



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

**OCA CIRCULAR NO. 63-2024**

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

**SUBJECT: DEPARTMENT OF JUSTICE (DOJ) CIRCULAR NO. 003 DATED 14 FEBRUARY 2024 ON *CLARIFICATORY GUIDELINES ON PLEA BARGAINING FOR REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE "COMPREHENSIVE DRUGS ACT OF 2002"***

For the *information and guidance* of all concerned, appended herein as **Annex "A"** is the DOJ's Department Circular No. 003 (D.C. 003) dated 14 February 2024 issued in furtherance with the Court's ruling in *Manuel Lopez Bason v. People of the Philippines*<sup>1</sup> and in line with the Department's adherence to restorative justice.

In the subject department circular, the DOJ directed all trial prosecutors to strictly adhere to the following guidelines:

1. The trial prosecutor shall forthwith object to the proposal for plea bargaining where the offense charged do not allow plea bargaining as provided under D.C. 18. In such cases, the prosecutor will proceed with the trial and prosecution of the accused xxx.
2. Proposals for plea bargaining may be considered by the trial prosecutor during arraignment, pre-trial, trial on the merits, or after the prosecution has rested its case, following the hereto procedures:
  - a. The proposal for plea bargaining shall be initiated by a written motion filed by the accused in court.
  - b. The trial prosecutor, upon receipt of a proposal for plea bargaining, shall make a careful determination whether **(a) the accused is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times; or (b) the evidence of guilt is strong.**
  - c. If any of the foregoing condition is present, the trial prosecutor shall interpose his or her vigorous objection in open court and manifest that the State does not give its consent to the plea bargaining on the ground that the accused is disqualified and/or the evidence is sufficient to convict the accused of the crime charged.

In the absence of any ground for objection, the trial prosecutor shall request a reasonable time to submit a written memorandum to the City Prosecutor, Provincial Prosecutor, or approving prosecutor concerned justifying why the proposal for plea bargaining should be accepted. No trial prosecutor shall enter into plea bargaining without the prior written authority or approval of the City Prosecutor, Provincial Prosecutor, or any prosecutor

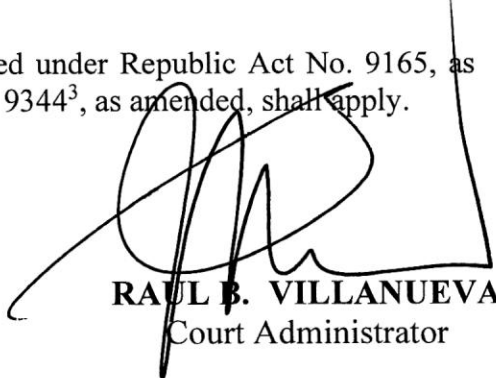
<sup>1</sup> G.R. No. 262664: Released on 25 January 2024 (subject of OCA Circular No. 31-2024 dated 05 February 2024).

with delegated authority to approve plea bargain other than the trial prosecutor, and furnish the court a copy thereof to form part of the records.

- d. The trial prosecutor is reminded that drug dependency assessment is not a condition *sine qua non* for him or her to give his or her consent to the proposal for plea bargaining.
- e. The trial prosecutor may consult with, but need not obtain the consent of the Philippine Drug Enforcement Agency (PDEA), Philippine National Police (PNP) or National Bureau of Investigation (NBI) in deciding to accept the proposal for plea bargaining.
- f. If the objection by the prosecution is overruled by the court, the trial prosecutor shall move for reconsideration anchored on the parties' failure to arrive at a mutually satisfactory disposition of the case that may be submitted for the trial court's approval. The trial prosecutor should insist that the acceptance of an offer to plead guilty is not a demandable right, which is a condition precedent to a valid plea of guilty following the doctrine laid down in *People of the Philippines v. Erwin C. Reafor*.<sup>2</sup>
- g. Where the accused had already previously availed of plea bargain and probation for violations of Republic Act No. 9165, as amended, the trial prosecutor should vigorously object to any proposal from the accused for plea bargain in any subsequent case for violation of Republic Act No. 9165, as amended.

In any cases where a minor is charged under Republic Act No. 9165, as amended, the provisions of Republic Act No. 9344<sup>3</sup>, as amended, shall apply.

