



## **JOINT DOLE-PNP-PEZA GUIDELINES IN THE CONDUCT OF PNP PERSONNEL, ECONOMIC ZONE POLICE AND SECURITY GUARDS, COMPANY SECURITY GUARDS AND SIMILAR PERSONNEL DURING LABOR DISPUTES**

In order to promote public interest and safety, industrial peace and stability, and to ensure that the right to peaceful picketing, strikes and concerted activities by workers and lockout by employers is respected at all times, this Guidelines is hereby prescribed to govern the official conduct of all members of the Philippine National Police (PNP), Economic Zone Police and security guards, company security guards and similar personnel during labor disputes, including the necessary coordination with other concerned relevant government agencies.

### **I. GENERAL POLICY**

1. It is the understanding by the parties that labor disputes are within the sole jurisdiction of the Department of Labor and Employment (DOLE) and/or through its appropriate agencies pursuant to the Labor Code, as amended, while matters involving peace and order are under the exclusive jurisdiction of the Department of Interior and Local Government (DILG) through the Philippine National Police (PNP) pursuant to Republic Act No. 8551, or the "*Philippine National Police Reform and Reorganization Act of 1998*", and within the economic zones, the mandate to ensure peace and order is lodged with the Philippine Economic Zone Authority (PEZA) through the PEZA Police and Security Guards as provided in Republic Act No. 7916, or the "*Special Economic Zone Act of 1995*".

Further, it is understood that all labor and employment cases shall be governed by the Single Entry Approach prescribing a 30-day mandatory conciliation-mediation services pursuant to DOLE Department Order 107-10, Series of 2010, issued by virtue of Section 3, Article XIII of the 1987 Constitution on the preferential use of voluntary modes of dispute settlement, Article 211 of the Labor Code, as amended, the Alternative Dispute Resolution (ADR) Act of 2004 and Executive Order No. 523 instituting the use of ADR for speedy resolution of all disputes before all administrative bodies of the Executive Department, and TIPC Resolution No. 3, Series of 2010.

It is also a generally accepted principle that labor disputes have peace and order implications; therefore, there should be close coordination between and among DOLE, PNP, and PEZA as prescribed in the following Guidelines:

## II. DEFINITION OF TERMS

2. The terms used in this Guidelines shall mean:

- a. **"Company Security Guard"** refers to company security guard posted or assigned by a licensed company security force of the client-company or locator in the economic zone.
- b. **"Economic Zone Police"** refers to employee of PEZA clothed with police authority and in charge of the peace and order and the enforcement of laws, rules and regulations inside the PEZA economic zone.
- c. **"PEZA Security Guard"** refers to security guard of the private security agency contracted by PEZA and deployed to the PEZA economic zone.
- d. **"Private Security Guard"** refers to any person posted by a licensed private security agency to client-company or locator in the economic zone.
- e. **"Similar Personnel"** used herein in relation to security guards, refers to an employee of the private security agency entrusted to oversee, supervise or exercise similar functions performed by security guards to the client-employer or locator in the economic zone.
- f. **"Strike area"** refers to the establishment, warehouse, depots, plants or offices, including the sites or premises used as runaway shops of the employer struck against, as well as the immediate vicinity actually used by picketing strikers in moving to and fro before all points of entrance to and exit from said establishment.
- g. **"Labor Dispute"** refers to any controversy or matter concerning terms or conditions of employment or the association or representation of persons in negotiating, fixing, maintaining, changing or arranging the terms and conditions of employment, regardless of whether the disputants stand in the proximate relation of employer and employee.

## III. REQUEST FOR PNP/ECONOMIC ZONE POLICE/PEZA SECURITY GUARDS ASSISTANCE DURING LABOR DISPUTES

3. Any request for PNP/Economic Zone Police/PEZA Security Guards assistance made by DOLE and/or its appropriate agencies shall be in writing, specifying the acts to be performed or conducted by PNP/Economic Zone Police/PEZA Security Guards, and shall be addressed to:
  - a. For PNP Assistance – PNP Regional Director or the City Police Director in the case of highly urbanized cities, or the Provincial Director in the case of municipalities and component cities.
  - b. For Economic Zone Police/PEZA Security Guards Assistance – Head/Responsible Officer of the concerned Economic Zone Office. The PEZA Security Guards referred to in this Guidelines shall act as agents of persons in authority in the enforcement of the

Labor Code inside the zones during strikes, lockouts or labor disputes in the economic zone.

