



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 28-2005

TO : ALL JUDGES OF THE REGIONAL TRIAL COURTS

SUBJECT : DISMISSAL OF DRUG CASES FOR LACK OF AUTHORITY OF OPERATING PERSONNEL

It has come to the attention of this Office that drug cases are being dismissed on the ground that the operating personnel involved therein are not members of the Philippine Drug Enforcement Agency (PDEA), which is the authorized agency to conduct drug operations under R.A. 9165.

For the information and guidance of all concerned, on 02 June 2003, the PDEA has entered into a Memorandum of Agreement with the Philippine National Police (PNP) for the latter's support in the anti-drug campaign. Under the Section 4 (B) of the MOA, the PNP has the following specific roles on operational matters:

- (a) Continue to conduct general law enforcement operations against illegal drugs through supply/demand reduction programs pursuant to its LOI BANAT in conformity with the pertinent provisions of RA 9165 and in close coordination with the Barangay Anti-Drug Abuse Councils (BADACs);
- (b) Create a PNP Task Force to be headed by a ranking/qualified police officer which will assist the PDEA in its anti-illegal drugs operation down to barangay level to be operationalized during the transition period;
- (c) Ensure that all operations against illegal drugs shall be carried out in coordination with and/or under the direction and control of the PDEA;
- (d) Assist the PDEA in collecting, processing and analyzing information on illegal drug activities by submitting periodic reports to the PDEA through the PDEA Regional Offices;
- (e) Support the National Drug Intelligence System maintained by the PDEA and allow its integration with PNP databases;
- (f) Assist in intelligence operations conducted by the PDEA through the utilization of its personnel, informants and other resources on a case-to-case basis;

- (g) Assist in counter-intelligence and investigation efforts of the PDEA especially regarding PNP personnel involved in illegal drug activities;
- (h) Assist the PDEA in investigation and prosecution of drug cases;
- (i) Assist the PDEA in the examination and custody of all seized, confiscated, and surrendered dangerous drugs, precursors and essential chemicals through the PNP Crime Laboratory until such time that the PDEA has established its own forensic laboratory in every province and city as provided for in Republic Act 9165;
- (j) Assist the PDEA in the formation of a nationwide organization, which shall coordinate and supervise all activities against drug abuse in every province, city, municipality and barangay;
- (k) Assist the PDEA in coordinating with foreign counterparts through the utilization of the Police Attaches until such time that the Agency can field its own foreign liaison officers;
- (l) Support the National Anti-Drug Program of Action (NADPA) as mandated by Presidential Letter of Instruction Number 1 issued by President Gloria Macapagal-Arroyo and updated by the Dangerous Drugs Board; and
- (m) Extend other operational assistance as may be necessary or upon request of PDEA.

The provincial, city and municipal chiefs of police are concurrently the PDEA provincial, city and municipal officers, respectively, during the transition period stated in R.A. 9165 considering that the PDEA still lacks the required personnel at this phase. Based on the said MOA, the anti-drug operations of the law enforcement agencies covered by said agreement are clearly in support of and in coordination with PDEA. This is buttressed by the provisions of the Implementing Rules and Regulations of R.A. 9165, specifically Section 86 thereof, which states that other law enforcement agencies may conduct drug operations in coordination with the PDEA, to wit:

“Sec. 86. Transfer, Absorption, and Integration of All Operating Units on Illegal Drugs into the PDEA and Transitory Provisions

xxx

xxx

xxx


(a) Relationship/Coordination between PDEA and Other Agencies – 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 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, and 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."

From the foregoing, members of the PNP, NBI and other law enforcement agencies who are working in coordination with PDEA are considered as authorized PDEA personnel in anti-drug operations.

Please be guided accordingly.

28 March 2005.



PRESBITERO J. VELASCO, Jr.
Court Administrator