MEMORANDUM

TO : All JPAs, Wardens and Wardresses

SUBJECT : Policy on Conjugal Visit

DATE : 24 May 2012

Respectfully forwarded the attached Policy on Conjugal Visit signed by J/CHIEF SUPERINTENDENT DIONY D MAMARIL, CES (E), Officer-In-Charge, BJMP dated 04 May 2012 for your perusal.

BY AUTHORITY OF THE REGIONAL DIRECTOR:

ROGER D ANTONIO
Jail Chief Inspector
Chief, Operations Division
MEMORANDUM

TO : ALL REGIONAL DIRECTORS, WARDENS/WARDRESSES

SUBJECT : Policy on Conjugal Visit

DATE : 04 May 2012

I. REFERENCES:

1. Memo on Conjugal Visit dated 17 August 1998;
2. Memo from MCJ Warden dated 25 February 2002;
3. Memo on Jail Visitation dated 02 March 2010; and

II. BACKGROUND / JUSTIFICATION:

1. Strictly speaking Section 1(c), Rule XVIII of the BJMP Manual (Privileges of Detention and Sentenced Prisoners) prohibits “physical contact between visitors and inmates.”

2. Nonetheless, conjugal visit has already been a jail practice even before the creation of the Bureau of Jail Management and Penology. Invariably, the absence of a policy has given birth to various problems that are perpetually unresolved. Our experience showed that there are few negative reasons on why these programs could not be implemented on a wide scale, as follows: a. negative attitudes of non-participating inmates; b. facilities are not available and are probably not going to be available; c. problems with security, abuse of power, and common-law relationships; d. no administrative support; e. the sexual nature of the visits; and f. “welfare babies.” Another is the possible exchange of contraband which is easier in a relaxed security conditions.

3. However, all of these problems, while worthy of serious considerations are not without the possibility of being resolved. At the outset, careful planning in the processing of visitors in and out of jails can alleviate many of the problems that are associated with conjugal visitation program. Moreover, jail officials can devise a classification system to successfully screen out problematic inmates. Qualified jail administrators should not have a problem in implementing a successful conjugal visitation program. Verily, conjugal visitation offers potent rehab opportunities to promote criminal justice system, if used wisely and responsibly.

4. Conversely, an extensive 1972 study conducted by Holt and Miller suggested very positive findings on inmate-family relationships. While studying family visitation programs in California, the authors discovered several proactive effects of
these types of programs. The thesis of their study was that parole success is greater for those inmates that were able to maintain family ties while incarcerated. Inmates who did not receive visits were six times as likely to return to prison as inmates receiving three or more visits. The researchers view the family as a useful correctional technique and treatment instrument. The point is also made that it is much cheaper to utilize the family in the rehabilitation process. There was also a strong motivational factor for those inmates receiving family visits.

5. Exemplary, some countries like Australia, Denmark, France, Pakistan, and Russia to name a few, allowed conjugal visit as defined herewith. In Canada, all inmates, with the exception of those on disciplinary restrictions or at risk for family violence, are permitted "Private Family Visits" of up to 72 hours' duration once every two months. Eligible visitors, who may not themselves be prison inmates, are: spouse, or common-law partner of at least six months; children; parents; foster parents; siblings; grandparents; and "persons with whom, in the opinion of the institutional head, the inmate has a close familial bond." Food is provided by the institution but paid by the inmates and visitors, who are also responsible for cleaning the unit after the visit. In Israel, the Israel Prison Service (IPS) allows standard conjugal visits to inmates who are married or are in a common-law relationship, and have been on good behavior. In Saudi Arabia, according to Islamic Sharia Laws, conjugal visits are permitted.

6. Extremely, in Mexico, in July 2007, the prison system in that city has begun to allow gay prisoners to have conjugal visits from their partners, on the basis of a 2003 law which bans discrimination based on sexual orientation. In the United States, conjugal visitation programs, also known as the Extended Family Visit, survive in six states: California, Connecticut, Mississippi, New Mexico, New York, and Washington. In June 2007, the California Department of Corrections announced it would allow same-sex conjugal visits. The policy was enacted to comply with a 2005 state law requiring state agencies to give the same rights to domestic partners that heterosexual couples receive. In April 2011, New York adopted to allow conjugal visits for currently married or civil-union spouses same-sex partners.

