



CA1 (1) - sdsdsd

Psychology (University of St. La Salle)

## CHAPTER 1

### THE PHILOSOPHY BEHIND CORRECTIONS

The concept of corrections can be traced back to primitive times. Back then and for a really long time, the purpose of imposing penalty to a wrongdoer was primarily for punishment. This concept has been greatly modified over the years to keep up with the changing needs of society. Although punishment remains to be one of the purposes or objectives for imposing penalty, corrections has greatly developed into a more meaningful endeavor of the government, with the help of the community.

#### PUNISHMENT PHILOSOPHIES OF JUSTIFICATION FOR PUNISHMENT

**Punishment** can be defined as the redress that the state takes against an offending member (Alcantara, 1978). It is the response of the state or the government, or a person who has authority to impose such, to an act that has been previously defined as prohibited or unlawful committed by a person. Punishment is given not just for the sake of punishing the offender, but there is a much deeper reason and purpose for it. The imposition of punishment must be able to accomplish its desired long-term effect that should benefit a greater number of people. The goal, objective, reason or purpose for punishment is what is referred to as the **philosophy of and justification for punishment**.

These philosophies or justification for punishment are **retribution, deterrence, isolation, incapacitation, rehabilitation and reintegration**.

#### RETRIBUTION

Literally, **retribution** is the act of taking revenge. In the context of corrections, the belief is that a person who harmed or injured another person must be punished for the harm or injury has caused. Because the offender committed a wrongdoing, it is only right that he should be punished for it and such punishment is just well-deserved. When the offender is punished, the victim is assured that justice has been served.

This is one of the oldest and most basic justifications for punishment (Miethe and Lu, 2005). It is a justification for the punishment underlined by the concept of ***lex talionis***, or law of talion and law of equal retaliation (Stohr and Walsh, 2012).

Related to the philosophy of retaliation is **expiation** or **atonement**. Expiation or atonement means reparation for an offense or injury. The difference between the two is that retaliation is **personal vengeance**, while expiation is **group vengeance**.

#### DETERRENCE

Literally, **deterrence** is the act or process of discouraging actions or preventing occurrences by instilling fear or doubt or anxiety (Merriam-Webster).

As a philosophy of corrections, deterrence is the prevention of crime by the threat of punishment. The principle that people respond to incentives and are deterred by the threat of punishment is the philosophical foundation behind all systems of criminal law (Stohr and Walsh, 2012).

Under the philosophy of deterrence, it is believed that people will not commit crimes if they are afraid of the consequences of their actions, the consequence being imprisonment. A person who is afraid of being imprisoned will therefore not commit crimes.

Deterrence can either be **general deterrence** or **specific deterrence**.

**General deterrence** refers to the preventive effect of the threat of punishment on the general population (Stohr and Walsh, 2012). As the name denotes, the purpose is to instill fear among the members of society that anyone who will be caught committing a crime will be caught committing a crime will certainly will be punished. Those who have been punished and imprisoned would serve as an example to others to deter them from committing crimes.

**Specific deterrence**, on another hand, refers to the effect of punishment on the future behavior of persons who experienced the punishment (Stohr and Walsh, 2012). Here, the offender himself who had already experienced life in prison or jail will be deterred from committing another crime because he would not want to go back to prison or jail. He would be deterred from committing another crime in the future.

## ISOLATION

Isolation literally means to separate. In the context of corrections, isolation refers to the separation of offenders from law-abiding members of society by imprisoning them.

Isolation is a very old correctional philosophy that has served two purposes throughout recorded history: first, isolation as punishment and second, isolation to protect the rest of society from being influenced by criminals (Mays and Winfree, 2005).

Isolation later evolved into another correctional philosophy that is now called incapacitation.

## INCAPACITATION

**Incapacitation** refers to the inability of criminals to victimize people outside prison walls while they are locked up (Stohr and Walsh, 2012).

The purpose of incapacitation is to prevent an offender from committing more crimes by locking him up in prison or jail. While in prison or jail, the offender loses his ability to commit a crime because there is no opportunity for him to do so. This way, he is prevented from harming others, especially, the law-abiding citizens of society.

## REHABILITATION

There was a time when the only purpose of punishing offenders was to humiliate and inflict physical, emotional and mental suffering on them. But as civilizations evolved and developed, the concept of punishment has taken a deeper meaning and purpose. The concept of rehabilitating offenders was born and is now embraced by many countries as a necessary component of the correctional system.

The term **rehabilitation** means to restore or return to constructive or healthy activity. The rehabilitative goal is based on medical model that was used to view criminal behavior as a moral

sickness requiring treatment. Today, this model views criminality in terms of “faulty thinking” and criminals as in need of “programming” rather than “treatment” (Stohr and Walsh, 2012).

The ultimate goal of rehabilitation is to restore a convicted offender to a constructive place in society through some combination of treatment, education and training (Miethe and Lu, 2005).

Different programs are continually being developed to address the unique needs of institutionalized offenders, with the end goal of rehabilitating them and returning them to the free society as changed and improved man.

The different rehabilitation programs being implemented by the Bureau of Corrections and the Bureau of Jail Management and Penology are discussed in Chapter 15.

## **REINTEGRATION**

**Reintegration** is the process of making the offender a productive member of the community (Schmalleger and Smykla, 2009). To reintegrate means to make the offender become law-abiding and productive member of society once he is out of prison. The goal of reintegration is to use the time criminals are under correctional supervision, either in institutions or in the community, to prepare them to reenter, or reintegrate with, the free community as well equipped to do so as possible (Stohr and Walsh, 2012).

Some reference books refer to reintegration as a sub-goal of rehabilitation because the goal of rehabilitation is to reintegrate the offender into the free society once he has served his sentence. This way, he will no longer get involved in illegal activities and live an honest and decent life, as a result of his rehabilitation while in prison or jail.

## EXERCISE NO. 1

I. Using a table, summarize the different explanations of the different philosophies of and justifications for punishment.

Use the format given below:

| Philosophy     | Explanation |
|----------------|-------------|
| 1. Retribution | xxxx        |
|                | xxxx        |
| 2.             |             |
|                |             |
| 3.             |             |

II. Answer the following questions:

- 1) Why is retaliation a personal vengeance, while expiation a group vengeance?
- 2) How is general deterrence different from special deterrence?

## CHAPTER 2

### BRIEF HISTORY OF CORRECTIONS IN THE WORLD SETTING

History shows that since the beginning of time, there had been some kind of response for an act that was not regarded as acceptable based on the prevailing norms of the times. This response conveyed to the person who acted in the wrong that what he did was unacceptable and deserved some kind of punishment to be meted out by whoever has the authority to do so, again, depending on the prevailing customs.

Over time, civilizations started to develop all over the world, and written codes started to be created by kings and other bodies of men.

The different forms of punishments also evolved over time to keep up with the changing philosophies or justification for punishment. The discussion on the early forms of punishment is found in **chapter 4, evolution of Punishment and Penalty.**

As civilizations continued to grow develop and progress, more laws were created and new system of justice were established. The present criminal justice system being observed by the world over are products of the continuing evolution of the concept.

### THE EARLY CODES

In the prehistoric times, there were no written laws to regulate human conduct. However, men still found ways to avenge themselves from harm and injury caused another. They designed their own system of justice according to what they believed was right and fair based on their way of life, beliefs and the norms of their times.

Since there were no written laws, no police officers, judges and prison authorities back then, justice was served according to how the elders of the tribes saw fit. Punishment may be in the form of expulsion from their tribe or community. Also, victims and the victim's family, or clan, were allowed and actually expected to take revenge against the offender. Like, when a wife was unfaithful to her husband, the husband had the right to murder the offending wife and her lover.

However, as civilizations continued to develop, so did their laws and justice system. It was discovered that some ancient civilizations already had written laws and a form of criminal justice system during their time. Some of which are the following:

#### 1) CODE OF HAMMURABI

The **Code of Hammurabi** is believed to be the earliest written code of punishment and **Hammurabi**, the King of Babylon during the eighteenth century BC, is recognized as the **first codifier of laws**. It is believed that it was during his reign that the Code was created, thus, it was named after him. This Code, which was carved in stone, provided the first comprehensive view of the laws during his time. The provisions of the Code were premised on the law of talion, or the principle of 'an eye for an eye, a tooth for a tooth". Under the principle of the *lex talionis* or law of talion, tit for tat, or the law of equal retaliation, the punishment should be the same as the harm inflicted on the victim.

## 2) THE HITTITES

The Hittites existed about two centuries after the reign of Hammurabi and they eventually conquered Babylon. The laws of the Hittites may also be characterized as brutal, just like the Code of Hammurabi, because they used death as punishment for many offenses.

Law enforcement and judicial functions were placed in the hands of commanders of military garrisons for the various cities they conquered and controlled (Bartollas and Conrad, 1992).

## 3) DEUTERONOMY or the MOSAIC CODE

**Deuteronomy** is the **fifth book** in the Bible and it contains the basis of Jewish laws. It is believed that it was made by Moses. These laws were in the form of a covenant between God and the people of Israel, given to Moses on the mountains. They begin with the Ten Commandments and go on to statutes and ordinances that God commanded Moses to teach the people. The law of talion can also be found here. (Bartollas and Conrad, 1992).

Collectively, the first five books of the Old Testament is what is referred to as the **Law of Moses** or the **Mosaic Code**, from the name of Moses. The first five books contain the **Ten Commandments** which are considered the foundation of law systems throughout much of the Western World (Roth, 2005).

## 3) THE CODE OF DRACO

The **Code of Draco** is considered to be the first written law of the Greek civilization. This was codified by Draco, an Athenian lawgiver who is considered the first legislator of Athens, in the seventh century BC (Roth, 2005). This code is known for having severe penalties.

## 4) THE CODE OF SOLON

Solon, also an Athenian, was appointed archon and was given legislative powers. During his time, he repealed almost all the laws of the Code of Draco and created law that provided just punishments.

Solon had a great impact in the history of law-making that now the term "solon" is used to refer to any member of the Senate or House of Representatives.

## 5) ROME'S TWELVE TABLES

Roman law began with the **Twelve Tables** which were written in the middle of the sixth century BC by the Decemvirs. It was written in tables of bronze and it became the foundation of all laws in Rome.

## 6) THE LEX SALICA

The **lex salica** refers to the legal customs of the ancient Germanic tribes which invaded and defeated the Roman Empire in the Middle Ages. When the Germanic tribes codified the lex salica, they set out a schedule of monetary compensation for wrongdoings, called **botes**. **Wergild** or **wergeld** refers

to the value of monetary compensation for human life, based on his status in life. So, the wergild for a murder victim varies, depending on his status in society.

## 7) THE LAWS OF ISLAM

The laws of Islam can be found in the Koran, the holy book of the Muslim religion. These laws are also believed to be of divine origin. It is believed that they were given by Allah to the prophet Mohammed (Bartollas and Conrad, 1992).

## 8) THE BLOODY CODE

The Bloody Code refers to the system of laws and punishments of England between 1688 and 1815 ([www.wikipedia.org](http://www.wikipedia.org)). Although this was not the official title of the English laws, its name was derived from the nature of the punishments imposed by said laws for so many crimes. The usual punishment provided for many crimes during this period was death.

## EARLIEST PRISONS

In the ancient times, imprisonment was not an actual punishment. An offender was locked away while waiting for the actual punishment to be imposed by the kings or by whoever was authorized to impose the punishment. Later on, imprisonment became a form of punishment for lesser offenses, or those offenses that were not punishable by death or corporal punishment.

As early as 640 BC, an underground prison was constructed by Roman King Ancus Martius in Rome called the **Mamertine Prison**. Much later, offenders were locked away in **caves, cages, dungeons** or **towers** that were also located inside the premises of the king's castle. Example of these are the **Tower of London** in London, England and the **Conciergerie of the Palais de la Cite** and the **Bastille** in Paris, France.

It is believed that the first ever public prison in Europe was **Le Stinche**, which was constructed in 1297 in Florence, Italy.

The first **cellular prison** or prison with **individual cells** for prisoners was the **Hospital of St. Michael** in Rome, built in 1704. It was founded by Pope Clement XI and is considered the forerunner of the juvenile reformatories of later centuries (Bowker, 1982). Other reference books refer to this as **Hospice of san Michele**. It was built for delinquent boys under the age of twenty (20) and considered one of the first institutions to house juvenile offender (Roth, 2005).

## DEVELOPMENT OF PRISONS IN ENGLAND

The original purpose of jails was to serve as temporary places of detention for offenders who are awaiting trial or those about to be inflicted corporal punishment. Later on, instead of just being temporary places of detention while waiting for the punishment to be meted out, being imprisoned in the jail also became a form of punishment in itself.

The origins of jails can be traced back to England during the time of King Henry II. In 1166, he mandated that there must be a jail in every county shire headed by its sheriff. During said period and earlier, jails were called **gaols**.

The **Newgate Prison** in London was built in 1188 also by Henry II. By 1783, it had become London's main prison. Gallows were also installed outside but near the prison for public execution of convicted offenders. The prison was operational until it was closed in 1902 and demolished in 1904.

In 1785, England constructed **Wymondham Prison**, England's first penitentiary. A brief discussion on the term penitentiary can be found later in this chapter.

## **BRIDEWELLS**

In the 1500s in England, there was rampant poverty as evidenced by the increase in the number of street beggars, vagrants, petty thieves and prostitutes in the streets of London. As a result, there was also a surge in the number of petty crimes and petty criminals. To address this problem, England created places to put vagrants and petty thieves and engaged them in hard labor as punishment. These places were called **bridewells**, **workhouses** and later, **house of corrections**. By 1576, the English Parliament passed legislation requiring every county to build a workhouse.

There are several accounts as to the origin of the term **Bridewell**. One is that it came from the name Bridewell Palace in London which was originally where King Henry VIII lived before it was converted into a poor house in 1555. Then in 1556 it became a workhouse known as **Bridewel Prison** until it was closed in 1855 ([www.wikipedia.org](http://www.wikipedia.org)). Another is that the first workhouse in England was called Bridewell because it was located at St. Bridge's well (Schmalleger and Smykla 2007).

What is clear, though, is that the term bridewell became a generic term to refer to all workhouses built in England and in some European countries as well. It was also used to refer to prisons or jails for a time.

## **JOHN HOWARD**

In 1773, John Howard was appointed Sheriff of Bedfordshire, a local gaol in England. His experience as sheriff exposed him to the terrible conditions of jails in England during his time. He inspected other jails in England, Wales and Scotland and visited other prisons in other European countries to compare.

He wrote and published the book, *The State of the Prisons in England and Wales* in 1777. This was the product of his inspections and visits to the different prisons in England and other European countries. His book was instrumental in making the terrible conditions of English prisons be known to the authorities, which paved the way for the reforms that were badly needed to be implemented, not only in England, but in other countries as well, including America. He is also the one who introduced the term **penitentiary** which is still being used up to this day.

Many of his ideas and proposals for reforms were incorporated in the **English Penitentiary Act of 1779**. These reforms were: **secure and sanitary structures**, **jail inspections**, **elimination of fees** and **emphasis on reforming prisoners** (Schmalleger and Smykla, 2007).

This is why Howard is considered one of the first prison reformers. Ironically, Howard died of typhus or gaol fever while visiting prisons in Russia.

## JEREMY BENTHAM

Jeremy Bentham was an English philosopher and social reformer who is known for the principle of utilitarianism. He applied this principle when he made the **Panopticon**, a prison design he proposed to be built in England in 1787.

The name Panopticon was derived from a Greek word which means all-seeing. Its design is circular, with a tower in the center for the guards. Unfortunately for him, the Panopticon was never built in England. However, some prisons in the US made use of his design but with some modifications.

Nevertheless, Bentham's legacy still remain worth mentioning in tracing the history of prisons.

## TRANSPORTATION AS PUNISHMENT

In 1597, England passed a law authorizing transportation of offenders from England to other newly discovered lands or English colonies, including America, where most of them were transported. These offender provided cheap labor to the developing colonies at the same time, it partially solve the problem on overcrowding of convicted offenders in English jails. However transportation to America ended after the American Revolution, where America gained independence from England.

Because offenders could no longer be sent to America anymore, the problem on overcrowding in jails again surfaced. To address this problem, another set of laws were passed, this time sending convicted offenders to floating prison ships called **hulks**. These hulks were old, abandoned merchant ships or warships that were no longer in use and were just anchored in harbors. The use of hulks as prison lasted for almost eighty (80) years until England began transporting convicted offenders in Australia starting in 1787. Australia was discovered by Captain Cook in 1770.

Convicted offenders were transported to the different islands in Australia, particularly, in New South Wales, Norfolk Island and Van Diemen's Land, now known as Tasmania. English transportation of criminals officially ended in 1867.

## ALEXANDER MACONOCHIE

Captain Alexander Maconochie was a retired naval officer who was appointed Superintendent of Norfolk Island in 1840, an English penal colony which is part of Australia.

He was responsible for the establishment of a **mark system**, by which each inmate collected credits for good behavior, exceptionally productive labor and courageous deeds (Jones and Johnstone, 2012). The mark system allowed a convicted offender to accumulate points and when he had accumulated enough credits, he could apply for a ticket of leave, a document granting him freedom to work and live outside of prison even before the expiration of his sentence (Stohr and Walsh, 2012)

Maconochie's mark system proved to be successful in reforming convicted offenders and it became the **forerunner of parole**. And because of his contributions and impact to the development of the world's correctional systems, he is recognized as the **father of parole**.

Incidentally, the term **parole** was derived from the French term *parole d'honneur*, or word of honor in English.

## SIR WALTER CROFTON

**Sir Walter Crofton** was the Director of the Irish prison system who used Maconochie's mark system as template for his own system called the **Irish system** in the 1850's. This system involved four (4) stages, beginning with nine (9) months of solitary confinement, followed by a period in which convicts could earn marks through labor and good behavior, followed by transfer to an open prerelease prison when they have accumulated the necessary number of marks, and finally, a ticket of leave.

The Irish system is said to be the forerunner of the American parole system.

## DEVELOPMENT OF PRISONS IN THE UNITED STATES OF AMERICA

As a colony of England in the seventeenth century, America used the Bloody Code of England, as well as its system of punishment.

However, there was one particular territory in America that did not copy the common practices of that period, and that is Pennsylvania. In the Quaker provinces of Pennsylvania, laws were enacted that made improvement and hard labor the punishment for most crimes and reserved corporal punishment for murderers only. The person responsible for this was **William Penn**, founder of the Quaker colony. In 1682, he founded the Commonwealth of Pennsylvania and became its governor.

When America became independent from England, the Pennsylvania legislature repealed all the British laws that were enforced during their colonization. They abolished the death penalty for all crimes except murder, made imprisonment the primary form of punishment and abolished the use of pillory, stocks and whipping post and replaced them with the penalty of short term imprisonment and fines. It was also in Pennsylvania where the concept of a **penitentiary** originated.

The **penitentiary** is the earliest form of large-scale incarceration. IT was a place for reform of offenders through repentance and rehabilitation. It punished offenders by isolating them so that they could reflect on their misdeeds, repent and reform (Schmallegger and Smykla, 2009). It was derived from the English word *penitent*, which refers to a person who repents, or asks for forgiveness, for the sins he committed.

The same thing happened in New York. Through the efforts of penal reformer **Thomas Eddy**, New York also repealed the criminal code of England, abolished capital punishment for almost all offences except corporal murder and treason, stopped the use of corporal punishment and instead built prisons for offenders.

They built the **Newgate Prison** in Greenwich Village, New York in 1797 but it proved to be unsuccessful because it was too small for the growing number of offenders being imprisoned.

In 1816, the second state prison was erected at **Auburn**, the design of which was patterned after the **Walnut Street Jail** in Philadelphia. The Auburn Prison was so famous that it became a model in the United States. Years later it was renamed **Auburn Correctional Facility**. Auburn prison was designed by **Architect John Cray**.

## WALNUT STREET JAIL

The **Walnut Street Jail** is regarded as the **first jail in America**. It was built in 1776 and was located in Philadelphia. In 1970, a wing was designated as a penitentiary, the first of its kind in the

history of America. A penitentiary is supposed to be a place where inmates reformed themselves through reflection and remorse (Schmalleger and Smykla, 2009). However, conditions worsened year after year until it was finally closed in 1835. The prisoners were transferred to the Eastern State Penitentiary, also located in Philadelphia.

## THE PENNSYLVANIA SYSTEM

The term **Pennsylvania system** refers to the prison system and methods devised and used in Pennsylvania prisons beginning in the early 1830's, after the construction of the Western Penitentiary and the Eastern State Penitentiary. This system is also called the **separate system**.

