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REPUBLIC OF THE PHILIPPINES)
First Regular Session)



Senate
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S E N A T E

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COMMITTEE REPORT NO. 42

Submitted by the Committees on Justice and Human Rights; Constitutional Amendments and Revision of Codes; and Accountability of Public Officers and Investigations on FEB 10 2020.

Re: P.S. Res. Nos. 106, 107, 108, 123, and the Privilege Speech on the Good Conduct Time Allowance of Sen. Richard J. Gordon delivered on August 27, 2019.

Recommending the adoption of the recommendations and their immediate implementation.

Sponsor: Senator Richard J. Gordon

MR. PRESIDENT:

The Committees on Justice and Human Rights; Constitutional Amendments and Revision of Codes; and Accountability of Public Officers and Investigations to which were referred **P.S. Res. No. 106**, introduced by Senator Franklin M. Drilon, entitled:

**"RESOLUTION
DIRECTING THE COMMITTEE ON JUSTICE AND HUMAN RIGHTS TO
CONDUCT AN INQUIRY IN AID OF LEGISLATION INTO THE REPORTED
ELIGIBILITY OF ANTONIO SANCHEZ FOR AN EARLY RELEASE FROM
PRISON WITH THE END IN VIEW OF ENSURING THE PROPER
IMPLEMENTATION OF, AND ENACTING REMEDIAL LEGISLATION TO
REPUBLIC ACT NO. 10592"**

P.S. Res. No. 107, introduced by Senator Vicente C. Sotto, III, entitled:

"RESOLUTION

DIRECTING THE SENATE COMMITTEES ON JUSTICE AND HUMAN RIGHTS; CONSTITUTIONAL AMENDMENTS, REVISION OF CODES AND LAWS; AND OTHER APPROPRIATE COMMITTEES TO REVIEW, IN AID OF LEGISLATION, THE IMPLEMENTATION OF REPUBLIC ACT NUMBER 10592 ON GOOD CONDUCT TIME ALLOWANCE (GCTA) WITH THE END IN VIEW OF AMENDING THE SAME IN ORDER TO ENSURE THAT THOSE PRISONERS WHO TRULY DESERVE THE LAW'S BENEFITS SHALL BE GRANTED OF THE SAME"

P.S. Res. 108, introduced by Senator Maria Lourdes Nancy S. Binay, entitled:

"RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEES, TO CONDUCT AN INQUIRY IN AID OF LEGISLATION, ON THE IMPLEMENTATION OF REPUBLIC ACT 10592 PARTICULARLY THE COMPUTATION OF THE GOOD CONDUCT ALLOWANCES (GCTA) OF PERSONS DEPRIVED OF LIBERTY, IN LIGHT OF THE IMPENDING RELEASE OF 11,000 INMATES DUE TO THE REVISION OF THE COMPUTATION OF GCTA AND ITS RETROACTIVE APPLICATION"

P.S. Res. No. 123, introduced by Sen. Ronald Dela Rosa, entitled:

RESOLUTION URGING THE DEPARTMENT OF JUSTICE AND DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT TO REVIEW, AMEND, AND MODIFY THE ISSUED IMPLEMENTING RULES AND REGULATIONS OF REPUBLIC ACT NO. 10592 TO REFLECT THE LEGISLATIVE INTENT OF THE CONGRESS WITH THE END IN VIEW OF UPHOLDING THE IMPARTIAL DELIVERY OF JUSTICE

The **Privilege Speech on the Good Conduct Time Allowance of Sen. Richard J. Gordon**, delivered on August 27, 2019.

and **MOTU PROPIO BY THE COMMITTEE ON ACCOUNTABILITY OF PUBLIC OFFICERS AND INVESTIGATIONS – INVOCATION BY THE BLUE RIBBON COMMITTEE CHAIRMAN OF RULE 10, SEC. 13 OF THE SENATE RULES THAT THE BLUE RIBBON COMMITTEE MAY UNDERTAKE AN INVESTIGATION ON ANY MATTER OF PUBLIC INTEREST ON ITS OWN INITIATION MOTU PROPIO (TSN DATED SEPTEMBER 2, 2019 P. 3)**

Respectfully submitted:

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Member, Committee on Justice and Human
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Member, Committee on Accountability of
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Grace Poe *May in his pulite*

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will interpellate / propose amendments -

SENATOR LEILA M. DE LIMA

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SENATOR FRANKLIN M. DRILON
Minority Leader

HON. VICENTE C. SOTTO III
Senate President

I. WHEN PYTHONS RUN THE CHICKEN COOP

"The **law of unintended consequences**, often cited but rarely defined, is, that actions of people, and especially of governments, always have effects that are unanticipated or "unintended;" it "illuminates the perverse unanticipated effects of legislation and regulation."

