



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF JUSTICE

PAROLE AND PROBATION ADMINISTRATION

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**PPA-DOJ INTERNAL GUIDELINES FOR THE
IMPLEMENTATION OF REPUBLIC ACT NO. 10389**

Whereas, Section 13, Article III, of the 1987 Constitution provides that all persons, except those charged with offenses punishable by reclusion perpetua when evidence of guilt is strong, shall, before conviction, be bailable by sufficient sureties, or be released on recognizance as may be provided by law;

Whereas, Republic Act No. 10389, otherwise known as the “Recognizance Act of 2012” was enacted to uphold the mandate of the Constitution by institutionalizing recognizance as a mode of granting the release of an indigent accused in a criminal case in custody of the law;

Whereas, the implementing rules and regulations of RA No. 10389 has yet to be formulated hindering the effective implementation of the law;

Whereas, in order not to defeat, rather ensure the accused’s right to recognizance, an internal guidelines for the carrying out of the provisions of RA No. 10389 has been deemed necessary;

Now, therefore, PPA-DOJ Internal Guidelines for the Implementation of Republic Act No. 10389 is hereby formulated as follows:

**RULE I
GENERAL PROVISIONS**

Section 1. Title – This shall be known as the “PPA-DOJ Internal Guidelines for the Implementation of Republic Act No. 10389” (“Guidelines”).

Section 2. Scope and Application; Exception – These Guidelines shall apply to all accused under custody of the law; except those charged with offenses punishable by death, reclusion perpetua, or life imprisonment when evidence of guilt is strong, those charged with offenses as a result of a military proceeding, and those charged in an extradition or deportation proceeding unless otherwise allowed by law.

Section 3. Construction – These Guidelines shall be liberally construed in favor of the accused unless otherwise provided by law.

RULE II OBJECTIVES

Section 4. Objectives – The grant of release on recognizance aims to:

- a. guarantee the appearance of the accused before any court when so required;
- b. prevent the undue incarceration of an accused who may be released after trial unless proven guilty; and
- c. protect the people and the peace of the community which may be disturbed upon the temporary release of the accused.

RULE III DEFINITION OF TERMS

Section 5. Definition of Terms – The following terms used in these Guidelines shall mean:

- a. Accused** - person/persons in custody of the law charged with a criminal offense;
- b. Bail** – the security given for the release of the person in custody of the law, furnished by him/her or by a bondsman, to guarantee his/her appearance before any court;
- c. Custodian** – a responsible member of the locality where the accused resides appointed by the court who is tasked to guarantee his/her appearance whenever required by the court;
- d. In custody of the law** – a situation where the accused is placed in a confinement after a lawful arrest or a voluntary surrender of the accused;

- e. Order of Recognizance** - an order of the proper court allowing the temporary release of an accused to his own recognizance or to a custodian subject to certain conditions;
- f. Probation Officer** - an officer from the Parole and Probation Administration under the Department of Justice tasked to monitor activities of the accused and his compliance with the conditions of his release on recognizance;
- g. Recognizance** - a mode of securing the release of any accused person in custody or detention who is unable to post bail due to poverty.

**RULE IV
PROCEDURES FOR RELEASE ON RECOGNIZANCE**

Section 6. Release on Recognizance; Procedures - The following are the procedures for the release of a person under recognizance:

- a. A Motion for Release on Recognizance shall be filed before the proper court where the criminal case is pending for the release on recognizance of the accused which shall be accompanied by a sworn declaration of indigency or incapacity to post bail executed by the accused. In case of indigency, a Certificate of Indigency issued by the Municipal or City Social Welfare and Development Office where the accused resides must likewise be attached;
- b. Upon receipt of the motion, the Court where the motion has been filed shall notify the public prosecutor thereof within twenty-four (24) hours from its filing;
- c. Within ten (10) days from receipt of the motion, the Court shall notify the appropriate city or municipal sanggunian of the application for recognizance;
- d. Within ten (10) days from receipt of the notice, the sanggunian concerned shall submit a comment or opposition to the application. Any action of the sanggunian shall be in the form of a resolution. In case of a favorable recommendation, the resolution shall include the documentation of the accused and a list of recommended custodians; and
- e. The Court shall set the motion for hearing within forty- eight (48) hours from receipt of the resolution.