4. Any request for PNP assistance by the parties to the labor dispute, including those within the economic zone, shall likewise be in writing and shall be coursed through the DOLE and/or its appropriate agencies or through PEZA.

In case of actual violence, the PNP or PEZA can respond during strike, lockout or labor disputes even without the written request from DOLE.

5. In economic zones, labor or management may request in writing the Economic Zone Office for zone police assistance. The Economic Zone Office shall coordinate with the DOLE and/or its appropriate agencies of such request.

#### **IV. SERVICE OF LAWFUL ORDERS / WRITS ISSUED BY DOLE, COURTS OR DULY CONSTITUTED AUTHORITIES**

6. The service of lawful Order/Writ issued by the DOLE is the primary concern of the DOLE's duly authorized representative and/or sheriff. Before service of the Order/Writ, the DOLE representative and/or sheriff shall:
  - a. Coordinate and dialogue with the leaders of the workers and the representatives of management and explain the nature and content of the Order/Writ to be enforced including possible consequences of any defiance thereto;
  - b. Coordinate with PNP when violence is imminent;
  - c. In economic zones, coordinate with the concerned Economic Zone Office for the orderly and peaceful implementation of the Order/Writ.
7. Where PNP assistance is sought in the service of the Order/Writ issued by courts or other duly constituted authorities in relation to or arising out of labor disputes, it shall be the duty of the PNP to observe this Guidelines and to coordinate with the DOLE and/or its appropriate agencies of the service of the Order/Writ.

#### **V. PEACE-KEEPING ASSISTANCE**

8. The involvement of PNP personnel during strikes, lockouts and labor disputes in general shall be limited to the maintenance of peace and order, enforcement of laws, and implementation of legal orders of the duly constituted authorities.
9. A PNP peace-keeping team shall be assigned in a picket/strike/lockout area when requested in writing by the DOLE or PEZA, and subject to the following conditions:
  - a. The peace-keeping team shall stay at least 50-meter radius away from the picket/strike/lockout area. In case the 50-meter radius includes a public thoroughfare, traffic police shall ensure the free flow of traffic.

- b. In the exercise of their peace-keeping functions, members of the team shall at all times be in proper uniform, without lethal weapons and firearms, and with properly displayed nameplate. They shall:
  - i. Exercise maximum tolerance and when called for by the situation or when all other peaceful and non-violent means have been exhausted, may employ as a last resort only such means as may be necessary and reasonable to prevent or repeal an aggression;
  - ii. Observe courtesy and strict neutrality, bearing in mind that the parties to the labor dispute are not their adversaries but their partners in the quest for industrial peace and human dignity;
  - iii. Not deliberately inflict any physical harm upon strikers and/or picketers or any person involved in the strike /lockout;
  - iv. Not fraternize with any of the parties involved in the controversy, and shall not accept any invitation from management personnel or union officials/personnel involved in the controversy;
  - v. Ensure that the strike-bound area is a gun-free zone, to include civilians and police personnel; and
  - vi. Respect the Constitutional guarantee on the right of the people to be secured from unreasonable searches and seizures.
10. In the economic zones, Zone Police and PEZA Security Guards peace-keeping team may be formed to ensure peace and order during strikes, lockouts or labor disputes. They shall likewise observe the above conditions governing the engagement of PNP peace-keeping team, except the provision on maintaining the 50-meter distance from the picket/strike/lock-out area.

