



**Republic of the Philippines**

**Department of Justice**

**Commission on Human Rights**

**JOINT ADMINISTRATIVE CIRCULAR NO. 1, Series of 2021**

**SUBJECT : UNIFORM RULES ON REDRESS MECHANISMS FOR PERSONS LIVING WITH HIV AS MANDATED BY REPUBLIC ACT NO. 11166 OTHERWISE KNOWN AS THE "PHILIPPINE HIV AND AIDS POLICY ACT"**

**WHEREAS**, Republic Act No. (RA) 11166, otherwise known as the "Philippine HIV and AIDS Policy Act," was signed into law by the President Rodrigo Roa Duterte on 20 December 2018 and the same took effect on 25 January 2019;

**WHEREAS**, Section 2 of RA 11166 declares that Human Immunodeficiency Virus (HIV) and Acquired Immune Deficiency Syndrome (AIDS) are public health concerns that have wide-ranging social, political, and economic repercussion, and that responding to the country's HIV and AIDS situation is imbued with public interest and as such, the response should be anchored on the principles of human rights upholding human dignity;

**WHEREAS**, Section 2 of RA 11166 also declares that the State shall respect, protect, and promote human rights as the cornerstones of an effective response to the country's HIV and AIDS situation;

**WHEREAS**, based on the Roadmap to Address Rights-Based Barriers to Accessing HIV and AIDS Services approved by the Philippine National AIDS Council (PNAC) on 8 July 2021, lack of knowledge on available redress mechanisms, fear of stigma and discrimination once identified as a Person Living with HIV (PLHIV) in the course of seeking redress, high cost and lack of legal representations, are among the major barriers in accessing redress services;

**WHEREAS**, there is a need to protect the rights of PLHIV, key affected populations (KAP) and the vulnerable groups and to eliminate the climate of stigma and discrimination that surrounds the HIV and AIDS situation in the country;

**WHEREFORE**, pursuant to the mandated authority of the Department of Justice (DOJ) and the Commission on Human Rights (CHR) under Section 10 of RA 11166, otherwise known as the "**Philippine HIV and AIDS Policy Act**," which directed them

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to take the lead in developing redress mechanisms for PLHIV to ensure that their civil, political, economic and social rights are protected, and upon the concurrence of the PNAC Human Rights Committee during its meeting on 23 November 2021, the following guidelines are hereby prescribed, promulgated and imposed:

## RULE I GENERAL PROVISIONS

**Section 1. Objectives.** This Joint Administrative Circular (Circular) is aimed at protecting the PLHIV, KAP, and other vulnerable groups herein defined from all forms of stigma and discrimination and to ensure that their civil, political, economic, and social rights are protected. This Circular shall guide the PLHIV, KAP, and other vulnerable groups in seeking redress in case of any violation of their rights under RA 11166 and other related laws and issuances, as well as the other government agencies in the development and implementation of their own HIV and AIDS Workplace Policy.

More particularly, these Guidelines seek to identify and delineate the roles and responsibilities of the lead agencies, other government offices, as well as relevant committees of the PNAC.

**Section 2. Coverage.** This Circular shall cover the following:

- a. DOJ proper, National Prosecution Service (NPS) nationwide and other attached agencies of the DOJ herein identified;
- b. CHR Central Office and all its regional, provincial, and sub-offices nationwide; and
- c. PNAC Human Rights Committee.

**Section 3. Definition of Terms.** For purposes of this Circular, the following terms shall be defined as follows:

- a. **Acquired Immune Deficiency Syndrome (AIDS)** – refers to a health condition where there is a deficiency of immune system that stems from infection with the Human Immunodeficiency Virus or HIV, making an individual susceptible to opportunistic infections.
- b. **Civil Society Organizations (CSOs)** - refer to groups of non-governmental and non-commercial individuals or legal entities that are engaged in non-coerced collective action around shared interests, purpose and values as defined in RA 11166.
- c. **DOJ Action Center (DOJAC)** – refers to the office under the Office of the Secretary of Justice with mandate to provide various legal assistance, counselling, referral and mediation to the public, especially those belonging to the marginalized sector.
- d. **Human Immunodeficiency Virus (HIV)** – refers to the virus, of the type called retrovirus, which infects cells of the human immune system, and destroys or impairs the cells' function. Infection with HIV results in the progressive deterioration of the immune system leading to immune deficiency.

