life.

Thus, this TSP aims to strip the delinquent/addict of all false pretensions, of self-righteousness, of misconceptions and misperceptions of reality and life, of self-centeredness, and of misappraisal of himself. In short, let the subject start with “zero slate” like a new-born babe- naked and blank” (for biblical references see Jn 15:5, Is. 53:6, Is. 64:6

Delinquent and drug abusers, as earlier in the previous chapters, are rebels. Rebels have indeed distanced themselves from the true one and holy God. Although he may have other gods and goddesses and may seem religious but unholy. Again, the main objective of this TSP is to inject the awareness of man’s total depravity apart from God’s grace. That he is a sinner. He needs a Saviour, and he needs God. TSP shoots at the bloated ego and self-centeredness, yet paradoxically, with low self-esteem. He need to realize the kind of existence he has brought himself into.

The TSP takes about two to four weeks.

TSP is part and parcel of the **Reception & Diagnostic** phase, the PHASE I proper. This includes the period of complete isolation: no visitors allowed.

R and D includes I.Q. and Psycho tests, medical examination, orientation on central rules, light exercises, and basic counseling (debriefing) and discipline in personal hygiene.

The security aspect as well as the facilitation of the abuser’s physical rehabilitation is best achieved through this process. He needs to be dressed lightly and comfortably, so as to enable him to respond to his withdrawal symptoms move hastily and conveniently, as well as do his indoor exercises. He can also don and doff his clothes fast as he takes his cold showers in time of severe withdrawal symptoms.

In a Church-based KAPATIRAN Transformation Center or Christian centers there is emphasis in prayer during this withdrawal period. Many times, this withdrawal symptom is hardly present or detectable among wards in these Christian centers when they are prayed over or taught to pray when such withdrawal attack is imminent. Also, the lack of tools to hurt himself at this critical, emotion-charged state is a deterrent for abusers with suicidal tendencies.

The first phase therefore of such a reformation program is two-pronged: physical reconditioning (morning calisthenics, marching drills, sports, etc.) and basic behavioral reprogramming (inculcation of basic

self-discipline such as in personal hygiene). As in the old cliché, *sound mind in a sound body*.

vi. The Second Phase And The Second Dimension: Soul

The second dimension on human development is in the area of the soul—composed of the INTELLECT (mind), the EMOTIONS (including feelings) and the WILL. The second phase of a reformation program addresses pointedly this aspect in the soul dimension. It is here the subject is encouraged to find or rediscover his interest and skills. He is given education or the opportunity to educate himself, three-dimensionally.

Increase in group activities and social interaction is done at this stage. Competition in sports and parlor games are encouraged. This of course is coupled with intense counseling sessions and group dynamics. Again, in a KAPATIRAN Transformation Center, it is here that the Word-Approach Counseling is introduced during their group dynamics.

This takes about ten sessions and reviewed as many times during their entire period of confinement. Also, in this group dynamics, praying for one another as well as knowledge in biblical prayer is imparted.

The emotional stability of a person is tested at this stage as well as gauges the level of their stress perseverance. During this stage, the opportunity to gain spiritual experience (the reality of God) is initiated through personal prayer and testimonies to answered prayers.

Challenges are forwarded to individuals as well as a group. A program is developed for this purpose; e.g. drama, musical concerts and other arts and cultural activities.

Productivity is also qualified and quantified at this stage, pursuing formal or informal education, in the area of agriculture, construction, trade and industry, as the facilities will permit.

Responsibility is given him to care for a first phaser. This is letting him realize we are our brother's keeper (antidote to selfishness and self-centeredness).

vii. Third Phase And The Third Dimension: Spirit

The third dimension in human development could simply be the development of God-awareness, reverence and faith in God. “The fear (reverence) of God is the beginning of all wisdom.”

At this stage, the Word Approach in Counseling process is heightened in the Center. His skill to counsel others with confidence and authoritative reference to the Word (Scriptures or bible) is honed. He is taught to develop his devotional life as he is motivated to desire a disciplined prayer, into a delightful experience.

A God-centered life is introduced to him, as he is made aware of his personal responsibilities to his family, his community and country, and to his church.

This is also the stage where he is equipped with the spiritual “weapons” in the bible to enable him to put up a great defense against stresses and trials in life that comes our way once in a while.

Side by side with this, at this phase, is the honing of skills for generating economic and financial support for himself and his family. Livelihood and entrepreneurial activities are made available for the subject. Responsibility is inculcated with a strong sense of purpose:

1. He is taught to earn his wage.
2. He is also taught the value of fellowship by experiencing it in reality, in developing friendship (positive peer pressure) and lasting relationship with others.
3. He is also trained in time management, and to learn (again by experience) the value of rest (Sabbath) and healthy recreation (not gambling and taxing so called sports).
4. He is fully equipped to care for his spiritual life – sustaining a healthy spirit in close, personal relationship with the Lord—through prayer and study of the Word.

Various programs can be designed for this particular phase to address this all important spiritual (yet most neglected) reformation aspect. By the way, the opportunity of the ward to pursue his education while confined must be made available, by correspondence or otherwise.

A. PREPARED FOR THE AFTERCARE

Henceforth, after completion of the three dimensional program, it is expected that the subject has already determined the direction of his life after confinement: the profession, activity or work he intends to pursue.

And the Center has already set the stage for the aftercare program. The preparation for reintegration of the graduating ward may be a two weeks to one month orientation, instructions and cross-checking of data given by the ward or guardians on the activities to be monitored on a graduated ward,

This may not be a perfect rehab/reform program, but surely the most ideal. This is one of the best, so far. However, this just a pattern, a guide, a skeletal structure on which one can develop his program in handling an individual or group of delinquent and substance abusers. Our prayer is that this be applied by all those interested or are actually engaged in combating this social menace, substance abuse and delinquency.

UNLAWFUL ACTS PUNISHABLE UNDER RA 9165

(Everyone Ought to Know, specially BADAC)

Sec. 11. Possession of Dangerous Drugs. – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess any dangerous drug in the following quantities, regardless of the degree of purity thereof:

- 1) 10 grams or more of opium;
- 2) 10 grams or more of morphine;
- 3) 10 grams or more of heroin;
- 4) 10 grams or more of cocaine or cocaine hydrochloride;
- 5) 50 grams or more of methamphetamine hydrochloride or “shabu”;
- 6) 10 grams or more of marijuana resin or marijuana resin oil;
- 7) 500 grams or more of marijuana;
- 8) 10 grams or more of other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or “ecstasy”, paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxybutyrate (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements, as determined and promulgated by the Board in accordance to Section 93, Art. XI of this

Act.

Otherwise, if the quantity involved is less than the foregoing quantities, the penalties shall be graduated as follows:

- 1) Life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantity of methamphetamine hydrochloride or “shabu” is ten (10) grams or more but less than fifty (50) grams;
- 2) Imprisonment of twenty (20) years and one (1) day to life imprisonment and a fine ranging from Four hundred thousand pesos (P400,000.00) to Five hundred thousand pesos (P500,000.00), if the quantities of dangerous drugs are five (5) grams or more but less than ten (10) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or “ecstasy”, paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxybutyrate (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or three hundred (300) grams or more but less than five hundred (500) grams of marijuana;
- 3) Imprisonment of twelve (12) years and one (1) day to twenty (20) years and a fine ranging from Three hundred thousand pesos (P300,000.00) to Four hundred thousand pesos (P400,000.00), if the quantities of dangerous drugs are less than five (5) grams of opium, morphine, heroin, cocaine or cocaine hydrochloride, marijuana resin or marijuana resin oil, methamphetamine hydrochloride or “shabu”, or other dangerous drugs such as, but not limited to, methylenedioxymethamphetamine (MDMA) or “ecstasy”, paramethoxyamphetamine (PMA), trimethoxyamphetamine (TMA), lysergic acid diethylamine (LSD), gamma hydroxybutyrate (GHB), and those similarly designed or newly introduced drugs and their derivatives, without having any therapeutic value or if the quantity possessed is far beyond therapeutic requirements; or less than three hundred (300) grams of marijuana.

SEC. 12. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs.* – The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person, who, unless authorized by law, shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body: *Provided*, That in the case of medical practitioners and various professionals who are required to carry such equipment, instrument, apparatus and other paraphernalia in the practice of their profession, the Board shall prescribe the necessary implementing guidelines thereof.

The possession of such equipment, instrument, apparatus and other paraphernalia fit or intended for any of the purposes enumerated in the preceding paragraph shall be *prima facie* evidence that the possessor has smoked, consumed, administered to himself/herself, injected, ingested or used a dangerous drug and shall be presumed to have violated Section 15 of this Act.