The Good Conduct Time Allowance Law was intended to i.) redeem and uplift valuable human material towards economic and social usefulness; ii.) level the field for opportunity to motivate persons deprived of liberty (PDL) to pursue a productive and law-abiding life; iii.) implement the state policy of restorative and compassionate justice by promoting reformation and rehabilitation of PDL, strengthening their moral fiber and facilitating their successful reintegration into the mainstream of society; and iv.) maintain a firm punitive or retributive policy towards certain classes of PDL. But it was not a long time ago, when a controversy, and a fierce public outcry was heard protesting the reported impending release of Antonio Sanchez. For how could a policy intended to decongest our prison facilities, among others, result in the release of a "monster" who committed crimes, which the Supreme Court would describe as, "hatched in hell?"

In carrying out an investigation on the grant of Good Conduct Time Allowance to one controversial inmate, the Committees were surprised to open, not just a can of worms, but a system corrupted to its core; a mere lancing of the boil, so to speak, will not be sufficient. What is needed in the Bureau of Corrections (BuCor) is a Heracles who will have the capacity to clean this Augean stable of ours. The legislative investigation exposed unbridled corruption in the management of the national penitentiary.

The Committees discovered that the BuCor has become an institution of graft and corruption

II. WHAT WERE DISCOVERED DURING THE HEARINGS

A. Good Conduct Time Allowance

Good Conduct Time Allowance (GCTA) is provided under Article 97 (*Allowance for Good Conduct*) of the Revised Penal Code. The system entitles an inmate time allowances for showing good conduct while in prison, for participating in work, literacy, skills and moral values development program, which results in the reduction of the period of his or her incarceration. The grant of GCTA generates a reduction of sentences of convicted prisoners in consideration of good conduct and diligence.

The GCTA addresses the rehabilitation component of our correctional system.¹ It is meant to entice inmates to participate in rehabilitation programs.

In 2013, Republic Act (RA) No. 10592² was enacted amending Articles 29, 94, 97, 98 and 99 of the Revised Penal Code. It amended the system of granting good conduct time allowance by, among others, increasing the number of days which may be deducted from the period of sentence for each month of good behavior of a convicted prisoner.

Other than executing the state policy of restorative and compassionate justice by promoting the reformation and rehabilitation of prisoners, the implementation of RA No. 10592 was meant to facilitate prison decongestion.

However, the merits in the grant of GCTA has been corrupted by prison officials who sell the benefits of the allowance to those who can afford it.

B. Mayor Antonio Sanchez

Controversy arose when news reports revealed that convicted murderer-rape former Mayor Antonio Sanchez of the Sarmenta-Gomez rape-slay case and the Peñalosa double murder case, together with around 11,000 prisoners,³ may walk free by claiming the benefits of RA No. 10592.

It was reported that former Mayor Sanchez would benefit from the law and would be released in 2 months' time.⁴ This, notwithstanding the fact that he was convicted of seven counts of rape with homicide and two counts of murder, and sentenced with reclusion perpetua for each count, which is equivalent to nine counts of forty (40) years in prison.

Reports also showed that former Mayor Sanchez displayed unwanted behavior and violated several prison rules for smuggling illegal drugs into his jail cell,⁵ receiving several luxuries not allowed under existing jail rules, such as having a flat screen television and air conditioning units in his jail cell,⁶ and by not wearing the proper uniform.⁷

¹ Inmates of the New Bilibid Prison, Muntinlupa City, namely : Venancio A. Roxas, et al. vs. Secretary De Lima G.R. No. 212719/G.R. No. 214637 (25 June 2019)

² Enacted on 29 May 2013

³<https://www.philstar.com/headlines/2019/08/22/1945504/good-law-bad-man-ra-10592-and-rape-slay-convict-antonio-sanchez>.

⁴ <https://www.philstar.com/headlines/2019/08/21/1945203/ex-mayor-antonio-sanchez-set-release>

⁵<https://www.cnnphilippines.com/news/2019/8/22/Antonio-Sanchez-early-release-murder-rape-UP-Los-Banos-students.html>.