This system advocated the complete separation of inmates from each other and maintained the practice of **solitary confinement** of prisoners at all times. This is due to the old belief prevailing at that time that rehabilitation of offenders could only happen in solitude, making penance for the crime he committed. They were not allowed to interact with the other inmates, they were not allowed to communicate to their family and anyone in the outside world. Even the guards were not allowed to talk to them, they did not know even their names.

The Pennsylvania system or separate system was finally abolished in 1913.

## THE WESTERN STATE PENITENTIARY AND THE EASTERN STATE PENITENTIARY

In 1818, the Pennsylvania legislature authorized the construction of two new penitentiaries and these were the **Western State Penitentiary** and the **Eastern State Penitentiary**. These penitentiaries were the first to be built based on the principles and design of the Pennsylvania or separate system.

The Western State Penitentiary was opened in 1826 in Pittsburgh, however, it was agreed upon that its design was so terrible that they decided to just demolish it. It was demolished 1833.

Meanwhile, the construction of the **Eastern State Penitentiary** in Cherry Hill, Philadelphia, was finished in 1829 and its design proved to be superior than the Western State Penitentiary that it became a model for many prisons in England and Europe. Each cell was designed intentionally for a single inmate the cells were separated by stone partitions that were thick to ensure that prisoners would not be able to talk through them.

## THE AUBURN PRISON

At first, New York prisons employed the **separate system** that was made popular by Pennsylvania. Years later, **Captain Elam Lynds**, the warden of Auburn prison introduced the **Auburn silent system**. The Auburn silent system soon replaced the separate system and became the standard system employed in all New York. Other reference books also refer to this as **New York system** or **congregate system**.

The New York silent system is similar to the Pennsylvania system in terms of it requiring complete silence at all inmates at all times. However, in Pennsylvania system, inmates are in solitary confinement all day and night, whereas in the New York system, inmates are only in solitary confinement at night. During the day, they are required to work in groups, or in **congregate**.

Elam Lynds later became a warden of **Sing Sing Correctional Facility**, also located in New York, where the silent system was also adopted.

## **THE ELMIRA REFORMATORY**

A **reformatory** is an institution that gave emphasis to reformation of young adults and to segregation of juvenile offenders from adult, hardened criminals.

The **Elmira Reformatory**, or Elmira State Reformatory, was opened in Elmira, New York, in 1876 to house youths aged sixteen (16) to thirty (30) years old who were first-time offenders. This reformatory was focused not on punishment but on rehabilitation through skills or trades training and academic education.

It was the first correctional institution to implement an extensive parole program (Schmalleger and Smykla, 2009). **Zebulon Brockway**, its first superintendent, was responsible for this. He devised a system in which prisoners could earn marks or points through hard work and good behavior. When a prisoner earned the required marks or points, his grade or level would be upgraded until he reached the grade that would qualify him to be considered for parole.

The parole program instituted by Brockway in the Elmira Reformatory was influenced by the mark system of Alexander Maconochie and the Irish system of Sir Walter Crofton.

## **THE GOLDEN AGE OF PENOLOGY**

The period of **1870-1180** is regarded as the **Golden Age of Penology** (Alcantara, 1978). It was during this period that prison reforms were at their peak, through the efforts of progressive-thinking men in Europe and in the United States of America.

## EXERCISE NO. 2

### **Research Work:**

- 1) List down all the features of the Pennsylvania system and the New York system. Compare and contrast these features using a table format.**
- 2) Summarize the achievements and contributions of the following individuals in the field of the corrections:**

- a) Charles de Montesquieu
- b) Voltaire
- c) Cesare Beccaria
- d) Jeremy Bentham
- e) John Howard
- f) William Penn
- g) Elizabeth Fry

- h) Alexander Maconochie
- i) Sir Samuel Romilly
- j) Sir Walter Crofton
- k) Zebulon Brockway
- l) Thomas Eddy
- m) Elam Lynds
- n) Enock Wines

## CHAPTER 3

### BRIEF HISTORY OF CORRECTIONS IN THE PHILIPPINE SETTING

#### DEVELOPMENT OF PRISONS AND PENAL FARMS IN THE PHILIPPINES ([www.bucor.gov.ph](http://www.bucor.gov.ph))

Before the arrival of the Spanish conquerors in the Philippine islands, there already was an informal system of imposing punishment for those members of the tribes who violate their laws and norms, primitive they may be.

It was only during the Spanish occupation that formal structures were established for the purpose of confining offenders as a form of state-sanctioned punishment. These structures or facilities are called prisons, jails and penal colonies or penal farms. The term penitentiary is used interchangeably with the words prisons, penal farms and penal colony.

A **penal colony** is a settlement used to exile prisoners and separate them from the general populace by placing them in a remote location ([www.wikipedia.org](http://www.wikipedia.org)).

#### SPANISH COLONIZATION

The colonization of the Philippines by Spain marked the beginning of the formal system of corrections in the country. The first penitentiary built was the **Old Bilibid Prison**, pursuant to Section 1708 of the Revised Administrative Code and by the virtue of a Royal Decree issued by the Spanish government in 1865. The Old Bilibid Prison was constructed as the main penitentiary and was called ***Carcel y Presidio Correctional***. It was originally located at Oroquieta Street in Manila, construction was finished in 1866.

On August 21, 1869, another prison was established but its location was in Zamboanga City, called the **San Ramon Prison and Penal Farm**. This prison was built specifically for Muslim rebels and political prisoners against the Spanish government. This prison was destroyed during the war between Spain and America in the late 1800s and was re-established during the American occupation.

#### AMERICAN OCCUPATION

Despite the relatively short period of American colonization of the Philippines, most of the penal prisons were built during the American occupation.

On November 16, 1904, the Iuhit penal settlement, which later became called the **Iwahig Prison and Penal Farm** was established in Puerto Princesa, Palawan. This prison was intended for those offenders which seemed to have no more chance for rehabilitation.

It was also during the first American occupation that the **Bureau of Prisons** was established, pursuant to **Act No. 1407**, the **Reorganization Act of 1905**, approved on November 1, 1905. It created the Bureau of Prisons under the office of the Department of Commerce and Police.

On November 27, 1929, the **Correctional Institution for Women** was created pursuant to **Act No. 3579**. This prison was constructed specifically for the confinement of female offenders.

A second penal colony was established in Mindanao on January 21, 1932, the **Davao Penal Colony**. It was created by the virtue of **Act No. 3732**.

Due to the growing population in the Old Bilibid Prison and the rapid progress of the city of Manila at the time, the Old Bilibid Prison, the main penitentiary, had to be relocated outside the city. **Commonwealth Act No. 67** provided for the construction of a new national prison in Muntinlupa in 1935. In 1940, all inmates of the Old Bilibid Prison were transferred to what became to be known as the **New Bilibid Prison**.

At present, what used to be the Old Bilibid Prison now houses the Manila City Jail. But to this day, some people, usually the elderly, still refer to it as Bilibid.

## POST-WORLD WAR II

The **Sablayan Prison and Penal Farm** in Occidental Mindoro was established by virtue of **Proclamation No. 72** issued on September 26, 1954.

The first and only national prison in the Visayas is the **Leyte Regional Prison**, established in Leyte pursuant to **Proclamation No. 1101** issued on 1973.

## THE PHILIPPINE PRISON SYSTEM

The basic law on the Philippine prison system can be found in the Revised Administrative Code, particularly Section 1705 to 1751, otherwise known as the **Prison Law** (Alcantara, 1978)/

Years later, **Executive Order No. 292**, or the **Administrative Code of 1987**, renamed the Bureau of Prisons into the **Bureau of Corrections**. This is an agency of the government under the Department of Justice which is in charge of administering the prison and penal farm facilities in the country.

A more detailed discussion of the Bureau of Corrections can be found in the *Chapter 6, The Bureau of Corrections*.

### EXERCISE NO. 3

**Research:**

***Discuss the primitive forms of imprisonment in the Philippine setting.***

## Chapter 4

### EVOLUTION OF PUNISHMENT AND PENALTY

In the primitive times, even when there was no formal set of laws or formal structure of government, people still found a way to devise a method in which offenders may be punished for their wrongdoings. There were certain offenses in which the offended party or his family were allowed and actually expected to take revenge. This is what is known as **blood feuds**. Another way of punishing is shunned or turned away by his tribe, making life difficult for him because in the primitive effort. Expulsion is said to be the precursor to **banishment** or **exile**. **Banishment** was one of the earliest form of social vengeance (Carlson, Hess and Orthmann, 1999).

As punishments continued to evolve over time, an apt definition for the term was also introduced. Punishment has been defined as the redress that the state takes against an offending member (Alcantara, 1978).

History attests that since the ancient times up until the late 1800s, almost all wrongdoings were punished by public humiliation, corporal punishment or death.

**Corporal punishment** is a form of physical punishment that involves the deliberate infliction of pain as retribution for an offense, or for the purpose of disciplining or reforming a wrongdoer, or to deter attitudes or behavior deemed unacceptable. **Judicial corporal punishment**, on the other, is a part of a criminal sentence ordered by a court of law ([www.wikipedia.org](http://www.wikipedia.org)).

The objective of imposing corporal punishment is to inflict physical pain and suffering to the offender as a form of **retribution** or **revenge** for the crime he has committed. Another is to deter the offender and the others from committing crimes, as this was usually done in public for viewing of the masses.

There were many different forms of corporal punishment used in the ancient times and these include flagellation or flogging or whipping, branding and mutilation, among so many others. These were done using different tools and in different ways, depending on the crime that was committed.

**Public humiliation** was usually a component of corporal punishment was often performed in a public place, such as in plazas or in the market place, for everyone to see. Part of the punishment was for the offender to suffer the shame and embarrassment of being displayed in public to be ridiculed and insulted. People were even encouraged to participate in the punishment by allowing them to throw anything at the offender, such as rotten food, dirt, mud, even human wastes. The offender could not get away or do anything to protect himself from these people because this punishment employed the use of **pillory** and **stocks**.

It was also very common for capital punishment to be imposed for varied crimes. **Capital punishment** refers to the penalty of **death**. It is the most serious of all penalties for it involves the loss of life for the offender. Capital punishment was executed through the use of guillotine, garrote, quartering, burning at the stake and firing squad or musketry, just to name some.

Death resulting from any of these methods of capital punishment could either be **merciful or instant death** or **slow or lingering death**. There are forms of punishment that result in the the quick death of the person, thus the terms merciful and instant are used to describe the resulting death. On the other hand, slow or lingering death result when the execution involves methods that prolong the agony and suffering of the offender before finally dying.

## EARLY FORMS OF PUNISHMENT THROUGH PUBLIC HUMILIATION

### 1) PILLORY

**Pillory** is a wooden or metal device mounted on a post with three holes to fit the head and the wrists. The offender had to bend down while standing up, while his head and wrists are trapped in the holes.

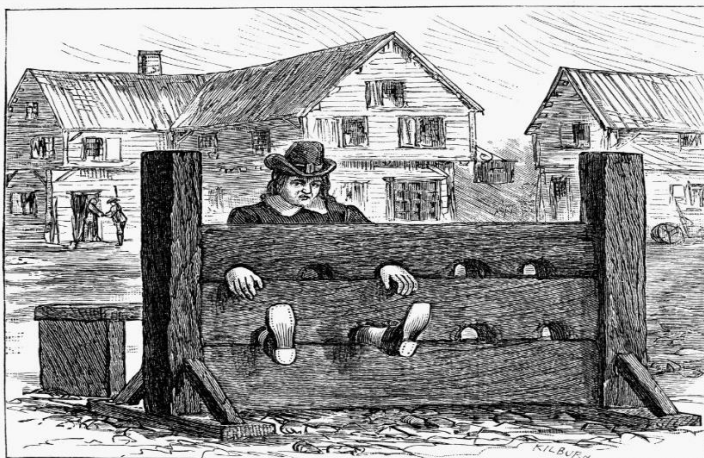


He had to remain in this position for a certain number of hours, depending on the crime he committed. The pillory and the offender were displayed in a public place where he had to suffer the shame and humiliation in front of the crowd. The crowd were allowed and even encouraged to spit at the offender, throw rotten food, dirt, mud, and even human waste to the offender, as part of his punishment.

### 2) STOCKS

**Stocks** is a wooden device with holes for the wrists and legs, but not for the head. An offender to sit down in order to lock his wrists and legs.

The stocks is a punishment device that is similar to the pillory in terms of purpose but with slight variation in terms of its design or appearance.



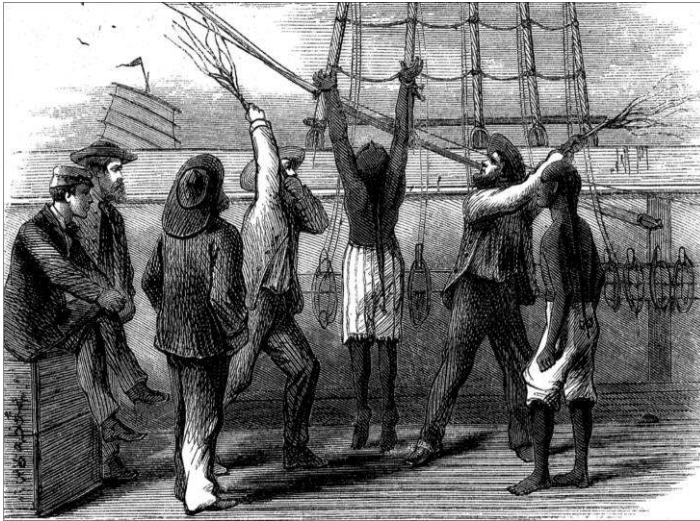
THE STOCKS.



## EARLY FORMS OF CORPORAL PUNISHMENT

### 1) FLAGELLATION

**Flagellation** or **flogging** is the act of methodically beating or whipping the human body. The word flagellation was derived from the Latin word, *flagellum* which means whip ([www.wikipedia.org](http://www.wikipedia.org)). It is done by repeatedly hitting the body, usually in the back with the use of a whip, cane wood, leather or other or other objects hard enough to inflict pain



### 2) BRANDING

**Human branding** or **stigmatizing** is the process in which a mark, usually a symbol or ornamental pattern, is burned into the skin of a living person, with the intention that the resulting scar makes it permanent ([www.wikipedia.org](http://www.wikipedia.org)).

It is done by pressing a burning, hot iron to the person's skin or body which would result in a wound caused by the burning. The wound would later become a scar in the form of hot iron used.



### 3) STONING

Stoning or lapidating involves the tossing of heavy rocks and stones at the victim until death (Miethe and Lu, 2005).



### 4) MUTILATION

**Mutilation** is the cutting off of an organ of the body. As punishment, mutilation is done in accordance with the law of retaliation, or *lex talionis*. *Lex talionis* resembles the biblical principle of “an eye for an eye, a tooth for a tooth”.

This is the reason why the hands of the thieves were pulled and torn out, the eyes of spies are gouged out and the genitals of rapists were severed, to name some examples (Schmallegger and Smykla, 2007).



## 5) GALLEY SLAVERY

A galley is a large medieval vessel or boat propelled by sails and oars and used for war and trading (Merriam-Webster Dictionary, 2013). Its movement is dependent upon the men who row the boat using the oars. These men were usually convicted offenders whose punishment was to become galley slaves.

In England, a sentence to a galley servitude was decreed as an alternative to death sentence (Stohr and Walsh, 2012).

## EARLY FORMS OF CAPITAL PUNISHMENT

### 1) BEHEADING or DECAPITATION

**Beheading** or **decapitation** is the cutting off of the head from the body by using an ax or sword. This was regarded as the most honorable form of capital punishment because a sword was a symbol that was both noble and aristocratic (Schmallegger and Smykla, 2007).

### 2) BEHEADING THROUGH THE USE OF GUILLOTINE

A guillotine is a device designed for carrying out executions by decapitation. It consists of a tall upright frame in which a weighted and angled blade is raised to the top and suspended. The condemned person is secured at the bottom of the frame, with his or her neck held directly below the blade. The blade is then released, to fall swiftly and sever the head from the body ([www.wikipedia.org](http://www.wikipedia.org)).

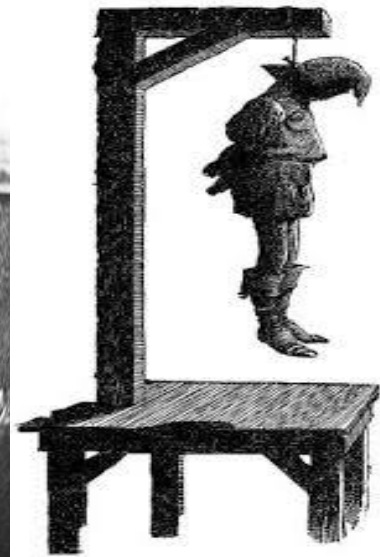
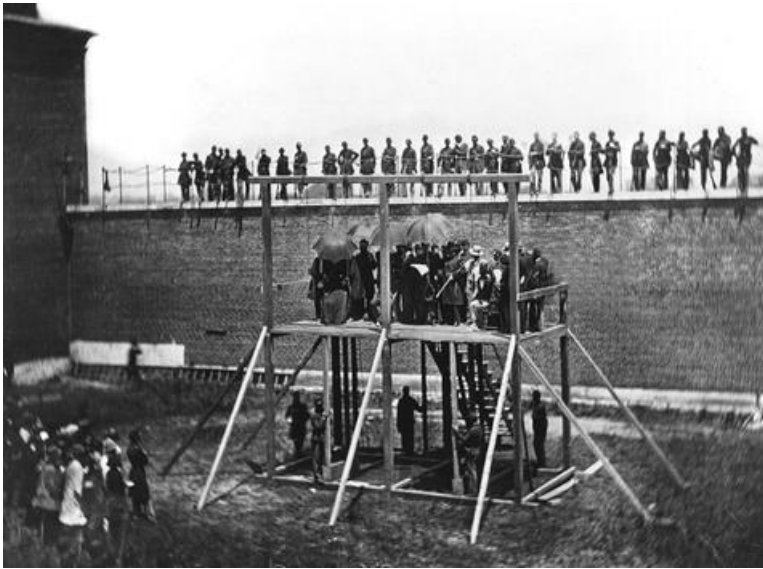
The name **guillotine** was derived from the name of the person who designed this device, Dr. Joseph Ignace Guillotine.



### 3) STRANGULATION THROUGH HANGING

**Hanging** is the strangulation by use of a rope while the body is suspended in the air. As opposed to decapitation, hanging was the standard non-honorable form of death penalty (Schmallegger and Smykla, 2007).

The **gallows** were widely used in England as a form of capital punishment. Gallows refers to a frame usually of two upright posts and a traverse beam from which criminals are hanged.



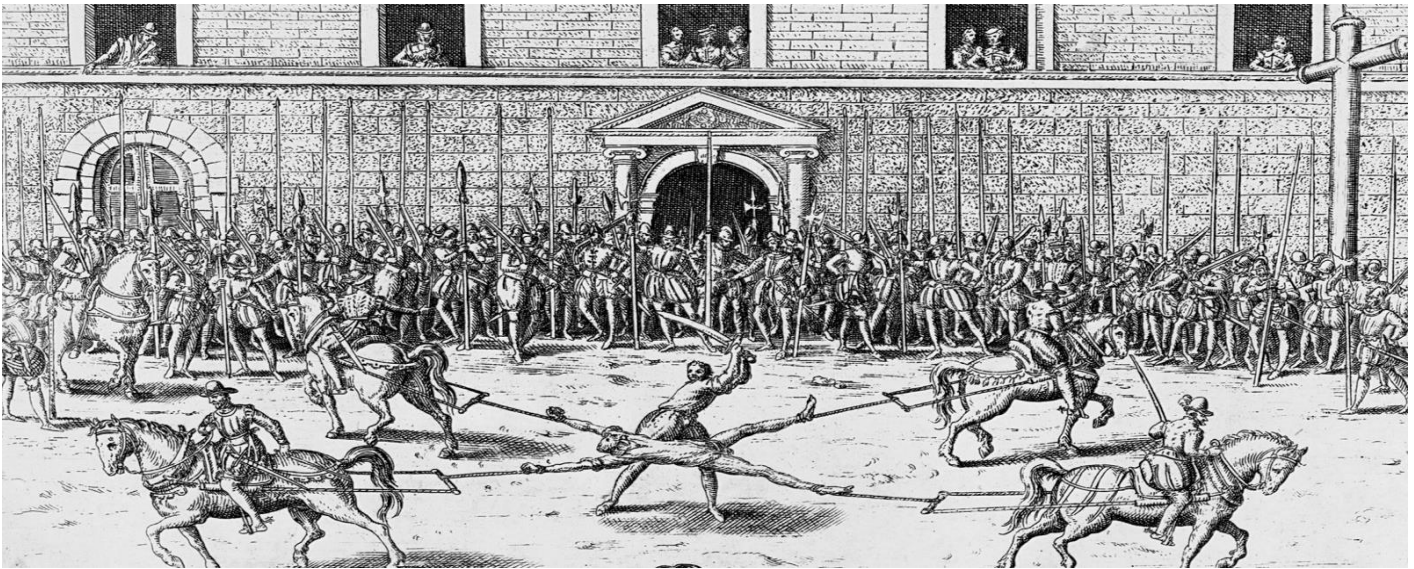
#### 4) STRANGULATION THROUGH THE USE OF GARROTE

**Garroting** strangulation through the use of metal collar. It is use done through the use of a **garrote**, a wooden chair with an attached metal in the shape of loop for the neck. The offender was made to sit in the chair, bounded, and the loop was fitted at the neck. Execution is done by tightening the metal loop in the neck by turning a crank or a wheel attached to it, until the person could no longer breathe, which would result in his death.



