

THE IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 11928, OTHERWISE KNOWN AS THE SEPARATE FACILITY FOR HEINOUS CRIMES

Pursuant to Section 15 of the Republic Act No. 11928 (An Act Establishing a Separate Facility for Persons Deprived of Liberty Convicted of Heinous Crimes and Appropriating Funds Therefor), the following implementing rules and regulations are hereby promulgated.

RULE I GENERAL PROVISIONS

Section 1. Title

These Rules shall be known as the Implementing Rules and Regulations (IRR) of the implementation of RA 11928, otherwise known as the "Separate Facility for Heinous Crimes Act."

Section 2. Objective

This IRR is promulgated to prescribe the procedures and guidelines for the implementation of RA 11928 in order to facilitate compliance with the Act and to achieve its objective.

Section 3. Declaration of Policy

It is the declared policy of the State pursuant to Article II, Section 2 of the Constitution that "the maintenance of peace and order, the protection of life, liberty, and property, and the promotion of general welfare are essential for the enjoyment by all the people of the blessings of democracy" (and Article I, Section 11 of the Constitution that "the State values the dignity of every human person and guarantees full respect for human rights").

It is the objective of RA 11928 to implement these policies and institute programs to promote the general welfare and the basic rights of Persons Deprived of Liberty (PDLs) who are incarcerated in the national penitentiaries, and adhere to the principle that different categories of PDLs shall be kept in separate institutions or facilities in consideration of their age, sex, criminal record, and requirements for rehabilitation and reformation.

Section 4. Construction

This IRR shall be construed and applied in accordance with and in furtherance of the policies and objectives of the Act. In case of doubt, the same shall be construed liberally and in favor of the PDL.

RULE II COVERAGE AND APPLICATION

Section 5. Coverage and Application

This IRR shall apply to all PDLs convicted of heinous crimes, classified as high-level offenders, who are serving their sentence in the penitentiaries and facilities under the control and supervision of the Bureau of Corrections (BuCor).

RULE III DEFINITION OF TERMS

Section 6. Definition of Terms

For the purpose of this IRR, the following terms or words and phrases shall mean or be understood as follows:

a) Act. Refers to RA 11928, entitled "An Act Establishing a Separate Facility for PDLs Convicted of Heinous Crimes and Appropriating Funds Therefor," otherwise known as the Separate Facility for Heinous Crimes Act.

b) Facility Inspection Board. Refers to the collegial body of the BuCor under the office of the Director General, the composition of which is provided under Section 16 hereof, that is primarily responsible for the conduct of internal inspection and to ensure that the facility is administered in accordance with the Constitution, laws, rules, and regulations.

c) Classification. Refers to an ordered set of categories used to group PDLs data according to level of security risk, sentence, and other determinable factors as stated in Rule 5(b), Section 5 of the revised IRR of RA 10575.

d) Classification Board. Refers to the collegial body that classifies PDL according to security risks, sentence and other determinable factors. The board shall be composed of: the Deputy Director General for Operations, as chairperson; Director of the Directorate for Reception and Diagnostic Center, as vice-chairperson; and three (3) members from the offices of the Directorate for Reformation, the Directorate for Health and Welfare Services, and the Intelligence and Investigation Division; and secretariat from the office of the Inmate's Documents and Processing Division.

e) External Inspection. An inspection made by the DOJ as the Facility to ensure that it is administered in accordance with the Constitution, this Act, other existing laws, rules, and regulations.

f) Facility. Refers to separate facilities for PDL convicted of heinous crimes, also called heinous crimes facilities.

g) Heinous crimes. "Heinous Crimes" — crimes which are grievous, odious and hateful to the senses and which, by reason of their inherent and manifest wickedness, viciousness, atrocity and perversity are repugnant and outrageous to the common standards and norms of decency and morality in a just, civilized and ordered society, including crimes which are mandatorily punishable by Death under the provisions of RA No. 7659, as amended, otherwise known as the Death Penalty Law, and those crimes specifically defined by such by the Supreme Court.