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- e. **Key Affected Population (KAP)** – refers to those groups or persons at higher risk of HIV exposure, or populations whose behavior make them likely to be exposed to HIV or to transmit the virus;
- f. **Mediation** – refers to the voluntary process that facilitates communication and negotiation, and assists the parties to a pending PLHIV Case in reaching a voluntary agreement regarding the subject of the said case.
- g. **Meritorious Case** – A case which, after an assessment of the law and evidence on hand, discloses that the legal services of the office, agency or committee will assist, be in aid of, or be in the furtherance of justice, taking into consideration the interests of the parties and those of the society. *A contrario*, a case is deemed unmeritorious, if it appears that it has no legal basis or chance of success, is intended merely to harass or injure the other party, or promotes oppression or wrong doing.
- h. **Person Living with HIV (PLHIV)** – refers to any individual diagnosed to be infected with HIV.
- i. **Philippine National AIDS Council (PNAC)** – refers to the central advisory, planning and policy-making body for the comprehensive and integrated HIV/AIDS prevention and control program in the Philippines. It is composed of members from various government agencies and CSOs.
- j. **PNAC Human Rights Committee** – refers to the committee of PNAC whose primary mandate is to provide assistance to PLHIV seeking redress and to eliminate barriers in accessing redress services.
- k. **PLHIV Case** – refers to any civil, criminal, labor, or administrative case pending before a court or a quasi-judicial body or a complaint involving allegations of violation of any of the legal rights of a PLHIV or a member of KAPs and vulnerable groups regardless of their actual, suspected, or perceived HIV status.
- l. **PLHIV Party** – refers to a PLHIV who is a party in a PLHIV Case.
- m. **Redress Mechanisms** – refer to methods and procedure by which a resolution to a PLHIV Case and other grievances sought by PLHIV is provided.
- n. **Vulnerable groups** - refer to the community or group of persons suffering from vulnerabilities such as unequal economic opportunities, social exclusion, poverty, unemployment, and other similar social exclusion, or economic, cultural and political conditions that make them susceptible to HIV infection and to developing AIDS.
- o. **Reasonable Accommodation** – refers to the necessary and appropriate modification and adjustments not imposing a disproportionate or undue burden, where needed in a particular case, to ensure a PLHIV with disability the enjoyment or exercise on an equal basis with others, of all human rights and fundamental freedoms. As provided in RA 10524, reasonable accommodation may include improvement of existing facilities in order to render these readily accessible to any PLHIV with disability, acquisition or modification of equipment or device, provision of auxiliary aids and assistive devices, and other similar accommodation for PLHIV with disability.

## RULE II CONFIDENTIALITY AND REASONABLE ACCOMMODATION

**Section 4. Confidentiality.** Whenever it becomes apparent that the complaint filed is a PLHIV Case, or the person requesting assistance is a PLHIV, the following procedure must be strictly observed:

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- a. HIV and AIDS-related information of any PLHIV Party shall be kept strictly confidential and access thereof shall be limited to the designated prosecutor/evaluator and their immediate staff only. Disclosures may be allowed only upon written consent of the PLHIV Party consistent with the provisions of RA 11166.
- b. All hearings, dialogues, conferences, and other similar proceedings shall be scheduled and conducted in such a way that the confidentiality and privacy of a PLHIV Party are guaranteed. The proceedings shall be conducted in executive session, the records of the case shall be classified, and the identity of the PLHIV Party shall be protected.
- c. Unless authorized by the PLHIV Party, only the parties and their counsel together with the necessary staff of the prosecutor, concerned CHR official or designated PNAC Human Rights Committee member shall be allowed inside the hearing room.
- d. The calendar of cases, which contain the scheduled hearings for the day, shall not include any indication that a case involves a violation of RA 11166 or that a party thereto is a PLHIV.
- e. The entire proceedings and procedure of any of the Redress Mechanisms herein provided, including data management of PLHIV Cases, shall be compliant with RA 10173 or the Data Privacy Act, as well as the RA 11166.
- f. The ultimate duty to ensure that there is no breach of confidentiality lies with the prosecutor/evaluator or investigator handling the PLHIV Case.

**Section 5. Duty to provide reasonable accommodation.** The duty to provide reasonable accommodation as herein defined lies from the moment a request for reasonable accommodation is received by an office or agency from a PLHIV with disability, and requires the said office or agency to enter into dialogue with the said PLHIV.

It is important to note that the PLHIV with disability need not actually ask the office or agency for an accommodation. The duty to provide such reasonable accommodation lies whenever the circumstances are sufficient to put the official or personnel concerned on notice that the person has a disability.

### RULE III INSTITUTIONAL ARRANGEMENT FOR THE REDRESS MECHANISMS

**Section 6. Roles of DOJ, CHR and PNAC Human Rights Committee.** The DOJ, CHR and PNAC Human Rights Committee shall provide central direction and coordination to other agencies of government as may be required to ensure the effective implementation of this Circular.