#### 5) DRAWING AND QUARTERING

This is one the most brutal methods of execution. An offender sentenced to this death was first hanged until near death taken down their limbs tied to horses, and then pulled apart as the horses ran in the different directions. Disembowelment, or the ripping out of internal organs, and the removal of genitals often occurred while the accused was still alive (Miethe and Lu 2005).



## 6) DEATH BY MUSKETRY OR FIRING SQUAD

**Execution by firing squad**, sometimes called **fusillading**, is a method of capital punishment, particularly common in the military and in times of war ([www.wikipedia.org](http://www.wikipedia.org)).

A firing squad refers to a group of soldiers. Usually, all members of the group are instructed to fire simultaneously, thus preventing both disruption of the process by a single member and identification of the member who fired the lethal shot. The prisoner is typically blindfolded or hooded, as well as restrained ([www.wikipedia.org](http://www.wikipedia.org))



Even in this day and age, some countries still impose corporal punishment as penalty for certain crimes or as additional punishment on top of the penalty of imprisonment. Moreover, these countries still impose capital punishment.

However, most progressive and modern countries, especially the democratic ones, have already totally abolished corporal punishment and capital punishment in their justice system. Although for criminal offences, the use of non-institutional or community-based corrections is also highly encouraged and practiced.

## Exercise no. 4

I. Define and explain the following:

- 1) Kin policing -
- 2) Banishment or exile -
- 3) Public Humiliation -
- 4) Confinement -

II. Using a two-column table, list down the common reasons why death penalty should not be restored. Use the table below as example:

| Reasons in favor of the death Penalty | Reasons Against the Death Penalty |
|---------------------------------------|-----------------------------------|
| 1)                                    | 1)                                |
| 2)                                    | 2)                                |

## CHAPTER 5

### PUNISHMENT AND PENALTIES IN THE PHILIPPINES SETTING

The 1987 Philippines Constitution explicitly prohibits the use of corporal punishment as penalty for any crime. Section 19, article III of the 1987 Constitution provides that:

*“(1) excessive fines shall not be imposed, nor cruel, degrading or inhuman punishment inflicted. Neither shall death penalty be imposed, unless, for compelling reasons involving heinous crimes, the congress hereafter provides for it; (2) The employment of physical, psychological or degrading punishment against any prisoner or detainee, or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.”*

The old Constitution used the phrase **cruel and unusual**, to describe punishment that is prohibited. It was replaced by the phrase, **degrading and inhuman** in the 1987 Philippine Constitution.

**Cruel and unusual punishment** is a phrase describing punishment which is considered unacceptable due to the suffering, pain or humiliation it inflicts on the person subjected to it. It can be found in the English Bill of Rights in 1689 and adopted by the Eight amendment to the United States Constitution, ratified in 1791 ([www.wikipedia.org](http://www.wikipedia.org)).

As used in the context of corrections, **penalty** refers to punishment imposed by a lawful authority upon a person who commits a deliberate or negligent act (Moreno, 2009). Penalty can take the form of imprisonment, payment of fines and damages, among others. The term **criminal liability** refers to the penalty of **imprisonment**, while **civil liability** refers to the obligation to pay damages and is paid to the offended party. A **fine** is a penalty which can be imposed in conjunction with or in addition to, another penalty. It is paid to the state or the government.

#### JURIDICAL CONDITIONS OF PENALTY

Penalty is the suffering that is inflicted by the state for the transgression of the law (Mallari and Argoso, 1998). It is the law that provides for the penalty that can be imposed to the convicted offender. As such, its imposition must meet the following juridical conditions or requirements in accordance with the law:

1) The penalty must be judicial or **legal**.

In criminal cases, the court is the only proper authority that can impose the penalty and the penalty must be in accordance with what the law provides.

2) The penalty must be **definite**.

The provision on penalty is an essential element of any penal law. The law clearly defines what acts are prohibited and it should also clearly define the specific penalty that is imposed, its degree and duration.

3) The penalty must be **Commensurate**.

The penalty for any crime must be proportional to the gravity or seriousness of the crime committed.

4) The penalty must be **personal**.

The penalty must be imposed only to the person who actually committed the crime and nobody can take his place as substitute or representative.

5) The penalty must be **equal**.

The penalty must be applied to all who committed the offense. And the same penalty must be imposed to any person who will commit the same offense.

## **BRIEF HISTORY OF CAPITAL PUNISHMENT IN THE PHILIPPINES**

During the Spanish occupation in the Philippines, capital punishment was imposed through death by firing squad or the garrote.

According to Philippines history documents and textbooks, the three Filipino priest who were accused of taking part in the Cavite mutiny were executed through the garrote. These three priests were Father Mariano Gomez, Father Jose Burgos and Father Jacinto Zamora, collectively called Gomburza. And of course, the most famous Filipino who have been sentenced to die through the firing squad is the Philippines I national hero, Dr. Jose P. Rizal.

The **electric chair** as a method of execution was introduced in 1926 during the American occupation. It was used until 1976, during the time of former President Ferdinand Marcos. Article 81 of the Revised Penal Code is the provision pertaining to the death penalty. Accordingly, it provides that the death sentence shall be execution with preference to any other and shall consist in putting the person under sentence to death by electrocution.

Then in 1987 during the administration of President Corazon Aquino, the new constitution was approved. The **1987 Philippine Constitution** abolished the death penalty except for heinous crimes, as stated under section 19, Article III.

**Republic Act No 7559**, otherwise known as the Death Penalty Law, was approved on December 13 1993. It defined heinous crimes and provided that the Penalty for said heinous crimes shall be death.

In March 20, 1996 **Republic Act No.8177** was approved. It is the law that designated lethal injection as the method for carrying out the capital punishment in the Philippines.

Then in 2006, the imposition of the death penalty was once again abolished, under the presidency of former Gloria Macapagal Arroyo, pursuant to Republic Act No. 9346, the law prohibiting the imposition of the death penalty. It was approved on June 24, 2006. As of this writing, RA 9346 remain to be the law in force.

### **Duration of penalties**

The duration of penalties is provided by Article 25 of the Revised Penal Law:

### **Capital Punishment**

Death

## **Afflictive Penalties**

Reclusion Perpetua-20 years and 1 day to 40 years

Reclusion Temporal- 12 years and 1 day to 20 years

Prison Mayor – 6 years and 1 day to 12 years

## **Correctional Penalties**

Prison Correctional - 6 months and 1 day to 6 years

Arresto Mayor - 1 month and 1 day to 6 months

Destierro - 6 months and 1 day to 6 years; shall not be permitted to enter the place or places designated in the sentence, nor within the radius therein specified, which shall be not more than 250 kilometers and not less than 25 kilometers from the place designated

## **Light Penalties**

Arresto Menor- 1 day to 30 days

## **INDETERMINATE SENTENCE**

An **indeterminate sentence** is one in which the actual number of years a person may serve is not fixed but is rather a range of years (Stohr and Walsh, 2012). Penalty imposed may be in its **minimum, medium or maximum period**, as provided by the revised penal code.

**Act No. 4103**, as amended by Act No. 4203 and Act No. 4225 is the **Indeterminate Sentence Law**, which took effect on 5 December 1933 and currently still enforceable. This law is responsible for the establishment and the **Board of Pardons and Parole**, which is tasked to administer the parole system.

The law is intended to favor the defender, particularly, to shorten his term of imprisonment, depending upon his behavior and his Physical, mental and moral record as a prisoner (Miguel and Argoso, 1998).

## **DISTINCTION BETWEEN CONCURRENT SENTENCE AND CONSECUTIVE SENTENCE**

There are instance wherein a person can be convicted and sentenced for two separate distinct crimes. When this happens, the convicted offender can either serve his sentence concurrently or consecutive, depending on the nature of the offense and background of the offender.

A **concurrent sentence** is one in which two separate sentence are served at the same time, while a consecutive sentence is one in which two or more sentence must be served sequentially, or one after the other (Stohr and Walsh), 2012)

## **DISTINCTION BETWEEN RECLUSION PERPETUA AND LIFE IMPRISONMENT**

Some tend to be confused between reclusion perpetua and life imprisonment mistaking them as one and the same. However that is not true. Reclusion perpetua and life imprisonment are two distinct penalties

As stated earlier, reclusion perpetua is imprisonment for a period ranging from 20 years and 1 day to 40 years. It has an offender with a sentence of reclusion perpetua still has a chance of being released after service of sentence. The penalty of reclusion perpetua is imposed or provided by either Revised Penal Code or Special Laws.

On the other hand, the penalty of life imprisonment, as the name denotes, penalizes the convicted offender to serve his sentence for as long as he lives. He shall remain in prison until the time of his death, with no chance of being released, unless pardoned by the President. The penalty of life imprisonment is imposed or provided only by special laws.

## EXERCISE NO. 5

- 1) What crimes are defined by law as heinous crimes?
- 2) What drugs or chemicals are contained in the lethal injection used as method for execution the death penalty?
- 3) What is meant by the term juridical condition of penalty?
- 4) What is the rationale behind independence sentencing?

## CHAPTER 6

### THE BUREAU CORRECTIONS



As mentioned in Chapter 3, what is known as the **Bureau of Corrections** today is what used to be called the Bureau of Prisons during the American occupation. It was renamed Bureau of Corrections by virtue of Executive order NO 292, or the Administrative code of 1987.

The **Bureau of Corrections**, or **BuCor** is an attached agency to the Department of Justice. It is the only primary institution in the corrections pillar that provides full custody and rehabilitation programs for the transformation of **insular prisoners, those sentenced to more than three (3) years to life imprisonment**. Its mandate states that the principal task of the BuCor is the rehabilitation of national or insular prisoners.

The Bureau of Corrections is mandated by law to accomplish its twin objectives the effective rehabilitation and safekeeping of national prisoners.

#### POWERS AND FUNCTIONS OF THE BUCOR

([www.bucor.gov.ph](http://www.bucor.gov.ph))

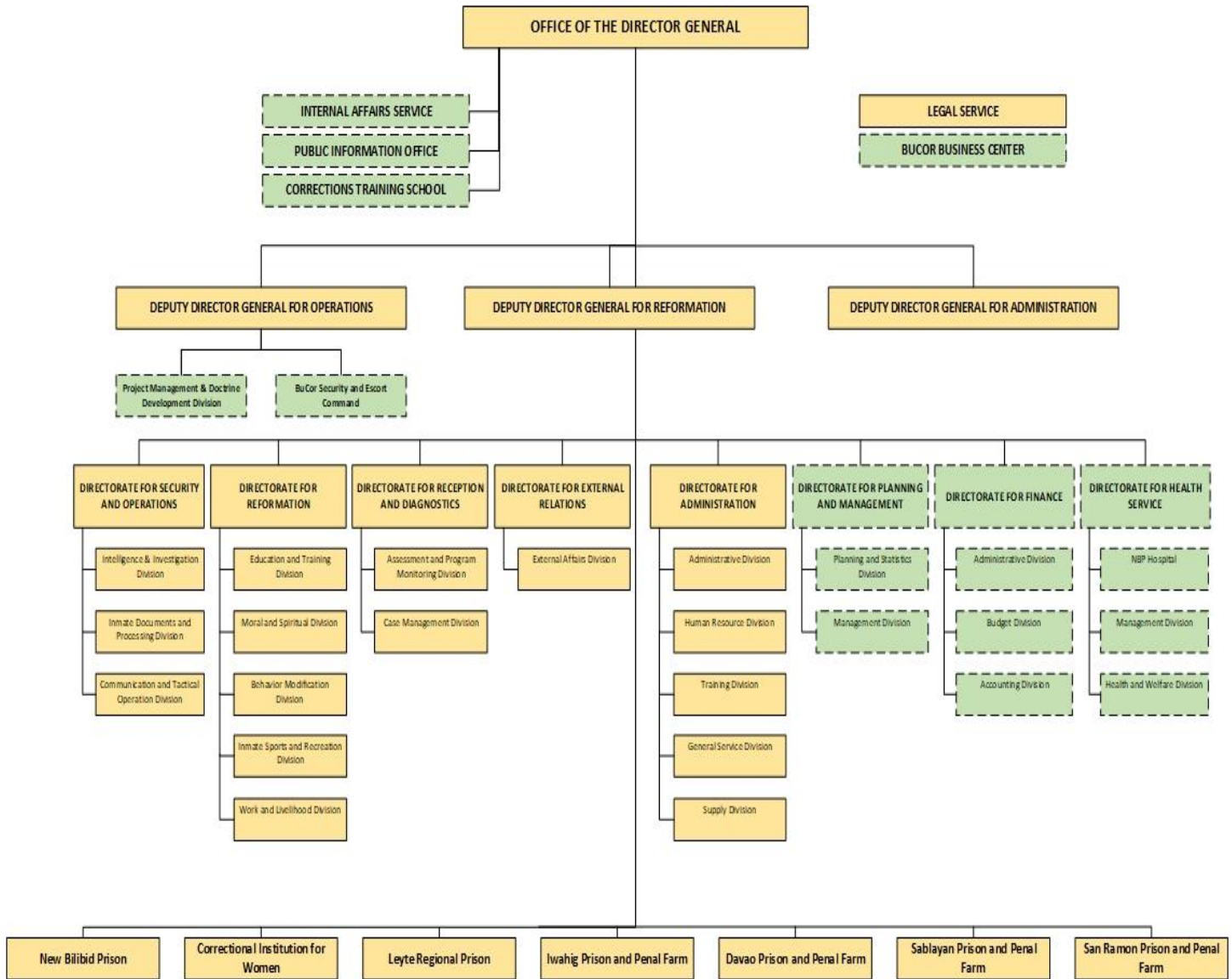
1. Safe keep prisoners convicted by the courts three (3) years and one (1) day and above to serve sentence in prison.
2. Keep prisoners from committing crimes while in BuCor's custody.
3. Provide inmates basic needs as human being.
4. Ensure rehabilitation programs are made available to the inmates for their physical, intellectual and spiritual development.
5. Develop livelihood programs to assist inmates earn a living and develop their skills while in prison.

The BuCor has seven (7) operating units located nationwide and these are the **San Ramon Prison and Penal Farm, Iwahig Penal Colony, Correctional Institution for Women, Davao Prison and Penal Farm, the New Bilibid Prison, Sablayan Prison and Penal Farm and Leyte Regional Prison**.

# ORGANIZATION AND COMPOSITION OF THE BUCOR

The BuCor is a bureau under the Department of Justice. It is headed by a **Director**, who is appointed by the President as per recommendation of the Secretary of the DOJ.

## ORGANIZATIONAL CHART OF THE BUCOR



The Director is assisted by three (3) Assistant Directors: **Assistant Director for Administration**, **Assistant Director for Operations** and **Assistant Director for Reformation**.

The **custodial force** is comprised of the following positions: **Superintendent**, **Assistant Superintendent**, **Chief Overseer**, **Commander of the Guards**, **Inspector of the Guards**, **Guard**, **Keeper**, **Yard Guard**, **Gate Guard** and **Guards at the Main Gate or Outpost**.

Each of the seven (7) prison and penal farm is headed by a **Superintendent**.

## **POWER AND FUNCTIONS OF THE BUCORS DIRECTOR**

Section 2, Part I, Book II of the BuCor Operating Manual provides for the functions of the BuCor Director:

- 1) Act as adviser of the Secretary on matters relating to the formulation and execution of penal policies, plans, programs and projects;
- 2) Administer and execute the laws relating to prisons and its inmates and enforce the rules and regulations governing the operations and management of prisons;
- 3) Exercise administrative supervision of prisons;
- 4) Recommend to the Board of Pardons and Parole inmates who are qualified for the grant of parole, pardon and other forms of executive clemency;
- 5) Exercise supervision and control over the constituent units and personnel of the Bureau; and
- 6) Issue directives and instructions in accordance with laws, rules and regulations that will effectively and efficiently govern the activities of the Bureau and its personnel.

## **DUTIES OF PRISON SUPERINTENDENTS**

Section 2, Part II, Book II of the BuCor Operating Manual provides for the duties of custodial officers, such as prison superintendents:

- 1) He is charged with the supervision of entire prison;
- 2) He shall strictly enforce all laws and rules and regulations relating to prisons;
- 3) He shall be responsible to the Director for the management of the prison, the safe custody of inmates, the proper care of all prison buildings and other properties, and the economical and proper expenditure and use of prison funds and materials;
- 4) He shall utilize the labor of all the inmates to serve the best interest of the public service. He shall promote the useful employment and industrial training of inmates;
- 5) He shall report promptly in writing to the Director any escape or any attempt or preparation to escape, the discovery or confiscation of dangerous tools from an inmate, fires, accidents or any important occurrence;
- 6) He shall observe the conduct of the prison officers and guards and require faithful execution of their duties;
- 7) He shall immediately report to the Director any irregularity or misconduct of a prison official or guard and if warranted, investigate and proceed administratively against an errant official or guard in accordance with Civil Service Law, rules and regulations;
- 8) He shall look after the health and well-being of prison officers and guards;
- 9) He shall reside in the quarters assigned to him and shall not stay out overnight unless the Assistant Superintendent is present;
- 10) He shall receive all reports and complaints of prison officials, guards and inmates and forward the same without delay to the Director with his comments and recommendations;
- 11) He shall maintain at all times control over the inmates, and to permit no disobedience. He shall comport himself so as to maintain a positive influence over them, which whenever the occasion may require, he shall exert by his personal presence;
- 12) He shall see to it that all inmates are treated with strict impartiality;

- 13) He shall allow visits to inmates in accordance with prison rules and regulations and general orders and shall ensure that proper entries concerning the visitors are made in the prescribed book;
- 14) He shall give all necessary directions for the reception and release of inmates; and
- 15) He shall pay attention to the illumination, ventilation, drainage, water supply and sanitary condition of the prison and take such measures as may be necessary for their being maintained in perfect order.

## **THE SEVEN PRISONS AND PENAL FARMS IN THE PHILIPPINES** (www.bucor.gov.ph)

### **1) SAN RAMON PRISON AND PENAL FARM**

The **San Ramon Prison and Penal Farm** was established on August 21, 1869 in Zamboanga City during the time of Governor General Ramon Blanco.

It is believed that it was Governor General Blanco who chose the name *San Ramon*, in honor of his patron saint. It is the **oldest operational prison** in the country.

It was built purposely for Muslim rebels and political offenders who went against the Spanish government. Its original size was 1,414 hectares.

It was re-established in 1907 because it was destroyed during the Spanish-American War. It was placed under the Bureau of Prisons on January 1, 1915 and to this day remains to be under the BuCor.

### **2) IWAHIG PENAL COLONY**

Iwahig Prison and Penal Farm was created on November 16, 1904 and is located created in Puerto Princesa Palawan, through the authority of Governor Luke Wright. Initially 28,072 hectares in size, it reached 41,007 hectare by virtue of Executive Order No. 67 issued by Governor Newton Gilbert on October 15, 1912.

This was originally intended as a temporary place of confinement for prisoners who could no longer be received in the Old Bilibid Prison in Manila. But by 1907, it was already officially classified as a penal institution.

Iwahig Prison and Penal Farm is an open institution and it is subdivided into **four (4) zones or districts: Central sub-colony, Sta. Lucia, Montible and Inagawan.**

### **3) CORRECTIONAL INSTITUTION FOR WOMEN (CIW)**

On November 27, 1929, the **Correctional Institution for Women (CIW)**, originally called Women's Prison, was created under **Act No. 3579**, to provide separate facilities for women offenders. It is located at Welfareville, Mandaluyong City.

All female inmates from the Old Bilibid Prison were transferred to the CIW on February 14, 1931. The facility was 18 hectares in size.

### **4) DAVAO PRISON AND PENAL FARM**

The **Davao Prison and Penal Farm** formerly called Davao Penal Colony, was created pursuant to **Act No. 3732** in January 21, 1932 and is located in the districts of Panabo and Tagum in Davao del Norte. It originally was 30, 000 hectare in size.