SEC. 13. *Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings.* – Any person found possessing any dangerous drug during a party, or at a social gathering or meeting, or in the proximate company of at least two (2) persons, shall suffer the maximum penalties provided for in Section 11 of this Act, regardless of the quantity and purity of the dangerous drugs.

SEC. 14. *Possession of Equipment, Instrument, Apparatus and Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings.* – The maximum penalty provided for in Section 12 of this Act shall be imposed upon any person, who shall possess or have under his/her control any equipment, instrument, apparatus and other paraphernalia fit or intended for smoking, consuming, administering, injecting, ingesting, or introducing any dangerous drug into the body, during parties, social gatherings or meetings, or in the proximate company of at least two (2) persons.

SEC. 15. *Use of Dangerous Drugs.* – A person apprehended or arrested, who is found to be positive for use of any dangerous drug, after a confirmatory test, shall be imposed a penalty of a minimum of six (6) months rehabilitation in a government center for the first offense, subject to

the provisions of Article VIII of this Act. If apprehended using any dangerous drug for the second time, he/she shall suffer the penalty of imprisonment ranging from six (6) years and one (1) day to twelve (12) years and a fine ranging from Fifty thousand pesos (P50,000.00) to Two hundred thousand pesos (P200,000.00): *Provided*, That this Section shall not be applicable where the person tested is also found to have in his/her possession such quantity of any dangerous drug provided for under Section 10 of this Act, in which case the provisions stated therein shall apply.

SEC. 16. *Cultivation or Culture of Plants Classified as Dangerous Drugs or Are Sources Thereof.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00) shall be imposed upon any person who shall plant, cultivate or culture marijuana, opium poppy or any other plant regardless of quantity, which is or may hereafter be classified as a dangerous drug or as a source from which any dangerous drug may be manufactured or derived: *Provided*, That in the case of medical laboratories and medical research centers which cultivate or culture marijuana, opium poppy and other plants, or materials of dangerous drugs for medical experiments and research purposes, or for the creation of new types of medicine, the Board shall prescribe the necessary implementing guidelines for the proper cultivation, culture, handling, experimentation and disposal of such plants and materials.

The land or portions thereof and/or greenhouses on which any of said plants is cultivated or cultured shall be confiscated and escheated in favor of the State, unless the owner thereof can prove lack of knowledge of such cultivation or culture despite the exercise of due diligence on his/her part. If the land involved is part of the public domain, the maximum penalty provided for under this Section shall be imposed upon the offender.

The maximum penalty provided for under this Section shall be imposed upon any person, who organizes, manages or acts as a “financier” of any of the illegal activities prescribed in this Section.

The penalty of twelve (12) years and one (1) day to twenty (20) years of imprisonment and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) shall be imposed upon any person, who acts as a protector/coddler of any violator of the provisions under this Section.

Sec. 17 *Maintenance and Keeping of Original Records of Transactions on Dangerous Drugs and/or Controlled Precursors and Essential Chemicals.*

– The penalty of imprisonment ranging from one (1) year and one (1) day to six (6) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any practitioner, manufacturer, wholesaler, importer, distributor, dealer or retailer who violates or fails to comply with the maintenance and keeping of the original records of transactions on any dangerous drug and/or controlled precursor and essential chemical in accordance with Section 40 of this Act.

An additional penalty shall be imposed through the revocation of the license to practice his/her profession, in case of a practitioner, or of the business, in case of a manufacturer, seller, importer, distributor, dealer or retailer.

SEC. 18. *Unnecessary Prescription of Dangerous Drugs.* – The penalty of imprisonment ranging from twelve (12) years and one (1) day to twenty (20) years and a fine ranging from One hundred thousand pesos (P100,000.00) to Five hundred thousand pesos (P500,000.00) and the additional penalty of the revocation of his/her license to practice shall be imposed upon the practitioner, who shall prescribe any dangerous drug to any person whose physical or physiological condition does not require the use or in the dosage prescribed therein, as determined by the Board in consultation with recognized competent experts who are authorized representatives of professional organizations of practitioners, particularly those who are involved in the care of persons with severe pain.

SEC. 19. *Unlawful Prescription of Dangerous Drugs.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten Million pesos (P10,000,000.00) shall be imposed upon any person, who, unless authorized by law, shall make or issue a prescription or any other writing purporting to be a prescription for any dangerous drug.

SEC. 24. *Non-Applicability of the Probation Law for Drug Traffickers and Pushers.* – Any person convicted for drug trafficking or pushing under this Act, regardless of the penalty imposed by the court, cannot avail of the privilege granted by the Probation Law or Presidential Decree No. 968, as amended.

SEC. 25. *Qualifying Aggravating Circumstances in the Commission of a Crime by an Offender under the Influence of Dangerous Drugs.* – Notwithstanding the provisions of any law to the contrary, a positive finding for the use of dangerous drugs shall be a qualifying aggravating circumstance in the commission of a crime by an offender, and the application of the penalty provided for in the Revised Penal Code shall be applicable.

SEC. 26. *Attempt or Conspiracy.* – Any attempt or conspiracy to commit the following unlawful acts shall be penalized by the same penalty prescribed for the commission of the same as provided under this Act:

- a. Importation of any dangerous drug and/or controlled precursor and essential chemical;
- b. Sale, trading, administration, dispensation, delivery, distribution and transportation of any dangerous drug and/or controlled precursor and essential chemical;
- c. Maintenance of a den, dive or resort where any dangerous drug is used in any form;
- d. Manufacture of any dangerous drug and/or controlled precursor and essential chemical; and
- e. Cultivation or culture of plants which are sources of dangerous drugs.

SEC. 27. *Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed.* – The penalty of life imprisonment to death and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office, shall be imposed upon any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.

Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or controlled corporations.

SEC. 28. *Criminal Liability of Government Officials and Employees.* – The maximum penalties of the unlawful acts provided for in this Act shall be imposed, in addition to absolute perpetual disqualification from any public office, if those found guilty of such unlawful acts are government officials and employees.

SEC. 29. *Criminal Liability for Planting of Evidence.* – Any person who is found guilty of “planting” any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of death.

SEC. 30. *Criminal Liability of Officers of Partnerships, Corporations, Associations or Other Juridical Entities.* – In case any violation of this Act is committed by a partnership, corporation, association or any juridical entity, the partner, president, director, manager, trustee, estate administrator, or officer who consents to or knowingly tolerates such violation shall be held criminally liable as a co-principal.

The penalty provided for the offense under this Act shall be imposed upon the partner, president, director, manager, trustee, estate administrator, or officer who knowingly authorizes, tolerates or consents to the use of a vehicle, vessel, aircraft, equipment or other facility, as an instrument in the importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of dangerous drugs, or chemical diversion, if such vehicle, vessel, aircraft, equipment or other instrument is owned by or under the control or supervision of the partnership, corporation, association or juridical entity to which they are affiliated.

SEC. 31. *Additional Penalty if Offender is an Alien.* – In addition to the penalties prescribed in the unlawful act committed, any alien who violates such provisions of this Act shall, after service of sentence, be deported immediately without further proceedings, unless the penalty is death.

SEC. 32. *Liability to a Person Violating Any Regulation Issued by the Board.* – The penalty of imprisonment ranging from six (6) months and one (1) day to four (4) years and a fine ranging from Ten thousand pesos (P10,000.00) to Fifty thousand pesos (P50,000.00) shall be imposed upon any person found violating any regulation duly issued by the Board pursuant to this Act, in addition to the administrative sanctions imposed by the Board.

VII. DISPOSITION AND CUSTODY OF SEIZED DRUG ITEMS AND OTHER PARAPHERNALIA.

This enumerates the comprehensive procedure on the proper disposition and custody of seized drug items and other paraphernalia. RA 9165 states the following provisions of the law:

SEC. 20. *Confiscation and Forfeiture of the Proceeds or Instruments of the Unlawful Act, Including the Properties or Proceeds Derived from the Illegal Trafficking of Dangerous Drugs and/or Precursors and Essential Chemicals.* – Every penalty imposed for the unlawful importation, sale, trading, administration, dispensation, delivery, distribution, transportation or manufacture of any dangerous drug and/or controlled precursor and essential chemical, the cultivation or culture of plants which are sources of dangerous drugs, and the possession of any equipment, instrument, apparatus and other paraphernalia for dangerous drugs including other laboratory equipment, shall carry with it the confiscation and forfeiture, in favor of the government, of all the proceeds and properties derived from the unlawful act, including, but not limited to, money and other assets obtained thereby, and the instruments or tools with which the particular unlawful act was committed, unless they are the property of a third person not liable for the unlawful act, but those which are not of lawful commerce shall be ordered destroyed without delay pursuant to the provisions of Section 21 of this Act.