#### **VI. TECHNICAL WORKING COMMITTEE**

11. A Technical Working Committee (TWC) composed of the DOLE, PEZA and PNP shall be created to ensure compliance with this Guidelines. The TWC shall be headed by the DOLE Undersecretary for Labor Relations with the following as members: National Conciliation and Mediation Board (NCMB), National Labor Relations Commission (NLRC), PEZA, and PNP. The Department of Interior and Local Government Peace and Order Unit shall be invited as member. The NCMB, NLRC and the Bureau of Labor Relations (BLR) shall act as the Secretariat of the TWC. The TWC shall meet regularly to monitor, coordinate, assess, and address concerns/ issues/problems arising from the implementation of this Guidelines. In the exercise of its functions, the TWC shall promote full respect for workers' right to freedom of association and, in economic zones, shall ensure that the Industrial Relations Office's proactive mechanisms and processes are operational.

## VII. DOLE INTER-AGENCY COORDINATING AND MONITORING COMMITTEE

12. The DOLE Secretary may set up an Inter-agency Coordinating and Monitoring Committee (ICMC) at the national and local levels, composed of the DOLE, NCMB, NLRC and, where feasible, PEZA/Ecozone, Regional Tripartite Industrial Peace Council/Industry Tripartite Council representatives, the local government unit and the PNP, whenever there is a potential or actual strike or lockout to ensure coordination between and among concerned agencies, and maintain an open line of communication with the representatives of management and the union or workers to ensure observance of laws and regulations.

The ICMC may develop a tripartite social accord to govern the conduct of all parties involved in the labor disputes, which may contain the following:

- a. Enforcement of non-entry of scabs or individuals to replace strikers;
- b. Enforcement of free ingress from and egress to employer's premises;
- c. Where the company involved in a strike or lockout is located inside a mall, hotel or premises of a business enterprise, a decent and reasonable space for peaceful picketing and for strike/picket paraphernalia shall be designated. Such space shall be respected by the owner/s of the establishment, tenant/s, clients/customers and the security guards/personnel of the establishment/tenant/s;
- d. The strike/picket paraphernalia are safe from any undue destruction; and/or
- e. The duty/responsibility of the union to lift the picket/strike after a lawful order, and dismantle and remove the picket/strike paraphernalia from the area.

## VIII. ARREST/SEARCHES AND SEIZURES

13. Pursuant to the Constitutional guarantee on the right of the people to be secured from unreasonable searches and seizures, no search or arrest arising from labor dispute shall be made except through a valid court warrant. Further, Circular No. 15, Series of 1982 and Circular No. 9, Series of 1986, issued by the Department of Justice require fiscals and other government prosecutors to first secure clearance from the DOLE and/or the Office of the President "before taking cognizance of complaints for preliminary investigation and the filing in court of the corresponding information of cases arising out of or related to a labor dispute," including cases with "allegations of violence, coercion, physical injuries, assault upon a person in authority and other similar acts of intimidation, obstructing the free ingress to and egress from a factory or place of operation of the machines of such factory, or the employer's premises".
14. In case of arrests made without a warrant by a public officer or private person on the basis of his/her knowledge that a crime or offense shall be committed, is being committed, or has been committed, as provided in Section 5, Rule 113 of the Rules of Court, or in case of obstruction to public thoroughfares or ingress to and egress from employer's premises, or possession of deadly weapons (such as knives, bolos, blunt or

pointed instruments) in violation of Batas Pambansa Blg. 6, or possession of firearms or explosives in violation of Presidential Decree No. 1866, as amended by Republic Act No. 8294, the person arrested shall be delivered to the nearest police station and accordingly be charged in court.

The arresting officer shall notify the DOLE within twenty-four hours after the arrest was made.

Any person who is not a worker of the company/business establishment on strike but has joined the striking workers in their picket or strike shall be treated by the law enforcers in the same manner as the strikers/picketers.