It is divided into two (2) sub-colonies: the **Panabo** sub-colony and **Kapalong** sub-colony.

### **5) NEW BILIBID PRISON (NBP)**

The **New Bilibid Prison (NBP)** was established in Muntlupa by virtue of **Commonwealth Act No. 67**. On November 15, 1940, all inmates of the Old Bilibid Prison in Manila were transferred to the

NBP. It became known officially as the New Bilibid Prison on January 22, 1941. It has an area of 587 hectares.

It is divided into three compounds or camps: **maximum security, medium security and minimum security compounds.**

The **medium security camp** is called **Camp Sampaguita**, while the **minimum security** is called **Bukang Liwayway.**

#### 6) **SABLAYAN PRISON AND PENAL FARM**

**Sablayan Prison and Penal Farm**, formerly Sablayan Penal Colony, was established pursuant to Proclamation No. 72 issued on September 26, 1954. It is located in Occidental Mindoro and is 16,190 hectares in size. It has three sub-colonies.

It is here in Sablayan that prisoners from the National Bilibid Prison are transferred to address problems on overcrowding in NBP.

#### 7) **LEYTE REGIONAL PRISON**

The Leyte Regional Prison was established by virtue of Proclamation No. 1101 issued on January 16, 1973. It is located in Abuyog, Southern Leyte.

This prison receives convicted offenders from Region 6 and from the National Bilibid Prison.

### **REPUBLIC ACT NO. 10575, THE BUEAU OF CORRECTIONS ACT OF 2013**

A truly remarkable development in the history of BuCor is the passage of **Republic Act. 10575**, otherwise known as the **Bureau of Corrections Act of 2013**, signed into law on 24 May 2013.

As can be expected because of the passage of this new law, some terminologies used in the BuCor have been changed, such as position titles, ranks and names of offices, to name a few. New policies are now in place in relation to recruitment, promotion, attrition and retirement of BuCor personnel.

All these and other salient features of this law are discussed in the next chapter.

### EXERCISE NO. 6

- 1) Explain the twin objectives of the Bureau of Corrections:
  - a. **rehabilitation**
  - b. **safekeeping**
- 2) What do you call the head of the BuCor? The head of each of the seven prison and penal farms?
- 3) Why do you think penal farms are called prisons without walls?

## CHAPTER 7

### REPUBLIC ACT 10575 THE BUREAU OF CORRECTIONS ACT OF 2013

For a long time, BuCor had been operating under the outdated Prison Law contained in the Revised Administrative Code. The enactment of RA 10575, the Bureau of corrections Act of 2013, is much welcome development, not only for the benefit of the prisoners, but also for the correctional officer and personnel of the BuCor.

#### REPUBLIC ACT NO. 10575, THE BUREAU OF CORRECTIONS ACT OF 2013

Republic Act No. 10575, otherwise known as the Bureau of Corrections Act of 2013, was approved on 24 May 2013. It aims to strengthen, modernize, professionalize and restructure the BuCor by upgrading its facilities, increasing the number of its personnel, upgrading the level of qualifications of its personnel and standardizing their salaries, retirement and other benefits.

#### SAFEKEEPING AND REFORMATION - THE TWO COMPONENTS OF BUCOR

Section 3 of RA 10575 introduced the definition of terms **safekeeping** and **reformation**, the **two components** of the BuCor.

**Safekeeping**, the **custodial component**, refers to the act that ensures the public, including families of inmates and their victims, that national inmate are provided with their basic needs, completely incapacitated from further committing criminal act, and have been totally cut off from their criminal network or contacts in the free society while serving sentence inside the premises of the national penitentiary. It also includes protection against illegal organized armed group which have the capacity of launching an attack on any prison camp of the national penitentiary to rescue their convicted comrade or to forcibly amass firearms issued to prison guards.

The safekeeping of inmates include decent provision of quarters, food water and clothing in compliance with established United Nations Standard.

**Reformation**, the **rehabilitation component**, refers to the act which ensure the public, including families of inmates and their victims, that released national inmates are no longer harmful to the community be becoming reformed individuals prepared to live a normal and productive life upon reintegration to the Main mainstream society.

The reformation of national inmate shall include the following: moral and spiritual program, education, and training program work and livelihood program, sports and recreation program, health and welfare program and behavior modification program, to include therapeutic community.

#### ORGANIZATION AND KEY POSITIONS OF THE BUCOR

Section 9 of RA 10575 provides for the organization and title of **Directors General of Corrections** and he shall have the rank of **Undersecretary**. He shall be appointed by the president upon the recommendation of the Secretary of the DOJ and he shall serve for a period of six (6) years.

The **second officer in command** shall have the position and title of **Deputy Directors of Corrections** and they shall have the rank of **Assistant Secretary**. There shall be **three (3) Deputy**

**Directors: Deputy Directors for Administration, Deputy Director for Security and Operations and Deputy Director for Reformation.** These positions are all appointed by the president upon the recommendation of the Secretary of the DOJ. Their term of office is **six (6) years.**

The **third officer in command** shall have the position and title **Corrections Chief Superintendent** and he shall have the rank of **Chief Superintendent.**

The **fourth officer in command** shall have the position and title of **Corrections Senior Superintendent** and he shall have the rank of **Senior Superintendent.**

The **fifth officer in command** shall have the position and title of **Corrections Superintendent** and shall have the rank of **Superintendent.**

## **COMPOSITION OF THE UNIFORMED PERSONNEL OF THE BUCOR**

Section 19 of RA 10575 introduced the new ranking system in the BuCor.

The safekeeping of the inmates shall be undertaken by the **Custodial Force** consisting of the **corrections officers** with the ranking system and salary grades similar to the BJMP.

The custodial officers shall have the following ranks:

**Corrections Senior Superintendent**

**Corrections Superintendent**

**Corrections Chief Inspector**

**Corrections Senior Inspector**

**Corrections Inspector**

**Corrections Senior Officer 4**

**Corrections Senior Officer 3**

**Corrections Senior Officer 2**

**Corrections Senior Officer 1**

**Corrections Officer 3**

**Corrections Officer 2**

**Corrections Officer 1**

The reformation programs shall be undertaken by professional reformation personnel consisting of **corrections technical officers** with ranking systems and salary grades similar to corrections officers.

The corrections technical officers are the personnel whose nature of work requires proximate or **direct contact with inmates.** These include **priests, evangelists, pastors, teachers, instructors,**

**professors, vocational placement officers, librarians, guidance counselors, physicians, nurses, medical technologists, pharmacists, psychiatrists, sociologists, social workers, engineers, electricians, agriculturists, veterinarians, lawyers,** and similar professional skills relevant to the implementation of inmate reformation programs.

The corrections technical offices shall have the following reformation ranks:

**Corrections Technical Senior Superintendent**

**Corrections Technical Superintendent**

**Corrections Technical Chief Inspector**

**Corrections Technical Senior Inspector**

**Corrections Technical Inspector**

**Corrections Technical Senior Officer 4**

**Corrections Technical Senior Officer 3**

**Corrections Technical Senior Officer 2**

**Corrections Technical Senior Officer 1**

**Corrections Technical Officer 3**

**Corrections Technical Officer 2**

**Corrections Technical Officer 1**

## **PROFESSIONALIZATION AND UPGRADING OF QUALIFICATION STANDARDS IN THE APPOINTMENT OF BUCOR PERSONNEL**

Section 11 enumerates the upgraded minimum qualification to be admitted in the service. Just like in the PNP, BFP and BJMP, there are qualifications that pertain to education, age, physical, mental and health conditions.

An applicant to the BuCor must be a **college graduate** and must pass the appropriate civil service eligibilities, such as civil service examination administered by the Civil Service Commission and professional licensure examinations administered by the Professional Regulation Commission. And because these requirements were not part of RA 10575, all BuCor personnel who are **not** college graduates and/or do not possess the appropriate eligibility are given five (5) years to obtain the minimum educational qualification and eligibility.

As for the age requirement, he must be **not less than twenty-one (21) years old nor more than forty (40) years old** at the time of his application.

For males, the height requirement is at least **1.62 meters**, while for females, it is at least **1.57 meters**, similar to the height requirement in the PNP, BJMP, and BFP. Height waivers are also accepted for applicants who are members of cultural minorities.

## **TRAINING OF BUCOR PERSONNEL**

The training of BuCor personnel will continue to be done through its Personnel Training School, which was renamed as **Corrections Training School or Institute** patterned after the BJMP's Jail National Training Institute.

RA 10575 also ordered for a study to be conducted in order to prepare for the establishment of the **Philippine Corrections Academy**, to be patterned after the Philippine National Police Academy, for its commissioned officers.

## **BUCOR PERSONNEL-TO-INMATE RATIO**

Section 10 provides for the **personnel-to-inmate ratio** that must be maintained in the BuCor. This ratio is the basis for determining the number of personnel needed in the BuCor. Naturally, the number of personnel needed would depend on the number of inmates.

Accordingly, the **custodial personnel-to-inmate ratio is 1:7**, while the **reformation personnel-to-inmate ratio is 1:24**.

## **LATERAL ENTRY OF OFFICERS INTO THE BUCOR**

Section 13 enumerates professional with highly specialized and technical qualifications who are qualified for lateral entry into the BuCor. These professionals shall enter the BuCor with the initial rank of **Corrections Inspector**. They are the following:

- 1) Civil Engineers
- 2) Mechanical Engineers
- 3) Electrical Engineers
- 4) Chemical Engineers
- 5) Chemists
- 6) Architects
- 7) **Criminologists**
- 8) Certified Public Accountants
- 9) Nurses
- 10) Physical Therapists
- 11) Dentists
- 12) Social Workers
- 13) Psychologists
- 14) Guidance Counselors
- 15) Teachers

As for doctors of medicine, members of the Philippine Bar and chaplains, they are also qualified for lateral entry into the BuCor with an initial rank if **Corrections Senior Inspector**, one rank higher than the other professions.

## **OPERATIONS OF THE BUCOR**

Section 5 of RA 10575 states that the BuCor shall operate with a **directional structure**. As a result, the current titles of some offices in the BuCor have been renamed.

For one, the **Reception and Diagnostic Center (RDC)** has been renamed as **Directorate for Reception and Diagnostics (DRD)**. There is now **Security and Operations Directorates** which shall provide basic needs and security, **Reformation Directorates** which shall administer the reformation programs, and **Directorate for External Relations** which shall prepare inmates for reintegration to mainstream society.

It is highly recommended that the law, RA 10575, be read in its entirety for a much deeper meaning and appreciation of its provisions.

## EXERCISE 7

Enumerate the other key positions in the BuCor, as provided in RA 10575. Include the educational qualifications.

## **CHAPTER 8**

### **THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY**

The Bureau of Jail Management and Penology or BJMP was created by virtue of RA 6975, otherwise known as the Department of the Interior and Local Government Act of 1990, which took effect on January 2, 1991. It replaced the then office of Jail Management and Penology of the Philippines Constabulary- Integrated National Police (PC-INP)

The BJMP is one of the Bureau under the Department of the Interior and Local Government, or DILG. It is charge of all district, City and Municipal Jails Nationwide

Republic Act No. 9263, otherwise known as the Bureau of Fire Protection and Bureau of Jail Management and Penology Professionalization Act of 2004, was enacted on March 10, 2004, amending pertinent provisions of RA 6975 regarding the BJMP. RA 9592, another amendatory law was enacted on May 8, 2009, amending the provision on educational qualifications of BJMP personnel, among others.

#### **POWER AND FUNCTION OF THE BJMP**

- 1) Formulate policies and guidelines in the administration of jails nationwide
- 2) Implement Strong security measures for the control of inmates
- 3) Provide for the basic needs of inmates
- 4) Conduct activities for the development of inmates
- 5) Improve jail Facilities and
- 6) Promote the general welfare and development of personnel.

#### **OBJECTIVES OF THE BJMP**

- 1.) To improve the living conditions of inmates in accordance with the accepted standards set by the United Nations;
- 2) To enhance the safekeeping and development of inmates in preparation for their eventual reintegration into the mainstream of society upon their release; and
- 3) To professionalize jail services.

#### **ORGANIZATIONAL AND COMPOSITION OF BJMP**

The position title of the key position and the rank classification in the BJMP is similar to that of the Philippine National Police

The BJMP is headed by chief, who is assisted by two (2) Deputy Chiefs, one for Operation and one (1) Chief of Directorial staff. All these key position are appointed by the president upon the recommendation of the DILG Secretary

As for the rank classification, the highest rank is Jail Director, while the lowest is Jail Officer 1.

There are regional offices in each of the administrative regions headed by a Regional Director for Jail Management and Penology. In every province, there is a Provincial Jail Administration's office headed by a Provincial Administrator.

With large cities or group of clustered municipalities, there is a District Jail headed by a District Warden. City and Municipal wardens or wardress, respectively.

### **DUTIES AND RESPONSIBILITIES OF THE CHIEF BJMP**

- 1) Act as adviser to the Secretary of the Department of interior and Local Government relating to the formulation and programs in the supervision and control of district City and Municipal Jail nationwide;
- 2) Exercise command, supervision and control over all personnel of the jail bureau;
- 3) Administer and implement laws relating to jail management and enforces rules and regulations governing the administration and operation of the jail Bureau down to its lowest units;
- 4) Recommends to the Secretary rules and regulations and other guidelines which require the department approval;
- 5) Issues directives, instructions and policies for the efficient implementation of programs; and
- 6) Perform such other functions as may be directed by higher authorities.

### **DUTIES AND RESPONSIBILITIES OF THE DEPUTY CHIEF FOR ADMINISTRATION OF THE BJMP**

- 1) Advises and assist the Chief, BJMP in the formulation and implementation of the plans, programs and policies pertaining to personnel, logistics and comptrollership;
- 2) Assists the Chief, BJMP in the proper implementation of the various programs/activities of the different divisions, regional offices and in the administration of the jails nationwide;
- 3) Assumes that duties of the Chiefs during the latter's absence; and
- 4) Perform such other functions as may be assigned by the chief, BJMP.

### **DUTIES AND RESPONSIBILITIES OF THE DEPUTY CHIEF FOR THE OPERATION OF THE BJMP**

- 1) Advises and assist the chief, BJMP in the formulation and implementation of the plans, programs and policies pertaining to jail operation;
- 2) Assists the Chief, BJMP in the proper implementation of the various programs/activities of the different divisions, regional offices and in the administration of the jail nationwide;

3) Assume the duties of the chief, BJMP in the absence of the former and the Deputy Chief for Administration; and

4) Perform such other functions as may be assigned by the Chief, BJMP.

### **DUTIES AND RESPONSIBILITIES OF THE JAIL REGIONAL DIRECTOR**

1) Supervises, monitor and control district, city and Municipal Jails within the area of responsibility;

2) Ensures proper and effective utilization of resources in the administration of jail in the region;

3) Implements laws, rules, policies, guidelines and standards handed down by higher authorities;

4) Provides technical advice and assistance to the government offices and other agencies regarding jail matters within his jurisdiction; and

5) Perform other functions ate the Chief BJMP may direct

### **DUTIES AND RESPONSIBILITIES OF THE JAIL PROVINCIAL ADMINISTRATION**

1) Supervises BJMP jails within the province and sees to it that all directives, policies, rules and guidelines are strictly followed; and

2) Perform such other Functions as the regional Director may direct.

### **DUTIES AND RESPONSIBILITIES OF THE JAIL WARDEN OR WARDRESS**

1) Supervises and control all personnel and inmates in the jails;

2) Implementation legal orders, rules regulations and directives on jail operation and administration;

3) Administer sanctions and other disciplinary actions on inmates or personnel under his command for disobedience or infraction of orders;

4) Supervises the conduct of greyhound operation and inspections of jail facilities and premises

5) Ensures the Security and control of the jail facility and provides inmates welfa6 and development programs;

6) Promotes the welfare and morale of personnel and inmates;

7) Assumes responsibility for the formulation and implementation of emergency plans to preclude occurrence of jail incidents and disturbances;

8) Ensures proper utilization of resources and maintenance of facilities supplies and equipment;

9) Performs other functions as the Regional Director may direct.

## **CLASSIFICATION OF JAIL**

A jail is a place of confinement for city and municipal prisoners, any fugitive from justice, or person detained awaiting or undergoing investigation or trial and/or transfer to the national penitentiary, and/or violent mentally-ill person who endangers himself or the safety of others, pending transfer to a mental institution. Jails are classified into four: Provincial, District, City and Municipal Jail. However, Provincial Jails are not under the provision of the BJMP.

A **District Jail** is a facilities or place of confinement for inmates coming from a city or clustered municipalities who are awaiting or undergoing trial or serving sentence for a term of one (1) day to three (3) years. It is headed by jail warden or wardress.

A **City Jail** is a facilities or place of confinement for inmates whose sentence ranges from one (1) day to (3) three years and for those who awaiting or undergoing trial or waiting for judgement of the court. It is headed by Jail Warden.

A **Municipal Jail** is facility or place of confinement for inmates whose sentence ranges from one (1) day to six (6) months, and for those who are awaiting or undergoing trial or awaiting for judgement of the court. It is headed by a Jail Warden.

## **PROVINCIAL JAILS**

Provincial jails are for the safekeeping of prisoners at the capital of each province. These are under the supervision and control of the Provincial Governors, whose office is also under the DILG

A Provincial jail is a facility or place of confinement for inmates whose sentence ranges from six (6) months and one (1) day to three 3 years, and those who are awaiting or undergoing trial, or waiting for the judgement of the court.

## EXERCISE NO 8

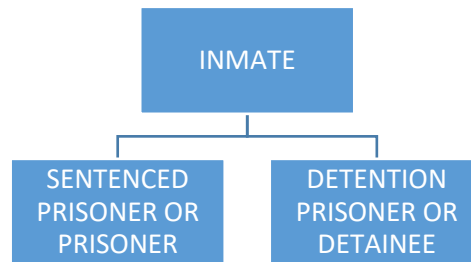
Answer the following briefly:

- 1) Differentiate prison from jail.
- 2) What makes provincial jails different from city or municipal jails?
- 3) Before the creation of the Bureau of Jail Management and Penology, which office took charge of provincial jails? And municipal jails?
- 4) Why is the provincial jail not under the BJMP?

## CHAPTER 9

### CLASSIFICATION OF PRISON AND JAIL INMATES

It is very common for people to use the term prisoner to refer to any person who is confined in a prison or jail. This is actually inaccurate because the correct term to use is the word **inmate**. Technically, an **inmate** refers to a person who is confined in a prison or jail regardless whether he is a **sentenced prisoner** or a **detention prisoner**. A **sentenced prisoner** or **prisoner** is an inmate who has been convicted by final judgment, while a **detention prisoner**, or a **detainee**, is one who is still under investigation, awaiting or undergoing trial or awaiting judgement.



**Presidential Decree No. 29** was issued on October 25, 1972 and it amended certain provisions on the classification of inmates of the **Revised Administrative Code**. This Code contains the **prison law** of the Philippines.

The nomenclatures of the different categories and classifications of inmates have two sources: **the Bureau of Corrections Operating Manual 2000** for prisons and **the Bureau of Jail Management and Penology Revised Manual 2007** for city and municipal jails.

#### DISTINCTION BETWEEN PRISON AND JAIL

It is very common for people to use the words prison and jail interchangeably because they both refer to places of confinement for offenders. However, technically, prisons and jails are different.

The word **prison** was derived from the Spanish word, **presidio**. Prisons are under the supervision of the national government through the Bureau of Corrections under the Department of Justice. It has custody over convicted offenders whose sentence is **imprisonment of three years and one day and above**.

On the other hand, the word **jail** was derived from the Spanish words, **jaula** and **caula**, and from the French word, **gaol**. They are under the supervision of the local government through either the Office of the Provincial Governor or Bureau of Jail Management and Penology, both under the Department of the Interior and Local Government. It has custody over convicted offenders whose sentence is **imprisonment of three years or less**. Also, it has custody over offenders who are in detention while undergoing trial and awaiting judgement.

Moreover, the BJMP Revised manual defined jail as a place of confinement for city and municipal prisoners, any fugitive from justice, or person detained awaiting or undergoing investigation or trial and/or transfer to the national penitentiary, and/or violent mentally-ill person who endangers himself or the safety of others, duly certified as such by the proper medical or health officer, pending transfer to a mental institution.

All prisoners in a prison are always convicted offenders, although some of them may still have cases on appeal. But not all prisoners in jails are convicted offenders because some of them are still classified as detainees.

Traditionally, jails are classified into three (3): **lockups, ordinary jails** and **jail farm or camp**.