For efficient administration and implementation of this Circular, the DOJ and the CHR together with the PNAC Human Rights Committee shall meet regularly at least once every six (6) months, or as often as necessary, upon the request of any of them. Their duties and responsibilities are enumerated as follows:

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## PNAC Human Rights Committee

**Section 7. Receipt for legal assistance.** The PNAC Human Rights Committee may receive a request for legal assistance, consultation, representation, witness protection and other services from a PLHIV. This request shall be evaluated by the Committee's legal group, which may include lawyers, law students from various Offices of the Legal Aid, non-governmental organizations and other similar institutions.

For greater dissemination of its services, the Committee shall create its official Facebook page, indicating its hotline numbers, electronic and post mail, and other means by which they can be reached by a PLHIV.

**Section 8. Action Taken.** If the request received requires assistance for psychosocial services, financial or livelihood support, or pertains to matters that do not necessarily involve any legal issue, the Committee shall refer the same to the Department of Social Welfare and Development, Department of Health through the National Center for Mental Health, CHR, DOJ Action Center (DOJAC), or other CSOs, whichever is applicable.

**Section 9. HIV and AIDS Information and Education.** The PNAC Human Rights Committee may provide relevant trainings on HIV and AIDS to the prosecutor/evaluator, officials, and personnel of the DOJ and CHR in-charge of implementing this Circular, as well as their support staff.

**Section 10. Case Monitoring.** Once a request has been referred to the appropriate office or agency, the Committee shall continue to monitor the progress thereof through a process adopted for the purpose.

## Commission on Human Rights

**Section 11. CHR Policy on Legal Assistance and Investigation.** The CHR Central or Regional offices, as the case may be, shall extend free legal assistance and counseling services to PLHIV clients in accordance with the provisions of the CHR Omnibus Rules of Procedures. All CHR lawyers who shall extend free legal assistance and counseling shall, at all times, uphold the lawyer's oath and ethical standards, as well as pertinent Civil Service rules and CHR policies.

Notwithstanding any civil or criminal liability filed, any CHR personnel who violates any of the provisions of this Circular or fails to comply with his/her duties herein identified, may be held administratively liable pursuant to existing relevant rules, policies, or resolution of the CHR.

**Section 12. How commenced.** Any PLHIV whose right is violated may file a complaint with any of the offices of the CHR. Upon receipt of the complaint, the legal officer or investigator of the regional director/concerned CHR office shall immediately evaluate the same to determine whether the matter falls within the CHR mandate, in which case, a thorough investigation shall be conducted. The CHR may also investigate *motu proprio*.

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**Section 13. Dialogue and Alternative Dispute Resolution.** The concerned CHR office may opt to call the parties and/or concerned civil society organization for a dialogue to discuss, among others, the willingness of the parties to undergo mediation or other applicable modes of Alternative Dispute Resolution. The concerned CHR office shall issue an invitation or notice to them at least three (3) working days before the scheduled date of the dialogue.

Except for grave human rights violations, the CHR may consider conciliation and mediation as a first course of action and alternative means of handling cases as long as all parties agree thereto.

**Section 14. Resolution.** After thorough investigation, the CHR shall issue a Resolution stating its findings. If based on its evaluation, there is a cause of action or a need to compensate an injury or address a violation to prevent future harm, or when the interest of justice will be served thereby, it shall assist the complainant in filing a case with the NPS, the DOJ or other office or court having jurisdiction. If prior to the completion of its investigation, charges have been initiated or filed before any office or agency of the government, PNAC or court, such fact shall be indicated in the Resolution and a copy thereof shall be endorsed or forwarded to the said office or agency.

**Section 15. Visitorial Power and Monitoring.** To further implement this Circular and pursuant to its Constitutional visitorial power, the CHR may visit and monitor PLHIVs and KAPs in closed-setting institutions to ensure access to HIV and AIDS services and confidentiality of HIV status. All PLHIV case filed with or acted upon by the CHR shall be subject to regular monitoring.

#### Department of Justice

**Section 16. Preliminary Investigation/ Inquest Proceedings.** In order to protect the rights of a PLHIV, and to eliminate the climate of stigma and discrimination that surrounds the HIV and AIDS situation in the country, the Offices of the State Prosecutors, Regional Prosecutors and City Prosecutors shall designate at least one (1) special prosecutor who shall handle PLHIV Cases. In this regard, the NPS shall ensure that these designated prosecutors and their support staff undergo relevant seminars and trainings on a regular basis.

The designated prosecutor is mandated to assess within the ten (10)-day period provided in Section 3 (b) Rule 112 of the Revised Rules of Criminal Procedure whether there is ground to continue with the investigation. In which case, the said designated prosecutor shall ask the parties if they are willing to submit the case to mediation. If both or all parties agree to submit the case to mediation, the designated prosecutor shall refer them to the DOJAC, which shall conduct the mediation in accordance with its Revised Manual of Procedure.

**Section 17. Mediation Proceedings.** If there are more than one complainant or respondent in the complaint filed, all of them must agree to submit the case to mediation. Otherwise, the designated prosecutor shall not refer the case to the DOJAC but will continue with the preliminary investigation of the case.