#### **IX. ROLE OF COMPANY SECURITY GUARDS AND SIMILAR PERSONNEL**

15. Pursuant to Sections 1, 2 and 3 of Rule XVIII of the 2003 Implementing Rules and Regulations of Republic Act No. 5487 or the "*Private Security Agency Law*", the following shall be observed by company security guards and similar personnel of the private security agency during picket/strike/lockout:

##### Private Security Personnel

- a. All private security personnel in direct confrontation with strikers, marchers, or demonstrators shall not carry firearms. They may, at best, carry only night sticks (*batuta*) which may or may not be provided with tear gas canister and dispensers. Private security personnel of strike-bound establishments not in direct confrontation with the strikers may carry in the usual prescribed manner their issued firearms.
- b. Private security personnel shall avoid direct contact, either physically or otherwise, with the strikers.
- c. Private security personnel shall stay only within the perimeter of the installation which they are protecting at all times.
- d. Private security personnel, in protecting and securing the assets and persons of their clients, shall use only sufficient and reasonable force necessary to overcome the risk or danger posed by strikers or hostile crowds.
- e. Private security personnel shall refrain from abetting or assisting acts of management leading to physical clash of forces between labor and management. These hostile acts include breaking of the strike; smuggling in of scabs and preventing strikers from conducting peaceful pickets.
- f. Private security personnel shall not enforce the provisions of the Labor Code, as amended, pertaining to strikes/lockouts.
- g. Private security personnel on duty must at all times be in complete uniform with their names and agency's name shown on their shirts above the breast pockets.

Private Security Agencies/Company Security Force Chief Security Officers

- a. Upon declaration of a strike, or upon the establishment of a picket line or mass action at the vicinity of a firm/establishment, the Detachment Commander or the Chief Security Officer of the company guard force, shall immediately collect all firearms of the guards in direct or about to have a direct confrontation with the crowd and deposit these firearms in their vault; or reissue these firearms to other private security personnel not issued firearms but assigned to and performing guard duties away from and not visible to strikers or the crowd as may be required by the circumstances.
- b. The Detachment Commander or Security Director shall account for all the firearms in a logbook.
- c. In instances where there is no Detachment Commander or Security Director, as in a compound where there are only a few guards, the agency operator or Security Officer in the case of company security forces, shall immediately be informed by the guards of the declaration of strike or about the approach of strikers or a crowd; whereupon the agency operator/security officer shall immediately assess the situation and take appropriate action to forestall violence, but at the same time insuring security of the premises.
- d. The Detachment Commander or Security Director shall maintain constant contact with the management and if he notices or observes the strikers or the crowd to be up to something unlawful, or are clearly violating the provisions of the Labor Code, as amended, the Revised Penal Code and/or local ordinances, this information shall be reported to the Commander of the Peace Keeping Force for his appropriate action.
- e. If it becomes unavoidable for private security personnel to talk to strikers or member of the crowd, only the Detachment Commander or Security Director shall talk to the leader or leaders of the strikers or crowd. What transpires in this dialogue shall be reported to the management immediately. At no instances shall private security personnel negotiate with the strikers or unfriendly crowd in relation to the labor-management dispute. This is a function of management.
- f. If the situation worsen or becomes untenable for the private security personnel to cope with, the Detachment Commander or Security Director, the guard on post, shall immediately advise the management to request for PNP security assistance.
- g. The Detachment Commander and Security Director shall publish emergency telephone numbers (Police, Fire, Hospital) at all guards posts and detachments.

Inter-relationship between Private Security Personnel and members of the PNP

- a. Private security personnel are always subordinate to members of the PNP on matters pertaining to law enforcement and crime prevention. They cannot enforce any provision of the law except in executing citizen's arrest and/or conducting initial investigation of a commission of a crime. In such case, any arrested person shall be turned over immediately to the nearest PNP unit/station.

- b. Criminal investigation is the responsibility of the PNP. All results of initial investigation conducted by private security personnel and all evidence gathered by them shall be turned over to the PNP unit/station concerned as a matter of course without delay.
- c. Responsibilities of Private Security Personnel:
  - i. Private security personnel are responsible purely for enforcing company policies, rules and regulations of management and clients with the ultimate objective of providing security to the assets and persons of clients.
  - ii. Private security personnel are authorized and empowered by law to act as such and in the manner prescribed by the Chief PNP on within their specifically assigned areas to be secured, as provided for in the contract between the client and the private security agency, and, in the case of company security services, as specifically stated in their private security firm licenses.