After conviction in the Regional Trial Court in the appropriate criminal case filed, the Court shall immediately schedule a hearing for the confiscation and forfeiture of all the proceeds of the offense and all the assets and properties of the accused either owned or held by him or in the name of some other persons if the same shall be found to be manifestly out of proportion to his/her lawful income: *Provided, however,* That if the forfeited property is a vehicle, the same shall be auctioned off not later than five (5) days upon order of confiscation or forfeiture.

During the pendency of the case in the Regional Trial Court, no property, or income derived therefrom, which may be confiscated and forfeited, shall be disposed, alienated or transferred and the same shall be in *custodia legis* and no bond shall be admitted for the release of the same.

The proceeds of any sale or disposition of any property confiscated or forfeited under this Section shall be used to pay all proper expenses incurred in the proceedings for the confiscation, forfeiture, custody and maintenance of the property pending disposition, as well as expenses for publication and court costs. The proceeds in excess of the above expenses shall accrue to the Board to be used in its campaign against illegal drugs.

SEC. 21. *Custody and Disposition of Confiscated, Seized, and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment.* – The PDEA shall take charge and have custody of all dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment so confiscated, seized and/or surrendered, for proper disposition in the following manner:

1. The apprehending team having initial custody and control of the drugs shall, immediately after seizure and confiscation, physically inventory and photograph the same in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice, and any elected public official who shall be required to sign the copies of the inventory and be given a copy thereof.
2. Within twenty-four (24) hours upon confiscation/seizure of dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, as well as instruments/paraphernalia and/or laboratory equipment, the same shall be submitted to the PDEA Forensic Laboratory for a qualitative and quantitative examination.
3. A certification of the forensic laboratory examination results, which shall be done under oath by the forensic laboratory examiner, shall be issued within twenty-four (24) hours after the receipt of the subject item/s: *Provided*, That when the volume of the dangerous drugs, plant sources of dangerous drugs, and

controlled precursors and essential chemicals does not allow the completion of testing within the time frame, a partial laboratory examination report shall be provisionally issued stating therein the quantities of dangerous drugs still to be examined by the forensic laboratory: *Provided, however,* That a final certification shall be issued on the completed forensic laboratory examination on the same within the next twenty-four (24) hours.

4. After the filing of the criminal case, the Court shall, within seventy-two (72) hours, conduct an ocular inspection of the confiscated, seized and/or surrendered dangerous drugs, plant sources of dangerous drugs, and controlled precursors and essential chemicals, including the instruments/paraphernalia and/or laboratory equipment, and through the PDEA shall within twenty-four (24) hours thereafter proceed with the destruction or burning of the same, in the presence of the accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, a representative from the media and the Department of Justice, civil society groups and any elected public official. The Board shall draw up the guidelines on the manner of proper disposition and destruction of such item/s which shall be borne by the offender: *Provided,* That those item/s of lawful commerce, as determined by the Board, shall be donated, used or recycled for legitimate purposes: *Provided, further,* That a representative sample, duly weighed and recorded is retained.
5. The Board shall then issue a sworn certification as to the fact of destruction or burning of the subject item/s which, together with the representative sample/s in the custody of the PDEA, shall be submitted to the court having jurisdiction over the case. In all instances, the representative sample/s shall be kept to a minimum quantity as determined by the Board.
6. The alleged offender or his/her representative or counsel shall be allowed to personally observe all of the above proceedings and his/her presence shall not constitute an admission of guilt. In case the said offender or accused refuses or fails to appoint a representative after due notice in writing to the accused or his/her counsel within seventy-two (72) hours before the actual burning or destruction of the evidence in question, the Secretary of Justice

shall appoint a member of the public attorney's office to represent the former.

7. After the promulgation and judgment in the criminal case wherein the representative sample/s was presented as evidence in court, the trial prosecutor shall inform the Board of the final termination of the case and, in turn, shall request the court for leave to turn over the said representative sample/s to the PDEA for proper disposition and destruction within twenty-four (24) hours from receipt of the same.
8. Transitory Provision: a) Within twenty-four (24) hours from the effectivity of this Act, dangerous drugs defined herein which are presently in possession of law enforcement agencies shall, with leave of court, be burned or destroyed, in the presence of representatives of the court.....

ANNEXES

(Annex-A)

Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
A. Francisco Gold Condominium II, EDSA Cor, Mapagmahal St.,
Diliman, Quezon City

MEMORANDUM CIRCULAR
No. 98 - 227

December 2, 1998

FOR : ALL PROVINCIAL GOVERNORS, CITY/MUNICIPAL
MAYORS, PUNONG BARANGAYS, DILG
REGIONAL/PROVINCIAL/CITY DIRECTORS AND
FIELD OFFICERS

SUBJECT: CREATION OF PROVINCIAL, CITY, MUNICIPAL,
AND BARANGAY ANTI-DRUG ABUSE COUNCILS

The Constitution mandates that the government shall promote the quality of life of the people. Towards this end, Section 16 of the Local Government Code of 1991 provides that local government units shall pursue undertakings to improve public morals and maintain peace and order, among other equally significant concerns.

The increasing use of illegal drugs has significantly contributed to the incidence of heinous crimes. The problem on illegal drugs has to be addressed much more effectively to help ensure community peace and harmony.

CREATION OF ANTI-DRUG ABUSE COUNCILS

In furtherance of overall government efforts to address the above – mentioned problem, all provinces, cities, municipalities and Barangays are hereby enjoined to create their Local Anti-Drug Abuse Councils, to be composed of the following:

- Governor/Mayor/Punong Barangay - Chairman
- PNP Provincial/City Director/Chief of Police - Vice Chairman
- DILG Provincial /City Director/CLGOO/MLGOO - Member
- DECS Division Superintendent/District Supervisor - Member
- DOJ Provincial/City Prosecutor - Member
- Provincial/City/Municipal Health Officer - Member
- Provincial/City/Municipal Social Welfare Officer - Member
- Provincial/City/Municipal Information Officer - Member
- NGO/Socio-Civic Group Representative - Member
- Church Group Representative - Member

ROLES AND RESPONSIBILITIES OF THE COUNCILS

The Local Anti-Drug Council shall perform the following rules and responsibilities:

- Serve as a focal point through which various organization and individuals work together cooperatively in the planning, implementation and evaluation of programs on drug abuse prevention;
- Provide from an effective mechanism for the coordination of existing services and program and those which might be developed in the immediate future;
- Provide for a mechanism to obtain funds, volunteers, facilities and technical expertise; and
- Perform other related responsibilities as may be assigned by competent authorities.

All department issuances which are deemed inconsistent with this Memorandum Circular are hereby repealed or modified accordingly.

All DILG Regional Directors are likewise hereby directed to cause the widest dissemination of this Memorandum Circular, provide assistance, where necessary and as may be appropriate, and to see to it that the intent of this directive is complied with.

For the information and guidance of all concerned.

(ORIG. SIGNED)
RONALDO V. PUNO
Undersecretary

Composition Of Barangay Anti-Drug Abuse Council (Badac)

- Punong Barangay - Chairman
- Barangay Kagawad - Vice-Chairman
- (In charge of peace and order)
- SK Chairman - Member
- School Principal
- (Public) or (Representative) - Member
- Ex-O Tanod - Member
- NGO/Civil Society Rep. - Member
- Parents-Teachers Assn. (PTA) or (Representative) - Member
- Pres. Home Owners Assc. - Member
- Religious Organization Rep. - Member

In addition, the City/Municipal/Chief of Police or his representative shall act as the adviser of the BADAC

FUNCTION OF THE BADAC:

1. Plan, Strategize, implement and evaluate programs and projects on drug abuse prevention in the Barangay
2. Coordinate and collaborate with other institutions implementing programs and projects on drug abuse at the Barangay level
3. Continuously gather and update data on drug abuse and its effect on the peace and order situation in the Barangay including listing of drug users and pushers.

4. Submit a monthly report to the City/Municipal Anti-Drug Abuse Council thru the DILG City/Municipal Field Office.
5. Refer users and pushers to the police and other institutions for corresponding sanctions, rehabilitation and/or counseling.
6. Perform other related functions.

