



Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

DEPARTMENT CIRCULAR NO. 027

TO: ALL PROSECUTORS

**RE: AMENDED GUIDELINES ON PLEA BARGAINING FOR
REPUBLIC ACT NO. 9165 OTHERWISE KNOWN AS
THE "COMPREHENSIVE DANGEROUS DRUGS ACT
OF 2002"**

DATE: JUNE 26, 2018

In view of the adoption by the Supreme Court of its Plea Bargaining Framework in Drugs Cases dated April 10, 2018 (A.M. No. 18-03-16-SC), there is a need to revise the previous Guidelines on Plea Bargaining Agreements issued under Department Circular No. 61 dated November 21, 2017. Accordingly, the following are the amended guidelines to be observed in plea bargaining in cases involving Republic Act No. 9165 as amended, to wit:

Offense Charged in Information		Acceptable Plea Bargain	
Section	Penalty	Section	Penalty
Section 4 <i>Importation of Dangerous Drugs</i>	Life Imprisonment to Death & Fine from Php 500k to Php 10M	No Plea Bargain Allowed	
Section 4, par. 2 <i>Importation of Controlled Precursors & Essential Chemicals</i>	12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k	No Plea Bargain Allowed	
Section 4, par. 3 Importation thru use of diplomatic passport, etc.	Maximum Penalty	No Plea Bargain Allowed	
Section 4, par. 4 Acting as Financier in Importation	Maximum Penalty	No Plea Bargain Allowed	
Section 4, par. 5 Acting as	12 years & 1 day to 20 years & Fine	No Plea Bargain Allowed	

"Protector/Coddler"	from Php 100k to Php 500k		
Section 5 <i>Sale, Trading, etc. of Dangerous Drugs</i>	Life Imprisonment to Death & Fine from Php 500k to Php 10M	Section 11, par. 3 <i>Possession of Dangerous Drugs</i> (Plea bargaining is allowed only if the drugs involved are "shabu" and/or marijuana and the quantity of "shabu" is less than 5 grams and the quantity of marijuana is less than 300 grams)	12 yrs & 1 day to 20 yrs and Fine from Php 300k to Php 400k
Section 5, par. 2 <i>Sale, Trading, etc. of Controlled Precursor & Essential Chemicals</i>	12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k	No Plea Bargain	
Section 5, par. 3 Sale, trading, etc. takes place within 100 meters from a school	Maximum Penalty	No Plea Bargain Allowed	
Section 5, par. 4 Drug pushers who use minors as couriers, etc	Maximum Penalty	No Plea Bargain Allowed	
Section 5, par. 5 When the victim is a minor causing the latter's death	Maximum Penalty	No Plea Bargain Allowed	
Section 5, par. 6 Acting as Financier	Maximum Penalty	No Plea Bargain Allowed	
Section 5, par. 7 Acting as "Protector/Coddler"	12 years & 1 day to 20 years & Fine from Php 100k to Php 500k	No Plea Bargain Allowed	
Section 6, par. 1 <i>Maintenance of Den, Dive or</i>	Life Imprisonment to Death & Fine from Php 500k to	No Plea Bargain Allowed	

<i>Resort</i> Where dangerous drugs are used or sold in any form	Php 10M		
Section 6, par. 2 <i>Maintenance of Den, Dive or Resort</i> Where Controlled Precursors and Essential Chemicals are used or sold	12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k	No Plea Bargain	
Section 6, par. 3 Where dangerous drug is sold or delivered to a minor and is allowed to use it in such place	Maximum Penalty	No Plea Bargain Allowed	
Section 6, par. 4 When the use of dangerous drugs in such place causes the death of a person	Death & Fine from Php 1M to Php 10M imposed on owner, maintainer and/or operator	No Plea Bargain Allowed	
Section 6, par. 6 Acting as Organizer, Manager or Financier of such place	Maximum Penalty	No Plea Bargain Allowed	
Section 6, par. 7 Acting as "Protector/Coddler"	12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k	No Plea Bargain Allowed	
Section 7 <i>Employees or Visitors of Den, Dive or Resort</i> (Only if the accused is charged as a visitor of the drug den)	12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k	Section 12 <i>Possession of Equipment, Apparatus & Other Paraphernalia for Dangerous Drugs</i> OR Sec. 15	6 months & 1 day to 4 years and a Fine Ranging from Php 10k to Php 50k 6 months Rehab