Acts or omissions of private security personnel arising out of or in connection with the implementation of this Guidelines shall be proceeded in accordance with the 2003 Implementing Rules and Regulations of Republic Act 5487, as amended, and PNP Memorandum-Circular 2008-001 "*Revised Rules in the Investigation in the Administrative Cases Involving Security and Training Personnel, Security Agencies and Training Institutions*".

Any complaint may be filed with the Complaint and Investigation Section, Supervisory Office and Security Investigation Agencies (SOSICIA), PNP-Civil Security Group (CSG), for acts or omission committed in the National Capital Region. In all other cases, the complaint shall be filed with the PNP-Regional Firearms, Explosives, Security Agencies and Guards Section (FESAGS) where the complainants' workplace or the respondents' principal office is located.

The filing of any administrative action shall be without prejudice to the filing of civil and criminal complaints when appropriate.

#### X. ADMINISTRATIVE REMEDIES

- 16. Any violation/s of this Guidelines shall be dealt with as follows:
  - a. PNP -- Acts or omission arising out of or in connection with their participation in the implementation of this Guidelines shall be processed and resolved in accordance with the provisions of Republic Act No. 8551, or the "*Philippine National Police Reform and Reorganization Act of 1998*". Accordingly, all complaints/reports of violation/s against any personnel of the PNP shall be filed before the PNP-Internal Affairs Service for investigation and conduct of summary hearings.

The filing of the complaint or report is without prejudice to the power or authority of the PNP-IAS to, *motu proprio*, conduct investigation on the following cases:

- i. incidents where a police personnel discharges a firearm;



- ii. incidents where death, serious physical injury, or any violation of human rights occurred in the conduct of a police operation;
- iii. incidents where evidence was compromised, tampered with, obliterated, or lost while in the custody of police personnel;
- iv. incidents where a suspect in the custody of the police was seriously injured; and
- v. Incidents where the established rules of engagement have been violated.

Any complaint by a natural or juridical person against any member of the PNP may also be brought before the National Police Commission (NAPOLCOM), Chief of Police, Mayors, Women's and Children's Protection Desks in all police stations, the People's Law Enforcement Boards (PLEBs).

Any government official or supervisor, or officer of the Philippine National Police or that of any other law enforcement agency shall be held accountable for "neglect of duty" under the doctrine of "command responsibility" if he/she has knowledge that a crime or offense shall be committed, is being committed, or has been committed by his/her subordinates, or by others within his/her area of responsibility and, despite such knowledge, he/she did not take preventive or corrective action either before, during or immediately after its commission.

- b. Economic Zone Police/Personnel – Complaints against economic zone police/personnel shall be acted upon in accordance with the PEZA Law and Civil Service Rules.
  - c. DOLE Personnel - Complaints shall be processed in accordance with the *DOLE Manual on the Disposition of Administrative Cases and Uniform Rules on Administrative Cases in the Civil Service*.
17. The foregoing shall be without prejudice to the filing of civil or criminal actions, which could be separately, alternately, simultaneously or successively initiated before the appropriate courts for violation of the provisions of the Revised Penal Code, specifically Titles 2 and 7, on *Crimes Against the Fundamental Laws of the State* and *Crimes Committed by Public Officers*, respectively; or for violation of Republic Act No. 3019, or the "Anti-Graft and Corrupt Practices Act"; or under Republic Act No. 6713, or the "Code of Conduct and Ethical Standards for Public Officials and Employees".

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**XI. REPEALING CLAUSE**

18. The provisions of the 26 August 1997 Guidelines in the Conduct of PNP Personnel, Private Security Guards and Company Guard Forces During Strikes, Lockouts and Labor Disputes in General, and all guidelines, rules and regulations inconsistent herewith are hereby superseded.

**XII. EFFECTIVITY**

19. This Guidelines shall take effect immediately upon publication in a newspaper of general circulation.

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AND EMPLOYMENT

  
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