This Department through the National Barangay Operations Office (NBOO) shall monitor compliance of this issuance particularly functionality of the BADAC while the National Drug Law Enforcement & Prevention Coordinating Center (NDLEFCC) of the PNP shall provide technical assistance in anti-drug abuse activities at all levels. Further, the DILG Regional Directors shall disseminate the issuance to all Barangays within their respective jurisdiction.

For Compliance.

(ORIG. SIGNED)

RONALDO V. PUNO

Secretary

(Annex B)

Republic of the Philippines

DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT

A. Francisco Gold Condominium II, EDSA Cor, Mapagmahal St.,
Diliman, Quezon City

June 22, 1999

MEMORANDUM CIRCULAR

No. 99-106

FOR : ALL PROVINCIAL GOVERNORS, CITY MAYORS,
MUNICIPAL MAYORS, DILG, REGIONAL DIRECTORS
AND OTHERS CONCERNED

SUBJECT : SUPPLEMENTING MEMORANDUM CIRCULAR NO. 98-
227 DATED DECEMBER 2, 1998

Memorandum Circular No. 98-227 entitled, Creation of Provincial, City, Municipal, and Barangay Anti-drug Abuse Councils, is hereby supplemented to include the Provincial Vice-Governors, City Vice mayors and Municipal Vice Mayors as members of the Provincial, City and Municipal Anti-Drug Abuse Councils respectively.

For the information and guidance of all concerned.

(Orig. Signed)
RONALDO V. PUNO
Secretary

(Annex C)

Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
Francisco Gold Condominium II, EDSA Cor, Mapagmahal St.,
Diliman, Quezon City

January 23, 2004

MEMORANDUM CIRCULAR No. 2004-07

FOR : ALL PROVINCIAL GOVERNORS, CITY/MUNICIPAL
MAYORS, PUNONG BARANGAYS, DILG REGIONAL/
PROVINCIAL/CITY DIRECTORS AND FIELD OFFICERS

SUBJECT: EXPANSION OF THE BARANGAY ANTI-DRUG
ABUSE COMMITTEE (BADAC) THROUGH ORGANIZATION OF
BADAC AUXILIARY TEAM AND FOR OTHER PURPOSES

RATIONALE:

The surge of drugs has assumed alarming proportions in the country over the past three decades. Drugs are threat to health and a serious threat to the well-being and security of the residents due to drug related crimes. Moreover, the proliferation and use of illegal drugs hamper efforts aimed at

promoting peace and harmony as well as meaningful social and economic development in the country.

Major improvements have been made especially with the passage of RA 9165 or Comprehensive Dangerous Drugs Act of 2002 which expanded the range of unlawful acts, increasing penalties imposed on drug related crimes and reducing the threshold quantities for non-bailable offenses. Most notable are the progress made in the dismantling of some 19 large illegal drug laboratories and clearing of thousands drug affected Barangays.

However, there is a necessity to accelerate the campaign against illegal drugs in our communities to attain our target of drug free communities before 2010. There is a need for more community initiatives where everyone can participate to combat the evils spawned by drug abuse. We need the participation of all sectors: the elderly, the youth, the families, religious organizations, the school, the Barangay government since local institutions and residents are in the best position to combat problems of the community.

It is for these reasons that we need to empower the BADACs to be more effective by providing them with more impetus for action and by expanding their membership through organization of BADAC Auxillary team, hence this issuance.

OBJECTIVES:

General: To consolidate all anti-drug efforts at the grassroots and instill commitments among Barangay residents to fight the problem of drug menace and eradicate incidence of drug related crimes before 2010.

SPECIFIC:

1. Expand the present BADAC to include volunteers who shall organize themselves into BADAC Auxiliary team representing all sectors of the community,
2. Strengthen community anti-illegal drug campaign in collaboration with concerned government agencies, entities and people organizations in the Barangay,
3. Sustain continuing information on anti-illegal drugs and the menace of drug addiction in the community through leaflets, streamers, banners and posters locally prepared by students, children, residents and other organization in the community,

4. Provide alternative activities to prevent drug problems especially among the youth in the Barangay.

SUGGESTED STRATEGIES:

- A. To attain these objectives the following shall be undertaken by the Sangguniang Barangay and the existing BADACs:
 1. Organize the BADAC Auxiliary Team with 25 members per 200 population of the Barangay representing streets, Puroks, subdivisions or Sitios with the following functions:
 - a. Identify and report to the BADAC, drug dependents cases and / or suspected pushers / illegal drug laboratories in his area.
 - b. Assist in the conduct of information campaign against illegal drugs and its negative consequences.
 - c. Help facilitate in the preparation and distribution of information materials in collaboration with the school, neighborhood associations, etc.
 - d. Initiate the conduct of neighborhood activities to prevent drug addiction in his area of operation especially among children and youth.

The BADAC Auxiliary team may elect their team coordinators, and other officers to make the team more functional and effective

2. Prepare a Barangay situational analysis/assessment of the drug problem in the Barangay.
3. Identify organizations in the Barangay which shall assist in the Anti-Illegal Drug Campaign such as Parents Teacher's Communitiy Association (PTCA), Sangguniang Kabataan (SK), Boy and Girl Scouts, religious organizations, Senior Citizens, Homeowners associations, neighborhood associations, purok and tricycle operators and drivers Association (TODA) and other organizations existing in the community.
4. Conduct consultative meetings with these identified organizations/associations/groups and get their commitment to assist in responding to the drug menace in the community.
5. Orient the BADAC and Auxiliaries on their roles and functions and in formulating plan of action to address the problem.

6. Conduct activities to prevent drug addiction especially among children and youth through poster making, paintings, slogans and jingle contests, cultural , social and sports activities.
 7. Strengthen the family in the Barangay by promoting family affairs and conduct value formation for a on parental care and guidance in coordination with other people's organization and concerned agencies.
 8. Link up with the Philippines National Police (PNP) Philippine Drug Enforcement Agency (PDEA), Dangerous Drugs Board (DDB), Department of Education (DepED) Commission on higher education (CHED) National Youth Commission (NYC) and higher level of Anti-Drug Abuse Councils (ADAC) in the anti-illegal drugs campaign.
 9. Ensure participation of BADACs and their Auxiliary team in national events to stir outrage against illegal drugs.
- B. Higher level LGUs through their respective ADACs shall guide, assist and support the BADACs and their Auxiliaries in undertaking activities against drug addiction.
- C. DILG Officials at all levels shall assist the ADACs and BADACs by coordinating with the LGUs in conducting anti-drug abuse planning workshops, disseminate this issuance and monitor its compliance.
- D. Barangay shall report their expanded BADAC or BADAC Auxiliary Team and Individual members to their respective DILG field officers within the 1st quarter of the year for record purposes.

(ORIG.SIGNED)

JOSE D. LINA, Jr.

Secretary

(Annex D)
MEMORANDUM CIRCULAR
No. 2009-09

TO: ALL PROVINCIAL GOVERNORS, CITY/MUNICIPAL MAYORS,
PUNONG BARANGAYS, SANGGUNIANs AT ALL LEVELS,
DILG REGIONAL DIRECTORS AND OTHER CONCERNED.

SUBJECT : UNIFIED ACTIONS AGAINST ILLEGAL DRUGS AND
OTHER SUBSTANCES

- I. **PURPOSE** This Memorandum Circular is issued to emphasize to local authorities their principal responsibilities in support of overall government efforts to address illegal drugs and other substances.
- II. **COVERAGE** All provinces, cities, municipalities and Barangays, except those in the autonomous region in Muslim Mindanao, are covered by this Memorandum circular.
- III. **RESPONSIBILITIES COMMON TO ALL LOCAL GOVERNMENT OFFICIALS AT ALL LEVELS.**
 1. As required under Section 51 to 53 of RA 9165, otherwise known as the Comprehensive dangerous Drugs Act of 2002, Local Chief Executives and Sangguniang Members must ensure the mandatory

inclusion in the Local Annual Budget of a substantial appropriation that can adequately assist in or enhance the enforcement of RA 9165 giving priority to preventive or educational programs and the rehabilitation or treatment of drug dependents.

2. Ensure that the provision of Sections 51 to 53 of RA 9165 shall be strictly and faithfully enforced.
3. Initiate the conduct of symposia and dialogues with school authorities and students, owners and employees of business establishment, government officials and employees and the general public.
4. Ensure the sustainability of rehabilitation or treatment program of drug dependents.
5. Ensure the sustainability of rehabilitation or treatment program of drug dependents.
6. Cause the enactment of an ordinance complementing the Comprehensive Drugs Act of 2002, if none has yet been passed, or to amend the same, to be consistent with the pertinent provisions of the said act, and ensure the effective enforcement thereof.
7. Ensure that the Anti-drug Abuse Councils at all levels perform their functions and responsibilities as embodied in relevant department issuances.

