



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

OCA CIRCULAR NO. 17-2024

TO : ALL JUDGES, CLERKS OF COURT, AND ACTING CLERKS OF COURT/ OFFICERS-IN-CHARGE OF SECOND LEVEL COURTS

SUBJECT : RECOGNITION OF DANGEROUS DRUGS BOARD'S (DDB) BOARD REGULATION NO. 4, SERIES OF 2023 ON THE GUIDELINES FOR DRUG PROFILING

For the *information* and *guidance* of all concerned, the DDB, with the aim of supporting intelligence gathering and operational work by drug law enforcement authorities,¹ released Board Resolution No. 4, Series of 2023, dated 16 August 2023, on the *Guidelines for Drug Profiling* (appended herein as Annex "A"). Included therein is the process of requesting for drug profiling during the pendency of the trial for a criminal case,² thus:

Section 5. Request for drug profiling – The head of the operating unit of the law enforcement agency may file a letter-request and/or referral for profiling to the law enforcement forensic laboratory under the following circumstances:

- (a) After the surrender, confiscation, or seizure of dangerous drugs, but before the filing of an information with the court; or
- (b) At any time during the pendency of the trial for a criminal case on dangerous drugs through an appropriate motion before the court.
xxx (emphasis supplied)

Notwithstanding the said resolution, however, the grant or denial of the said request shall depend upon the sound judicial discretion of the concerned presiding judge. The latter shall take into consideration the sufficiency of the representative sample, pursuant to the last paragraph of Article I, Section 5 of the said Resolution.

16 January 2024


RAUL B. VILLANUEVA
Court Administrator

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¹ Article I, Section 4(g), Dangerous Drugs Board's Board Regulation No. 4, Series of 2023, dated 16 August 2023.

² *Id.*, see Section 5(b).



REPUBLIC OF THE PHILIPPINES
OFFICE OF THE PRESIDENT

DANGEROUS DRUGS BOARD

BOARD REGULATION NO. 4
Series of 2023

SUBJECT: GUIDELINES FOR DRUG PROFILING

WHEREAS, the Dangerous Drugs Board is mandated by Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 to promulgate rules and regulations on the manner of safekeeping, disposition, burning, or condemnation of any dangerous drug under its charge and custody;

WHEREAS, the Board may receive, gather and prepare detailed statistics, collect, and evaluate all information on the importation, exportation, production, manufacture, sale, stocks, and seizures of any dangerous drug;

WHEREAS, the Board shall conduct policy studies, program monitoring and evaluations, and other researches on drug prevention, control and enforcement;

WHEREAS, the Board shall provide information materials to judges and prosecutors in coordination with the Office of the Court Administrator and the Department of Justice respectively, which aim to provide them with scientific researches, current developments and programs of the Board in the campaign against the proliferation of dangerous drugs;

WHEREAS, the Board shall develop and maintain domestic as well as external networking coordination with international drug control agencies and organizations in accord and aligned with international conventions and agreements;

WHEREFORE, the Board, by virtue of its policy-making and strategy-formulating role under Section 77 of R.A. No. 9165, as amended, hereby promulgate these guidelines:

ARTICLE I
GUIDING PRINCIPLES

Section 1. Title - The hereunder specified processes and protocols shall be known as the "Guidelines for Drug Profiling."

Section 2. Objectives - The drug profiling may be used to further any, some, or all of the following ends: (a) operational necessity to identify the specific links between the two or more samples; (b) determination of the origin of the seized, confiscated and surrendered drug; (c) drug distribution patterns; (d) possible methods used for clandestine drug manufacture; and (e) enhancement of existing national and transnational intelligence networks.

Section 3. Coverage - These guidelines involve the acquisition, handling and utilization of dangerous drugs for the conduct of profiling by law enforcement forensic laboratories. The same shall cover drug profiling using a profiling sample from the bulk of dangerous drugs seized, confiscated and surrendered by law enforcement agencies.

other government offices, or private individuals before the commencement of a criminal proceeding. The guidelines shall likewise include drug profiling on the representative sample of the dangerous drug during the pendency of a trial dealing with violations of R.A. No. 9165, as amended.

Section 4. Definition of Terms - Unless a provision indicates a different meaning, the following words have the corresponding definitions:

- a. **Board** - means Dangerous Drugs Board.
- b. **Bulk of dangerous drugs** - refers to the aggregate seized, confiscated, surrendered dangerous drugs under Section 21(4) of R.A. No. 9165, as amended.
- c. **Cannabis** - commonly known as "Marijuana" or "Indian Hemp" or by its any other name; embraces every kind, class, genus, or specie of the plant *Cannabis Sativa L.* including but not limited to, *cannabis americana*, *hashish*, *bhong*, *guaza*, *churrus* and *ganjab*, and embraces every kind, class and character of marijuana, whether dried or fresh and flowering, flowering or fruiting tops, or any part or portion of the plant and seeds thereof, and all its geographic varieties, whether as a reefer, resin, extract, tincture or in any form whatsoever.
- d. **Chain of custody** - is the duly recorded authorized movements and custody of seized dangerous drugs; controlled precursors; essential chemicals; plant sources of dangerous drugs; and/or laboratory equipment at each stage, from the time of seizure/confiscation to receipt in the forensic laboratory for safekeeping, to presentation in court as evidence and/or for destruction. Such record of movements and custody of seized item shall include the identity and signature of the person who held temporary custody of the seized item; the date and time when such transfer of custody was made in the course of safekeeping and use in court as evidence; and the final disposition.
- e. **Dangerous drug** - is any substance or matter, or the plant sources thereof, that is classified as a dangerous drug by R.A. No. 9165, as amended; by international agreement; or by the Board in the exercise of its power to classify under Section 93 of R.A. No. 9165, as amended. Dangerous drugs include those listed in the Schedules annexed to the 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol; and in the Schedules annexed to the 1971 Single Convention on Psychotropic Substances.
- f. **Drug Profile Report** - pertains to the report issued by the law enforcement forensic laboratory after completing the process of profiling on the drug specimen submitted. The Drug Profile Report shall bear the following details at minimum: (i) report code; (ii) date of receipt of sample; (iii) date of completion of analysis; (iv) description of the sample; (v) weight of the sample received; (vi) place of seizure; (vii) operating unit and the names of the operatives involved in the anti-illegal drug operation as contained in the spot report; and (viii) result. The Drug Profile Report may contain additional details on concealment methods, among others.
- g. **Drug profiling** - is a laboratory process, by physical and/or chemical means, to determine the characteristics of the drug samples submitted,

including its packaging. It is a valuable tool used to support intelligence gathering and operational work by drug law enforcement authorities.

- h. **Law enforcement forensic laboratory** - is the forensic laboratory of either the Philippine Drug Enforcement Agency (PDEA); the National Bureau of Investigation (NBI); the Philippine National Police (PNP); or other law enforcement agencies that may be authorized by law or regulation to establish a forensic laboratory. All forensic laboratories engaged in the handling, processing examination and custody of dangerous drugs must obtain the appropriate license or permit from the PDEA.
- i. **Profiling Inventory Form** - refers to the form that contains the names and signatures of the members of the forensic laboratory who actually or constructively possessed the dangerous drug while in the custody or control of the laboratory. It shall also indicate the time and date in which the forensic laboratory personnel held or took charge of the dangerous drug. This shall be employed to account for all the samples used for drug profiling and other acts covered by these guidelines. The Profiling Inventory Form is a separate record from the Chain of Custody Form used to establish the chain of custody.
- j. **Profiling sample** - is the portion taken from either (i) the bulk of dangerous drugs or (ii) the representative sample of the bulk that is retained to be presented as evidence.
- k. **Representative sample** - is the portion of the dangerous drugs retained for evidentiary purposes in criminal investigation and prosecution under Section 21 of R.A. No. 9165, as amended. It is a small quantity of a substance, within the maximum thresholds provided by Section 6(c)(2) of Board Regulation No. 1 series of 2002.
- i. **Surrendered dangerous drugs** - refers to turned over dangerous drugs, by private individuals or other law enforcement agencies / government offices to the PDEA, PNP or NBI.

Section 5. Request for drug profiling - The head of the operating unit of the law enforcement agency may file a letter-request and/or referral for profiling to the law enforcement forensic laboratory under the following circumstances:

- (a) After the surrender, confiscation, or seizure of dangerous drugs, but before the filing of an Information with the court; or
- (b) At any time during the pendency of the trial for a criminal case on dangerous drugs through an appropriate motion before the court.

The request letter / referral shall be addressed to: (i) the chief or head of the laboratory if the operating unit making the request is within the same agency; or (ii) to the head of the law enforcement agency of the forensic laboratory that will conduct the profiling if the operating unit making the request is from another law enforcement agency.

The request shall contain the purpose of the drug profiling, the description of the seized, confiscated or surrendered dangerous drugs, and a copy of the chain of custody form, if any. It shall be accompanied by: (i) a certified photocopy of the employment ID of the person submitting the specimen; (ii) a certified photocopy of the spot report or any available document stating the responsible law enforcement operating unit as well as the names of the operatives involved in the anti-illegal drug operation; (iii) forensic laboratory

photographs of the seized, confiscated or surrendered dangerous drugs subject to profiling; (iv) the analysis report or qualitative report issued by a law enforcement forensic laboratory; and (v) the profiling sample.

No request for drug profiling shall be made if the subject seized, confiscated or surrendered dangerous drugs involved is below 200 grams per pack / bag / container, except for compelling and justifiable reasons, which will be determined and certified by the head of the operating unit.

Section 6. Denial of request - The receiving officer of the law enforcement forensic laboratory shall ensure that the request is sufficient in form and in substance. A non-compliant request shall not be processed. A request may be denied on the following grounds:

- a. Insufficiency of profiling sample;
- b. Insufficiency of materials and equipment at the time of the request; and
- c. Force majeure that prevents the forensic laboratory from rendering service at the time of request.

Section 7. Automatic drug profiling -The necessity of a request is dispensed with when the bulk of dangerous drugs weighs 900 grams or more per pack / bag / container in which case the law enforcement forensic laboratory shall automatically conduct the drug profiling.