		<i>Use of Dangerous Drugs</i>	(1 st offense 6 years & 1 day to 12 years and a Fine Ranging from Php 50k to Php 200k (for 2 nd offense)
Section 8, par. 1 <i>Manufacture of Dangerous Drugs</i>	Life Imprisonment to Death & Fine from Php 500k to Php 10M	No Plea Bargain Allowed	
Section 8, par. 2 <i>Manufacture of Controlled Precursors and Essential Chemicals</i>	12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k	No Plea Bargain	
Section 8, par. 4 Acting as Financier	Maximum Penalty	No Plea Bargain Allowed	
Section 8, par. 5 Acting as "Protector/Coddler"	12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k	No Plea Bargain	
Section 9 <i>Illegal Chemical Diversion of Controlled Precursors and Essential Chemicals</i>	12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k	No Plea Bargain Allowed	
Section 10, par. 1 <i>Manufacture or Delivery of Equipment, Instruments, Apparatus and Other Paraphernalia for Dangerous Drugs and/or Controlled Precursors and Essential Chemicals (used to plant,</i>	12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k	No Plea Bargain	

propagate, cultivate, grow, harvest, etc any dangerous drug, controlled precursor & essential chemical			
Section 10, par. 2 If paraphernalia manufactured or delivered will be used to introduce a dangerous drug in the human body	6 months & 1 day to 4 years and fine ranging from Php 10k to Php 50k	No Plea Bargain	
Section 10, par. 3 If a minor is used to deliver such equipment, instrument, paraphernalia, etc.	Maximum Penalty	No Plea Bargain Allowed	
Section 11 <i>Possession of Dangerous Drugs</i> (Where quantity of shabu is 50 grams or more; opium, morphine, heroin, cocaine and marijuana resin is 10 grams or more; marijuana is 500 grams or more)	Life Imprisonment to Death & Fine from Php 500k to Php 10M	No Plea Bargain Allowed	
Section 11, par. 1 <i>Possession of Dangerous Drugs</i> (Where quantity of shabu is 10 grams or more but less than 50 grams)	Life Imprisonment & Fine from Php 400k to Php 500k	No Plea Bargain Allowed	
Section 11, par. 2 <i>Possession of Dangerous Drugs</i> (Where quantity of shabu, opium, morphine, heroin, cocaine, et al is 5 grams or more but	20 yrs and 1 day to Life Imprisonment & Fine from Php 400k to Php 500k	No Plea Bargain Allowed	

less than 10 grams; 300 grams or more but less than 500 grams of marijuana)			
Section 11, par. 3 <i>Possession of Dangerous Drugs</i> (Where quantity of "shabu", opium, morphine, heroin, cocaine, et al is less than 5 grams; marijuana is less than 300 grams)	12 yrs & 1 day to 20 yrs and Fine from Php 300k to Php 400k	Section 12 <i>Possession of Equipment, Apparatus & Other Paraphernalia for Dangerous Drugs</i>	6 months & 1 day to 4 years and a Fine Ranging from Php 10k to Php 50k
Section 12 <i>Possession of Equipment, Apparatus & Other Paraphernalia for Dangerous Drugs</i>	6 months & 1 day to 4 years and a Fine Ranging from Php 10k to Php 50k	Section 15 <i>Use of Dangerous Drugs</i> (An alternative is to allow the accused to change his plea to "guilty" and avail of the mitigating circumstance of voluntary plea of guilt)	6 months Rehab (1 st offense) 6 months & 1 day to 4 years and a Fine Ranging from Php 50k to Php 200k (for 2 nd offense)
Section 13 <i>Possession of Dangerous Drugs During Parties, Social Gatherings or Meetings</i> (Plea bargaining is allowed from Section 13 of Republic Act No. 9165 to Section 11, paragraph 3 of the same statute where the quantity of dangerous drugs involved is less than 5 grams (in cases of	Maximum Penalties provided under Section 11 regardless of quantity or purity	Section 11, par. 3 <i>Possession of Dangerous Drugs</i> (Plea bargaining is allowed where the quantity of "shabu", opium, morphine, heroin, cocaine, et al is less than 5 grams and marijuana is less than 300 grams. If the quantity of dangerous drugs involved exceeds the above quantities, no plea	12 yrs & 1 day to 20 yrs and Fine from Php 300k to Php 400k