IV. RESPONSIBILITY OF THE PROVINCIAL GOVERNOR

Ensure that component city Mayors and municipal mayors shall perform their mandated tasks and responsibilities under Sections 51-53 of RA 9165, in this Circular, and other department issuances, including the creation and activation of the Anti-Drug Abuse Councils at all Levels.

V. RESPONSIBILITIES OF THE CITY OR MUNICIPAL MAYOR

1. Call on the local PNP, pursuant to their power of operational supervision and control over the local PNP under Section 51 (a) of RA 6975, as amended by Section 62 of RA 8551, to conduct periodic or unannounced onsite inspection of dens, resorts, bars, karaoke bars, nightclubs and other establishments or houses suspected of being used as drug dens or place of sale or delivery of illegal drug.
2. Ensure that the Administrative Board under Section 52 (1) of RA 9165 shall be created, functional and shall faithfully discharge their mandated task to abate nuisance contemplated under the said provision of RA 9165.

3. Revoke the business permit of any business establishment found by the Board created under Section 52 (1) of RA 9165 to be the site of the deliveries , sale and use of illegal drugs and substances.
4. Provide support, financial or otherwise, to the local PNP that is necessary in its sustained operations against illegal drugs.
5. Ensure that the Punong Barangays under their general supervision shall perform their responsibilities as embodied in this Circular and in other relevant Department issuances and pertinent laws.

VI. RESPONSIBILITIES OF THE PUNONG BARANGAY

1. Shall identify drug affected house clusters, work places, streets, purok and sitios where delivery, sale or use of illegal drugs are being conducted and to report the same immediately to the PNP or the Philippine Drug Enforcement Agency (PDEA)
2. Extend necessary assistance and cooperation, from operations up to prosecution, to the PDEA and PNP authorities in its operation against illegal drugs.

SANCTIONS:

All concerned local authorities are hereby advised that:

1. The mandate under section 51 of RA 9165 for Local government Units to appropriate a substantial portion of their respective Annual Budgets to assist in or enhance the enforcement of RA 9165 is considered as a mandatory requirement in all budget preparations in addition to those already mandatorily required under section 324 of the Local government Code. Accordingly, every Local government Unit shall be a ground to disapprove the said Annual Budget on review, Further, failure to include such appropriation in the said Annual Budget can subject the local officials concerned to a possible administrative charge of dereliction of duty.
2. In case of adverse reports from PDEA and/or PNP that illegal drug's sale delivery and use is rampant within local government Unit concerned or that the PDEA , PNP and other law enforcement agencies have uncovered Shabu and other illegal drug laboratories and marijuana plantation within the area of their jurisdiction, and the local officials therein, after having been made aware thereof, failed to take appropriate measures to enforce the pertinent provisions of RA 965, including abatement of nuisance under Section 52 thereof, may be charged administratively for gross

negligence or dereliction of duty as maybe warranted by evidence. Such inaction, despite knowledge of the PDEA or PNP adverse reports, shall be considered as prima facie evidence for the said administrative charge/s.

VII. Repealing Clause

All previous issuances which are inconsistent herewith are hereby repealed or modified accordingly.

VIII. Effectivity

This Memorandum Circular shall take effect immediately.

(Orig Signed) RONALDO V. PUNO

Secretary

(Annex E)

MEMORANDUM CIRCULAR

No. 2004-211

TO: ALL PROVINCIAL GOVERNEORS, CITY MAYORS, MUNICIPAL MAYORS, PUNONG BARANGAYS, PDEA DIRECTOR GENERAL, PDEA REGIONAL DIRECTORS, CHIEF OF THE PNP, PNP REGIONAL DIRECTORS, DISTRICT, PROVINCIAL CITY DIRECTORS AND CHIEF OF POLICE , DILG REGIONAL DIRECTORS, PROVINCIAL CITY DIRECTORS AND MUNICIPAL LOCAL GOVERNMENT OPERATIONS OFFICERS, AND OTHERS CONCERNED

SUBJECT: CLEARING OF DRUG AFFECTED BARANGAYS

DATE : 27 OCTOBER 2003

PREFARATORY STATEMENT

In her State of the Nation Address (SONA) delivered last July 28, 2003, Her Excellency, President GLORIA MACAPAGAL ARROYO renewed her commitment to sustain the intensified campaign against illegal drugs when she declared, “ *Dadaldhin Ko Ang Labang Ito Sa Bawat Lalawigan At Lingsod Hangang Umabot Sa Mga Barangay.* ”

Pursuant to the pronouncement of the President, there is an urgent need to intensify the campaign against illegal drugs, especially the conduct of clearing operations in drug affected Barangays. Towards this end, the following guidelines are hereby prescribed for the effective clearing operations in drug affected Barangays.

GUIDELINES

The process of clearing drug affected Barangays involves a series of activities to be undertaken in phases, by the Anti-Drug Abuse Committees at the provincial, city , municipal and Barangay government levels (PADAC/CADAC/MADAC/BADAC) the Philippine Drug Enforcement Agency (PDEA) and the PNP.

Designation by the executive Director of the Dangerous Drugs Board (DDB) of authorized representatives to process petitions for voluntary rehabilitation pursuant to DDB Resolution No. 2 Series of 2002.

B. CLEARING PHASE

During this phase, the BADACs and the law enforcement units concerned shall implement the following activities:

1. Administrative searches of suspected drug dens, clandestine laboratories and chemical warehouse in coordination with City or Municipal regulatory Officer.
2. Arrest of drug pushers through “Citizens Arrest “ buy bust operations, and service of Search Warrants and Warrants of Arrest:
3. Filing of complaints of public nuisance with the City/Municipal Administrative Boards against places or premises used as sites of unlawful sale or delivery of dangerous drugs pursuant to Section 52, Article VII of republic Act 9165;
4. Counseling of drug experimenters and casual users to inform them of the ill effects of dangerous drugs and the consequences of drug use; and
5. Processing of referrals for voluntary rehabilitation of drug dependents.

C. EMPOWERMENT PHASE

During this phase, the DILG, PADAC, CADAC, MADAC, BADAC DDB PDEA AND PNP offices concerned shall cooperate to

empower the Barangays to become self-policing communities. The activities that may be undertaken in this phase shall include, but not limited to, the following.

1. Mobilization of house cluster, street village, purok and sitios as well as sectoral organizations to maintain the drug free status of the Barangay and
2. Implementation of support activities such as livelihood, sports, religious, and social activities in coordination with non government and civic organization.

III. PARAMETERS FOR DECLARING A BARANGAY DRUG FREE

SPECIFIC:

1. Expand the present BADAC to include volunteers who shall organize themselves into BADAC Auxiliary Team representing all sectors of the community
2. Strengthen community anti-illegal drug campaign in collaboration with concerned government agencies entities and people organizations in the Barangay.
3. Sustain continuing information on anti-illegal drugs and the menace of drug addiction in the community through leaflets, streamers, banners, and posters locally prepared by students, children, residents and other organizations in the community.
4. Provide alternative activities to prevent drug problems especially among the youth in the Barangay

SUGGESTED STRATEGIES

- A. To attain these objectives the following shall be undertaken by the Sanguniannng Barangay and the existing BADACs:
 1. Organize the BADAC Auxiliary team with 25 members per 2000 population of the Barangay representing streets, purok, subdivisions, or sitios with the following functions:
 - a. Identify and report to the BADAC drug dependent cases and/or suspected pushers/illegal drug laboratories in his areas.