Section 8. Profiling sample -The profiling sample shall be obtained from the bulk of dangerous drugs or from the representative sample as follows:

- a. For methamphetamine hydrochloride or "shabu" and other dangerous drugs in solid form, the profiling sample to be taken is not more than 5 grams per pack / bag / container. For cannabis, the profiling sample is 10 grams per pack / bag / container.
- b. When the seized or discovered dangerous drugs are 10 packs / bags / containers or below, the profiling sample shall be obtained from each of all the packs / bags / containers. When the packs / bags / containers of seized or discovered dangerous drugs are between 11 and 100, the profiling sample shall be obtained from each of the 10 randomly chosen packs / bags / containers. When the seized or discovered dangerous drugs are more than 100 packs / bags / containers (i.e., $N \geq 100$), the profiling sample shall be obtained from each of the \sqrt{N} randomly chosen packs / bags / containers. In case \sqrt{N} is not a whole number, the value of \sqrt{N} is rounded up.

Section 9. Profiling Procedure - The conduct of drug profiling shall be in accordance with scientifically accepted methods from reputable international or foreign institutions such as, but not limited to, the United Nations Office on Drugs and Crime appended as an integral part of this Regulation.

The drug profiling shall be completed within sixty (60) days from the date of the turnover of the profiling sample which, for compelling and justifiable reasons, may be extended for an additional fifteen (15) days to complete the profiling process.

Section 10. Disposal of the profiling sample - The destruction and disposal of the profiling sample shall be done in accordance with the existing rules and procedures as provided under the law, DDB Regulations, and Circulars issued by the Supreme Court.

ARTICLE II DRUG PROFILING DATABASE

Section 11. Database - A centralized database of Drug Profile Reports and data sources for drug profiling shall be jointly managed and maintained by the Board and the PDEA. All Drug Profile Reports, regardless of the laboratory of origin, shall be submitted or entered into this database.

Section 12. Request for access - The head of the operating unit of a law enforcement agency who wishes access to information contained in the database shall submit a written request to the PDEA stating (a) the name and contact information of the requesting party; (b) reasonable description of the information requested; and (c) the purpose of the request for information. The requesting party shall attach therewith a valid proof of his/her identification. The request shall be processed within the period provided by law.

Section 13. Denial of request for access - The request may be denied as an exception to the Freedom of Information under Executive Order No. 2 Series of 2016, as recognized by the Constitution, statutes, administrative rules and regulations.

ARTICLE III FINAL PROVISIONS

Section 14. Penal Provision - Any person who violates any provision of these guidelines may be criminally prosecuted under Article II of R.A. No. 9165, as amended, the Revised Penal Code and other special penal laws without prejudice to any administrative liability under the existing disciplinary mechanisms of the concerned agency as well as the rules of the Civil Service Commission.

Section 15. Transitory Provision - The PNP and NBI shall establish and maintain their own drug profiling laboratory. In the interim, the main forensic laboratory for drug profiling shall be the Laboratory Service of the Philippine Drug Enforcement Agency. All law enforcement forensic laboratories covered by these guidelines shall endeavor to enhance their existing technological capabilities and be attuned with any future development and advancement in drug profiling techniques and methodologies.

The request and/or automatic drug profiling of seized or discovered dangerous drugs which are already under the custody of the courts upon the effectivity of this regulation shall be made upon the approval of the court concerned after the filing of the appropriate motion. Section 5(a) shall govern the request for drug profiling of seized or discovered dangerous drugs under the custody of law enforcement forensic laboratory upon the effectivity of this regulation.

Until the suitable equipment is available, to adequately profile a particular dangerous drug, it is permitted to export the profiling sample of the seized, confiscated or surrendered dangerous drug overseas, preferably the nearest foreign law enforcement laboratory or agency that can accommodate the conduct of drug profiling subject to the existing regulatory requirements of the PDEA and the foreign counterpart.

Section 16. Funding - The initial funding for the implementation of these guidelines shall be sourced from the current budget of the Board. Funding for the implementation in the succeeding fiscal years shall be proposed by the concerned agencies for inclusion in the national expenditure program of the Department of Budget and Management and for consideration of Congress.

Section 17. Repeals and Amendments - All issuances, or provisions thereof, inconsistent with these guidelines are repealed accordingly. Specifically, Sections 3 to 8 of DDB Regulation No. 1 series of 2002 entitled "Guidelines on the Custody and Disposition of Seized Dangerous Drugs, Controlled Precursors and Essential Chemicals, and Laboratory Equipment" are deemed modified or amended.

Section 18. Separability Clause - When any of the provisions in these guidelines is declared invalid, the remaining provisions shall continue to be in full force and effect.

Section 19. Effectivity - These guidelines 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.

APPROVED and ADOPTED this 16th day of August in the year of Our Lord, 2023 in Quezon City.


Secretary **CATALINO S. CUY**
Chairman

Attested by:


Undersecretary **EARL P. SAAVEDRA, CESO I**
Board Secretary / Executive Director V