h) Heinous Crimes Facility. Refers to the high-level facility under the control and supervision of BuCor where PDLs convicted of heinous crimes and classified as high-level offenders are separated, held, and kept.

i) High-level offender. Refers to a person convicted of heinous crimes and sentenced to reclusion perpetua or life imprisonment.

j) Internal Inspection. Security inspections conducted by the Facility Inspection Board (FIB) to ensure that the Facility is administered in accordance with the Constitution, this Act, other existing laws, rules and regulations. Internal inspection includes all other inspections regularly conducted (e.g., abatement and searching operations).

k) Person Deprived of Liberty (PDL). Refers to a person sentenced by a court to serve a term of imprisonment for an offense committed punishable under the Revised Penal Code (RPC), Customs and tariff laws or other laws within the jurisdiction of the Bureau of Customs and Border Protection, immigration laws, criminal laws, and other special penal laws, whether or not such person sentenced has filed an appeal but shall include a person committed to the BuCor by a court or

l) Violation. Refers to the regulated act of the PDL in communicating or spending time with visitors including, but not limited to, relatives, legal counsels, and personnel from the Department of Justice (DOJ), Board of Pardons and Parole (BPP), Parole and Probation Administration (PPA) in their official capacity, whether it be in the form of physical visits or other alternative modes such as correspondence, phone or videoconferencing subject to the necessary supervision of the Bureau of Corrections in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners and other relevant international standards.

RULE IV SEPARATE FACILITIES FOR PDLs CONVICTED OF HEINOUS CRIMES

Section 7. Establishment of Separate Facilities for PDLs Convicted of Heinous Crimes.

a) The BuCor shall establish a separate, secure, and sanitary facility for PDLs convicted of heinous crimes classified as high-level offenders.

b) Subject to the determination of the Secretary of Justice, the Facility shall be built in a suitable location away from the general population and other PDLs and preferably within a military establishment or on an island separate from the mainland.

c) The Facility shall be located in a secured and isolated place to ensure that there is no unmonitored contact or communication from outside of the penal institution.

d) There shall be at least three (3) separate facilities for high-level offenders, with one (1) facility each in Luzon, Visayas, and Mindanao.

e) Each facility shall have separate buildings for male and female PDLs. A separate dormitory shall likewise be provided for PDLs who are members of the lesbian, gay, bisexual, or transgender (LGBT) community.

f) In the case of minors convicted of heinous crimes, the provisions of Republic Act No. 9344, otherwise known as the "Juvenile Justice Welfare Act of 2006" pertaining to Children in Conflict with the Law (CCJL) shall apply.

g) Upon the establishment of the separate facilities, the BuCor shall include in its classification system PDLs convicted of heinous crimes, as defined in this Act, who shall serve their sentence in such separate facilities.

RULE V TRANSFER OF PDL TO HEINOUS CRIMES FACILITIES

Section 8. Transfer of PDLs Convicted of Heinous Crimes to Heinous Crimes Facilities. The transfer of PDLs classified as high-level offenders shall be based on the following:

a) The transfer of PDLs classified as high-level offenders to the Facility shall be based by the BuCor.

b) The BuCor may seek the assistance of the Department of the Interior and Local Government (DILG), through the Philippine National Police (PNP), the Armed Forces of the Philippines (AFP) or the Philippine Coast Guard (PCG), when the means of transporting the PDLs classified as high-level offenders will be done through the use of an aircraft or sea vessel. The expenses in relation to the said transfer shall be charged against the budget of the BuCor.

c) The BuCor shall ensure that PDLs classified as high-level offenders being transferred to the Facility shall be exposed to public view as little as possible, and that proper safeguards are adopted to protect them from insult, curiosity, and publicity in any form.

d) The BuCor shall ensure that any unreasonable inconvenience or unnecessary physical hardship on the PDL, while they are being transferred, such as inadequate ventilation or light, are prohibited.

e) Separate vehicles should be used for male and female PDLs classified as high-level offenders.

f) The BuCor shall observe proper notification of the respective legal counsels of PDLs who are subject to transfer.

g) When the transfer has been fully executed, a report jointly prepared by the BuCor, PNP, AFP or PCG, as the case may be, shall be submitted to the President of the Senate and the Speaker of the House of Representatives. The BuCor shall ensure the submission of the required report within 72 hours from the completion of the transfer of PDL to the Facility.