## **POLICE LOCKUPS**

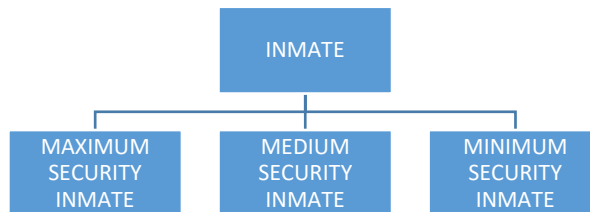
A **police lockup** or **lockup**, on the other hand, is a facility or place of confinement for the temporary detention of suspects until they can be interrogated or fully processed by the police and then transferred to the appropriate jail. It is located in police stations or precincts under the supervision of the Philippine National Police.

## **A. CLASSIFICATION OF INMATES IN THE BUREAU OF CORRECTIONS**

Section 3, Chapter 3, Part II of the BuCor Operating Manual classifies inmates as to **security status** and as to **entitlement to prison privileges**.

### **CLASSIFICATION OF INMATES AS TO SECURITY RISK**

Inmates in prisons are classified as **maximum security inmate, medium security inmate** and **minimum security inmate**.



**Maximum security inmates** are regarded as **highly dangerous** and **high security risk** inmates. Included in this category are:

- 1) Those sentenced to death;
- 2) Those whose minimum sentence is twenty (20) years imprisonment;
- 3) Remand inmates or detainees whose sentence is twenty (20) years and above and those whose sentences are under review by the Supreme Court or the Court of Appeals;
- 4) Those with pending cases;
- 5) Recidivists, habitual delinquents and escapees;
- 6) Those confined at the Reception and Diagnostic Center;
- 7) Those under disciplinary punishment or safekeeping; and
- 8) Those who are criminally insane or those with severe personality or emotional disorders that make them dangerous to fellow inmates or the prison staff.

**Medium security inmates** are those who cannot be trusted in less secure areas and those whose conduct or behavior require minimum supervision. Included in this category are:

- 1) Those whose minimum sentence is less than twenty (20) years imprisonment;
- 2) Remand inmates or detainees whose sentence are below twenty (20) years;

- 3) Those who have two (2) or more records of escapes. They can be classified as medium security inmates if they have served eight (8) years since they recommitted. Those with one (1) record of escape must serve five (5) years; and
- 4) First offenders sentenced to life imprisonment. They may be classified as medium security if they have served five (5) years in a maximum security prison or less, upon the recommendation of the Superintendent.

Those who were detained in a city and/or provincial jail shall not be entitled to said classification.

**Minimum security inmates** are those who can be reasonably trusted to serve their sentence under less restricted conditions. Included in this category are:

- 1) Those with a severe physical handicap as certified by the Chief Medical Officer of the prison;
- 2) Those who are sixty-five (65) years old above, without pending case and whose convictions are not on appeal;
- 3) Those who have served one-half (1/2) of their minimum sentence or one-third (1/3) of their maximum sentence, excluding Good Conduct Time Allowance (GTCA); and
- 4) Those who have only six (6) months more to serve before the expiration of their maximum sentence.

## **COLOR OF UNIFORM BASED ON SECURITY CLASSIFICATION**

In addition, the **color of the uniform of inmates is based on their security classification**, as provided by Section 4, Chapter 3 of the BuCor Operating Manual. The uniform of **maximum security inmates is tangerine, blue for medium security inmates and brown for minimum security inmates. Detainees**, on the other hand, wear **gray uniform**.

## **CLASSIFICATION OF INMATES AS TO ENTITLEMENT OF PRIVILEGES**

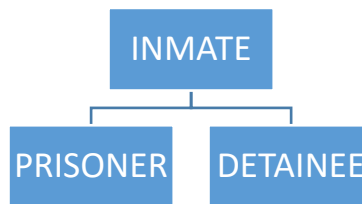
The basis of this classification is the prison privileges that inmates are entitled to enjoy. The classification is as follows:

- 1) **Detainee;**
- 2) A **third class inmate** is one who has either been previously committed for three (3) or more times as sentenced inmate, except those imprisoned for non-payment of a fine and those who had been reduced from a higher class;
- 3) A **second class inmate** is a newly arrived inmate, or an inmate demoted from first class, or promoted from the third class;
- 4) A **first class inmate** is one whose known character and credit for work while in detention earned assignment to this class upon commencement of sentence, or one who has been promoted from the second class; and
- 5) A **colonist** is an inmate who is at least a first class inmate and has served one (1) year immediately preceding to completion of the period specified and has served imprisonment with good conduct for a period equivalent to one-fifth (1/5) of the maximum term of his prison sentence, or seven (7) years in the case of a life sentence.

## B. CLASSIFICATION OF INMATES IN THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY

### CATEGORIES OF INMATE

Section 2, Rule 1, Chapter 1, Book II of the Bureau of Jail Management and Penology Revised Manual provides for the **two general classes of inmates**. These are **prisoner** and **detainee**.

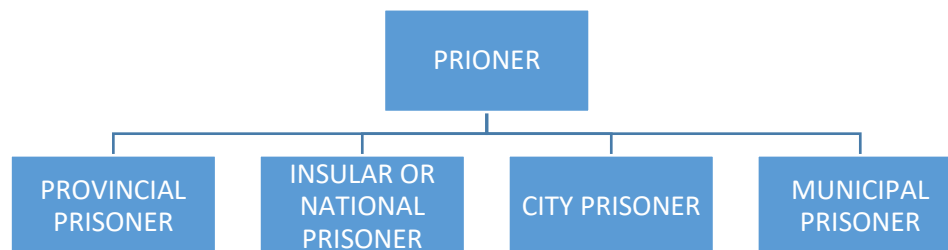


A **prisoner** is an inmate who is convicted by final judgement, while a **detainee** is an inmate who is undergoing investigation, trial or awaiting trial or awaiting sentencing.

Section 4, Rule 1, Chapter 1, Book II of the same Manual further classifies **detainees according to three (3) types: those undergoing investigation, those awaiting or undergoing trial and those awaiting final judgement**.

### CLASSIFICATION OF PRISONERS

Section 3, Rule 1, Chapter 1, Book II of the same Manual provides for the **four (4) main classifications of prisoners**, and these are: **insular prisoner** and **municipal prisoner**



An **insular prisoner** is one who is sentenced to a prison term of **three (3) years and one (1) day to death**; a **provincial prisoner** is one who is sentenced to a prison term of **six (6) months and one (1) day to three (3) years**; a **city prisoner** is one who is sentenced to a prison term of **one (1) day to three (3) years**; and a **municipal prisoner** is one who is sentenced to a prison term **one (1) day to six (6) months**.

## INMATES SECURITY CLASSIFICATION

Section 5, Rule 1, Chapter 1, Book II of the same Manual provides for the **classification of inmates according to the security risks**, and these are; **high risk inmates, high profile inmates and ordinary inmates.**



A **high risk inmate** refers to an inmate who has capability and tendency of escaping or getting involved in violence and disturbances inside the jail as observed personally by the jail personnel and the administration (BJMP NCR Operation Memo, 2012).

A **high profile inmate** refers to a legally detained person, classified as high risk or low risk, prominent, well-known in society or is involved in a highly confidential case or cases and sensationalized by media through publication in newsprint, radio and television with nationwide coverage for not less than twenty (20) days, including but not limited to prominent politicians, big time drug or gambling lords, kidnapping syndicate leaders, police or military officers, terrorist group leaders and members (BJMP NCR Operation Memo, 2012).

An **ordinary inmate** refers to an inmate who is neither high risk nor high profile.

## COLOR OF UNIFORM

The institutional color of the uniform for both prisoners and detainees in any city or municipal jail is **yellow.**

## INMATES WITH SPECIAL NEEDS

The BJMP and the BuCor upholds and adheres to the **United Nations Standard Minimum Rules for the Treatment of Prisoners.** As such, the BJMP and the BuCor recognize that there are inmates with special needs and these inmates should not be held in jail with other regular inmates.

Section 2, Rule III, Book II of the BJMP Revised Manual enumerates those **inmates with special needs** and provides for the procedures in handling them. These inmates are the following: **females, drug users/dependents/addicts, alcoholics, mentally-ill, sex deviates, suicidal inmates, handicapped, aged and infirmed and non-Philippine citizen inmates.**

### 1) Female Inmates:

The rule is that female inmates and female quarters must be fully separated from male inmates and male quarters. And no male intimate may be allowed to enter female quarters and no female inmate may be allowed to enter male quarters.

## **2) Drug Users, Dependents or Addicts**

Inmates who are officially identified as drug users, dependents or addicts must be separated from other inmates. Their medications, such as sedatives and stimulants, may only be prescribed by a qualified physician. It is a rule that close supervision must be maintained to ensure their safety and to prevent suicides and self-mutilation. Furthermore, regular searches are conducted on the inmate's quarters to ensure that no smuggling of illegal drugs, narcotics and other dangerous drugs and contraband can take place.

## **3) Alcoholics**

As with drug addicts, alcoholics must also be placed in separate quarters. Regular searches are also conducted to ensure that no smuggling of liquor and other intoxicating drinks or products containing alcohol can take place.

## **4) Mentally-ill**

Mentally-ill inmates must be placed in separate cells and these must be a facility for violent inmates, such as special restraint rooms. Naturally, mentally-ill inmates require close supervision by the jail personnel to prevent suicide attempts and attacks against other inmates and jail personnel.

They must be transferred to mental institutions for proper psychiatric treatment.

## **5) Suicidal inmates**

As the name of their category denotes these inmates need to be given close and constant supervision to prevent suicide and self-mutilations. Their quarters must be regularly searched to ensure that no deadly and harmful tools or materials are smuggled. Strip search must also be regularly performed by jail personnel for the same reason.

## **6) Handicapped, Age and Infirm**

Handicapped inmates are those with physical deformities or disabilities that result in restricted movements. Aged inmates include the elderly, and Infirm inmates are those who are sick.

Because of their situation, they need to be given separate quarters to protect them from maltreatment or abuse by other inmates.

## **7) Non-Philippines Citizen Inmates**

This category includes aliens or foreigners.

It is the duty of the warden to submit a report in writing to the Bureau of Immigration and the embassies of detained foreigners containing the following information pertaining to the detained foreigners: name of jail, name of the foreigner, Nationality and the number of his her Alien Certificate of registration, if any, age, sex, offense charged, case number, court with jurisdiction over the case and the status of the case.

## COMMITMENT OF PRISONER OR DETAINEES TO JAILS

According to the BJMP Revised Manual, a person can be committed to jail only upon the issuance of an appropriate order by a competent court or authority. Section 1, Rules 1, Chapter 1, Book II of the said Manual enumerates the **courts and other entities authorized to commit a person to jail**, and these are the: **Supreme Court, Court of Appeals, Sandiganbayan, Regional Trial Court, Metropolitan Trial Court, Municipal Trial Courts, Municipal Circuit Trial Courts, Congress of the Philippines**, and **all other administrative bodies or person authorized by law to arrest and/or commit a person to jail**.

The law requires that before a person may be committed to jail, there must be a **commitment order** or a **writ of mittimus**.

A **commitment order** is a written order of the court or any other competent authority consigning an inmate to jail or prison for confinement (BJMP Revised Manual, 2007).

Whereas, a **mittimus** is a warrant issued by a court bearing its seal and the signature of the judge, directing the jail or prison authorities to receive inmates for custody or service of sentence imposed therein (BJMP Revised Manual, 2007).

## EXERCISE NO 9

- 1) What is meant by the phrase ***convicted by final judgement?***
- 2) Compare and contrast ***commitment order*** and ***mittimus***:
- 3) How would you classify an inmate whose case is elevated to a higher court ***on appeal?*** Is he a prisoner or a detainee?
- 4) Explain the overlap between the classification, ***high risk inmate*** and ***high profile inmate***:

## CHAPTER 10

### RIGHT AND PRIVILEGES OF PRISON AND JAIL INMATES

The Philippines is one of the signatories to the United Nations Standard Minimum Rules for the treatment of Prisoners and as such, it has the duty to adhere to the provision set forth by the said UN Rules, including its provisions on the rights of prisoners.

#### A. RIGHTS OF INMATES UNDER THE BUREAU OF CORRECTIONS

As per Section 1, Chapter 1, Part III of the BuCor operating Manual, the following are the rights of an inmate under the custody of the BuCor:

##### **1) *The right to receive compensation for labor he performs.***

Chapter 2 and 3, Part III of the BuCor Operating Manual provides for Prison Labor and Compensation Credits, respectively.

Accordingly, an able-bodied inmate may be required to work at least eight (8) hours a day, except on Sunday and legal holidays, in and about the prison, public buildings, grounds, roads and other public works of the national government.

However, an inmate over sixty (60) years old may be excused from mandatory labor. As for female inmates, she shall only be assigned to work on jobs suitable to her age and physical condition.

Only medium and minimum security inmates may be assigned to work in agricultural field projects within a prison reservation. Maximum security inmates shall not be allowed to work outside the maximum security compound.

Six (6) months after being permanently assigned to work in prison, an inmate may receive compensation credits at rates to be prescribed by the authority.

One half of an inmate's earnings may be used by the inmate for his personal needs, while the rest is deposited to a trust fund set for him. Or he may choose to deposit the whole amount to his trust fund if he so desires. The inmate may at any time withdraw from his earnings an amount which shall not exceed one half of his total earnings. Upon his discharge or release from prison, he shall be given that full remaining balance of his deposit.

##### **2) *The right to be credit with time allowances for good conduct and loyalty.***

Chapter 4, Part III of the BuCor operating Manual provides for ***Time Allowance for Good Conduct and Loyalty***. The Director of the Bureau of Corrections is the person authorized by law to grant Good Conduct Time Allowance, or GCTA.

**Good Conduct Time Allowance** is a right granted to Inmates who display good behavior and who have no record of breach of discipline or violation of prison rules and regulations. It has the effect of reducing his sentence by the deduction of certain number of days from his sentence, computed as follows:

- a) During the first **two (2) years** of his imprisonment, he shall be allowed a deduction of **five (5) days** for each month of good behavior;

- b) During the **third to the fifth years** he shall be allowed a deduction of **eight (8) days** for each month of good behavior;
- c) During the **sixth year until the tenth year**, he shall be allowed a deduction of **ten (10) days** for each month of good behavior; and
- d) During the **eleventh and successive years**, he shall be allowed a deduction of **fifteen (15) days** for each month of good behavior.

However, this has already been amended by **Republic Act No. 10592, An Act Amending Article 29, 94, 97, 98 and 99 of act No. 3815, as amended, otherwise known as the Revised Penal Law Code**. This was approved on May 29 2013.

**Article 97 of the Revised Penal Code** provides for the **Allowance for Good Conduct**. Pursuant to the amendments made by RA 10592, the good conduct time allowance is now computed as follows:

- 1) During the **first two (2) years** of his imprisonment, he shall be allowed a deduction of **twenty (20) days** for each month of good behavior during detention;
- 2) During the **third to the fifth year**, he shall be allowed a deduction of **twenty-three (23) days** for each month of good behavior during detention;
- 3) During the **following years until the tenth year**, inclusive, of his imprisonment, he shall be allowed a deduction of **twenty-five (25) days** for each month of good behavior during detention;
- 4) During the **eleventh and successive years**, he shall be allowed a deduction of **thirty (30) days** for each month of good behavior during detention; and
- 5) **At any time during the period of imprisonment**, he shall be allowed another deduction of **fifteen (15) days**, in addition to numbers 1 to 4 hereof, for each month of study, teaching or mentoring service time rendered.

Another is the **Special Time Allowance for Loyalty**. Pursuant to the provisions of Article 98 and Article 158 of the Revised Penal Code, an inmate is entitled to a deduction of **one-fifth (1/5) of the period of his sentence** if, after evading the service of his sentence on the occasion of a disorder resulting from a conflagration, earthquake, explosion, or similar catastrophe, or during a mutiny in which he has not participated, gives himself up voluntary to the authorities within forty-eight (48) hours following the issuance of a proclamation announcing the passing away of such calamity.

Note that Article 98 only mentions prisoners who evaded the service of their sentence or those prisoners who escaped and went back to their place of detention. But there was no mention of a reward for those prisoners who despite the calamity did not leave or escape.

To address this, RA 10592 amended Article 98 of the Revised Penal Code by including the following provision: **A deduction of two-fifths (2/5) of the period of his sentence shall be granted in case said prisoner chose to stay in the place of his confinement** notwithstanding the existence of a calamity or catastrophe enumerated in Article 158 of this Code.

### **3) The right to send and receive mail matter.**

Chapter 5, Part III of the BuCor Operating Manual provides for ***Inmate Communication***.

Section 1 of the said Chapter states that an inmate shall have the right to communicate or correspond with persons and organizations and to send and receive letters, packages, books, periodicals and other materials that can be lawfully sent by mail. However, all letters sent or received by an inmate shall be subject to censorship to prevent the entry of contraband and the entry or exit of information that may adversely affect the security of the prison.

**Contraband** refers to any article, item or thing prohibited by law and/or forbidden by prison or jail rules that would pose as security hazards or endanger the lives of inmates (BJMP Revised Manual, 2007). Contraband items include prohibited drugs, all types of weapons, substances or chemicals that may cause injury to persons and items or articles which an inmate is not allowed to possess under prison rules. All these are subject to confiscation. Moreover, all letters containing statements concerning security or reputation of the prison like escape attempts or statements that may affect prison rules and policies shall be censored out.

Simply said, all letters, packages and all other materials sent and received shall be opened by authorized prison personnel for inspection before it can be brought in or out of the prison. However, the contents of the mail or letter shall remain confidential and shall not be discussed with other prison personnel or inmates.

The designated mail officer shall collect and deliver mail matters on a daily basis, Monday to Friday. An inmate shall be advised to claim his mail if he fails to claim his letter within twenty-four (24) hours after it is received in prison.

### **4) The right to practice his religion or observe his faith.**

Chapter 7, Part III of the BuCor Operating Manual provides for the ***Exercise of Religious Beliefs and Practices***.

Section 1 of the said chapter states that the religious beliefs and moral precepts of an inmate shall be respected.

Accordingly, no prison official shall proselytize inmates under his supervision, or allow any inmate to do so without the consent of the inmate concerned. The word, proselytize means to convert to another faith or religion. Thus, no prison official or personnel, regardless of his position, can order or coerce an inmate to change or convert to another religion. But an inmate is allowed to convert if he personally and voluntarily wants to do so.

### **5) The right to receive authorized visitors.**

Chapter 9, Part III of the BuCor Operating Manual provides for ***Visiting Rights***.

Section 1 of said chapter states that an inmate shall have the right to be visited by his family and reputable friends at regular intervals.

Visiting schedule is Sunday to Thursday, from 9:00 in the morning to 3:00 in the afternoon. However, the lawyer of an inmate is allowed to visit him at reasonable hours of the day or night.

No visits are allowed on Fridays and Saturdays, no visitor is allowed to stay overnight.

Married inmates are entitled to **conjugal visits**. A **conjugal visitation right** is the legal right of the inmate and his legal spouse to have sexual intercourse. However, this is subject to conditions as may be prescribed, and to the availability of facilities for such activity.

#### **6) The right to ventilate his grievances through proper channels.**

Chapter 11, Part III of the BuCor Operating Manual provides for **Inmate Grievance**.

The Bureau of Corrections created an **Inmate Complaints, Information and Assistance Center** in each prison compound, which is tasked to handle and act on all written complaints within **seventy-two (72) hours** from receipt of such complaint.

There is also an **Inmate Council** composed of inmates in every prison which shall serve as an advisory body to the Superintendent.

#### **7) The right to receive death benefits and pecuniary aid for injuries.**

Chapter 12, Part III of the BuCor Operating Manual provides for **Pecuniary Aid to Inmates**.

Pecuniary aid shall be paid to an inmate who is killed, injured or disabled while preventing prison riot or jail break, or while in the performance of duties required of him in any prison industry and not due to his own negligence.

The word pecuniary refers to money. Thus, an inmate is entitled to receive money when he is killed, injured or disabled due to the circumstances mentioned above. It shall be given to the injured or disabled inmate at the time of his release, or anytime during his confinement. In case of death, the money shall be given to his legal heirs.

### **PRIVILEGE OF INMATES UNDER THE BUREAU OF CORRECTIONS**

As per Section 2, Chapter 1, Part III of the BuCor Operating Manual, the following are the **privileges enjoyed by inmates** under the custody of BuCor:

- 1) Attend or participate in any entertainment or athletic activity within the prison reservation;
- 2) Read books and other reading materials in the library;
- 3) Smoke Cigar and cigarettes except in prohibited places;
- 4) Participate in civic, religious and other activities authorized by prison authorities; and
- 5) Receive gifts and prepared food from visitors subject to inspections.

## **RIGHTS OF THE DETAINEE UNDER THE CUSTODY OF THE BUREAU OF CORRECTIONS**

Section 3, Chapter 1, Part III of the BuCor Manual states that a detainee also has the same right and privileges as that of a convicted inmates, and on top of these rights and privileges, a detainee and also has the right to wear civilization clothes and the right to choose his own hairstyles.