- b. Assist in the conduct of information campaign against illegal drugs and its negative consequences.
 - c. Help facilitate in the preparation and distribution of information materials in collaboration with the school neighborhood associations, etc.
 - d. Initiate the conduct of neighborhood activities to prevent drug addiction in his area of operation especially among children and youth.
2. Prepare a Barangay situational analysis/assessment of the drug problem in the Barangay
 3. Identify organization in the Barangay which shall assist in the anti illegal drug campaign and Girl Scouts, religious organizations, Senior Citizens, homeowners associations, neighborhood associations, puroks and tricycle operators and drivers Association (TODA) and other organizations existing in the community.
 4. Conduct / consultative meetings with the identified organization / associations / groups and get their community.
 5. Orient the BADAC and auxiliaries on their roles and functions and in formulating plan of action to address the problem
 6. Conduct activities to prevent drug addiction especially among children and youth through poster making, paintings, slogans and jingle contests cultural and sports activities
 7. Strengthen the family in the Barangay by promoting family affairs and conduct value formation for a on parental care and guidance in coordination with other people 's organization and concerned agencies.
 8. Link up with the Philippine National Police (PNP) Philippine National Police (PNP) Philippine drug Enforcement Agency (PDEA) Dangerous Drugs Board (DDB) Department of Education (DEPED) Commission on higher education (CHED) , Liga ng mga Barangay, National Youth Commission (NYC) and higher level anti-drug abuse councils (ADAC) in the anti-illegal drug campaign.
 9. Ensure participation of BADACs and their Auxiliary team in national events to stir outrage against illegal drugs
- B. Higher level LGUs through their respective ADACS shall guide, assist and support the BADACs and their auxiliaries in undertaking activities against drug addiction.
- C. DILG officials at all levels shall assist the ADACS and the BADACs by coordinating with the LGUs in conducting anti-drug abuse planning workshops, disseminate this issuance and monitor its compliance.

D. Barangay shall report their expanded BADAC or BADAC auxiliary team and individual members to their respective DILG field officers within the 1st quarter of the year for record purpose.

(ORIG. SIGNED) JOSE D. LINA, Jr., Secretary

Attested by : Atty. Alan Roullo Yap, Head Executive assistant

(Annex F)

TREATMENT AND REHABILITATION PROCEDURE

Board Regulation No. 3 Series of 2007

SUBJECT: RULES GOVERNING VOLUNTARY CONFINEMENT FOR TREATMENT AND REHABILITATION OF DRUG DEPENDENTS

WHEREAS, under Section 2 of R.A. 9165, otherwise known as the Comprehensive Dangerous Drugs Act of 2002, it is a declared policy of the State to provide effective mechanisms or measures to re-integrate into society individuals who have fallen victims to drug abuse or dangerous drug dependence through sustainable programs of treatment and rehabilitation;

WHEREAS, Article VIII of R.A. 9165 provides for the program for the treatment and rehabilitation of drug dependents;

WHEREAS, there is a need to clarify and supplement the aforementioned provision of the law in order to expedite and effectively implement the declared State policy;

WHEREAS, Section 81 (b) of R.A. 9165 empowers the Dangerous Drugs Board to promulgate such rules and regulations as may be necessary to carry out the purposes of the said Act;

WHEREAS, Section 81 (q) of R.A. 9165 also empowers the Dangerous Drugs Board to issue guidelines as to the approval or disapproval of applications for voluntary treatment, rehabilitation or confinement, wherein

it shall issue the necessary guidelines, rules and regulations pertaining to the application and its enforcement;

NOW, THEREFORE, be it resolved, as it is hereby resolved, to promulgate this Regulation governing the voluntary confinement for treatment and rehabilitation of drug dependents:

SECTION 1. Definition of Terms. The following are the definitions of terms used in this Regulation:

Board – refers to the Dangerous Drugs Board;

DepEd – refers to the Department of Education;

DILG – refers to the Department of the Interior and Local Government;

DOH – refers to the Department of Health;

DOJ – refers to the Department of Justice;

Drug dependency – refers to a state of psychological and/or physical dependence on drugs arising in a person following the administration or use of the drug on a periodic and continuous basis;

Drug dependency examination - a procedure conducted by a DOH-accredited physician to evaluate the extent of drug abuse of a person and to determine

whether he/she is a drug dependent or not, which includes history taking, intake interview, determination of the criteria for drug dependency, mental and physical status, and the detection of dangerous drugs in body specimens through laboratory procedures;

Drug dependent – a person who regularly consumes or administers or allows others to administer to him dangerous drugs and has acquired a marked psychological and/or physical dependence on the drugs which has gone beyond a state of voluntary control;

DSWD – refers to the Department of Social Welfare and Development;

PAO – refers to the Public Attorney’s Office;

PDEA – refers to the Philippine Drug Enforcement Agency;

PPA – Parole and Probation Administration;

Rehabilitation - is a dynamic process directed towards the physical, emotional/psychological, vocational, social and spiritual change to prepare a drug dependent for the fullest life compatible with his capabilities and potentials and render him able to become a law abiding and productive member of the community without abusing drugs;

Treatment - is the medical service rendered to a drug dependent for the effective management of his physical and mental conditions arising from drug abuse;

Treatment and Rehabilitation Center / Center – a drug treatment and rehabilitation center accredited by the Department of Health; and

Voluntary Confinement for Treatment and Rehabilitation - a treatment and rehabilitation program as provided for in Section 54 of R. A. 9165.

SECTION 2. Application for Voluntary Confinement.

- a) Any drug dependent may by himself/herself or through his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity, may file a verified application to the Board for voluntary confinement for treatment and rehabilitation.
- b) Upon receipt of the verified application, the Board shall order that the applicant or the person in whose behalf the application is filed be examined for drug dependency by a DOH-accredited physician. The certification by the examining physician shall state, among others, whether the immediate confinement of the drug dependent is recommended, taking into consideration his/her level of drug dependency and the potential danger he/she may pose to himself/herself, his/her family and the community.
- c) Upon issuance of a certification by the examining physician that the applicant or the person in whose behalf the

application is filed is a drug dependent and his/her confinement in a treatment and rehabilitation center is recommended, the Board shall file a petition with the appropriate Court for the confinement of the said drug dependent for treatment and rehabilitation pursuant to Section 54 of R.A. 9165.

- d) If the examining physician recommends the immediate confinement of the drug dependent, the Board shall order his/her temporary confinement in a government or private treatment and rehabilitation center, at the option of the applicant, at his/her expense, pending the issuance of the commitment order of the Court. The temporary confinement of the drug dependent shall not exceed fifteen (15) days and it shall be duly alleged in the petition of the Board to be filed with the Court.
- e) Upon the petition of the Board, the Court shall order that the applicant be examined for drug dependency or shall take cognizance of the certification of the examining physician mentioned in paragraphs (b) and (c) hereof. If the examination by a DOH-accredited physician results in the issuance of a certification that the applicant is a drug dependent, he/she shall be ordered by the Court to undergo treatment and rehabilitation in a Center designated by the Board for a period of not less than six (6) months: *Provided*, That a drug dependent may be placed under the care of a DOH-accredited physician where there is no Center near or accessible to the residence of the drug dependent or where said drug dependent is below eighteen (18) years of age and is a first-time offender and non-confinement in a Center will not pose a serious danger to himself/herself, his/her family or the community.
- f) Confinement in a Center for treatment and rehabilitation shall not exceed one (1) year, after which time the Court, as well as the Board, shall be apprised by the head of the Center of

the status of said drug dependent and determine whether further confinement will be for the welfare of the drug dependent and his/her family or the community.

SECTION 3. Authorized Representatives of the Board.

- a. In connection with the implementation of the provisions of Section 2 hereof, the Executive Director of the Board is hereby authorized to act for and in behalf of the Board, and is further authorized to designate any Provincial or City Health Officer, Provincial or City Social Welfare and Development Officer, Provincial or City Local Government Operations Officer of the DILG, Provincial or City Schools Division Superintendent of the DepEd and Regional, Provincial or City Parole and Probation Officer of the PPA to perform the aforesaid delegated authority. The Representatives of the Board designated by the Executive Director shall be assisted by the Department of Justice, through the Public Attorney's Office, in the performance of their delegated authority, unless the applicant retains the services of a private counsel at his/her expense. The Executive Director and all other authorized representatives shall render a monthly report to the Board on all applications for voluntary confinement received, the corresponding actions taken, and the status thereof.
- b. The document to be issued by the Executive Director of the Board designating the Provincial or City Representatives of the Board shall state their specific duties and responsibilities, as follows:
- c. To receive verified applications for voluntary confinement for treatment and rehabilitation;
- d. To order the drug dependency examination of the applicant or the person in whose behalf the application is filed by a DOH-accredited physician;
- e. To order the temporary confinement, not exceeding fifteen (15) days, of the drug dependent;
- f. To file the petition for voluntary confinement for treatment and rehabilitation, for and in behalf of the Board, with the appropriate Court;
- g. To appear and represent the Board during the hearing of the petition with authority to make stipulation of facts;
- h. To designate the Center where the drug dependent shall be confined or the DOH-accredited physician in whose care the drug dependent shall be placed under;

- i. To receive reports from the head of the Center or DOH-accredited physician regarding the status of the drug dependent; and
- j. To furnish the Board with copies of all applications, issued orders, petitions and other pleadings, reports and other documents in connection with the exercise of their delegated authority.