7. Culturally, in a predominantly Christian country like ours same sex relationship is unacceptable. This is the very reason why we would allow married couple to avail of the privilege of conjugal visit to prevent the practice of sodomy among prisoners. The findings of the Bureau of Corrections in this connection is notable thus:

"The process of allowing conjugal visit for inmates which started in 1967 has eliminated the condemnable practice of sodomy among prisoners which has been one of the principal causes of gang wars or violent conflicts among inmates in the prison compound." (BuCor Operations Manual and Memo dated 5 September 1990)

8. Furthermore, United Nations Standard Minimum Rules for the Treatment of Prisoners is silent on matters of conjugal visit, however, it did not categorically prohibit the same. Hence, following the principle of "what is not prohibited is allowed", therefore, conjugal visit may be allowed in our jail facilities subject to certain conditions and limitations.
9. In this fast changing world, the Bureau is not exempt in its effects and it is imperative that innovations be introduced if only to be able to cope up with the changes around and within its periphery. Allowing conjugal visit signifies that our Bureau is concerned with the preservation of family relationship particularly the husband and wife relationship despite the incarceration of either or both spouse. No less than our Constitution provides that Marriage, as an inviolable social institution, is the foundation of the family and shall be protected by the State (Article XV, Sec. 2). Moreover, this privilege granted to inmates may also minimize the possibilities of conflicts, riots and other disturbances caused by their emotional anxieties. Maintaining family ties is a very laudable goal that jail administrators must at the very least try to achieve. Strong family ties is so important in the rehabilitative process and is shown to inhibit recidivism. The possibility of salvaging the family unit while a spouse is incarcerated will require development programs that encourage and promote normal family behavior. Additionally, the incentive of conjugal visits means that inmates are strongly motivated to comply with the various day-to-day rules and regulations of the jail.

10. Before conjugal visitation programs can be implemented, there must be some understanding of the true definition of conjugal. This term is most often a synonym for sexual intercourse or carnal knowledge. This is not altogether true. Married couples in society are understood to have rights inherent to marriage and these are called conjugal rights. Sexual contact is but one component of these rights. Conjugal rights are those which enable married persons to enjoy associating with one another, sympathizing together, confiding together, creating domestic happiness, sharing a home together, having certain property rights which are endemic to marriage, preparing meals together, as well as having intimacies with one another. Conjugal visitation programs can and should be more than inmates simply having sexual contact with their spouses. When applicable, it should involve those other variables which make a marriage so dynamic.

11. However, for the purpose of this policy, conjugal visit may be defined as scheduled visit by the wife or husband of an incarcerated spouse in jail during which an inmate of a jail is permitted to spend several hours in which period they are allowed privacy and in a special sense is understood to include sexual contact.

12. Finally, the State, community, family, jail officials and personnel play a major role in successfully bringing an inmate back into society. For this purpose, all the Bureaus’ programs on inmates’ development must be tailored towards promoting the rights and welfare not only of the inmates but more importantly the families that they need to maintain while temporarily detained in our facilities.

III. PURPOSES

- To have a uniform policy in the conduct of conjugal visits in all jails under the Bureau of Jail Management and Penology nationwide;
- To provide guidelines to be followed by the jail authorities in allowing the practice of conjugal visitation; and
- To set conditions as well as exceptions in identifying inmates who can avail of the privilege of conjugal visit.
IV. OBJECTIVES

This policy sets forth the procedures to be observed by the following:

- Visitors (Husband or wife of a detained person)
- Jail Authorities
- Spouses who are both detainees

V. DEFINITION OF TERMS

i. Special Conjugal Visit - The visit by the wife/husband of a detained spouse in jail for a short period, usually an hour, more or less, during which period they are allowed privacy and is generally understood to include sexual contact.

ii. Ordinary Conjugal Visit - The visit by the husband/wife of a detained spouse which does not include sexual contact.

iii. Conjugual room - It is a separate room purposely built for Special Conjugual Visit.

