



Republic of the Philippines  
*Office of the President*  
**DANGEROUS DRUGS BOARD**



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## **BOARD REGULATION No. 2**

Series of 2002

### **SUBJECT: CONDUCT OF CONTROLLED DELIVERY OPERATIONS**

Pursuant to Sections 81 (b) and 81(s) of Article IX, the Policy and Guidelines for the conduct of controlled delivery operations are hereby promulgated:

#### **ARTICLE I** **Definition of Terms**

**Section 1.** Definitions. – As used in this Regulation, the following terms shall mean:

- (a) Board. – Dangerous Drugs Board;
- (b) Controlled Delivery. – The investigative technique of allowing an unlawful or suspect consignment of any dangerous drug and/or controlled precursor and essential chemical, equipment or paraphernalia, or property believed to be derived directly or indirectly from any offense, to pass into, through or out of the country under supervision of an authorized officer, with a view to gathering evidence to identify any person involved in an dangerous drug-related offense or to facilitate prosecution of that offense;
- (c) Controlled Precursors and Essential Chemicals. – Include those listed in Tables I and II of the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances as enumerated in the attached annex of, and an integral part of RA 9165;
- (d) Dangerous Drugs. – Include those listed in the Schedules annexed to the 1961 UN Convention on Narcotic Drugs, as amended by the 1972 Protocol, and in the Schedules annexed to the 1971 UN Convention on Psychotropic Substances as enumerated in the attached annex of, and an integral part of RA 91645;

- (e) Illegal Trafficking. – The illegal cultivation, culture, delivery, administration, dispensation, manufacture, sale, trading, transportation, distribution, importation, exportation, and possession of any dangerous drug and/or controlled precursor and essential chemical;
- (f) Laboratory Equipment. – The paraphernalia, apparatus, materials or appliances when used, intended for use, or designed for use in the manufacture of any dangerous drug and/or controlled precursor and essential chemical, such as reaction vessel, preparative/purifying equipment, fermentors, separatory funnel, flask, heating mantle, gas generator, or their substitute;
- (g) LEO/s. – Law enforcement officer/s;
- (h) PDEA. – Philippine Drug Enforcement Agency

**ARTICLE II**  
**Objectives, Requisites, and Scope of Authorization for Control Delivery Operations**

**Section 2.** Objectives of Controlled Delivery. – In general, the purpose of using controlled delivery is to delay seizing the dangerous drugs or controlled precursors and essential chemicals or substances substituted for them or the property derived from an offense and to suspend detaining the courier(s) in order to:

- (a) Identify, arrest, and convict offenders;
- (b) Disrupt and dismantle criminal organizations engaged in smuggling drugs or other contraband;
- (c) Broaden the scope of investigation, identify additional and higher level offenders and obtain further evidence;
- (d) Establish evidentiary proof that the suspects employed by these organizations to transport drugs and other contraband were knowingly in possession of illegal substances;
- (e) Identify the offender(s) assets for consideration in asset forfeiture proceedings.

**Section 3.** Authority to Approve Controlled Delivery, Requisites, and Scope of authorization.

- (a) Prior authorization is required for the conduct of controlled delivery operations in the Philippines;
- (b) The Director General of PDEA may approve a request in writing by PDEA units, or a domestic or foreign counterpart enforcement agency for controlled delivery to take place in transit or in any way involving the Philippines for a specific purpose and specified period.
- (c) The Director General of PDEA may required the following information from the requesting Party:
  - (i) The reason or justification for the operation;
  - (ii) Type and quantity of the drug being transported;
  - (iii) The planned point of entry and – if applicable – exit (transit) in the Philippine territory;
  - (iv) The means of transport to be use and the intended route;
  - (v) The suspects (identity, nationality, whereabouts, accomplices, home address, etc.);
  - (vi) The name of the organization, which provided the information and responsible for the operation in the requesting country and means of contacting that agency;
  - (vii) Details of law enforcement agencies taking part in the operation (police, customs, coast guards, etc.);
  - (viii) Details of special techniques to be used (undercover agents, informers, special surveillance equipment, etc.);
  - (ix) Other information as may be required from time to time.
- (d) The Director General may refuse to allow a controlled delivery operation to be carried out for some or all of the following reasons:
  - i. Inadequate information concerning the consignment or the transporter;
  - ii. The other transit countries do not give their consent;

- iii. Risk of losing the suspects and the drugs;
- iv. Lack of resources;
- v. Final destination is unknown or uncertain;
- vi. No certainty of prosecution being brought;
- vii. Lack of material time to act on the request due to short notice;
- viii. Scale of the traffic do not justify the cost of operation;
- ix. Quantity of dangerous drugs involved in the shipment is small and does not meet prosecutorial or the receiving jurisdiction's threshold levels: Provided that a controlled delivery is necessary to develop a more significant investigation based on any one of the following:
  - Prior criminal history associated with recipient of parcel.
  - Multiple, similar prior shipments to the same person or location.
  - An agreement by all parties that a controlled delivery is necessary.
- x. Others as may be prescribed from time to time.