SECTION 4. Opposition to Temporary Confinement. Any opposition to the temporary confinement of a drug dependent shall be in writing and verified. It shall state the grounds for the opposition and shall be filed with the Office of the Executive Director of the Board. Upon receipt of the opposition, the Executive Director shall act with all reasonable diligence and take all measures necessary to resolve the opposition. The temporary confinement shall stay, unless the opposition clearly shows that the continued confinement of the drug dependent is detrimental to his/her physical and mental well-being and that he/she does not pose a danger to himself/herself, his/her family or the community;

SECTION 5. Temporary Release and Aftercare Program.

- d. Upon certification of the Center that the drug dependent within the voluntary submission program may be temporarily released, the Court shall order his/her release on condition that said drug dependent shall report to the DOH for aftercare and follow-up treatment, including urine testing, for a period not exceeding eighteen (18) months under such terms and conditions that the Court may impose and subject to the guidelines on aftercare provided for in Board Regulation No. 1, Series of 2006.
- e. If, during the period of aftercare and follow-up, the drug dependent is certified to be rehabilitated, he/she may be discharged by the Court, subject to the provisions of Section 55 of R.A. 9165, without prejudice to the outcome of any pending case filed in court.
- f. However, should the DOH find that during the initial after-care and follow-up program of eighteen (18) months, the drug dependent requires further treatment and rehabilitation in the Center, he/she shall be recommitted to the Center for confinement. Thereafter, he/she may again be certified for temporary release and

ordered released for another aftercare and follow-up program pursuant to this Section.

SECTION 6. Probation and Community Service. A drug dependent who is discharged as rehabilitated by the Center, but does not qualify for exemption from criminal liability under Section 55 of R.A. 9165, may be charged under the provisions of the said Act, but shall be placed on probation and undergo a community service in lieu of imprisonment and/or fine in the discretion of the Court, without prejudice to the outcome of any pending case filed in Court.

SECTION 7. Filing of Charges Against a Drug Dependent Who is Not Rehabilitated after Recommitment. A drug dependent, who is not rehabilitated after the second commitment to the Center, shall, upon recommendation of the Board, be charged for violation of Section 15 of R.A. 9165 and prosecuted like any other offender. If convicted, he/she shall be credited for the period of confinement and rehabilitation in the Center in the service of his/her sentence.

SECTION 8. Escape and Recombitment.

- a) Should a drug dependent escape from the Center, he/she may submit himself/herself for recommitment within one (1) week therefrom, or his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity may, within said period, surrender him/her for recommitment, in which case the corresponding order shall be issued by the Board.
- b) Should the escapee fail to submit himself/herself or be surrendered after one (1) week, the Board shall apply to the Court for a recommitment order. Upon proof of previous commitment or his/her voluntary submission by the Board, the Court may issue an order for recommitment within one (1) week.
- c) If, subsequent to a recommitment, the drug dependent once again escapes from confinement, he/she shall be charged for violation of Section 15 of R.A. 9165 and be subjected under Section 61 of the said Act, either upon order of the Board or upon order of the Court, as the case may be.

SECTION 9. Confidentiality of Records.

a) Judicial and medical records of drug dependents under the voluntary submission program shall be confidential and shall not be used against him/her for any purpose, except to determine how many times, by himself/herself or through his/her parent, spouse, guardian or relative within the fourth degree of consanguinity or affinity, he/she voluntarily submitted himself/herself for confinement, treatment and rehabilitation or has been committed to a Center under this program.

b) However, where the drug dependent is not exempt from criminal liability under Section 55 of R.A. 9165, or when he/she is not rehabilitated under the voluntary submission program, or when he/she escapes again from confinement after recommitment, the records mentioned in the immediately preceding provisions, which are necessary for his/her conviction, may be utilized as evidence in court against him/her.

SECTION 10. Penalty Clause. Any violation of this Regulation shall be penalized under Section 32 of R.A. 9165, without prejudice to any criminal liability arising from the same act punishable under other provisions of R.A. 9165.

SECTION 11. Separability Clause. If, for any reason, any section or provision of this Regulation is declared invalid or unconstitutional, the remainder of this Regulation shall not be affected by such declaration and shall remain in force and effect.

SECTION 12. Repealing and Amending Clause. All Board regulations and other issuances inconsistent with this Regulation are hereby superseded, amended or modified accordingly.

SECTION 13. Effectivity. - This Regulation shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation and upon its registration with the Office of the National Administrative Register (ONAR), University of the Philippines Law Center.

ADOPTED and APPROVED this 6th day of June, in the year of Our Lord, 2007 in Quezon City.

(Orig. Copy Signed)

(Annex G) Excerpts of the Quezon City Ordinance creating and delineating functions of their Administrative Board and their Anti-Drug Abuse Council

CITY COUNCIL
Quezon City
65th regular Session

An Ordinance adopting a comprehensive anti-drug abuse and rehabilitation program, providing penalties for violation thereof and for other purposes.

x x x

Article III

QUEZON CITY ANTI-DRUG ABUSE COUNCIL

Section 9. The Quezon City Anti-Drug Abuse Organization – To implement the provision of this ordinance the Quezon City Anti-Drug Abuse Council (QCADAC) shall be composed of the Quezon City Anti-Drug Abuse Advisory Council (QCADAAC) and the Secretariat are hereby constituted.

Section 10. Composition – The **Quezon City Anti-Drug Abuse Board** shall be composed of the Mayor as Chairman, the Vice Mayor and the Quezon City Council Chairperson of the Committee of the Health and Social Services as Members

x x x

Section 14. ***Powers and Functions***

14.1. The Quezon City Anti-Drug Abuse Board (**QCADAB**) shall exercise the following functions:

14.1.1. Act as the policy making body and strategy formulating body in the planning and formulation of policies and programs on drug prevention, control, treatment and rehabilitation. It shall develop a comprehensive, integrated, unified and balanced drug abuse prevention program and control strategy.

14.1.2. Ensure full compliance, participation and support to the provision of the RA 9165 and see to it that the decision of the Council are faithfully carried out and implemented.

14.1.3. Received in trust, legacies, gifts and donations of real and personal properties of all kinds, to administer and dispose the same when necessary for the benefit of the Quezon City Drug Treatment and Rehabilitation Center, subject to the limitations provided for by such donation: Provided, further , that not more than twenty five percent (25%) of such donation shall be allocated for administrative purpose: Provided, finally, the deductibility of such donation shall be subjected to the provision of RA 8424as amended.

x x x

End of Excerpts

Annex G Board Regulation 2 S. 2007

BOARD REGULATION No. 2 Series of 2007

SUBJECT: PROVIDING FOR REVISED GUIDELINES IN THE CONDUCT OF BARANGAY DRUG-CLEARING OPERATIONS

WHEREAS, to accelerate the drive against illegal drugs in our communities and to promote participation of local institutions in the suppression of drug trafficking and abuse, Anti-Drug Abuse Councils were created in the province, city, municipality and barangay;

WHEREAS, Dangerous Drugs Board Resolution No. 12, Series of 2004, which provides for guidelines on clearing of drug-affected barangays, was issued empowering the Barangay Anti-Drug Abuse Councils (BADAC) to implement government strategic policies on drug prevention and control

given the political and police powers of the barangay to administer the affairs of the community;

WHEREAS, there are shortcomings in the implementation of the barangay drug-clearing operations due to the dynamics of the drug problem, confused roles and responsibilities of the agencies involved, inadequate resources, and lack of management commitment;

WHEREAS, in order to make the clearing of drug-affected barangays more effective, there is need to craft a more practical set of guidelines, considering the number of agencies involved and the complexity of said operations;

WHEREFORE, be it **RESOLVED**, as it is hereby **RESOLVED**, to prescribe the following Revised Guidelines in the Conduct of Barangay Drug-Clearing Operations:

SECTION 1. Conduct of Barangay Drug-Clearing Operations – The clearing of drug-affected barangays shall be conducted in three (3) phases, namely: (a) Pre-Operation Phase; (b) Operation Phase; and (c) Post-Operation Phase. *[See attached Activities and Flow Chart on Barangay Drug-Clearing Operations, Annex “A”.]*