⁶ *Ibid.*

⁷ <https://newsinfo.inquirer.net/1159128/the-bad-the-ugly-of-good-conduct-law>;

<https://newsinfo.inquirer.net/1157076/dilig-early-sanchez-release-a-mockery-of-law-justice-system>

According to the Implementing Rules and Regulations (IRR) of RA No. 10592, "Good Conduct" refers to the conspicuous and satisfactory behavior of a detention or convicted prisoner consisting of active involvement in rehabilitation programs, productive participation in authorized work activities or accomplishment of exemplary deeds coupled with faithful obedience to all prison/jail rules and regulations.⁸

With the infractions above-stated, how could Antonio Sanchez be qualified for good conduct time allowance?

Undersecretary Nicanor Faeldon, Director General (DG) of the BuCor, admitted that he signed the memorandum for release of former Mayor Sanchez.⁹

He claimed that the granting of GCTA is based on good conduct which means that PDLs have not violated any of the infractions enumerated in the Uniform Manual on Time Allowances and Service of Sentence and that they have participated in any of the six (6) reformation programs. When the PDL does not violate any of these provisions, then he is considered in good conduct for that month.¹⁰

DG Faeldon went on to explain that in the implementation of the grant of GCTA, infractions are considered deleterious to a PDL's case only for the month that the infraction was committed. In the succeeding month that a PDL behaves well, the grant of GCTA will resume regardless of the gravity of the previous offenses.¹¹ Even the grave offense of possession of illegal drugs confiscated inside the PDL's cell will be penalized in only the month that the infraction was incurred. On the succeeding month, the PDL will again be entitled to GCTA.¹²

C. Former Mayor Sanchez has not been in good conduct

Good Conduct refers to the conspicuous and satisfactory behavior of a detention or convicted prisoner consisting of active involvement in rehabilitation programs, productive participation in authorized work activities or accomplishment of exemplary deeds coupled with faithful obedience to all prison/jail rules and regulations.¹³

Several reports show that former Mayor Sanchez was not in good conduct. First, there were several instances wherein he was seen not wearing the proper uniform of a prisoner.¹⁴ He was seen wearing a tailored shirt, slacks, watch, and a pair of

⁸ Rule III, Section 1 (p), Implementing Rules and Regulations of Republic Act No. 10592, IRR-RA 10592, March 26, 2014.

⁹ TSN, 2 September 2019, p. 67.

¹⁰ TSN, 2 September, p.32.

¹¹ *Id.*

¹² TSN, 2September 2019, p. 25.

¹³ Implementing Rules and Regulations of Republic Act No. 10592, IRR-RA 10592, March 26, 2014.

¹⁴ <https://newsinfo.inquirer.net/1159128/the-bad-the-ugly-of-good-conduct-law>;

<https://newsinfo.inquirer.net/1157076/dilg-early-sanchez-release-a-mockery-of-law-justice-system>

sunglasses. This is in direct violation of the prison rules as provided for under the Uniform Manual on Time Allowances and Service of Sentence:

The following are violations of prison rules:

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17) Exchanging uniforms or wearing clothes other than those issued for the purpose of circumventing jail rules;

Reports also show that former Mayor Sanchez smuggled illegal drugs in his jail cell¹⁵ and had a flat screen television and air conditioning units.¹⁶ Again, these are in violation of the prison rules:

The following are violations of prison rules:

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28) Keeping unauthorized amount of money, jewelry, cellular phones or other communications devices, luxurious properties and other items classified as contraband under the rules;

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32) Receiving, keeping, taking or drinking liquor and prohibited drugs and smoking;

Given the foregoing, it can be seen that former Mayor Sanchez was not of good conduct during his stay in Muntinlupa.

D. Undue Release of Thousands

RA No. 10592 paved the way for the release of thousands of PDLs with no transparency on the proper computation of their records. The Committee unearthed that among those released were PDLs convicted of heinous crimes.

The BuCor submitted the following statistics to the Committee:

¹⁵<https://www.cnnphilippines.com/news/2019/8/22/Antonio-Sanchez-early-release-murder-rape-UP-Los-Banos-students.html>.

¹⁶ Id.