The right to wear civilian clothes is right that is not being enjoyed by a convicted inmate because he is required to wear the prescribed prison uniform depending on his classification.

As for the hairstyle, all convicted inmates must adhere to the prescribed haircut as stipulated in the prison rules and regulations.

## **RIGHTS OF PREGNANT INMATES**

It happens that some female inmates are pregnant or become pregnant while in the custody of the BuCor, particularly in the Correctional Institution for Women (CIW). As such, special accommodation for pregnant women must be provided. As such as possible, pregnant inmates should give birth in a hospital outside of prison. A child born to an inmate may stay with the mother in prison for a **period not exceeding one year**. After said period, the mother must assigned a guardian for her child who will take the child away from prison, or arrangements can be made with the Department of Social Welfare and Development (DSWD) when no such guardian is available for the child.

## **B. RIGHTS OF INMATES UNDER THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY**

Section 1, Rule 5, Book II of the BJMP Manual enumerates the rights of inmates and these are the following:

- 1) The right to be treated as a human being, and not to be subjected to corporal punishment
- 2) The right to be informed of the regulations governing the detention center;
- 3) The right to adequate food space and ventilation, rest and recreation;
- 4) The right to avail of medical, dental and other health services;
- 5) The right to be visited by his/her counsel anytime;
- 6) The right to practice his/her religious beliefs and moral precepts;
- 7) The right to vote unless disqualified by law

The right to separate detention facilities or cells particularly for women inmates; and

- 9) If a foreigner, the right to communicate with his/her embassy or consulate.

## **PRIVILEGES ALLOWED FOR INMATES**

Section 2, Rules 5, Book II of the BJMP Revised Manual list the various privileges allowed for inmates, and these are the following:

- 1) To wear their own clothes while in confinement;

- 2) To write letters, subject to reasonable censorship, provided that expenses for such correspondent shall be borne by them;
- 3) To receive visitors during visiting hours. However, visiting privileges may be denied in accordance with the rules and whenever public safety so requires;
- 4) To receive books, letters, magazine, newspaper and other periodicals that the jail authorities may allow;
- 5) To be treated by their own doctor and dentist at their own expense upon proper request from and approval by appropriate authorities;
- 6) To be treated in a government or private hospitals, provided it is deemed necessary and allowed by the rules;
- 7) To request free legal aid, if available;
- 8) To sport hair in their customary style, provided it is decent and allowed by the jail rules;
- 9) To receive fruits and prepared food subject to inspection and approval by jail officials;
- 10) To read books and other reading materials available in the library, if any;
- 11) To maintain cleanliness in their cells and brigades or jail premises and perform other work as may be necessary for hygienic and sanitary purposes; and
- 12) To be entitled to Good Conduct Time Allowance (GCTA) as provided by law.

It is part of the rights of jail inmate to send and receive mail, however, as already explained in earlier part of this chapter, mails are subject to censorship for security reasons. There is a slight difference in the procedure in the BuCor from the procedures in the BJMP on how incoming mail is distributed to Inmates.

In the BJMP, a listing of mail for inmates is posted in a designated place within the jail premises. The inmates must claim their mail within twenty-four (24) hours from the date the listing was posted. If he is not able to claim his mail within twenty-four hours, then it shall be delivered to him.

## EXERCISE NO 10

Answer briefly:

- 1) Are female prisoners, both in the BuCor and in the BJMP, also entitled to conjugal visitation rights?
- 2) Prepare a table comparing the provisions of the Revised Penal Code before and after the enactment of RA 10592.

### Good Conduct Time Allowance

| Revised Penal Code | RA 10592 |
|--------------------|----------|
| 1)                 | 1)       |
|                    |          |
|                    |          |
|                    |          |
|                    |          |

- 3) Do you agree with the policy of the BuCor and BJMP on screening the kind of books and magazine inmates are reading in the prisons or jails? Does it violate their basic rights? Explain your answer.

## CHAPTER 11

### PROCEDURES IN CLASSIFICATION, ADMISSION, AND CONFINEMENT OF INMATES

The Bureau of Corrections Operating Manual and the Bureau of Jail Management and Penology Revised Manual provide for the procedures in the classification, admission, and confinement of inmates.

The procedures being followed by the Bureau of Corrections and the Bureau of Jail Management and Penology are essentially the same because both adhere to the same principles in the safekeeping and rehabilitation inmates. However, there are slightly variations in their operations because there are some provisions that can be found in one manual which the other does not contain.

**Classification** refers to the assigning or grouping of inmates according to their respective sentence, gender, age, nationality, health, criminal records, and other pertinent information (BJMP Revised Manual, 2007).

There is what called carpeta which is different from prison record.

A **carpeta** or the **inmate record or jacket**, refers to the institutional record of an inmate which consists of his mittimus or commitment order, the prosecutor's information and the decision of the trial court.

**Prison record**, on the other hand, refers to information concerning an inmate's personal circumstances, the offense he committed, the sentence imposed, the criminal case numbers in the trial and appellate courts, the date he was received confinement, the place of confinement, the date of expiration of his sentence, the number of previous convictions, if any, and his behavior or conduct while in prison.

#### A. PROCEDURES IN CLASSIFICATION, ADMISSION AND CONFINEMENT OF INMATES IN THE BUREAU OF CORRECTIONS

##### RECEPTION AND DIAGNOSTIC CENTER

The office responsible for the classification of inmates in prison is the **Reception and Diagnostic Center**.

All inmates are required to be placed in quarantine for at **least five (5) days upon admission** in the Reception and Diagnostic Center.

During the quarantine period, the inmate shall be given a physical examination to determine any physical illness or handicap or mental-illness and to segregate those suspected of having an infectious or contagious disease. An inmate who shall be diagnosed as having sickness or disease shall be diagnosed as having sickness or disease shall be immediately confined in the prison hospital.

The quarantine period shall also be the time for the inmate's orientation with prison rules and regulations. He will be given the official handouts containing prison rules and regulations, as well as his rights and privileges as inmate. This will be explained to him by the authorized prison personnel. Also, he will be privately interviewed by a counselor, social worker or other program staff officers.

After the quarantine period, the inmate is required to remain in the Reception and Diagnostic Center for a period **not exceeding fifty-five (55) days**. During this period, the inmate will undergo psychiatric, psychological, sociological, vocational, educational, religious and other examinations. The results of these examinations will serve as the basis for the inmate's individualized treatment program. After all the necessary examinations have been completed, the inmate shall then be assigned to a prison facility as may be recommended by the Chief of the Reception and Diagnostic Center.

It shall be the duty of the Reception and Diagnostic Center to maintain all records of an inmate, which shall include his personal circumstances, a brief personal, social and occupational history, the result of the intake interview and his initial security classification.

## **THE ADMISSION PROCESS**

All prisons maintain a **registration book** wherein all commitments are recorded in chronological order. The registration book contains the following information: **name of the inmate, reason for commitment and authority thereof, sentence, date and hour of admission and date and hour of discharge or transfer and basis thereof**.

After registration, the inmate shall be photographed, front and side view, fingerprinted and assigned a permanent prison number. The male inmate shall then be given a regulation haircut and his beard or mustache, if any, shall be shaven off. He is also not allowed to wear a wig or artificial hairpiece unless there is medical authorization approved by the authority. Prison personnel shall conduct a through body search.

The term **regulation haircut** refers to the haircut prescribed by prison rules and regulation. And the rule is that the hair of male inmate must be cut to a decent length and style upon admission. During the service of his sentence, he is allowed to grow his hair but he is still required to sport a clean-cut hairstyle. As for facial hair, he is allowed to grow a mustache or beard during the duration of his sentence.

As for female inmates, they are not required to have a haircut upon admission but they must maintain a decent hairstyle while in confinement. Hair color and highlights are not allowed for both male and female inmates.

An inmate is allowed to bring with him some personal effects, as long as these items are authorized and are not contraband. **Contraband** refers to any article, item or thing prohibited by law and/or forbidden by prison or jail rules that would pose as security hazards or endanger the lives of inmates (BJMP Revised Manual, 2007). Contraband items include prohibited drugs, all types of weapons, substances or chemicals that may cause injury to persons and items or articles which an inmate is not allowed to possess under prison rules. All these are subject to confiscation.

He is allowed to bring clothes and other items essential to his well-being, provided the quantity, nature and dimension thereof will not interfere with the safety and living conditions of the other inmates. He may also be allowed to bring in electrical equipment like television, radios, video players, electric fans and similar items provided the same is for the common use with other inmates. However, an inmate is **not** allowed to bring in luxurious items, such as air conditioners, carpets, sofas, beds, sleeping mattresses, washing machines and the like. He is also not allowed to wear jewelry but he is allowed to wear an inexpensive watch.

Inmates shall be issued two (2) regulation uniforms and two (2) t-shirts upon admission. He shall also be issued the following items: one (1) blanket, one (1) mat, one (1) pillow with pillow case, one (1) mosquito net, one (1) set of mess kit and one (1) pair of slippers.

## **CONFINEMENT AND ACCOMODATION OF INMATES**

According to Section 1. Chapter 4, Part II of the BuCor Operating Manual, a male inmate shall be confined in a prison nearest his actual place of residence. The provision specifically mentions only the male inmate because all female inmates classified as national or insular prisoners are confined only in the Correctional Institution for women located in Mandaluyong City.

Section 4, chapter 4, Part II of the BuCor Operating Manual provides for the prison accommodation standards:

- 1) All accommodations for the use of inmates shall meet requirements of sanitation and hygiene with emphasis on adequate ventilation, living space and lightning;
- 2) Bathrooms and washing areas shall be provided in every prison facility;
- 3) All areas regularly used by inmates shall be properly maintained and kept clean at all times;
- 4) Beds and clothing shall be neatly made up in a uniform manner at all times. Beds and buildings occupied by inmates shall be thoroughly disinfected at least once a month;
- 5) Cleanliness shall be maintained at all times in all dormitories or cells, especially toilets and baths.
- 6) As often as it is necessary, an inmate shall send his dirty clothes to the laundry;
- 7) Every Sunday and holiday, if the weather permits, inmates will expose their clothes, beds, bedding and so forth in the sunshine in an area designated for the purpose. Cleanliness of the premises of the dormitories and their surroundings shall be strictly enforced. Littering is prohibited; and
- 8) Inmates shall be served meals three (3) times a day. Breakfast shall be served not more than fourteen (14) hours after the previous day's dinner.

## **B. PROCEDURES IN THE CLASSIFICATION ADMISSION AND CONFINEMENT OF INMATES IN THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY**

Rule II of the BJMP Revised Manual provides for, among others, the Reception Procedures and Classification of Inmates.

### **RECEPTION PROCEDURES**

It shall be the duty of the **Jail Desk Officer** to carefully check the credentials of the person or persons bringing in the inmate to determine his or their identity and authority. He shall examine the arrest report and the authenticity of the commitment order or mittimus to determine whether the inmate has been committed under legal authority.

The **Admitting Jail Officer** takes all cash and other personal property from the inmate, lists them down on a receipt form in duplicate, duly signed by him and countersigned by the inmate. The original receipt should be kept for the record while the duplicate copy should be given to the inmate. All cash and other valuables of the inmate must be turned over to the **Property Custodian** for safekeeping and covered by official receipts.

The inmate must be fingerprinted and photographed. The Admitting Jail Officer must accomplish a **jail booking report** with the inmate's photograph attached to it.

The inmate must be thorough strip searched and his clothing must also be inspected to check if he is in possession of any contraband. He must also be physical checked for body vermin, cuts, bruises and other injuries, and for needle marks to determine if he is a drug dependent. The **Jail Medical Personnel** or the local health officer then conducts a thorough medical examination of the inmate and he must accomplish a medical records showing the condition of the inmate at the time of admission and to include the inmate's medical history.

The briefing or orientation of the inmate on the jail rules and regulation shall be the responsibility of the **Chief Custodial Officer** or the **Officer of the Day** prior to classification and segregation. Sentenced inmates shall be provided with jail clothing or uniform, while detainees may be allowed to wear civilian clothes.

Upon completion of the reception procedures, the inmate is then assigned to his quarters.

It is the duty of the **Jail Warden** to maintain a record of all inmates, consisting of information on the inmate's name and aliases, weight, height, body marks or tattoos, nationality, previous occupation or profession, prior criminal conviction and previous place of residence. The record shall also indicate the crime for which was convicted, the sentencing court, his sentence and the commencement date thereof and the date he was received for confinement.

## EXERCISE NO. 11

Answer briefly.

- 1) Differentiate carpeta from prison records.
- 2) Do you agree with the rule on not allowing male and female inmates to have hair color? Why or why not?
- 3) By definition, are pornographic magazine considered contraband? Explain.

## CHAPTER 12

### PROCEDURES IN THE CUSTODY, SECURITY, CONTROL, MOVEMENT, AND TRANSFER OF INMATES

The Bureau of Corrections Operating Manual and the Bureau of Jail Management and Penology Revised Manual provide for the procedures in the custody, security, control, movement, and transfer of Inmates.

The procedures being followed by the Bureau of Corrections and the Bureau of Jail Management and Penology are essentially the same because both adhere to the same principles in the safekeeping and rehabilitation of inmates. However, there are slight variations in their operating Manual because there are some provisions that can be found in 1 manual which the other does not contain.

#### A. PROCEDURES IN THE BUREAU OF CORRECTIONS

##### TRANSFER OF INMATES

Chapter 5, Part II of the BuCor Operating Manual provides for *Transfer of Inmates*.

There are varied, legitimate reasons why an inmate must be transferred from one national prison to another while serving his sentence.

An inmate may be transferred from one prison to another, by order of the director of the Bureau of **Corrections** upon the recommendation of the Superintendent to bring said inmate closer to his family or as part of his rehabilitation program.

An inmate who has been confirmed to be suffering from mental abnormality or insanity must also be transferred to a mental hospital, with the approval of the Director of the BuCor.

There are also instances when an inmate can be transferred from a national prison to a provincial jail or from a provincial jail to a national prison when the President of the Philippines gives the order.

In all cases of transfer, the inmates shall be given a mental and physical examination prior to his transfer.

##### OUTSIDE MOVEMENT OF INMATES

Chapter 6, Part II of the BuCor Operating Manual provides for **Outside Movement of Inmates**.

Outside movement of inmates refers to the bringing or taking out of an inmate from the prison facility where he is confined for the following reasons:

- 1) To appear in court or other government agency as directed by competent authority;
- 2) For medical examination or treatment or hospitalization in an outside clinic or hospital; or
- 3) To view the remains of a deceased relative.

However, **only minimum and medium security inmates** can be allowed outside movement to view the remains of a deceased relative. The term **relative**, as used for this purpose, is limited to the inmate's wife or husband, child or children, brother or sister, father or mother, grandchild or grandchildren, and grandparents. This means that an inmate can only be allowed to view the remains of these enumerated relatives. Moreover, he is allowed only three (3) hours to visit and he is not allowed to attend the funeral and burial ceremonies.

The approval of the **Secretary of the Department of Justice** is required for the outside movement of an inmate, except when the order comes from the court. There must be a subpoena issued by the court and it must be endorsed by the director of the BuCor.

## **CUSTODIAL AND SECURITY PROCEDURES**

Part III, Book II of the BuCor Operating Manual provides for **Custodial and Security Procedures**.

All doors, bars, windows and locks of facilities shall be examined regularly to ensure their integrity and good condition. Only the following shall be authorized to possess the keys of prison gates, cells, dormitories and hospital wards:

- 1) Gate officer;
- 2) officer of the Day or Shift Commander;
- 3) Keeper; and
- 4) Custodial or Medical Officer designated by the Superintendent.

Maximum and medium security compounds must maintain **two (2) parallel security barriers or perimeter fences** provided with sufficient lighting fixtures to prevent escapes or jail breaks.

**A head count of inmates shall be conducted four (4) times a day** or as often as necessary to ensure that all inmates are duly accounted for. During the inmates head count, the inmates shall not be allowed to move until the count is completed. There must be a positive verification of an inmate's presence, which means that the inmate must be physically present to be counted. If the inmate count does not tally with the list of inmates, the matter shall be reported immediately to the chief **Overseer**.

If during mealtimes meals are served in the dining room facility, inmates shall be marched in two (2) columns along designated routes under the supervision of one or two guards. Other guards may be stationed along the route to direct the orderly movement of the inmates to the dining room. There shall be a roving supervisor to maintain order in the dining room area. After meals, all eating and kitchen utensils of inmates shall be collected and accounted.

If during mealtimes meals are delivered inside the inmate's cells or quarter, the guard shall not enter the cells or quarters unless there is another guard to handle the keys and control the entrance door. If the food will be served by just one guard, the food shall be served without unlocking the door.

Foods served in prison are not allowed to be taken out by the inmate's visitors.

## ESCORT PROCEDURES

Part V, Book III of the BuCor Operating Manual provides for **Escort Procedures**.

An **inmate's pass** is issued stating the purpose and destination of the escort mission. At the back of these pass are instructions which is escort guards must strictly follow.

Escort guards shall exercise extreme caution at all times and shall see to it that the inmate does not escape, converse with unauthorized persons, obtain forbidden articles, especially intoxicants or weapons, annoy passersby and suffer harm and humiliation.

The escort guard must always accompany the inmate, including when going to the toilet or washroom. The escort guard must always **walk behind the inmate**, and not in front. If armed, the guard shall not sit, stand or walk beside inmate, or in any case, allow the inmate to reach his firearm.

While in transit, the inmate shall not be allowed to stop at any place or contact any person until the destination is reached. He shall be place at all times under proper restraint, such as handcuffs. However, an inmate must not be handcuffed to any part of the vehicle during transit to avoid his being trapped in case of vehicular accident.

He must be returned to the prison facility immediately after the purpose of the pass has been served. And the use of privately owned vehicle in transporting an inmate is prohibited.

In escort duties for court hearing, **at least two guards** must be provided for every inmate appearing in court. Immediately after the trial but before leaving the court premises, the escort in charge shall secure from the clerk of court a certificate or other proof of appearance.

## B. PROCEDURES IN THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY

The BJMP observes the same procedures being followed by the BoCur in the custody, security and control of inmates, the discussion of which is found at the beginning of this chapter. However, there are provisions contained in the BJMP Revised Manual that are not in the BuCor Operating Manual. So only the provisions that are not found in the BoCur operating manual are included in this discussion.

Rule IV of the BJMP REVISED MANUAL provides four **Custody, Security and Control, Movement and Transfer of Prisoners and Detainees**.

The BJMP conducts **frequent surprise searches** oh inmates and their quarters to detect contraband. This is referred to us **Operation Greyhound**. And it is part of the general guidelines to not allow gay and lesbian jail officers to perform search and custodial functions.

As for dining room security, individual mess utensils of inmates shall be made of plastic. And after meals, inmates are responsible for the cleanliness and orderliness of the mess hall. This shall be strictly supervised by jail personnel to ensure that no utensils are brought out of the dining room. Forks, spoons and other kitchen utensils shall be checked and accounted for after every meal.

Incidentally, the inmates subsistence allowance (ISA), or the budget allocation for the food of inmates is 50 pesos a day per inmate, as of this writing. This is broken down into three meals: 10 pesos for breakfast, 20 pesos for lunch and 20 pesos for dinner.

## **MOVEMENT AND TRANSFER OF INMATES**

Section 7, Rule IV of the BJMP Revised Manual provides for **Movement and/or Transfer of Inmates.**

An inmate may be brought out from a jail in any of the following instances:

- 1) To appear as witness or as accused before any court of justice during preliminary investigation, arrangement or hearing of a criminal case;
- 2) To appear as witness with leave of court in any investigation or formal inquiry being conducted by a government agency.;
- 3) To view with leave of court the remains of a deceased relative **within the second degree of affinity or consanguinity**; and
- 4) To undergo with leave of court medical examination or treatment in an outside hospital or clinic.

The phrase ***with leave of court*** means with approval of the court.

For those inmates who wish to view the remains of a deceased relative, leave of court shall first be obtained. But the inmate must be satisfied the following conditions:

- 1) The deceased relative is lying in state in a place **not b and 30 km radius** from the place of confinement of the inmate, or in any case, where the inmate cannot return to said place during daylight hours;
- 2) The inmate has no record of escape; and
- 3) The inmate is not classified as high-risk or high-profile and the jail has adequate resources to ensure his safety and security.

**Consanguinity** refers to blood relatives. Relatives within the second degree of consanguinity include the legal spouse, children, parents, and brothers and sisters.

Relatives by **Affinity** refer to relatives by reason of marriage. Relatives within the second degree of affinity include parents-in-law, brothers-in-law and sister-in-law.

