

Administrative Order No. 13

GUIDELINES IN THE HANDLING AND PROSECUTION OF OMBUDSMAN CASES FILED WITH OR PENDING BEFORE REGULAR COURTS PURSUANT TO THE PROVISIONS OF R.A. 7975

Pursuant to the Authority vested in the Office of the Ombudsman under Section 18, 23 and 27 of Republic Act 6670, otherwise known as the Ombudsman Act of 1989, the following guidelines are hereby promulgated:

A. Reinvestigation

1. All Petitions/Motions for reinvestigation of cases already filed in court shall not be entertained and the same shall, instead, be addressed to the court trying the case.

2. Where the trial court orders/directs the conduct of reinvestigation proceedings, the same shall be undertaken by the prosecutor assigned to prosecute the case in the court and shall, as far as practicable, be limited to the reception and evaluation of such evidence as the accused may deem fit to present for the purpose of overturning the finding of probable cause arrived at during the inquest or preliminary investigation proceedings; without prejudice, however, to the right of the complainant/offended party to be notified of such proceedings and to submit, in appropriate cases, proof in contravention of the evidence adduced by the accused.

3. Resolutions of the reinvestigating prosecutor as well as review resolutions of the city/ provincial prosecutor recommending:

- a) Dismissal of the case; or
- b) Withdrawal of the complaint or information filed in court; or
- c) Substantial amendments to the complaint or information such as, but not limited to:
 - 1) charging an offense different from or lesser than that originally charged; or
 - 2) downgrading the degree of participation of an accused;
 - 3) excluding an accused from the original complaint or information; or
 - 4) including other persons as additional accused

shall be subject to the approval of the Ombudsman or his Deputies, as the case may be, and no motion praying for such dismissal, withdrawal or amendment of the original complaint or information shall be filed in court without the prior written approval of the Ombudsman or his Deputies.

4. Resolution of the reinvestigating prosecutor recommending the remand of the case to the trial court for further proceedings under the original complaint or information, concurred in or approved by the city / provincial prosecutor, as well as resolution of city / provincial prosecutors disapproving recommendations of their assistants for the dismissal,

withdrawal or amendment of the original complaint or information, need not be submitted to the Office of the Ombudsman for further action.

B. Plea Bargaining

1. City / Provincial Prosecutors are authorized to approve plea bargaining agreements entered into, concurred in or consented to by the prosecutors under them in all cases where the penalty to be imposed on the accused as a result of the plea bargaining is lower by not more than one degree than that prescribed by law for the offense charged in the complaint or information.

2. No plea bargaining agreement entailing:

- a) *The imposition of a penalty lower by more than one degree from that prescribed by law for the offense charged in the complaint or information; or*
- b) *The imposition of a penalty different in nature from that prescribed by law for the offense charged in the complaint or information; or*
- c) *The dismissal of other charges filed or pending in court against the same accused.*

shall be entered into, concurred in or consented to by the city / provincial prosecutors and their assistants without the prior written approval of the Ombudsman or his Deputies.

C. Procedural Matters

1. In cases falling under the provision of paragraph A-3 hereinabove, the following documents shall be transmitted to the Office of the Ombudsman or his Deputies.

- a) *The records of the reinvestigation proceedings;*
- b) *The original and a copy resolution/recommendation of the reinvestigating prosecutor;*
- c) *The original and a copy of the motion for dismissal, withdrawal or amendment, as the case may be, of the original complaint or information, duly signed by the reinvestigating prosecutor.*

2. In cases falling under the provisions of paragraph B-2 hereinabove, the following documents shall be transmitted to the Office of the Ombudsman or his Deputies.

- a) *The written offer of the accused to enter into a plea bargaining agreement.*
- b) *The recommendation of the trial prosecutor stating, among others, the reason(s) justifying the acceptance of the offer of the accused;*
- c) *The original and a copy of the manifestation of consent to the plea bargaining offer of the accused, duly signed by the trial prosecutor and the offended party and the latter's counsel, if any.*

D. Motions For Suspension

1. Pursuant to the provisions of Sec. 13 of RA 3019, as amended, otherwise known as the "Anti-graft and Corrupt Practices Act", any incumbent public officer against whom any valid criminal information has been filed in court for:

- a) Violations of RA 3019, as amended;
- b) Offenses defined and penalized under Title 7, Book II of the Revised Penal Code;
- c) Any offense involving fraud upon government or public funds or property penalized under the Revised Penal Code and other special laws such as, but not limited to, falsification and bribery or malversation,

whether as a simple or as a complex offense and in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office.

2. For purposes of complying with the foregoing provision of law, trial prosecutors shall, immediately upon filing of the information, filed with the trial court the corresponding Motion for Suspension of the accused from office.

E. Repealing Clause

All previous Orders, Rules and Procedures inconsistent with this Administrative Order are repealed or modified accordingly.

F. Effectivity

This administrative Order shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

For strict compliance.

Manila, Philippines, 07 February 1996.

(sgd) **ANIANO A. DESIERTO**
Ombudsman