VI. GENERAL POLICIES

i. Female visitors of their detained husband - shall be entitled to Special Conjugual Visit as defined in this policy.

ii. Male visitors of their incarcerated wives - for lack of decent facility for sexual contact in most jails, male visitors of detained wives shall only be allowed ordinary conjugal visit as defined in this policy. However, female dormitories with existing facility may allow female inmates to enjoy the privilege of special conjugal visit as defined herein provided that they shall make sure no unwanted pregnancy occurs. Conversely, if the possibility of pregnancy by the female inmates cannot be precluded with utmost certainty, special conjugal visit shall not be allowed.

iii. Spouses who are both detainees - shall be accorded ordinary conjugal visit provided that they first secure a Court Order allowing either of them to be sent out from his/her jail facility to visit his/her spouse who is detained in another jail facility. “Visit” in this peculiar case shall be limited only to a plain CONVERSATION OR FELLOWSHIP and not to engage in a sexual concert.

iv. Cancellation of conjugal visit may be effected if there is reasonable ground subject to the approval of the jail warden or his authorize representative, as disciplinary measures for inmates who may violate jail rules and regulations.

v. No fees shall be collected in the exercise of this privilege.
VII. PROCEDURE

♦ VISITORS (FEMALE SPOUSES)

i. The visitor being referred to shall be a female visitor who shall visit her MALE INMATE SPOUSE and who shall be entitled to special conjugal visit as defined in this policy.

ii. Must present a legitimate identification card and an original copy of marriage certificate showing the legality of their marriage with the inmate/detainee (polygamous marriage legally recognized shall be accepted, e.g. Muslims);

iii. Common law husband and wife may be allowed to engage in sexual contact, provided that their religious beliefs allows common law relationship and they have been living together for at least five (5) years prior to detention of the former. Such religious belief shall be properly invoked coupled with certification from their religious leader and certificate of cohabitation from barangay of last residence.

iv. Submit themselves for inspection of their person and belongings prior to the entry to the jail facility;

v. Spouses must at all times observe decency while inside the jail facility;

vi. Spouses must subject themselves to all the existing rules and regulations and the Standard Operating Procedures set by the BJMP.

♦ VISITORS (MALE SPOUSES)

i. Whenever special conjugal visit is allowed the above procedure for female visitors of their detained husband must be observed.

♦ FOR SPOUSES WHO ARE BOTH INMATES

i. In cases where both spouses are inmates, they shall be accorded ordinary conjugal visit provided that they first secure a Court Order allowing either of them to be sent out from his/her jail facility to visit his/her spouse who is detained in another jail facility. Ordinary conjugal visit in this peculiar case shall be limited only to a plain CONVERSATION AND OR FELLOWSHIP and not to engage in a sexual contact.

ii. The visit shall be limited to not more than two (2) hours preferably every Monday only. The day so designated is appropriate since Monday is a no-visitor day, and that the visit of either spouse to the other will be supervised and closely monitored by the duty jail personnel.

iii. That the visiting area to be designated by the Warden shall be a place where sexual contact is impossible. It is strictly prohibited for the said inmates to engage in sexual contact to avert possible impregnation of the female inmate, which in the future would
cause problems to the Bureau such as escorting to the hospital in
time when the female inmate delivers her offspring, depletion in
the strength of jail personnel due to deployment to hospital to
escort female inmate giving birth, and other related
predicaments.

♦ JAIL AUTHORITIES

i. They must confirm the veracity and legality of the relationship of
the visitor with the inmate to prevent illicit relationship and
prostitution inside the jail facility;

ii. They should maintain record and logbook for inmates and their
visitors who avail of the said privilege;

iii. Issue visitor’s tag to be worn and displayed at all times while inside
the jail facility;

iv. They must implement strict and proper searching procedure to all
visiting spouses for conjugal visit to deter the entry of any
contrabands;

v. Must have to inform the visiting spouse that their privileges are
subject to limitations set by the rules and regulations of the jail such
as the limited visiting hours allowed to all visitors;

vi. They must not give undue favor or discrimination to any visiting
spouses and inmates;

vii. Must not allow visitors beyond the visiting hours to protect the
security of the jail from any untoward incident such as escape.

viii. In cases where both spouses are inmates:

a) Require them a Court Order allowing either of them to be sent
out from his/her jail facility to visit his/her spouse who is
detained in another jail facility.

b) Limit the visit to not more than two (2) hours preferably
Mondays only;

ix. In cases where both spouses are inmates or a husband visiting his
detained wife where only ordinary conjugal visit is allowed,
provide/designate a place with chairs and a table (if possible) and
must be devoid of any blockade that will afford the duty officer a
full view of the inmates while in the course of their conversation
during the time of visit.

VIII. EFFECTIVITY

This policy shall take effect immediately upon approval.

[Signature]
DIONY DACANAY MAMARIL CES (E)
Jail Chief Superintendent

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MPSA

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Officer-In-Charge, BJMP

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