06 March 2024



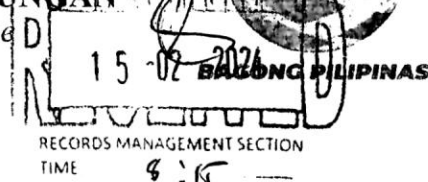
**RAUL B. VILLANUEVA**  
Court Administrator

<sup>2</sup> G.R. No. 247575, 16 November 2020.

<sup>3</sup> Juvenile Justice and Welfare Act of 2006.



Republika ng Pilipinas DEPARTMENT OF JUSTICE  
 KAGAWARAN NG KATARUNGAN  
 Department of Justice  
 Manila



DEPARTMENT CIRCULAR NO. **003**

TO: ALL PROSECUTORS

RE: CLARIFICATORY GUIDELINES ON PLEA BARGAINING FOR  
 REPUBLIC ACT NO. 9165, OTHERWISE KNOWN AS THE  
 "COMPREHENSIVE DANGEROUS DRUGS ACT OF 2002"

DATED: FEB 14 2024

WHEREAS, in the decision of the Supreme Court En Banc in *Manuel L. Bason v. People of the Philippines*<sup>1</sup>, dated 03 October 2023, which ruled, in part, viz:

*"In approving or denying plea bargaining proposals, trial courts have the solemn duty and ultimate responsibility to determine the applicant's entitlement thereto based on an **evaluation of the latter's character or an assessment of the strength or weakness of the prosecution's evidence.** The Court promulgated A.M. No. 18-03-16-SC to provide trial courts with the framework to ascertain whether the proposal to a lesser offense is aligned therein.*

*After approval of a plea bargaining proposal, trial courts shall then require the conduct of a drug dependency assessment of the accused, not as a condition sine qua non for the plea bargaining but instead to ensure that the applicant undergoes treatment and rehabilitation or counselling, if needed." (Emphasis supplied)*

WHEREAS, in furtherance thereof and in line with the Department's adherence to restorative justice, there is an imperative need to revisit and clarify the *Revised Amended Guidelines on Plea Bargaining for Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002"*, issued under Department Circular No. 018 (D.C. 18) dated 10 May 2022;

WHEREAS, the consistent and regular adherence to the plea bargaining processes is the cornerstone of an efficient, predictable and expeditious administration of justice;

NOW, THEREFORE, with the foregoing, all trial prosecutors are directed and ordered to strictly adhere to the following guidelines:

1. The trial prosecutor shall forthwith object to the proposal for plea bargaining where the offense charged do not allow plea bargaining as provided under D.C. 18. In such cases, the trial prosecutor will proceed with the trial and prosecution of the accused. The allowable or acceptable plea bargain proposals adopted in D.C. 18 are hereby updated as follows:

<sup>1</sup> G.R. No. 262664; Released on 25 January 2024.

Offense Charged in Information		Acceptable Plea Bargain	
Section	Penalty	Section	Penalty
Section 4  Importation of Dangerous Drugs	Life Imprisonment to Death & Fine from ₱500,000 to ₱10,000,000	No Plea Bargain Allowed	
Section 4, par. 2  Importation of Controlled Precursors and Essential Chemicals	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 4, par. 3  Importation through Use of Diplomatic Passport etc.	Maximum Penalty	No Plea Bargain Allowed	
Section 4, par. 4  Acting as Financier in Importation	Maximum Penalty	No Plea Bargain Allowed	
Section 4, par. 5  Acting as Protector/Coddler	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 5  Sale, Trading, etc. of Dangerous Drugs (Methamphetamine hydrochloride or shabu only)	Life Imprisonment to Death and Fine from ₱500,000 to ₱10,000,000	Section 12  Possession of Equipment, Apparatus and Other Paraphernalia for Dangerous Drugs  (Where quantity of shabu is .01 gram to .99 grams; marijuana is .01 gram to 9.99 grams)	6 months and 1 day to 4 years and Fine from ₱10,000 to ₱50,000