<p>"shabu", opium, cocaine, etc.) and less than 300 grams of marijuana. If the quantity of dangerous drugs involved exceeds the above amounts, plea bargaining is prohibited.)</p>		<p>bargaining is allowed.)</p>	
<p>Section 14 <i>Possession of Equipment, Apparatus & Other Paraphernalia for Dangerous Drugs During Parties, Social Gatherings or Meetings</i></p>	<p>Maximum Penalty provided under Section 12</p>	<p>Section 15 <i>Use of Dangerous Drugs</i></p>	<p>6 mos. Rehab for 1st offense; 6 yrs & 1 day to 12 yrs & fine from Php 50k to Php 200k for 2nd offense</p>
<p>Section 15 <i>Use of Dangerous Drugs</i></p>	<p>6 mos. Rehab for 1st offense; 6 yrs & 1 day to 12 yrs & fine from Php 50k to Php 200k for 2nd offense</p>	<p>No Plea Bargain</p>	
<p>Section 16, par. 1 <i>Cultivating or Culture of Plants Classified as Dangerous Drugs or are Sources thereof</i></p>	<p>Life Imprisonment to Death and Fine from Php 500k to Php 10M</p>	<p>No Plea Bargain</p>	
<p>Section 16, par. 3 Acting as Financier</p>	<p>Maximum Penalty</p>	<p>No Plea Bargain Allowed</p>	
<p>Section 16, par. 4 Acting as "Protector/Coddler"</p>	<p>12 yrs & 1 day to 20 yrs and Fine from Php 100k to Php 500k</p>	<p>No Plea Bargain</p>	
<p>Section 17 <i>Maintenance and Keeping of Original Records of</i></p>	<p>1 yr. and 1 day to 6 yrs, and Fine from Php 10k to Php 50k</p>	<p>No Plea Bargain</p>	

<i>Transactions on Dangerous Drugs and/or Controlled Precursors & Essential Chemicals</i>			
<i>Section 18 Unnecessary Prescription of Dangerous Drugs</i>	12 yrs and 1 day to 20 yrs & fine from Php 100k to Php 500k with revocation of license of practitioner	No Plea Bargain	
<i>Section 19 Unlawful Prescription of Dangerous Drugs</i>	Life Imprisonment to Death & Fine from Php 500k to Php 10M	No Plea Bargain Allowed	
<i>Section 26 Attempt or Conspiracy</i>	Penalty Provided in Previous Sections for Importation, Sale, Maintenance of Den, Manufacture & Cultivation of Dangerous Drugs	No Plea Bargain Allowed	
<i>Section 27 Criminal Liability of Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for Confiscated Dangerous Drugs, etc.</i>	Life Imprisonment to Death and Fine from Php 500k to Php 10M	No Plea Bargain Allowed	
<i>Section 29 Planting of Evidence</i>	Death	No Plea Bargain Allowed	
<i>Section 32 Liability of Person Violating any Regulation issued by the Dangerous Drugs Board</i>	6 mos. & 1 day to 4 yrs and fine from Php 10k to Php 50k	No Plea Bargain	
<i>Section 37 Issuance of False</i>	6 yrs and 1 day to 12 yrs & fine from	No Plea Bargain	