**NUMBER OF RELEASED PDL granted
GCTA from 2014 – August 20, 2019**

	2013	2014	2015	2016	2017	2018	2019	Total
Total Number of PDL granted PROSPECTIVELY	11	1036	1979	3279	4885	3929	3566	18,885
Total Number of PDL granted GCTA RETROACTIVELY							200	
Total Number of PDL who committed Heinous crimes and are granted GCTA	1	109	159	289	374	407	821	2,160
PDL granted GCTA and RELEASED through Executive Clemency	0	2	3	4	12	2	5	28
PDL convicted of Heinous crimes NOT granted GCTA	0	0	0	0	0	0	1	1
	12	1,145	2,141	3,572	5,271	4,338	4,593	21,072

Based on the statistics, there are about 2,160 PDLs who had committed heinous crimes but were granted GCTA from 2013 to 2019.

It was alarming to learn that among those released were four of those convicted of the rape-slay of the Chiong sisters in Cebu¹⁷ and other drug lords¹⁸.

A convicted Taiwanese drug lord, Chen Tiz Chang, was released from the Davao Penal Colony by Melencio Faustino, Corrections Senior Superintendent, not the BuCor DG, and turned over to the Bureau of Immigration.¹⁹

E. Heinous Crimes Convicts Have Been Released Due to an Erroneous Interpretation of RA 10592

DG Faeldon testified that there is continuous release through the granting of GCTA to even heinous crimes offenders because their current interpretation of Section 3 of RA No. 10592 based on the Revised Penal Code grants GCTA to all convicts, regardless of the nature of their offense.²⁰

DG Faeldon said that it is clear to the BuCor that under Section 1 of RA No. 10592, which covers preventive imprisonment, all heinous crime offenders are not granted time allowances.²¹ But as far as the BuCor is concerned, Section 3 of RA No. 10592 which covers Article 97 of the Revised Penal Code on the grant of GCTA, does not exclude "any convict of any crime."²² That's why in the computation, upon

¹⁷ TSN, 2 September 2019, p. 70

¹⁸ TSN, 2 September 2019, p. 75, 94

¹⁹ TSN, 2 September 2019, p. 75-87

²⁰ TSN, 2 September 2019, p. 25

²¹ TSN, 2 September 2019, p. 23.

²² TSN, 2 September 2019, p. 24.

conviction, all PDLs convicted of any crime when they behave well in jail were granted good conduct time allowance.²³

F. GCTA for Sale

During the hearing on 5 September 2019, Ms. Yolanda Camilon, the common-law wife of an inmate at the Minimum Security Compound, recounted that for the price of Php50,000, employees of the BuCor promised to arrange for the release of her husband through the GCTA:

MS. CAMILON. Iyon po kasing isyu po natin ngayon na GCTA, isa po kami or ako na naging biktima ba kung tawagin. Gamitin ko na po iyong salitang "biktima" na nagpapatunay na mayroon po talagang GCTA-buying sa New Bilibid Prison.

THE CHAIRPERSON (SEN. GORDON). GCTA-buying?

MS. CAMILON. Opo.

THE CHAIRPERSON (SEN. GORDON). Anong ibig sabihin noon?

MS. CAMILON. I mean iyong—mayroon po kasing empleyado na lumapit sa akin which is Major Mabel Bansil.

THE CHAIRPERSON (SEN. GORDON). Major—?

MS. CAMILON. Mabel Bansil.

THE CHAIRPERSON (SEN. GORDON). Mabel Bansil.

MS. CAMILON. Opo. Nag-approach siya sa akin kung gusto kong mapalaya agad-agad ang asawa ko, makalabas, to shorten doon sa service of sentence niya. Siyempre po, on my part, gusto ko talaga.²⁴

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MS. CAMILON. Opo. At iyon nga, noong sinabi niya sa akin na puwedeng mapaiksi natin iyong serving of sentence ng asawa mo, sabi ko, "In what way, ma'am?" "Iyon nga lang magastos." "Paano po iyong gastos na iyon?" Mayroon siyang binanggit na certain amount na P50,000. Sabi ko sa kanya, "Paano po ba ang sistema natin niyan?" "Ito naman, ma'am, hindi naman ito agad-agad ninyong ibibigay. Kung wala kayong pera, puwede naman itong staggered." Natuwa po ako kasi mayroon pa lang hulugan na puwede kong kayanin. So, tinanong ko po sa kanya kung sino ang magpoproseso noong papel.