RULE VI THE FACILITY

Section 9. The Facility. a) State of the art facility. The separate facility for PDLs classified as high-level offenders shall be a state-of-the-art facility with surveillance cameras and the latest information technology and security systems capable of monitoring PDLs twenty-four (24) hours a day, and with enhanced and extensive security features on locks, doors, and perimeters.

b) Renewable energy. Provisions for solar, biogas, rainwater harvesting, and the like shall be included in the design and construction of the Facility to facilitate self-sustainability, in compliance with RA 10575 and other existing laws, orders, rules and regulations.

c) Habitability of the Facility. The Facility shall be maintained clean and habitable at all times. Sanitary and hygienic toilets and shower areas shall be provided and maintained.

d) Supervision of the Facility. The Facility shall be under the direct control and supervision of the BuCor and shall have facilities, staffing and personnel complement, and structure of a regular prison operating institution in accordance with RA No. 10575, revised IRR of RA 10575.

e) Personnel Quarters. The Facility shall consider the establishment of quarters for contracted and non-contractual uniformed personnel including the non-uniformed personnel to be assigned at the facility.

RULE VII

RULE VIII CONDUCT OF INSPECTION

Section 11. Conduct of Inspection. — To ensure that the Facility is administered in accordance with the Constitution, this Act, and other existing laws, rules and regulations and to attain the objectives of the heinous crimes facility, internal and external inspections shall be conducted on a regular basis: 1.) Internal inspection. The BuCor as the regulating agency shall create and maintain a Facility Inspection Board (FIB) which is responsible for carrying out monthly inspections of the Facility.

The FIB shall be composed of the Deputy Director for Operations, as Chairperson, the Director of the Directorate for Administration, as Vice-Chairperson, and three (3) members coming from the offices of the Directorate for Security Operations, the Directorate for Health and Welfare Services, and the Directorate for Reformation. The FIB shall be assisted by a secretariat coming from the office of the General Services Division.

b) External inspection. The DOJ, in the exercise of its administrative supervision over the BuCor, shall conduct an inspection of the facility on a quarterly basis to ensure that the Facility is administered in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners and other relevant international standards.

RULE IX CONDUCT OF RANDOM DRUG TESTING

Section 12. Conduct of Random Drug Testing. — There shall be regular random drug testing among the PDLs convicted of heinous crimes in the Facility.

a) The BuCor shall engage the services of a foreign or drug testing laboratories and qualified staff accredited by the Department of Health (DOH) for the regular conduct of random drug testing of PDLs confined at the Facility.

b) The Superintendent of the Facility, through the medical director of BuCor, shall be responsible for the random drug testing of PDLs, in coordination with the nearest DOH accredited forensic laboratory.

c) For diagnostic purposes only, drug test screening and confirmatory tests without positive results from drug test screening of PDLs may be conducted by the medical technologists on duty, upon the order of the medical director of the Facility.

RULE X OVERSIGHT

Section 13. Oversight. — Congress, in the exercise of its oversight function, shall conduct a regular review on the mode of operation and cost compliance with this Act, which shall entail a systematic evaluation of the performance of the concerned agencies with respect to their intent and objectives.

The review shall be undertaken by the committees of the Senate and the House of Representatives that have legislative jurisdiction over the Act.