		No Plea Bargain Allowed (Where quantity of shabu is 1.00 gram and above; marijuana is 10.00 grams and above)	
Section 5, par. 2 Sale, Trading, etc. of Controlled Precursor and Essential Chemicals	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 5, par. 3 Sale, Trading, etc. takes place within 100 meters from a school	Maximum Penalty	No Plea Bargain Allowed	
Section 5, par. 4 Drug pushers who use minors as couriers, etc.	Maximum Penalty	No Plea Bargain Allowed	
Section 5, par. 5 When the victim is a minor causing the latter's death	Maximum Penalty	No Plea Bargain Allowed	
Section 5, par. 6 Acting as Financier	Maximum Penalty	No Plea Bargain Allowed	
Section 5, par. 7 Acting as Protector/Coddler	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 6, par. 1 Maintenance of Den, Dive or Resort where dangerous drugs	Life Imprisonment to Death and Fine from ₱500,000 to ₱10,000,000	No Plea Bargain Allowed	

are used or sold in any form			
Section 6, par. 2  Maintenance of Den, Dive or Resort where Controlled Precursors and Essential Chemicals are used or sold	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 6, par. 3  Where dangerous drug is sold or delivered to a minor and is allowed to use it in such place	Maximum Penalty	No Plea Bargain Allowed	
Section 6, par. 4  When the use of dangerous drugs in such place causes the death of a person	Death and Fine from ₱1,000,000 to ₱10,000,000 imposed on owner, maintainer and/or operator	No Plea Bargain Allowed	
Section 6, par. 6  Acting as Organizer, Manager, or Financier of such place	Maximum Penalty	No Plea Bargain Allowed	
Section 6, par. 7  Acting as Protector/Coddler	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 7  Employees or Visitors of Den, Dive or Resort (Only if the accused is charged as a visitor of the	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	Section 12  Possession of Equipment, Apparatus & Other Paraphernalia for Dangerous Drugs	6 months and 1 day to 4 years and Fine from ₱10,000 to ₱50,000

drug den and there is/are no other accused charged with violation of Section 6 (Maintenance of Den, Drive or Resort)			
Section 8, par. 1  Manufacture of Dangerous Drugs	Life Imprisonment to Death and Fine from ₱500,000 to ₱10,000,000	No Plea Bargain Allowed	
Section 8, par. 2  Manufacture of Controlled Precursors and Essential Chemicals	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 8, par. 4  Acting as Financier	Maximum Penalty	No Plea Bargain Allowed	
Section 8, par. 5  Acting as Protector/Coddler	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 9  Illegal Chemical Diversion of Controlled Precursors and Essential Chemicals	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 10, par. 1  Manufacture or Delivery of Equipment, Instruments, Apparatus and Other Paraphernalia for Dangerous Drugs and/or Controlled Precursors and	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	

Essential Chemicals (used to plant, propagate, cultivate, grow, harvest, etc. any dangerous drug, controlled precursor & essential chemical)			
Section 10, par. 2  If paraphernalia manufactured or delivered will be used to introduce a dangerous drug in the human body	6 months and 1 day to 4 years and Fine from ₱10,000 to ₱50,000	No Plea Bargain Allowed	
Section 10, par 3  If a minor is used to deliver such equipment, instrument, paraphernalia etc.	Maximum Penalty	No Plea Bargain Allowed	
Section 11  Possession of Dangerous Drugs (Where quantity of shabu is 50 grams or more; opium, morphine, heroin, cocaine and marijuana resin is 10 grams or more; marijuana is 500 grams or more)	Life Imprisonment to Death and Fine from ₱500,000 to ₱10,000,000	No Plea Bargain Allowed	
Section 11, par. 1  Possession of Dangerous Drugs (Where quantity of shabu, opium, morphine, heroin, cocaine is 10 grams and above; marijuana is 500 grams and above)	Life Imprisonment to Death and Fine from ₱400,000 to ₱500,000	No Plea Bargain Allowed	



Section 11, par. 2  Possession of Dangerous Drugs (Where quantity of shabu, opium, morphine, heroin, cocaine, is 5 grams or more but not exceeding 10 grams; marijuana is 300 grams or more but not exceeding 500 grams)	20 years and 1 day to Life Imprisonment and Fine from ₱400,000 to ₱500,000	Section 11, par. 3  Possession of Dangerous Drugs (Where quantity of shabu, opium, morphine, heroin, cocaine, is 5 grams to 9.99 grams; marijuana is 300 grams to 499 grams)	12 years and 1 day to 20 years and a Fine from ₱300,000 to ₱400,000
Section 11, par. 3  Possession of Dangerous Drugs (Where quantity of "shabu", opium, morphine, heroin, cocaine, is less than 5 grams; marijuana is less than 300 grams)	12 years & 1 day to 20 years and Fine from ₱300,000 to ₱400,000	Section 12  Possession of Equipment, Apparatus & Other Paraphernalia for Dangerous Drugs (Where quantity of "shabu", opium, morphine, heroin, cocaine, is .01 gram to 4.99 grams; marijuana is .01 gram to 299.99 grams)	6 months and 1 day to 4 years and Fine from ₱10,000 to ₱50,000
Section 12  Possession of Equipment, Apparatus & Other Paraphernalia for Dangerous Drugs	6 months and 1 day to 4 years and Fine from ₱10,000 to ₱50,000	Section 15  Use of Dangerous Drugs	6 months Treatment and Rehabilitation
Section 13  Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings	Maximum Penalties provided under Section 11 regardless of quantity or purity	Section 12  Possession of Equipment, Apparatus & Other Paraphernalia for Dangerous Drugs (Where quantity of dangerous drug is .01 gram to 4.99 grams; marijuana is .01 gram to 299 grams)	6 months and 1 day to 4 years and Fine from ₱10,000 to ₱50,000

