



Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN
Department of Justice
Manila

DEPARTMENT CIRCULAR NO. **016**

FOR : Prosecutor General
All Prosecutors under OSJPS
All Prosecutors in the ORPs, OPPs, and OCPs

SUBJECT : Guidelines on the Implementation of D.C. Nos. 008 and 008-A, s. 2023, on the Assessment of Pending Criminal Cases for Offenses Cognizable by the Municipal Trial Courts (MTCs), Municipal Trial Courts in Cities (MTCCs), and Metropolitan Trial Courts (MeTCs)

DATE : 24 February 2023

In the interest of justice and pursuant to existing laws, rules, and regulations, the following guidelines are hereby adopted in the implementation of Department Circular (DC) Nos. 008 and 008-A, s. 2023, entitled "*Assessment of Pending Criminal Cases for Offenses Cognizable by the Municipal Trial Courts (MTCs), Municipal Trial Courts in Cities (MTCCs), and Metropolitan Trial Courts (MeTCs)*":

Section 1. Coverage. These Guidelines shall cover all pending criminal cases for offenses cognizable by the first level courts, namely, the MTCs, MTCCs, and MeTCs. Where the pending cases are intimately-related or closely-corresponding to cases still pending before the Regional Trial Courts (RTC) and Appellate Courts, these Guidelines find no application.

Section 2. Reasonable Certainty of Conviction. There is reasonable certainty of conviction when a *prima facie* case exists based on the evidence-at-hand including but not limited to witnesses, documentary evidence, real evidence, and the like, and such evidence, on its own and if left uncontroverted by accused, shall be sufficient to establish all the elements of the crime or offense charged, and consequently warrant a conviction beyond reasonable doubt.

Section 3. Identification of Cases Covered by the Circulars. The cases contemplated under Department Circular (DC) Nos. 008 and 008-A pertain to those that are currently pending in court at any stage and (a) have no considerable movement over a period of three (3) months or more; (b) where, based on the records, the complainant or his witnesses have repeatedly failed to appear without valid reason despite due notice; or (c) where the material evidence are not available or can no longer be produced despite earnest efforts by complainant. Likewise, the said DCs also contemplate those cases falling under the Rules on Summary Procedure.

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Section 4. Duty of the Trial Prosecutors. The trial prosecutor shall, immediately review all cases under him, identify those cases covered by Section 3 hereof, prepare an inventory of said cases, and ascertain the specific reason/s why the said cases have been left idle in the court dockets.

The trial prosecutor is thereupon mandated to: (a) exert efforts to communicate with complainant and/or his witnesses and inform them of the possible dismissal of the case due to their non-appearance; (b) ascertain from complainant whether or not he/she is still interested to pursue the case; (c) direct complainant to submit the pertinent evidence needed at the next scheduled hearing to avoid further delay of trial, otherwise, the said case shall be recommended for dismissal; and (d) for cases falling under the Rules on Summary Procedure, examine the evidence and determine whether the evidence on hand is sufficient to meet the threshold of reasonable certainty of conviction.

Section 5. Withdrawal of Information. Once the trial prosecutor has performed his/her duties as outlined in Section 4 hereof, and it appears that the identified cases lack reasonable certainty of conviction, he/she shall forthwith make a report with the inventory of said cases and recommendation to move for the withdrawal or dismissal thereof, and submit the same to the City/Provincial Prosecutor.

For cases falling under the Rules on Summary Procedure, if after evaluation, the trial prosecutor finds that the evidence submitted is insufficient to satisfy the requirement of reasonable certainty of conviction, he/she shall make a report, prepare an inventory of said cases, and submit the same to the City/Provincial Prosecutor, with his/her recommendation to move for withdrawal of the information and/or dismissal of the case/s.

In either case, the Motion to Withdraw the Information or Motion to Dismiss shall be in writing and shall be attached to the report of the trial prosecutor. The report shall be in memorandum form, submitted to the City/Provincial Prosecutor, stating the following, to wit:

- (a) Case title and criminal case number;
- (b) Date of filing of the information;
- (c) Length of time that the case is pending in court;
- (d) Crime/offense charged;
- (e) A notation that the case has no corresponding closely-related case before the RTC;
- (f) Stage of the criminal proceeding/trial incident;
- (g) An enumeration of the evidence at hand; and
- (h) Reason/s for the recommendation to withdraw the information based on the initial assessment conducted.

Section 6. Duty of the City/Provincial Prosecutors. The City/Provincial Prosecutor shall, within a period of ten (10) days from receipt of the report and inventory submitted by the trial prosecutor, evaluate and validate the same.

After validation of the report submitted by the trial prosecutor and being convinced that these cases fall within the ambit of the Circulars, the City/Provincial Prosecutor shall

direct the trial prosecutor to prepare a written Motion to Withdraw the Information or Motion to Dismiss duly approved by him/her, within three (3) days thereafter, for its subsequent filing in court. Immediately upon the filing of the Motion to Withdraw the Information, the City/Provincial Prosecutor shall inform complainant thereof, stating among others, the reason/s for the filing of the said motion.

All City/Provincial Prosecutors shall submit to the Regional Prosecutors a monthly report of all cases where informations have been withdrawn in compliance with DC Nos. 008 and 008-A.

Section 7. Filing of Comment/Opposition to the Motion to Withdraw Information.

Upon filing of the Motion to Withdraw Information by the City/Provincial Prosecutor, the complainant is not precluded from filing his/her Comment/Opposition thereto, in order to provide him/her a final opportunity to justify why the information should not be withdrawn.

Section 8. Duty of the Regional Prosecutors. All Regional Prosecutors shall be responsible in ensuring the proper implementation of these Guidelines.

In that regard, nothing herein shall be construed as a derogation of one's constitutional rights to due process and access to the courts.

Issues and concerns that may arise in the implementation of DC Nos. 008 and 008-A and these Guidelines shall be brought by the Regional Prosecutors, through pertinent channels, to the attention of the undersigned, for immediate action and resolution.

Section 9. Applicability to Future Cases. Consistent with the objectives of DC Nos. 008 and 008-A, no case shall henceforth be filed with the MTCs, MTCCs, and MeTCs if there is no reasonable certainty of conviction for the same.

Section 10. Compliance under Pain of Administrative, Civil, and/or Criminal Penalties. All concerned personnel of the Department of Justice are hereby directed to strictly comply with the Guidelines as set forth herein. Any violation thereof shall be dealt with in accordance with relevant laws, rules, and regulations.

For this purpose, the Secretary may, upon written complaint of any interested party or *motu proprio*, initiate an investigation against any concerned personnel who violate DC Nos. 008 and 008-A, series of 2003, and these Guidelines.

Section 11. Effectivity. This Department Circular shall take immediate effect until and unless modified.

For strict compliance.


JESUS CRISPIN C. REMULLA
Secretary

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