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If the mediation fails, the DOJAC shall refer the parties back to the designated special prosecutor, who shall continue with the preliminary investigation of the case. The designated prosecutor shall endeavor to determine whether or not there is sufficient ground to hold the respondent for trial within the ten (10)-day period provided by Section 3 (f) Rule 112 of the Revised Rules of Criminal Procedure.

If the parties are able to enter into a settlement agreement during mediation, the DOJAC shall issue a Certification with conformity of the parties, informing the designated prosecutor of the success of the mediation but without furnishing him/her with a copy of the settlement agreement.

**Section 18. Resolution.** If during the conduct of preliminary investigation, the designated prosecutor determines that the case falls within the exclusive original jurisdiction of the Sandiganbayan, he/she shall forward the case to the Ombudsman. Otherwise, and if probable cause exists, the designated prosecutor shall file an Information with the appropriate court.

In evaluating the evidence on hand, the designated prosecutor shall give weight to any Resolution or findings of the CHR relating to the same subject matter. In line with Part VI of DOJ Circular No. 107 dated 16 May 2021, all prosecution offices of the NPS shall expedite the resolution of complaints involving violations of RA 11166.

**Section 19. Court Proceedings.** When an Information is filed, the assigned prosecutor to the court where the case is raffled shall ensure the continuous protection of the PLHIV party from any unjust treatment, stigma and discrimination, and unlawful disclosure of confidential HIV and AIDS information.

**Section 20. Administrative Sanctions.** Notwithstanding any civil or criminal liability, any DOJ personnel who violates any of the provisions of this Circular or fails to comply with his/her duties herein may be held administratively liable pursuant to procedure laid down under DOJ Circular No. 107 dated 16 May 2021.

### DOJ Action Center

**Section 21. Public Assistance Service of the DOJ.** The DOJAC shall act on complaints, requests for legal assistance or queries of walk-in PLHIV clients and similar requests made over the telephone, via email, or through its social media account, as well as those referred by the PNAC Human Rights Committee and/or the CHR. The DOJAC shall evaluate these complaints based on its existing processes indicated in its Revised Manual of Procedure. As such, DOJAC may also conduct mediation on complaints filed with it as long as the parties thereto agree.

**Section 22.** The DOJAC shall make a separate report on PLHIV Cases received by its office and shall submit the same to the Office of the Assistant Secretary-in-Charge of the Health Cluster of the DOJ not later than the November 15 of every year. This report shall form part of the DOJ's annual report to the PNAC required by Civil Service Commission Memorandum Circular No. 11, series of 2013.

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## Public Attorney's Office

**Section 23. Non-Applicability of Indigency Test.** Consistent with the state policies declared under RA 11166 and in accordance with Section 3 of RA 9406, the PAO is hereby mandated to render free legal representation, assistance, and counselling to any PLHIV regardless of socio-economic status in any criminal, civil, labor, administrative or other quasi-judicial cases. It is understood that a PLHIV is entitled to free legal assistance as long as his/her case is a Meritorious Case as herein defined.

Moreover, the PAO is mandated to represent the PLHIV notwithstanding that the person being complained of by the former had previously engaged the services of the PAO, or even if the subject matter of the PLHIV's case is directly related to the services previously rendered to the party complained of. In which case, the PAO Chief shall ensure that the PAO lawyer who shall assist the PLHIV shall not be the same lawyer who assisted the party being complained by the former.

## National Bureau of Investigation

**Section 24. Request for Investigation and Case Build Up.** Pursuant Section 4(o) of RA 10867 or the *National Bureau of Investigation Reorganization and Modernization Act*, the NBI is hereby directed to immediately assist any PLHIV who may request its assistance as regards any violation of RA 11166 and, if evidence warrants, to file the appropriate charges against those found responsible therefor.

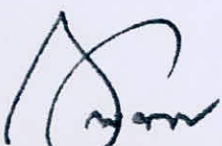
## RULE IV MISCELLANEOUS PROVISIONS

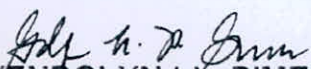
**Section 25. Repealing Clause.** All other issuances or parts thereof that are inconsistent with the provisions this Circular are hereby repealed or modified accordingly.

**Section 26. Separability Clause.** Any provision of this Circular or any part hereof which may be declared invalid, illegal, or unconstitutional, shall not affect the validity of the remaining provisions of this Circular.

**Section 27. Effectivity.** This Circular shall take effect immediately.

Manila City, DEC 01 2021, 2021.

  
**MENARDOT. GUEVARRA**  
Secretary, DOJ

  
**GWENDOLYN LL. PIMENTEL-GANA**  
Commissioner, CHR

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