It shall be the duty of the inmate to pay or his transportation and meal expenses, including those of the jail officers escorting him. He must pay the necessary amount before he will be allowed to leave.

## ESCORT PROCEDURES

The BJMP observes the same escort procedures being observed by the BoCur. In addition, the BJMP follows the ratio 1:1+1 verbally interpreted as for every one (1) Inmates, there must be 2 escort guards.

## CUSTODIAL RATIO

The **Custodial ratio of jail** personnel to inmates must be 1:7, which means that there must be one (1) jail guard for every seven (7) Inmates.

## EXERCISE 12

### Answer briefly.

- 1) In escort procedures, why do you think it is said that the escort guard must always be behind the inmate?
- 2) Why do you think gay and lesbian jail officers are not allowed to perform search and custodial functions?
- 3) Do you think fifty pesos (50.00) is enough budget for a prisoner's meals for one day?

## CHAPTER 13

### PROCEDURES DURING EMERGENCIES, RIOTS, ESCAPES AND MAJOR DISTURBANCES

The Bureau of Corrections Operating Manual and the Bureau of Jail Management and Penology Revised Manual provide for the procedures during emergencies, riots, escapes and major disturbances.

The procedures being followed by the Bureau of Corrections and the Bureau of Jail Management and Penology are essentially the same because both adhere to the same principles in the safekeeping and rehabilitation of inmates. However there are slight variations in their operations because there are some provisions that can be found in one manual which the other does not contain

#### A. PROCEDURES IN THE BUREAU OF CORRECTIONS

Part IV, Book II of the BuCor operating Manual provides for **Security Procedures during Emergencies, Riots, Escapes or Major Disturbances.**

Each prison has a **Control Center** to control, execute and monitor the proper and timely implementation of detailed plans of action to cope with emergency situations caused by fires or conflagration, riots or other violent disturbances, or escapes. It shall be under the command of the superintendent, or in his absence, the Assistant Superintendent, or in the absence of both, the most senior prison guard present.

#### RIOTS AND OTHER PRISON DISTURBANCES

In the event of riots or other prison disturbances, all officials and employees of the prison where the incident occurs shall be placed on twenty-four (24) hour alert to perform such tasks as may be necessary to quell the disorder normalized the situation . At the earliest opportunity, the guard-in-charge shall report the prison disturbance to the nearest police station and to the Director of the BiCur who shall in turn inform the Secretary of the Department of Justice.

There is a pre-determined alarm or signal that would signify the occurrence of a prison disturbance, whenever a riot or escape alarm is sounded, either by siren, bell or gun fire, all inmates shall ordered to lie flat on the ground, face down, and with arms and legs spread out. At the sound of the first alarm, all inmates shall be locked up inside their respective cells or quarters.

The guard in command shall deploy the guards into the following: **1st, 2nd and 3rd groups.**

The **1st Group** is the initial wave of anti-riot assault contingent who shall be armed with wicker shields, protective headgear, gas masks and night sticks or batons, when these are available. The objectives of this group are to disperse the rioters and get their leaders.

The **2nd Group** is the back-up force of the 1st group who shall be equipped with tear gas guns and gas grenades.

The **3rd Group** is composed of guards who are trained in the proper handling and use of firearms. Under the direct command of the guard-in-charge, they shall provide covering fire to the first two groups.

If the inmates fail or refuse to obey the order to return to their cells, the guard-in-charge shall sound the second alarms. The 1st Group shall enter into the prison compound followed by the 2nd Group at a discreet distance. The 3rd Group shall be at strategic position, ready to fire if the lives of the guards in the 1st and 2nd Groups are endangered by overt violent acts of the inmates.

When the condition has become critical and the disturbances has reached full intensity, the guard-in-charge shall cause the sounding of the third alarm. All police agencies nearby shall be notified for assistance, as well as nearby hospitals, and all other plans in connection with prison uprisings shall then be executed.

After the riot or disturbances, the injured shall be given first aid kit and the necessary medical attention, a head count shall be conducted and the leaders and agitators shall be separated. The administration shall assess and determine the damage to the facilities and investigate the cause or causes of the riot and prosecute the leaders and other persons involved in the riot.

## **ESCAPE OR JAIL BREAK**

**Jail break** or **jail breaking** is the evasion of service of sentence. It is an offence committed by a convict who evades service of his sentence by escaping during the term of his imprisonment by reason of final judgement.

When a jail break is in progress or has just occurred, the Control Center shall immediately sound the alarm and the Superintendent or the Commander of the Guards shall be notified.

At the first sound of the alarm, all inmates shall be locked in their respective cells while those in work detail shall be matched in orderly manner to their cells. A head count shall be made simultaneously in the different cells or quarter of inmates to determine the identity of the escapee.

If the identity of the escapee is established, his name and other personal circumstances shall be immediately flashed to all units of the Philippines National Police in the vicinity. Radio and television stations and other news media shall also be notified of the escape and if possible provided with photographs of the escapee.

After the escape, the Superintendent shall conduct an investigation relative to the escape to determine the liability of the officer or employee under whose custody the inmate escaped.

## **EMERGENCY PLANS FOR CALAMITIES**

Prisons must establish Emergency plans in cases of power failure and natural disasters such as floods, earthquakes, and other calamities. The plans shall include detailed procedures for the evacuation of inmates in cases of floods, earthquakes and other calamities, if such evacuation is necessary.

## **B. PROCEDURES IN THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY**

### **EMERGENCY PLANS**

According to Section 6, Rule IV of the BJMP Revised Manual, Emergency plans for both natural and man-made calamities and other forms of jail disturbances shall be formulated to suit the physical structure and other factors peculiar to every jail.

Natural calamities include fire, flood, earthquake, tsunami, landslide, typhoon, volcanic eruption and other catastrophes caused by nature.

On the other hand, man-made calamities and disturbances include riot, jail breaks, noise barrage, hostage-taking, epidemics, food poisoning, rescue, bombing, power failure, water shortage and other catastrophes caused by man.

## EXERCISE NUMBER 13

- 1) Among all man-made calamities, which do you think is the most difficult in control or manage?
- 2) What crime is committed when prisoners start or participate in a prison or jail riot? What will be the penalty?
- 3) What crime is committed by a prisoner who will escape from prison or jail? Bring a riot or other calamities? What is the penalty?

## CHAPTER 14

### DISCIPLINE AND PUNISHMENT OF INMATES

The Bureau of Corrections Operating Manual and the Bureau of Jail Management and Penology Revised Manual provide for the procedures in the discipline and punishment in of inmates.

The procedures being followed by the bureau of corrections and the bureau of jail management and penology are essentially the same because both adhere to the same principles in the safekeeping and rehabilitation of inmates. However, there are slight variations in their operations because there are some provisions that can be found in one manual which the other does not contain.

#### DISCIPLINE

Instilling discipline is part of the rehabilitation program of imprisonment. Inmates must understand and internalized that discipline involves recognizing and respecting the authority of the prison officials and employees, as well respecting the rights of their fellow inmates. One very important aspect of being discipline can be manifested by observance of prison rules and regulations and obedience to lawful orders and instructions of prison officials.

Disciplining in mates is crucial and indispensable in preparing in mates for the day that they would finally be released to join to join the community and the life they left behind while in confinement. This would also greatly help in mates refrain from getting involved in future law violating activities that would result in their going back to prison or jail again.

#### A. PROCEDURES IN THE BUREAU OF CORRECTIONS.

Chapters 1 and 2, Part IV of the BuCor Operating Manual provide for the **Discipline and Punishment of Inmates**.

Section 4, Chapter 1 enumerates the prohibited acts while inside prison:

- 1) Participating in illegal sexual act or placing himself in situations or behavior that will encourage the commission of illegal sexual acts;
- 2) Openly or publicly displaying photographs , pictures , drawings , or other pictorial representations of persons engage in sexual acts , actual or simulated , masturbation , excretory functions or load or obscene exhibitions of the genitals;
- 3) Possessing articles which pose a threat to prison security or to the safety and well-being of the inmates and staff;
- 4) Giving gifts, selling or engage in in barter with prison personnel;
- 5) Maligning or insulting any religious belief or group;
- 6) Rendering personal services to or requiring personal services from a fellow inmate;
- 7) Gambling;
- 8) Exchanging his uniform with another inmate or wearing a uniform other than those officially issued to him;
- 9) Using profane, vulgar or obscene language or making loud or unusual noise of any kind;

- 10) Loitering in the prison compound or reservation;
- 11) Giving a gift or providing material or other assistance to fellow inmates or to the prison administration in general;
- 12) Engaging in any private work for the benefit of a prison officer or employee;
- 13) Controlling the activities of other inmates except in organizations or groups recognized by prison authorities;
- 14) Tattooing himself or allowing himself to be tattooed with on any part of his body. The removal or alteration of tattoos may only be performed by a prison medical officer upon prior approval by the superintendent;
- 15) Disobeying legal orders of prison authorities promptly and courteously;
- 16) Threatening, orally or in writing, the life of any employee or prison official;
- 17) Possessing any communication device like a cellular telephone, pager or radio transceiver
- 18) Constructing, renovating or repairing, with personal funds, a prison building or structure;
- 19) Making frivolous or groundless complaints; and
- 20) In general, displaying any behavior which might lead to disorder or violence, or such other actions that may endanger the facility, the outside community or others.

An inmate is also not allowed to engage in business activities or profession except when authorized to do so in writing by the director of the BuCor or by the superintendent.

There is a **Board of Discipline** in every prison to hear cases involving an inmate who violates prison rules. It is presided over by the **Assistant Superintendent**.

#### **PROCEDURE IN DISCIPLINARY CASES:**

- 1) The written complaint or report of an aggrieved inmate or any inmate or prison personnel having knowledge of any breach of discipline by an inmate shall be filed with the office of the Superintendent.
- 2) If the superintendent, after initial investigation finds that the complaint or report is baseless, he shall order its dismissal. Otherwise he shall endorse the case to the Board of Discipline for hearing.
- 3) The Board of Discipline shall decide cases referred to it within five (5) working days after termination of the hearings.
- 4) The hearing shall be summary in nature and shall not be bound by the technical rules of evidence.
- 5) The decision of the Board of Discipline shall be subject to review and approval of the Superintendent.
- 6) A decision approved by the Superintendent shall be final.

Section 4 chapter 2, enumerates the **imposable punishment** in cases where the inmate is found guilty by the Board of Discipline of the complaint against him:

- 1) Caution or reprimand;
- 2) Cancellation, entertainment and visiting privileges;
- 3) Deprivation of the Good Conduct Time Allowance open and (GCTA) for a specific period; and
- 4) Change of security status to the next higher category.

Section 3, chapter 2, on the other hand, enumerates the prohibited forms of punishment to be imposed to an inmate:

- 1) Imposition any cruel, unusual or degrading act as a form of disciplinary punishment;
- 2) Corporal punishment;
- 3) Deprivation of clothing, bed and bedding, light, ventilation, exercise, food or hygienic facilities; and
- 4) Forced labor.

However, there are instances when the punishment imposed on the inmate is ineffective in correcting his behavior. In extreme cases, inmates may be punished by confinement in a **disciplinary cell from one (1) to two (2) months**, depending on the gravity of the offense committed. But this punishment requires that the prison medical officers certifies that the inmate is physically and psychologically fit to handle this form of punishment.

The disciplinary punishment imposed by the board of discipline shall form part of the inmate's and prison record of the inmate.

## **B. PROCEDURES IN THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY**

Section 4, 5, 6, 7, 8 and 9, rule II of the BJMP revised manual provides for the **Disciplinary Board and Disciplinary Punishment for inmates**.

There is a disciplinary board in every jail for the purpose of hearing disciplinary cases involving any inmate who violated jail rules and regulations. The Deputy Warden acts as its chairman. The board is tasked to investigate the facts of an alleged misconduct referred to it and all cases shall be heard and decided within forty- eight (48) hours from the date of receipt of the case.

The Disciplinary Board may only imposed any of the enumerated disciplinary punishments:

- 1) Reprimand
- 2) Temporary or permanent translation of some or all recreational privileges;
- 3) Cancellation of visiting privileges;
- 4) Extra -fatigue duty for sentence inmates;
- 5) Close confinement in a cell, provided that this punishment shall be imposed only in the case of incorrigible inmates, when other disciplinary measures have been proven ineffective; and
- 6) Transfer to another BJMP jail in the area, in coordination with the Court.

In addition , the disciplinary board may recommend to the warden partial or full forfeiture of Good Conduct Time Allowance (GCTA) toby earn for that month and subsequent months depending upon the gravity of the offense.

Section 9 enumerates acts that are prohibited and therefore punishable. They are classified as **minor offenses, less grave offenses and grave offenses.**

**MINOR OFFENSES;**

- 1) Selling or bartering with fellow inmates those items not classified as contraband;
- 2) Rendering personal service to fellow inmates;
- 3) Untidy for dirty personal appearance;
- 4) Littering or failing to maintain cleanliness and orderliness in his quarters and surroundings;
- 5) Making frivolous or groundless complaints;
- 6) Taking goggles for or reporting complaints on behalf of other inmates;
- 7) Late in formation during innate headcount without justifiable reasons; and
- 8) Willful waste of food

**LESS GRAVE OFFENSES:**

- 1) Failure to report for work detail of sentenced inmates without sufficient justification;
- 2) Failure to render assistance to an injured personnel or innate;
- 3) Failure to assist in putting out fires inside the jail;
- 4) Behaving improperly or acting boisterously lee during religious, social and other group functions;
- 5) Swearing, coercing for using profane or defamatory language directed at other persons;
- 6) Malingering for pretending to be sick to escape work assignment;
- 7) Spreading rumors or malicious intrigues to besmirch the owner of any person, particularly BJMP personnel;
- 8) Failure to stand at attention and give you respect when confronted by or reporting to any BJMP personnel;
- 9) Forcing fellow inmates to render personal service for him or for others;
- 10) Exchanging uniforms or wearing clothes other than those issued to him for the purpose of circumventing jail rules;
- 11) Loitering or being in an unauthorized place;
- 12) Using the telephone without authority from the Desk officer or Warden;
- 13) Writing, defacing or drawing on walls, floors or any furniture or equipment;
- 14) Withholding information which may be inimical or prejudicial to the jail administration;

- 15) Possession of load or pornographic literature and/or photographs;
- 16) Absence from cell, brigade, place of work during headcount, or at any time without justifiable reason; and
- 17) Failure to turn over any implement or article issued after work detail;

## **GRAVE OFFENSES**

- 1) Making untruthful statements or lies in any official communication, transaction or investigation;
- 2) Keeping or concealing keys or locks of places in the jail which are off-limits to inmates;
- 3) Giving gifts, selling or bartering with jail personnel;
- 4) Keeping in his possession money, jewelry, cellular phones or other communication devices and other items classified as contraband under the rules;
- 5) Tattooing others or allowing him to be tattooed on any part of the body, for keeping any paraphernalia to be used in tattooing;
- 6) Forcibly taking or extorting money from fellow inmates and visitor
- 7) Punishing or inflicting injury or any harm up on himself or other inmates;
- 8) Receiving, keeping, taking or drinking liquor and prohibited drugs;
- 9) Making, improvising or keeping any kind of deadly weapons;
- 10) Counseling or withholding information on plans of attempted escapes;
- 11) Unruly conduct and flagrant disregard of discipline and instructions;
- 12) Escaping, attempting or planning to escape from the institution or from any guard;
- 13) Helping, adding or abetting others to escape;
- 14) Fighting, causing any disturbance or participating therein and/or agitating to cause such disturbance or riot;
- 15) Indecent, immoral or lascivious acts by himself or others and/or allowing himself to be the subject of such indecent, immoral or lascivious acts;
- 16) Willful disobedience to a lawful order issued by any BJMP personnel;
- 17) Assaulting any BJMP personnel;
- 18) Damaging any government property or equipment;
- 19) Participating in kangaroo court an unauthorized or a regular court conducted with disregard for or perversion of legal procedures as a mock court by the inmates in a jail or prison;
- 20) Affiliating with any gang or faction whose main purpose is to foment regionalism or to segregate themselves from others;
- 21) Failing to inform the authorities concerned when afflicted with any communicable disease, such as tuberculosis, sexually -transmitted disease, etc.;

- 22) Engaging in gambling or any game of chance;
- 23) Committing any act which is in violation of any law or ordinance, in which case, he shall be prosecuted criminally in accordance with law; and
- 24) Committing any act prejudicial to good order and discipline.

#### **PROCEDURES IN THE HEARING OF DISCIPLINARY CASES:**

- 1) The aggrieved inmate must inform any member of the custodial force of the violation. The member of the custodial force must officially report the matter to the Desk Officer
- 2) The desk officer must simultaneously inform the Warden and he shall immediately cause the investigation. He must submit to the warden his report together with his recommendations.
- 3) The Warden must evaluate the report and if he believes that there is no sufficient evidence to support the alleged violation, he shall dismiss the case. But if he believes that there is sufficient evidence, he shall decide the case and impose the necessary penalty, in case of minor violations. If the offense is less grave or grave, and the warden believes there is sufficient evidence, he shall endorse it to the Disciplinary Board for hearing.
- 4) Decisions of the Disciplinary Board are subject to review and approval by the Warden.
- 5) The inmate may request a review of the findings of the Disciplinary Board and the propriety of the penalty from the National Headquarters of the BJMP.
- 6) The decision of the National Headquarters of the BJMP shall be final.

## EXERCISE 14

Answer briefly

- 1) In the context of corrections, define discipline.
- 2) What is a disciplinary cell? Discuss.
- 3) What is meant by extra- fatigue duty? Give examples.
- 4) What is a kangaroo court?

## CHAPTER 15

### REHABILITATION PROGRAMS FOR INMATES

The Bureau of Corrections Operating Manual and the Bureau of Jail Management and Penology Revised Manual provide for the rehabilitation programs for inmates.

The procedures being followed by the Bureau of Corrections and the Bureau of Jail Management and Penology are essentially the same because both adhere to the same principles in the safekeeping and rehabilitation of inmates. However, there are slight variations in their operations because there are some provisions that can be found in 1 manual which the other does not contain.

#### REHABILITATION AND REINTEGRATION

As mentioned in the earlier chapter, the term **rehabilitation** means to restore or return to constructive or healthy activity (Stohr and Walsh, 2012). And reintegration is a sub goal of rehabilitation because the goal of rehabilitation is to reintegrate the offender into the free society once he has served his sentence. To reintegrate means to make the offender become a law abiding and productive member of society once he is out of prison.

Various rehabilitation programs are continuously designed, developed, modified and implemented by both the BuCor and the BJMP to achieve the goals of rehabilitation and reintegration. Each program is created to address the unique needs of every inmate, at the same time ensuring that the programs are designed in such a way that they are well-rounded, balanced and holistic in their approach.

#### A. REHABILITATION PROGRAMS UNDER THE BUREAU OF CORRECTIONS

Part V of the BuCor Operating Manual provides for the **REHABILITATION and treatment of inmates.**

Section 1, Chapter 2 states that as part of the prison rehabilitation and treatment program, the inmates shall be guaranteed access to health, educational, religious and related rehabilitation services.

This is further expanded by the Bureau of Corrections through its reformation program for its inmates and this includes **work and livelihood, health care services, education and skills training, sports and recreation, moral and spiritual program and the therapeutic community.**

##### 1) Work and livelihood

The bureau offers a variety of inmate work programs, from agricultural to industrial. The purpose of the inmate work program is to keep the inmates busy, and to provide them money for their personal expenses and their families as well as help them acquire livelihood skills in order that they may become productive citizens once they are released and assimilated back into the mainstream of society.

##### 2) Healthcare Services

The principle medical care of inmates is provided through a 500- bed capacity hospital at the new Bilibid Prisons and at 6 (six) other mini hospitals or clinics in the 6 (six) other prison and penal farms. All correctional facilities have a full and competent staff of medical practitioners in charge of clinics, infirmaries and hospitals. These centers are capable of minor surgical operations, laboratory examinations, radiology, psychiatric rehabilitation and dental treatment. Medical services also include a wide range of counseling techniques and therapy programs which address the psychological

problems of inmates, including suicidal thoughts and feelings of rejection which may lead to disruption of peace and order within the prison compounds.

### 3) Education and Skills Training

Rehabilitation can be facilitated by improving inmates academic and job skills. In most correctional facilities, vocational programs are incorporated into job assignments and serve as on-the-job training. The goal is to provide inmates with skills that will improve their eligibility for jobs upon release. Most vocational training is geared toward traditional blue-collar employment in areas such as electronics, auto mechanics and handicrafts. At the reception and diagnostic center, a basic computer literacy course with typing as a support course is available for inmates who have finished at least high school level. The National Penitentiary has college degree program and a tertiary degree correspondence course, in addition to the regular secondary and compulsory basic literacy classes. Prisoners are strongly encouraged by the BuCor authorities to enroll while serving their sentence and to advance their academic skills.