<i>or Fraudulent Drug Test Results</i>	Php 100k to Php 500k		
Section 72 <i>Liability of Person who violates the Confidentiality of Records (of drug dependent under voluntary submission program)</i>	6 mos. and 1 day to 6 yrs and fine from Php 1k to Php 6k	No Plea Bargain	
Section 91, par. 1 <i>Responsibility & Liability of Law Enforcement Agencies and other Government Officials and Employees in Testifying as Prosecution Witnesses in Dangerous Drugs Cases</i>	12 yrs and 1 day to 20 yrs and fine of not less than Php 500k	Section 91, par. 2 Liability of Immediate Superior if he failed to exert reasonable effort to present witness to court	2 mos and 1 day but not more than 6 yrs and fine of not less that Php 10k but not more than Php 50k
Section 91, par. 2 Liability of Immediate Superior if he failed to exert reasonable effort to present witness t court	2 mos and 1 day but not more than 6 yrs and fine of not less that Php 10k but not more than Php 50k	No Plea Bargain	
Section 91, par. 3 Failure of Immediate Superior to Inform Court of Transfer or Re-Assignment of Accused Law Enforcement Agent	2 mos and 1 day but not more than 6 yrs and fine of not less that Php 10k but not more than Php 50k	No Plea Bargain	
Section 92 <i>Delay and Bungling in the Prosecution of Drug Cases</i>	12 yrs and 1 day to 20 yrs without prejudice to further prosecution under the RPC	No Plea Bargain Allowed	

While plea bargaining is now allowed pursuant to the case of "Salvador Estipona, Jr. y Asuela v. Hon. Frank E. Lobrigo", the discretion of prosecution offices to give their consent to offers of plea bargaining in dangerous drugs cases is subject to strict control and monitoring by this Department in view of the intensified campaign of the government against illegal drugs. In offenses where no plea bargaining is allowed, the policy direction of this Department is that the acceptance of plea bargains in such instances is against public policy and detracts from the seriousness and gravity of the offense.

All offers for plea bargaining must be initiated in writing by way of a formal motion filed by the accused in court. Upon receipt of a proposal for plea bargaining from the accused which falls under these guidelines, the trial prosecutor shall request the court to order that a drug dependency assessment be administered on the accused pursuant to A.M. 18-03-16-SC. The drug dependency report shall be a condition *sine qua non* for the prosecution to give its consent to the plea bargain.

Plea bargaining may be entertained by the prosecution at any stage of the proceedings. Where the accused offers a plea bargain either during the arraignment or during the pre-trial stage which falls under these guidelines, the trial prosecutor shall request for time to obtain the written approval of the City Prosecutor or Provincial Prosecutor concerned or from any prosecutor with delegated authority to approve plea bargains other than the trial prosecutor, which shall thereafter be submitted to the court to form part of the records. However, if the proposed plea bargain is not allowed or goes beyond what is allowed under these guidelines, the trial prosecutor shall reject the proposed plea bargain outright and continue with the proceedings.

In cases where the accused desires to enter into plea bargaining after the trial on the merits has commenced, the trial prosecutor shall likewise request for time to study the matter and obtain the written approval of the City Prosecutor or Provincial Prosecutor concerned or from any prosecutor with delegated authority to approve plea bargains, which shall thereafter be submitted to the court to form part of the records. The trial prosecutor must make a careful evaluation to determine whether the evidence of the prosecution is sufficient to convict. If the trial prosecutor decides to accept the plea bargain, he shall then submit a written memorandum to the City Prosecutor, Provincial Prosecutor or approving prosecutor concerned justifying why the plea bargain should be accepted.

In the event that the court insists on approving a plea bargain that is not allowed or goes beyond what is allowed under these guidelines, the trial prosecutor shall interpose his/her vigorous objection in open court and manifest that the State does not give its consent to the plea bargain.

In cases where a minor is charged under Republic Act No. 9165 as amended, the minor shall be proceeded against pursuant to the provisions of Republic Act No. 9344 as amended.

For purposes of monitoring compliance with these guidelines, all prosecution offices shall submit to the Department quarterly reports of plea bargains approved by the court indicating therein whether the approval was with the consent of or over the objection of the prosecution.

These guidelines amend Department Circular No. 061, Series of 2017 dated November 21, 2017 and shall serve as an exception to Department Circular No. 55 dated December 11, 1990. It shall apply only to cases covered by Republic Act No. 9165 as amended.

This Department Circular shall take immediate effect until revoked.

For strict compliance.



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Secretary

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