RULE V
OBLIGATIONS OF THE ACCUSED RELEASED ON RECOGNIZANCE

Section 7. Obligations of the Accused - The accused released on recognizance shall have the following obligations:

- a. To appear before the proper court whenever required by the court or these Guidelines;
- b. To appear before the proper probation officer within seventy two (72) hours after release and to report thereto at least once a month or as may be directed by the court or the probation office. In case the accused fails to report within said period, the probation office shall require the custodian to present the accused before the Probation Office concerned within ten (10) days from notice;
- c. Not to commit any crime or any act of harassment such as but not limited to stalking, intimidating or otherwise vexing the private complainant, prosecutor or prosecution witnesses in the case pending against the accused;
- d. To remain residing in the premises approved by the court and not to change his residence without the approval of the court. The accused shall likewise surrender his passport, if any;
- e. To undergo drug test, and/or drug dependency examination as may be required by the court;
- f. To allow the probation officer to visit his home or his place of work; and
- g. Satisfy any other condition not unduly restrictive of his liberty or incompatible with his freedom or conscience as may be required by the court or the probation office.

RULE VI
CUSTODIAN

Section 8. Who may be a Custodian- The custodian shall have the following qualifications:

- a. A person of good repute and probity;
- b. A resident of the barangay where the accused resides;
- c. He must not be a relative of the accused within the fourth degree of consanguinity or affinity, and

- d. He must belong to any of the following sectors and institutions: church, academe, social welfare, health sector, cause-oriented groups, charitable organization/s engaged in the rehabilitation of offenders duly accredited by the local social welfare and development officer.

If no person in the barangay where the accused resides belongs to any of the sectors and institutions listed above, the custodian of the person released on recognizance may be from the qualified residents of the city or municipality where the accused resides.

Section 9. Duties of a Custodian - The custodian shall have the following duties:

- a. Sign an undertaking before the proper court to present the accused whenever required by the court or these rules; and
- b. Sign an undertaking before the court to present the accused at least once a month before the appropriate probation officer-in-charge.

RULE VII ROLE OF THE PROBATION OFFICER

Section 10. Role of the Probation Office; Commencement of Monitoring Service - For purposes of these Guidelines, the monitoring service shall commence upon receipt of the Court Order requiring the Probation Office to monitor and evaluate the activities of persons released on recognizance. Said order shall include the following:

- a. The Order of the court placing the accused under release on recognizance with the attached conditions to be complied by the accused;
- b. The Motion for Release on Recognizance filed by the accused;
- c. The Resolution adopted by the Sanggunian of the City or Municipality in relation to the motion/application;
- d. The undertaking of the Custodian to produce the accused at least once a month before the proper probation office; and
- e. The documents pertinent to the personal circumstances of the accused.

The probation officer shall maintain a separate logbook and recording system for cases involving persons released on recognizance.

Section 11. Documentary Requirement - Upon the appearance of the accused for his initial monitoring, the probation officer shall require the accused to accomplish and sign a Release on Recognizance worksheet which shall contain the following:

- a. Court order for release on recognizance;
- b. Name, Alias, and address of the accused;
- c. Date and place of birth and age of the accused;
- d. Gender and civil status of the accused;
- e. Offense charged, court of origin and name of presiding judge;
- f. Date of application for and approval of recognizance;
- g. Residence approved by the court;
- h. Name and address of the custodian;
- i. Age, gender and civil status of the custodian; and
- j. Date of initial interview.

The probation officer shall validate the information provided by the accused in the said worksheet vis-a-vis the information gathered from the documents forwarded by the court. Thereafter, the probation officer shall conduct an interview regarding the personal circumstances, educational, economic and socio-civic data and employment as well as other analogous matters relating to the activities of the accused.

Section 12. Duty to conduct an Inspection; Monthly Report - The supervising probation officer may visit the premises of the accused and interview any person within the community to determine any fact, condition or matter which may be necessary to monitor the activities of the accused.

The supervising probation officer shall submit to the court, once a month, a written report of his findings and recommendations on the activities of the accused. Said report shall likewise be forwarded to the prosecutor and the private offended party, if any.

For purposes of this Rule, a copy of the Release on Recognizance Monthly Report is attached hereto for your reference.

RULE VIII
RELEASE OF A PERSON ON HIS OWN RECOGNIZANCE

Section 13. Release of a Person on His Own Recognizance - When a person has been in custody for a period equal to or more than the minimum imprisonment prescribed for the offense charged, without application of the Indeterminate Sentence Law, he/she shall be released immediately without prejudice to the continuation of the trial or the proceedings on appeal. If the maximum penalty to which the accused may be sentenced is destierro, he/she shall be released after thirty (30) days of preventive imprisonment.

RULE IX
EFFECTS ON CIVIL LIABILITY

Section 14. Effect on Civil Liability upon Release on Recognizance - The release of the accused on recognizance shall not extinguish his civil liability in the same criminal case

RULE X
FINAL PROVISIONS

Section 15. Separability Clause - If any clause, sentence, proviso or section of this Guidelines shall be held invalid or unconstitutional, the remaining part hereof shall remain in force and in effect.

Section 16. Effectivity Clause - This Guidelines shall take effect immediately upon the signing hereof.

For Guidance and Compliance.


MANUEL G. CO
Administrator