A. Pre-Operation Phase – The activities to be undertaken under this stage shall commence with laying the groundwork and bases for effective and sustainable clearing operations against drug-affected barangays:

i. Activation of BADACs, BADAC Auxiliary Teams and SK in each barangay and definition and allocation of responsibilities for barangay drug-clearing activities. [OPR: CLGOO/MLGOO supported by Local PNP Unit]

ii. Capability enhancement of all stakeholders in barangay clearing operations through the conduct of basic drug prevention and control seminars, giving emphasis to collection and analysis of drug-related information and prevention education. [OPR: Local PNP Unit supported by Local Government Health Officer, Local Government Social Welfare Officer, DECS Representative, & SK Chairman]

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Bd. Reg. providing for revised guidelines in the conduct of barangay drug-clearing operations 2

iii. Organization of house clusters with designated cluster leader in each barangay. The cluster leader shall directly report to the BADAC Chairman

all essential facts of any illegal drug activities within his/her cluster, such as name(s) of pushers/users, marijuana cultivation activities, clandestine laboratory operations and other drug-related data. *[See attached format of Confidential Report to BADAC Chairman and Guide in Identifying the Organization of Local Drug Syndicates, Annexes “B & C”.]* [OPR: Local PNP Unit supported by Local Government Social Welfare Officer, Local Government Health Officer & BADAC]

iv. Submission by the BADAC Chairman of consolidated information report to CADAC/MADAC and local police unit concerned for the formulation and validation of watchlist of drug personalities in every barangay. [OPR: BADAC Chairman supported by Local PNP Unit]

v. Determination of priority drug-affected barangays, taking into consideration the number of drug users/pushers and the gravity of the drug problem in the area, for the conduct of police operations and advocacy/preventive education seminar. [OPR: Local PNP Unit supported by Local Government Health Officer, Local Government Social Welfare Officer, DECS Representative & SK Chairman]

vi. Enactment of city or municipal ordinances creating Administrative Boards to hear and act on complaints regarding public nuisances pursuant to Section 52, Article VII of Republic Act 9165. [OPR: Local Sanggunians]

vii. Establishment of Rehabilitation Referral Desk in every barangay to endorse drug dependents to the duly authorized representative of the Dangerous Drugs Board pursuant to Article VIII of RA 9165 and pertinent issuances of the Board. [OPR: Local Government Health Officer and Local Government Social Welfare Officer in coordination with the Treatment and Rehabilitation Center (TRC) Administrator]

B. Operation Phase – The objective of the operation phase is the actual implementation drug supply and demand reduction strategies in priority drug-affected barangays.

i. Arrest of identified drug users/pushers through “citizen’s arrest”, buy-bust operation, and service of Search Warrants and Warrants of Arrest. [OPR: PDEA, Local PNP & City/Mun. Prosecutor]

ii. Administrative searches (regulatory inspections) of suspected drug dens, clandestine laboratories and chemical warehouses in coordination with City/Municipal regulatory offices. [OPR: Local PNP Unit, Local Government Health Officer, Local BFP Unit & other concerned local offices]

iii. Filing of complaints for abatement of public nuisance with the City/Municipal Administrative Boards against places or premises used as sites of unlawful sale or delivery of dangerous drugs pursuant to Section 52, Article VII of RA 9165 . [OPR: Local PNP Unit, Local Government Health Officer & Local BFP Unit]

iv. Conduct of advocacy and/or preventive education seminars, giving emphasis to the role of parents and children in the anti-drug campaign, ill-effects of drugs and consequences of drug abuse. This includes the conduct of lectures on the proper procedures on rehabilitation of drug dependents pursuant to RA 9165 and pertinent DDB Regulations. [OPR: Local Government Social Welfare Officer, Local Government Health Officer, DECS Representative, BADAC & Local PNP Unit] Bd. Reg. providing for revised guidelines in the conduct of barangay drug-clearing operations 3

v. Processing of application for voluntary or compulsory rehabilitation pursuant to pertinent DDB Regulations. [*See attached application format, Annex “D”.*] [OPR: Local Government Health Officer & Local Government Social Welfare Officer]

C. Post - Operation Phase -This phase aims to maintain the “*DRUG-CLEARED*” status of the barangays after drug-clearing operations thru support activities to be funded from the general fund of the barangay.

i. Implementation of sustainable support projects such as sports, religious and social activities in the barangay. [OPR: SK Chairman supported by Church Group Representative, Local PNP Unit, Local Government Social Welfare Officer, Local Government Health Officer & Local Sanggunian]

ii. Conduct of regular lectures, programs or fora on the ill-effects of drug abuse and the implementation of measures towards drug abuse prevention and eradication. [OPR: Local PNP Unit supported by Local Government Health Officer, Local Government Social Welfare Officer, DECS Representative, SK Chairman & Local Sanggunian]

SECTION 2. Classification of Barangays - The following classification of barangays shall be observed in determining the priority areas for clearing operations:

*i. **Drug-Unaffected Barangay** - Has not ever been plagued or beset by any illegal drug activities.*

*ii. **Drug-Affected Barangay** – Existence of drug user, pusher, manufacturer, marijuana cultivator, or other drug personality, regardless of number.*

*iii. **Drug-Cleared Barangay** – Subjected to drug-clearing operations and declared free from any illegal drug activities pursuant to the parameters set forth in this Regulation.*

SECTION 3. Parameters for declaring “DRUG-CLEARED” status of drug- affected barangays.

a. Non-availability of drug supply;

b. Absence of drug transit/transshipment activity;

c. Absence of clandestine drug laboratory;

d. Absence of clandestine drug warehouse;

e. Absence of clandestine chemical warehouse;

f. Absence of marijuana cultivation site;

g. Absence of drug den, dive or resort;

h. Absence of drug pusher;

i. Absence of drug user/dependent;

j. Absence of protector/ coddler and financier;

k. Active involvement of barangay officials in anti-drug activities;

l. Active involvement of SK to help maintain the drug-liberated status of the barangay;

m. Existence of drug awareness, preventive education and information, and other related programs; and

n. Existence of voluntary and compulsory drug treatment & rehabilitation processing desk.

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SECTION 4. Certifying the “DRUG-CLEARED” status of drug-affected barangay - After conducting drug-clearing operations in affected barangays, the chief of the local police unit shall issue a certification declaring the “DRUG-CLEARED” status of the affected barangay that has

been subjected to drug-clearing operations. The certificate shall be attested by the Chairman, CADAC/MADAC. *[See attached format of Certification, Annex “E”.]*

SECTION 5. Responsibility of OPR & Support Unit/Agency – To ensure the realization of each phase of barangay drug-clearing operations, the OPR for each activity as specified under Section 1 (A), (B) & (C) of this Regulation shall initiate the performance of assigned task(s) while the support units/agencies shall give the assistance and cooperation required.

SECTION 6. Fund Support for Barangay Drug-Clearing Operations – The Local Government Units are enjoined to appropriate funds for barangay drug-clearing operations pursuant to Section 51, Article VII of RA 9165 and other existing laws, rules and regulations. The Local Police Unit concerned, being the lead unit in the implementation of these guidelines, shall submit an annual budget proposal for barangay drug-clearing operations to the LCE to form part of the executive budget of the LGUs for appropriation by the Local Sanggunian.

SECTION 7. General Supervision of Barangay Drug-Clearing Operations – For purposes of effective monitoring of the implementation of barangay drug-clearing operations, the Director General, PDEA shall be the Officer Primarily Responsible (OPR) for providing general supervision over the implementation of this Regulation pursuant to Sections 83 and 84, RA 9165. The PNP shall designate a secretariat that will collate reports and maintain periodic statistics on barangay drug-clearing operations for evaluation/analysis and continuing enhancement of processes and procedures.

SECTION 8. Reporting System – The concerned police unit in the City/Municipality shall submit monthly reports on barangay drug-clearing operations to the PNP chain of command. The Chief, PNP, thru the PNP Anti-Illegal Drugs Special Operations Task Force shall submit a consolidated report to the PDEA and DDB, copy furnished SILG. *[See attached reporting format, Annex F & G.]*

SECTION 9. Amendments – These revised guidelines may be amended and/or modified from time to time by the Board as the need arises and upon prior consultation with the stakeholders of barangay drug-clearing operations.

SECTION 10. Repealing Clause – Board Resolution No. 12, Series of 2004, is hereby repealed and all other regulations, orders, memoranda and issuances, or parts thereof, which are inconsistent with this Regulation are hereby repealed, modified or amended accordingly.

SECTION 11. Effectivity – This Regulation shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation and after its registration with the Office of the National Administrative Register (ONAR), UP Law Center, Quezon City.

ADOPTED and APPROVED this 6th day of June, in the year of Our Lord, 2007 in Quezon City.

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