		<p>Section 11, par. 3</p> <p>Possession of Dangerous Drugs</p> <p>(Where quantity of dangerous drug is 5 grams to 9.99 grams; marijuana is 300 grams to 499 grams)</p> <p>No Plea Bargain Allowed</p> <p>(Where quantity of dangerous drug is 10 grams and above; marijuana is 500 grams and above)</p>	<p>12 years and 1 day to 20 years and Fine from ₱300,000 to ₱400,000</p>
<p>Section 14</p> <p>Possession of Equipment, Apparatus and Other Paraphernalia During Parties, Social Gatherings or Meetings</p>	<p>Maximum Penalty provided under Section 12</p>	<p>Section 15</p> <p>Use of Dangerous Drugs</p>	<p>6 months Treatment and Rehabilitation</p>
<p>Section 15</p> <p>Use of Dangerous Drugs</p>	<p>6 months Rehabilitation (for 1<sup>st</sup> offense)</p> <p>6 years and 1 day to 12 years and Fine from ₱50,000 to ₱200,000 (for 2<sup>nd</sup> offense)</p>	<p>No Plea Bargain Allowed</p>	
<p>Section 16, par. 1</p> <p>Cultivating or Culture of Plants Classified as Dangerous Drugs or are sources thereof</p>	<p>Life Imprisonment to Death and Fine from ₱500,000 to ₱10,000,000</p>	<p>No Plea Bargain Allowed</p>	

Section 16, par. 3  Acting as Financier	Maximum Penalty	No Plea Bargain Allowed	
Section 16, par. 4  Acting as Protector/Coddler	12 years & 1 day to 20 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 17  Maintenance and Keeping of Original Records of Transactions on Dangerous Drugs and/or Controlled Precursors and Essential Chemicals	1 year and 1 day to 6 years and Fine from ₱10,000 to ₱50,000	No Plea Bargain Allowed	
Section 18  Unnecessary Prescription of Dangerous Drugs	12 years and 1 day to 20 years and Fine from ₱100,000 to ₱500,000, with revocation of license of practitioner	No Plea Bargain Allowed	
Section 19  Unlawful Prescription of Dangerous Drugs	Life Imprisonment to Death and Fine from ₱500,000 to ₱10,000,000	No Plea Bargain Allowed	
Section 26  Attempt or Conspiracy	Penalty Provided in Previous Sections for Importation, Sale, maintenance of Den, Manufacture and Cultivation of Dangerous Drugs	No Plea Bargain Allowed	
Section 27  Criminal Liability of Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for Confiscated	Life Imprisonment to Death and Fine from ₱500,000 to ₱10,000,000	No Plea Bargain Allowed	

Dangerous Drugs, etc.			
Section 29  Planting of Evidence	Death	No Plea Bargain Allowed	
Section 32  Liability of Person Violating any Regulation issued by the Dangerous Drugs Board	6 months and 1 day to 4 years and Fine from ₱10,000 to ₱50,000	No Plea Bargain Allowed	
Section 37  Issuance of False or Fraudulent Drug Test Results	6 years and 1 day to 12 years and Fine from ₱100,000 to ₱500,000	No Plea Bargain Allowed	
Section 72  Liability of Person who violates the Confidentiality of Records (of drug dependent under voluntary submission of program)	6 months and 1 day to 6 years and Fine from ₱1,000 to ₱6,000	No Plea Bargain Allowed	
Section 91, par. 1  Responsibility and Liability of Law Enforcement Agencies and other Government Officials and Employees in Testifying as Prosecution Witnesses in Dangerous Drugs Cases	12 years and 1 day to 20 years and Fine of not less than ₱500,000	Section 91, par. 2  Liability of Immediate Superior if he failed to exert reasonable effort to present witness to court	2 months and 1 day but not more than 6 years and a Fine of not less than ₱10,000 but not more than ₱50,000
Section 91, par. 2  Liability of Immediate	2 months and 1 day but not more than 6 years and Fine of not less than ₱10,000 but	No Plea Bargain Allowed	