(e) The Director General of PDEA shall inform the Board of every controlled delivery operation that he or she approved.

**Section 4. Management Concerns: Planning and Coordination.** - The PDEA, as lead agency, and other Law Enforcement Agencies concerned should:

- (a) weigh the costs/benefits before committing to a controlled delivery operation;
- (b) establish a realistic degree of manpower involvement, support equipment and funds allocation at the onset of the operation;
- (c) make an Operation Plan and briefing sheet detailing each law enforcement agent or officer's assignment;

- (d) enter into an inter-agency agreement/understanding on the conduct of joint and/or coordinated investigations including controlled delivery operations.

The PDEA shall promulgate the Standard Operating Procedures for the operational conduct of controlled delivery operations. Such SOP should provide operational guide to planning and management of controlled delivery operations, including, but not limited to, the requirements for personnel, equipment and coordination as well as initiation of controlled delivery operations, organization or controlled delivery, conduct of investigation, evidence handling, action to be taken when dangerous drugs or controlled precursor and essential chemicals subject of controlled delivery is lost, prescribed reporting formats.

**Section 5.** Participation of Foreign Law Enforcement Agencies. - In the conduct of controlled delivery operations, the Director General of PDEA:

- (a) may allow the foreign law enforcement agencies to take part under the following conditions:
  - i. prior authorization has been requested and obtained from Director General of PDEA;
  - ii. the foreign officers agree to act under the authority of the Director General of PDEA.
- (b) may accept technical resources such as, but not limited to, video and audio tracking and monitoring devices, subject to authorization of their use by proper jurisdiction.

**Section 6.** Changes in Operation Plan and Newly Developed Information. - If a controlled delivery does not proceed on schedule due to unexpected delay, loss of the drugs or other contraband cargo, change in location or route of delivery, or change in intended recipient, the responsible supervisory PDEA officer will relay this information and make appropriate recommendations to the Director General of PDEA and his counterpart(s) in the transited or receiving jurisdictions, as soon as possible. This notification process also applies to newly developed information unknown at the initiation of the operation.

### **ARTICLE III Evidence Handling**

**Section 7.** Evidence Handling. - The following should be considered in the light of the type of controlled delivery, the potential risks to officer safety, and the dictates of operational integrity:

- a) Identify, process, and secure all evidence relating to the seizure, as practical prior to conducting the controlled delivery.
- b) Photograph, videotape, photocopy the evidence both upon discovery and after removal from the place of concealment;
- c) Mark the evidence and the container for future identification, if practicable;
- d) Field test any narcotic evidence;
- e) Obtain laboratory analysis for the case file after completion of a controlled delivery;
- f) Whenever practical, remove all but the prescribed amount that can be retained pursuant Board Regulation No. 1 s – 2002 and replace with inert substance to prevent destruction of evidence – and in accordance with prosecutorial guidelines, law and policy;
- g) For prosecutorial considerations, co-ordinate all decisions regarding the amount of contraband utilized in a controlled delivery with the appropriate prosecutorial authority;
- h) In the case of the contraband discovered in the course of inspection or other law enforcement activity, which is allowed to proceed to its intended destination – while under the surveillance of law enforcement officers or agents, disable any potential counter – surveillance devices or weapons to prevent any potential use by the violator;
- i) Where tracking device is available and allowed to be used by proper jurisdiction, install the tracking device on or inside the evidence;
- j) Ensure that special measures are undertaken to assure connection with the suspects at the time the controlled delivery is terminated.
- k) In case of a controlled delivery of large amounts of currency, utilize currency / monetary instrument procedures for accountability purposes;
- l) Obtain background information on any corporations involved and personal information on the suspected driver;

- m) When available and needed, arrange for aerial surveillance.

**Section 8.** Accountability for Lost Contraband. – If contraband is lost during enforcement operations, the following steps must be taken:

- a) Immediately notify the Director General of PDEA and Heads of appropriate Law Enforcement Agency.
- b) Within 24 hours or as soon as practicable, the PDEA as lead agency shall conduct joint investigation with the other Law Enforcement Agency concerned and make appropriate recommendations. The Director General of PDEA shall inform the Board in writing about the loss and the action taken thereof.

**Section 9.** Completion of Controlled Delivery Operations. – When the operation is completed and resulted in the seizure of dangerous drugs or controlled precursor and essential chemicals or laboratory equipment, arrests of offenders and subsequent filing of case in the proper jurisdiction, the PDEA officer in charge of the operation shall ensure that the relevant provision of the DDB Regulation No. 1-2002 : “ Guidelines on Custody and Disposal of Seized Dangerous Drugs, Controlled Precursors and Essential Chemical Laboratory Equipment,” pertaining to inventory, reporting and laboratory analysis are complied with as a matter of course. Further, the Director General of PDEA shall render a report of the completed controlled delivery operation to the Board.

#### **ARTICLE IV Effectivity**

**Section 10.** This Regulation shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation and upon registration with the Office of the National Administrative Registry of the UP Law Center.

**ADOPTED and APPROVED this 22<sup>nd</sup> of November, 2002 at Quezon City.**

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Attested:

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