### 4) Sports and Recreation

All prison and penal farms have adequate recreational facilities for inmates, both for outdoor and indoor sports. The inmates in joy sunrise by participating in daily calisthenics. There are various indoor and outdoor sports activities, programs, tournaments and leagues all year round, to include basketball, volleyball, billiards, table tennis and chess. These sports competitions promote camaraderie among inmates, good sportsmanship and team-building.

### 5) Moral and Spiritual

Inmates enjoy freedom of religion. All inmates are free to observe the rituals of their faith, with orderly conduct supervised by prison authorities. A religious guidance advisor or chaplain is assigned in every prison and penal farm.

The prison chaplain sets the stage for every regular spiritual activity. He is an officer of the institution who oversees the operation of the prison chapel. He is not only the spiritual leader but also a counselor and adviser. Prisoners may be baptized or given other sacraments. Religious volunteer officers or RVOs belonging to different church groups provide weekly religious activities ranging from bible studies, devotions, prayer meetings or praise and worship. With a predominantly Roman Catholic prison population, a Catholic Mass is a regular feature in spiritual activities of the prison communities.

## B. REHABILITATION PROGRAMS UNDER THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY

Rule XV of the BJMP revised manual 2007 provides for the **Inmates Welfare and Development Program, or IWDP.**

The BJMP implements the **Inmates Welfare and Development Program, or IWDP.** It is a set of physical, psychological, intellectual, vocational and spiritual activities or interventions that facilitates inmates well-being and enhancement in accordance with the accepted social norms and ethical standards.

The services and activities under the **IWDP** include the following:

1. Provisions four basic needs

2. Health Services and Activities
3. Livelihood Services and Activities
4. Educational Services and Activities
5. Sports and Recreation Services and Activities
6. Visitation Services and Activities
7. Paralegal Services and Activities; and
8. Religious Services and Activities

The BJMP has also adapted the **therapeutic community modality program** as a model in the implementation of the **IWDP**.

### **THERAPEUTIC COMMUNITY**

Therapeutic Community, or TC is a part of a rehabilitation program originally designed for people who are suffering from mental illnesses, personality disorders and drug addictions. It is a collective term used to refer to the different approaches that are employed to address said problems.

Overtime, it has been modified to be implemented not just for those suffering from mental disorders and drugs dependents, but also for prison and jail inmates. It aims to reinforce positive behavior and eliminate negative behavior among inmates, in preparation for their re-entry to the free society.

The primary goal is to foster personal growth. This is accomplished by reshaping an individual's behavior and attitudes through the inmates community working together to help themselves and each other, restoring self-confidence and preparing them for their integration into their families and friends as productive members of the community.

TC programs had been widely used by different countries all over the world and has been proven to be effective in achieving its goal of influencing participants to become better individuals.

Both the BuCor and the BJMP make use of therapeutic community approach as part of its rehabilitation program.

## EXERCISE 15

**Answer briefly.**

- 1) What school or schools are affiliated with the new Bilibid Prison in Muntinlupa? What degree programs are being offered?
- 2) How do the inmates benefit from the craft products that they create as part of the prisons livelihood program?
- 3) Enumerate some of the livelihood programs being implemented in prisons and jails?

## Chapter 16

### RELEASE OF INMATES FROM PRISON AND JAIL

The Bureau of Corrections Operating Manual and the Bureau of Jail Management and Penology Revised Manual provide for the procedures in the release of inmates.

The procedures being followed by the Bureau of Corrections and the Bureau of Jail Management and Penology are essentially the same because both adhere to the same principles in the safekeeping and rehabilitation of inmates. However, there are slight variations in their operations because there are some provisions that can be found in one manual which the other does not contain

#### A. PROCEDURES IN THE BUREAU OF CORRECTIONS

Part VI, Book 1 of the BuCor Operating Manual provides for the **Release of Inmate**.

An inmate may be released from prison **upon the expiration of his sentence, by order of the court or of competent authority or after being granted parole, pardon or amnesty**.

An inmate's sentence expires when he has already completed the service of his sentence. **Service of sentence** refers to the completion of the service of the sentence imposed against the convict, the criminal liability is extinguished and is entitled as a matter of right to the released from confinement without unnecessary delay (Gollayan, 2000).

As soon as the convict offender has finished serving the terms of imprisonment imposed by the court, he must be released and he will then be considered a free man in the free society.

**Parole** is the conditional release of an offender from a penal or correctional institution after he has served the minimum period of his prison sentence under the continued custody of the State and under conditions for his release (Miguel and Argoso, 1998). It is granted by the **Board of Pardons and Parole**.

A convicted offender may apply for parole subject to the qualifications and conditions set forth by the law, **Act No. 4103**, otherwise known as the **Indeterminate Sentence Law**, and the rules of the Board of Pardons and Parole. If an offender has been granted parole, he will be released confinement and will serve the remainder of his sentence outside of prison. One very important condition of his parole is that he must report to the parole officer assigned to him as frequently as the conditions may require him.

**Pardon** is an act of grace, proceeding from the power entrusted with the execution of the laws which exempts the individual on whom it is bestowed from the punishment which the law inflicts for a crime he has committed (Moreno, 2009). It can be absolute or conditional. Pardon is granted only by the **President after conviction**.

**Absolute pardon** refers to the total extinction of the criminal liability of the individual to whom it is granted without any condition whatsoever and restores to the individual his civil rights and remits the penalty imposed for the particular offense of which he was convicted.

**Conditional pardon** refers to the exemption of an individual, within certain limits or conditions, from the punishment which the law inflicts to the offense he has committed resulting in the partial extinction of his criminal liability. (Miguel and Argoso, 1998).

**Amnesty** commonly denotes the general pardon to rebels for their treason and other high political offenses (Moreno, 2009). It is granted by **the President with the concurrence or approval of Congress**.

The approval of the Director of the BuCor is required before the release of an inmate can be authorized. Before an inmate is released, he shall be properly identified by comparing his fingerprints and other identification marks with those which were taken when he was admitted in prison.

The order bearing the seal of the court and duly signed by the clerk of court or by the judge himself must be received by the Superintendent before he will authorize the release of the inmate.

An inmate who is scheduled to be released shall be transferred to the Separation and Placement Center thirty (30) days before his scheduled release to prepare him for re-entry into free society.

He shall undergo a one (1) day seminar in preparation for his life outside prison.

In case the inmate is being released on pardon or parole, the Director of the BuCor must be forward the carpeta and prison records of the inmate to the Board of Pardons and Parole. For conditional pardon, the inmate's carpeta and prison records must be forwarded at least one (1) month before the expiration of one-half ( $\frac{1}{2}$ ) of the minimum period of the inmate's indeterminate sentence. For parole the inmate's carpeta and prison records must be forwarded at least one (1) month before the expiry date of his minimum sentence.

However, there is a rule that states that inmates cannot be released from prison **sixty (60) days before an election** and **thirty (30) days after an election**, except for valid and legal reasons.

## **B. PROCEDURES IN THE BUREAU OF JAIL MANAGEMENT AND PENOLOGY**

Section 3, Rule V of the BJMP Revised Manual provides for the **Modes and Guidelines of Release**.

An inmate may be released through **service of sentence, order of the court, parole, pardon and amnesty**.

Before an inmate is released, he shall be properly identified to ensure that he is the same person received and will be released. His fingerprints shall be verified with those taken when he was received.

The release of an inmate shall be effected only upon receipt of the **Release Order** served by the court process server. The Release Order shall bear the full name of the inmate, the crime he was charged with, the criminal case number and such other details that will enable the officer in charge to properly identify the inmate to be released.

Upon proper verification from the court of the authenticity of the Release Order, an inmate shall be released promptly and without unreasonable delay.

The released inmate shall be issued a Certification of Discharge from Jail by the Warden or his authorized representative.

The in-depth discussion of the concept and legal provisions concerning absolute pardon, conditional pardon commutation of sentence and other forms of clemencies, as well amnesty, parole and probation is covered by the subject, Correctional Administration 2 (Non- Institutional Corrections), which is taken up following its pre- requisite subject which is the focus of this book, Correctional Administration (Institutional Corrections).

## Exercise 16

### Answer briefly.

1. What are the qualifications for parole?
2. What is the reason behind the rule on not releasing inmates sixty (60) days before an election and thirty (30) days after an election?
3. What are the different modes of early release? Enumerate and define each.

## Chapter 17

### CRIMINAL OFFENSES COMMITTED BY INMATES WHILE SERVING HIS SENTENCE

There are certain crimes that can only be committed by inmates who are serving their sentence by final judgement. It is because one common element of these crimes that the offender is a convicted prisoner. These crimes are committed by the inmates while inside prison or jail, with or without help from a fellow inmate, a jail personnel or an outsider.

These crimes are defined by **Chapter Six, Tittle Three** of the Revised Penal Code, specifically, **Article 157 – Evasion of Service of Sentence, Article 158 – Evasion of Service of Sentence on the Occasion of Disorders, and Article 159 – Other cases of Evasion of Service of Sentence by Violating the Conditions of Conditional Pardon, and Chapter Seven, Tittle III, RPC**, specifically, **Article 160 – Commission of Another Crime During Service of Penalty Imposed for Another Previous Offense.**

#### ARTICLE 157 – EVASION OF SERVICE OF SENTENCE

The elements of the crime, evasion of service of sentence are the following:

- 1) The offender **is a convict by final judgement;**
- 2) The offender serving his sentence which consists in deprivation of liberty; and
- 3) The offender evades the service of his sentence by escaping during the term of his sentence; and
- 4) The crime is qualified when the offender evades the service of his sentence by means of unlawful entry, by breaking doors, windows, gates, walls, roofs or floors, or by using picklocks, false keys, disguise, deceit, violence or intimidation or through connivance with other convicts or employees of the prison or jail.

The crime of evasion of service of sentence can only be committed by an offender whose judgement is already final, meaning, his case is no longer on appeal. But if the offender who escaped from prison or jail is only a detainee, then he cannot be prosecuted for this crime. He will incur no criminal liability.

The penalty for this crime is prison correctional in its medium period and minimum period. However, if any of the qualifying circumstances is present, then the penalty becomes prison correctional in its maximum period.

#### ARTICLE 158 – EVASION OF SERVICE OF SENTENCE ON THE OCCASION OF DISORDERS, CONFLAGRATIONS, EARTHQUAKES OR OTHER CALAMITIES.

The elements of this crime are the following:

- 1) The offender is a **convict by final judgement;**
- 2) There is disorder resulting from conflagration or fire, earthquake, explosion, similar catastrophes, or mutiny in which he has not participated;
- 3) The offender evades the service of sentence by leaving the penal institution where he is confined on the occasion of such disorder or during mutiny;

4) The offender fails to give himself up to the authorities within forty-eight (48) hours following the issuance of the proclamation by the President announcing the passing away of such calamity.

In this crime, the offender is not punished for leaving the penal institution because it is understood that in times of calamities, a person's first instinct is to save his self and find a safe place to go to. What is being punished is his failure to return to the penal institution after the situation has already been stabilized.

The penalty of this crime is increase of one-fifth (1/5) of the time still remaining to be served under the original sentence, which in no case shall exceed six months.

Conversely, if the convict will give himself up to the authorities within forty-eight (48) hours, he shall be entitled to a **deduction of one-fifth (1/5) of the original sentence** imposed upon him. This is **Special Time Allowance for Loyalty**, provided by Article 98 of the Revised Penal Code.

## **ARTICLE 59 – OTHER CASES OF EVASION OF SERVICE OF SENTENCE**

This article of the RPC provides for the crime committed when a convicted offender who was granted conditional pardon violated the conditions of said conditional pardon.

Violating the conditions of a conditional pardon is punishable because this kind of pardon was granted with the agreement that the convicted offender will comply with the conditions of his pardon. His breach of the conditions set makes him liable for this crime.

The elements of these crime are the following:

- 1) The offender was already convicted by final judgement;
- 2) The offender was granted a conditional pardon by the President; and
- 3) The offender violated the conditions of such pardon.

The penalty for this crime is prison correctional in its minimum period, if the remaining period of the term of his original sentence at the time the conditional pardon was granted does not exceed six (6) years. But if the remaining period of his sentence exceeds six (6) years, then the offender will serve the unexpired term of his original sentence.

## **ARTICLE 160 – COMMISSION OF ANOTHER CRIME DURING SERVICE OF PENALTY IMPOSED FOR ANOTHER PREVIOUS OFFENSE**

This article provides for the situation called quasi-recidivism. Quasi- recidivism is a special aggravating circumstance where a person, after having been convicted by final judgement, shall commit a new felony before beginning to serve such sentence, or while serving the same (Reyes, 2008). The offender described here is referred to as a quasi-recidivist.

The elements of this crime are the following:

- 1) The offender was already convicted by final judgement of one offense; and
- 2) The offender committed a new felony before beginning to serve such sentence or while serving the sentence imposed for the previous offense;

The situation being described here is there is an offender who committed a crime and was found guilty by final judgement. But before he could begin the service of his sentence for his crime, or while he is already serving his sentence for his crime, he committed a second crime. And the second crime he committed is a felony, meaning, a crime that is punishable by the Revised Penal Code.

The penalty that will be imposed for the second felony he committed will be the maximum period of penalty prescribed by law for the new or second felony.

## EXERCISE 17

### II. Define and discuss the following:

- 1) **Recidivism –**
- 2) **Quasi-recidivism –**
- 3) **Reiteracion –**
- 4) **Habitual delinquency –**

## CHAPTER 18

### CRIMINAL OFFENSES COMMITTED BY PRISON AND JAIL OFFICERS AND PERSONNEL AND PRIVATE PERSONS

In the previous chapter, offences that can be committed by inmates while serving their sentence were discussed. In this chapter, the focus is in the offenses committed by public officers against inmates who are under their custody and jurisdiction, as well as the administrative offenses committed by them in the performance of their official duties.

The public officers being referred to here are the government officers and employees charged with the responsibility for the safekeeping, custody and rehabilitation of inmates, both sentenced prisoners and detainees. The nature of these acts range from simple negligence to grave abuse of authority, to downright corruption and immorality.

The public officers who are most likely to commit these offenses are the **prison and jail officials such as wardens and jail personnel who are in charge of prisoners and detainees. Obviously, it is because they are the ones who have physical custody over them.**

Also, the same laws and penalties shall apply whether the public officer is under the Bureau of Corrections or the Bureau of Jail Management and Penology.

Finally, a private individual or citizen may also be held criminally liable in some instances. These crimes are also discussed.

#### A. CRIMINAL OFFENSES COMMITTED BY PUBLIC OFFICERS (PRISON AND JAIL OFFICERS AND PERSONNEL)

These crimes are also defined and punished by the Revised Penal Code, specifically **Article 126 – Delaying Release, Article 223 – Conniving with or Consenting to Evasion, Article 224 – Evasion through Negligence, Article 235 – Maltreatment of Prisoners and Article 245 – Abuses against Chasity.**

##### ARTICLE 126 – DELAYING RELEASE

The elements of this crime are the following

- 1) The offender is a public officer or employee;
- 2) There is a judicial or executive order for the release of a prisoner or detainee, or there is a proceeding upon a petition for the liberation of a prisoner; and
- 3) The offender without good reason, delays the service of the notice of such order to the prisoner, or delays the performance of such judicial or executive order for the release of the prisoner, or delays the proceedings upon a petition for the release of the prisoner.

The rule is that as soon as there already is a court order for the release of a prisoner, that prisoner must be released without delay. Otherwise, the jail personnel can be held criminally liable.

The penalty for this crime is *arresto mayor* in its maximum period to *prision correctional* in its minimum period if the delay has not exceeded three (3) days, *prision correctional* in its medium to maximum periods if the delay has continued for more than three (3) days but not more than fifteen (15)

days, prison mayor if the delay has continued to more than fifteen (15) days but not more than six (6) months, and reclusion temporal if the delay have exceeded six (6) months.

### **ARTICLE 223 – CONNIVING WITH OR CONSENTING TO EVASION**

There is connivance when the public officer is aware of the plans of the inmate to escape and they were working together so that the inmate will be able to escape from prison and jail. There can only be connivance when there is an agreement between the public officer and the inmate.

The elements of this crime are the following:

- 1) The offender is the public officer;
- 2) The offender had in his custody an inmate, who is either a prisoner by final judgement or a detainee;
- 3) The inmate escaped from his custody; and
- 4) The offender was in connivance with the inmate who escaped.

The penalty for this crime is prison correctional in its medium and maximum periods if the inmate is a prisoner by final judgement, and prison correctional in its minimum period if the inmate is a detainee

### **Article 224 – EVASION THROUGH NEGLIGENCE**

**Negligence** pertains to the failure to observe such care as a reasonably prudent and careful person would use under similar circumstances (Gollayan, 2000). In this context, there is negligence when the jail personnel fails to ensure that no inmates will be able to escape from prison or jail by reason of laxity or leniency on his part.

The elements of this crime are the following:

- 1) The offender is a public officer;
- 2) The offender is charged with the conveyance or custody of an inmate, whether prisoner by final judgement or detainee; and
- 3) The inmate was able to escape through the public officer's negligence.

The penalty for the public officer who will commit this crime is arresto mayor in its maximum period to prison correctional in its minimum period. As for the inmate who escaped, he shall be liable for evasion of service of sentence if he is prisoner by final judgement. If he is detainee, then he will have no criminal liability

### **ARTICLE 235 – MALTREATMENT OF PRISONERS**

The elements of this crime are the following:

- 1) The offender is a public officer or employee;
- 2) The offender has under his charge an inmate, whether prisoner by final judgement or detainee;
- 3) The offender maltreats such prisoner in either of the following manner:
  - a) By overdoing himself in the correction or handling of an inmate, whether prisoner or detainee under his charge either by the imposition of punishments not authorized by the rules and regulations, or by inflicting authorized punishments in a cruel and humiliating manner; or

b) By maltreating such prisoner to extort a confession or to obtain some information from the prisoner.

The penalty for this crime is prison correctional in its medium period to prison mayor in its minimum period, in addition to his liability for the physical injuries or damage caused.

## **ARTICLE 245 – ABUSES AGAINST CHASTITY**

This article enumerates the various public officers that can be held liable for this crime, but the paragraph applicable for jail officers and personnel is sub paragraph number 2, which pertains to warden and other public officer directly charged with the care and custody of prisoners or persons under arrest.

The elements of this crime are the following:

- 1) The offender is a public officer;
- 2) The offender solicits or makes immoral or indecent advances to a woman;
- 3) The woman is under the custody of the offender who is a warden or other public officer directly charged with the care and custody of prisoners or persons under arrest; or
- 4) The woman is the wife, daughter, sister or relative within the same degree by affinity of the person in the custody of the offender.

The penalty for this crime is prison correctional in its medium and maximum periods.

## **B. OFFENSES COMMITTED BY PRIVATE PERSONS**

There are also acts that are defined as crimes even when committed by private persons.

Again, these crimes are defined by the Revised Penal Code, specifically, **Article 156 – Delivering Prisoners from Jail.**

**Article 225 – Escape of Prisoner under the Custody of a Person Not a Public Officer.**

### **Article 156 – DELIVERING PRISONERS FROM JAIL.**

The elements of this crime are the following:

- 1) There is an inmate, whether sentenced prisoner or detainee, confined or detained in jail or prison; and
- 2) The offender removes the inmate from the jail or prison; and
- 3) The offender helps him escape.

Here, the offender may be relative or a friend of the inmate, who may or may not be an inmate himself.

The penalty for the offender who removed the inmate from prison or jail is arresto mayor in its maximum period to prison correctional in its minimum period. Moreover, the inmate who escaped will be liable for evasion for service of sentence if he is a prisoner by final judgement. If the inmate is only a detainee, then he is not criminally liable.

## **ARTICLE 225 – ESCAPE OF PRISONER UNDER THE CUSTODY OF A PERSON NOT A PUBLIC OFFICER**

The elements of this crime are the following:

- 1) The offender is a private person;
- 2) The conveyance or custody of a prisoner or person under arrest is confided to him;
- 3) The inmate or the person under arrest escapes;
- 4) The offender lets the inmate or the person under arrest escapes, or was able to escape due to his negligence.

## EXERCISE NO. 18

### Answer briefly.

- 1) If a prison or jail officer had been convicted for any of the crimes discussed under this chapter, can he still go back to the service after serving his sentence?
- 2) Is the warden also liable if his subordinate is found guilty of a crime discussed under this chapter?
- 3) A jail officer connived with an inmate so that the inmate can escape. However, the jail officer changed his mind. Out of spite, the inmate reported him to his superiors. Can the jail officer still be held liable? What crime is committed?