Superior if he failed to exert reasonable effort to present witness to court	not more than to ₱50,000		
Section 91, par. 3  Failure of Immediate Superior to Inform Court of Transfer or Re-Assignment of Accused law Enforcement Agent	2 months and 1 day but not more than 6 years and Fine of not less than ₱10,000 but not more than ₱50,000	No Plea Bargain Allowed	
Section 92  Delay and Bungling in the Prosecution of Drug Cases	12 years and 1 day to 20 years without prejudice to further prosecution under the RPC	No Plea Bargain Allowed	

2. Proposals for plea bargaining may be considered by the trial prosecutor during arraignment, pre-trial, trial on the merits, or after the prosecution has rested its case, following the hereto procedures:

- a. The proposal for plea bargaining shall be initiated by a written motion filed by the accused in court.
- b. The trial prosecutor, upon receipt of a proposal for plea bargaining, shall make a careful determination whether **(a) the accused is a recidivist, habitual offender, known in the community as a drug addict and a troublemaker, has undergone rehabilitation but had a relapse, or has been charged many times; or (b) the evidence of guilt is strong.**
- c. If any of the foregoing condition is present, the trial prosecutor shall interpose his or her vigorous objection in open court and manifest that the State does not give its consent to the plea bargaining on the ground that the accused is disqualified and/or the evidence is sufficient to convict the accused of the crime charged.

In the absence of any ground for objection, the trial prosecutor shall request a reasonable time to submit a written memorandum to the City Prosecutor, Provincial Prosecutor, or approving prosecutor concerned justifying why the proposal for plea bargaining should be accepted. No trial prosecutor shall enter into plea bargaining without the prior written authority or approval of the City Prosecutor, Provincial Prosecutor, or any prosecutor with delegated authority to approve plea bargain other than the trial prosecutor, and furnish the court a copy thereof to form part of the records.

- d. The trial prosecutor is reminded that drug dependency assessment is not a condition *sine qua non* for him or her to give his or her consent to the proposal for plea bargaining.
- e. The trial prosecutor may consult with, but need not obtain the consent of, the Philippine Drug Enforcement Agency (PDEA), Philippine National Police (PNP) or National Bureau of Investigation (NBI) in deciding to accept the proposal for plea bargaining.
- f. If the objection by the prosecution is overruled by the court, the trial prosecutor shall move for reconsideration anchored on the parties' failure to arrive at a mutually satisfactory disposition of the case that may be submitted for the trial court's approval. The trial prosecutor should insist that the acceptance of an offer to plead guilty is not a demandable right, and it depends on the consent of the offended party and the prosecutor, which is a condition precedent to a valid plea of guilty following the doctrine laid down in *People of the Philippines v. Erwin C. Reafor*.<sup>2</sup>
- g. Where the accused had already previously availed of plea bargain and probation for violations of Republic Act No. 9165, as amended, the trial prosecutor should vigorously object to any proposal from the accused for plea bargain in any subsequent case for violation of Republic Act No. 9165, as amended.

In cases where a minor is charged under Republic Act No. 9165, as amended, the provisions of Republic Act No. 9344<sup>3</sup>, as amended, shall apply.

For purposes of monitoring compliance with these guidelines, all prosecution offices shall submit to the Department quarterly reports of plea bargains approved by the court indicating therein whether the approval was with the consent or over the objection of the prosecution.

This Department Circular amends Department Circular No. 018 dated 10 May 2022 and shall serve as an exception to Department Circular No. 55 dated 11 December 1990. It shall apply only to cases covered by Republic Act No. 9165, as amended.

This Department Circular shall take immediate effect until revoked.

For strict compliance.

**JESUS CRISPIN C. REMULLA**  
Secretary

Department of Justice  
CN: O202402114



<sup>2</sup> G.R. No. 247575, 16 November 2020.

<sup>3</sup> Juvenile Justice and Welfare Act of 2006.