RULE XI INFORMATION TECHNOLOGY SYSTEM

Section 14. Information Technology Systems. The Facility shall be equipped with effective and efficient information and Communication Technology (ICT) infrastructure and a software system that follows generally accepted standard for the digitization of all information necessary to be used in the build-up, maintenance and transmission of necessary documents of all the prison and penal farms of the BuCor and other authorized government agencies.

The ICT infrastructure and software system shall have a feature of well-established maintenance plan and integration model for information sharing with all law enforcement agencies and for effective monitoring of PDL confined in the Facility.

RULE XII MISCELLANEOUS PROVISIONS

Section 15. Reportorial Requirement. Pursuant to Section 13 of the Act, the BuCor shall report to the President of the Senate and the Speaker of the House of Representatives.

a) Biannual Report. From commencement of the construction until its completion, the BuCor shall submit detailed information on the progress of the construction and the application of the budget.

b) Annual Report. When the premises of the heinous crimes facility have been completed and occupied by PDLs convicted and classified as high-level offenders, the BuCor shall submit annual reports on the status of the implementation of this Act.

Section 16. Appropriations. The BuCor shall include in the BuCor's programs the implementation of this Act, the funding of which shall be included in the annual General Appropriations Act.

The amount necessary to carry out the initial implementation of the Act shall be included in the annual appropriations of the BuCor. Thereafter, such sums as may be necessary for the continued implementation of the Act shall be included in the succeeding General Appropriations Act.

Section 17. Amendment. The Secretary of Justice, in coordination with the Director General of the BuCor, may amend or modify these Rules as may be necessary.

Section 18. Separability Clause. If any provision in this IRR, or application of such provision in any circumstance, is declared invalid or unconstitutional, the other provisions not affected thereby shall remain valid and subsisting.

Section 19. Repealing Clause. All rules and regulations, policies, orders and issuances contrary to or inconsistent with these Rules are hereby repealed or modified accordingly. All rights reserved to PDLs under the Manila Rules, Bangkok Rules, Beijing Rules and Kyoto Declaration shall continue to subsist and be enforced by virtue of Doctrine of Incorporation as stated in: the last sentence of Article II, Section 2 of the Constitution.

Section 20. Effectivity Clause. This IRR shall take effect three (3) hundred days after its publication in the Official Gazette or in a newspaper of general nationwide circulation and upon filing with the University of the Philippines Law Center of three (3) certified copies of this IRR.

Done this _____ day of _____, 2022. GREGORIO FIO P. CATAPANG, Jr.

other competent authority for temporary confinement for similar purposes.

- l) **Renewable Energy** Refers to the energy derived from natural resources that may be utilized to facilitate self-sustainability of the Facility, in compliance with RA 10533, other existing laws, orders, rules and regulations.
- m) **Secured and isolated place** Refers to a place or location far away from civilian communities that would ensure the safety and security of such communities and protect the facility from possible intrusions or intruders.
- n) **State of the Art** Refers to the description of the most recent technology with enhanced security features on locks, doors and its perimeters which will be utilized in the facility. This includes surveillance cameras and the latest information technology and security systems capable of monitoring PDLs twenty-four (24) hours a day, and with enhanced and extensive security features on locks, doors, and its perimeters.

VISITATION

Section 10. Visitation. The Director General of the BuCor shall ensure that under necessary supervision, PDLs classified as high-level offenders in the Facility shall be allowed to communicate with their relatives and legal counsels both by receiving visits and by means of alternative modes of communication such as through phone, video or correspondence, in accordance with the UN Standard Minimum Rules for the Treatment of Prisoners and other relevant international standards.

Communication with personnel from the DOJ, BPP and PPA shall be allowed in the same manner provided, that such communication with the PDL is for an official purpose.

The guidelines on visitation of PDLs classified as high-level offenders in the Facility shall be formulated by the BuCor, before its completion. The said guidelines shall be subject to the approval of the Secretary of Justice, upon the recommendation of the Director General.

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PERSONAL COPY

Approved:

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