15 August 2012

DEPARTMENT CIRCULAR NO. 050

SUBJECT: GUIDELINES ON THE APPLICATION OF ARTICLE 125 OF THE REVISED PENAL CODE, AS AMENDED

In the interest of the service and pursuant to the provisions of existing laws, this Department Circular is issued for the guidance of prosecutors, public attorneys, law enforcers and all concerned on the application of Article 125 of the Revised Penal Code, as amended, on the Delay in the Delivery of Detained Persons to the Proper Judicial Authorities.

1. Article 125 provides for the criminal liability and the corresponding penalties of public officers or employees who detain a person arrested without a warrant without charging that person in court after the lapse of 12, 18 or 36 hours depending on the gravity of the crime.

2. This protection accorded by the law to individuals against undue deprivation of liberty is in line with the provision of Article III, Section 1 of the 1987 Constitution which states that “no person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.”

3. In order to avoid confusion among criminal justice stakeholders, the following guidelines on the application of Article 125 of the Revised Penal Code, as amended, are issued:

3.1. Being a penal law, Article 125 shall be construed strictly against the State and liberally in favor of an accused. Hence, the counting of the prescribed “12-18-36” periods shall be done by the hour starting from the time of detention. However, consistent with jurisprudence, the following circumstances may