Ms. Camilon identified Ms. Ma. Benilda "Mabel" Bansil (Corrections Senior Inspector, Bureau of Corrections), Ramoncito "Chito" Roque (Chief of the Documents

²³ *Id.*

²⁴ TSN 5 September 2019,, p. 134

and Record Section of BuCor) and Ms. Veronica "Boday" Buño (Corrections Officer, Bureau of Corrections) who promised to have her husband released for the amount of Php50,000.

Ms. Camilon testified that sometime in February 2019, she was brought to the house of Mr. Roque by Ms. Bansil to hand over the initial payment of Php10,000 and arrange for the release of her husband in one month.²⁵

Ms. Camilon further said that the date of release of her husband was further moved from March, to April, to June:²⁶

MS. CAMILON. Kasi nag-a-ask na po ako noon na hindi na natupad iyong March, April, June na usapan, na June sana talagang definite na po sana iyon ng asawa ko pero hindi pa rin nila na-release. Binabawi ko na po talaga iyong pera. "Hindi kayo tumupad sa usapan. Iyang perang iyan inutang ko," sabi ko po sa kanila. "Ibabalik ko na lang sa pinagkautangan ko para hindi lumakad iyong interes."

An NBI technical investigation on the cell phones of Ms. Bansil and Ms. Buño confirmed the testimony of Ms. Camilon that they were indeed transacting on the early release of the common-law husband of Ms. Camilon.

In addition to the foregoing, there is also a scheme called "tanim kaso" where PDLs would find out that they still have pending cases even though the cases were already dismissed. During the hearing, it was stated:²⁷

THE CHAIRPERSON (SEN. GORDON). Nakalagay dito GMANews Online, Anna Felicia Bajo, published December 6, 2017, 10:39 p.m. "Inmate bares alleged 'tanim kaso' modus of BuCor. A 76-year old inmate accused the inmates' documents processing division of the Bureau of Corrections or BuCor of being involved in the alleged 'tanim kaso' modus in which inmates would find out that they still have pending cases even those that were already dismissed."

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MR. ROQUE. Iyon po iyong ano sa amin noong si Don Paco. Kung mayroon daw po sa airport ng "laglag bala," mayroon daw po mayroon daw po sa bureau ng "dagdag- pending."

THE CHAIRPERSON (SEN. GORDON). Mayroon ring, sa salita ninyo, "tanim-kaso?"

MR. ROQUE. Parang ganoon.

²⁵ TSN, 5 September 2019, p.148

²⁶ TSN, 5 September 2019, p. 164.

²⁷ TSN, 5 September 2019, p. 209, 221-222

III. MANY OTHER DISCOVERIES

The faulty application of the Law and the erroneous IRR were just the tip of the iceberg. Apparently, everything is for sale inside Bilibid.

A. Illegal Structures; “Kubol”

All four quadrants of the maximum security compound of the New Bilibid Prison had illegal shelters or *kubol*. Rich PDLs were able to bribe prison guards to buy convenience, luxury, and freedom to engage in nefarious activities while in detention.

During the hearings, the Committee showed pictures of former Mayor Sanchez’ *kubol* where he had his own bed, pillows, two large cabinets with civilian clothes, a wall clock, etc. Another PDL, Herbert Colangco, even had a concert and recorded an album while serving sentence in the New Bilibid Prison.

On October 10, 2019, the new BuCor Director General Gerald Bantag conducted clearing operations in Bilibid where they tore down the dozens of *kubols*. The clearing operations resulted in the seizure of truckloads of contraband including illegal drugs, sex toys, wads of cash, bladed weapons, construction equipment and ice cream freezers.²⁸

B. Contrabands – Cash, Cellphones, Drugs, etc.

PDLs in the New Bilibid Prison have cellphones with which they conduct their drug trade. The New Bilibid Prison has become a virtual drug trade stock market.

C. Hospital Confinement / Passes For Sale

The Committees found that PDLs at the New Bilibid Prison could buy their way into staying for months on end at the New Bilibid Hospital in lieu of their incarceration at the prison dormitory. PDLs were approved for admission by the hospital physicians but were not in the hospital to ever recuperate. Instead, they were conducting their drug trading operations freely using cellphones from their hospital rooms.

SEN. GO. Anyway, first, a certain Wilfredo Arias was confined from December 26, 2018 until September 11, 2019 or eight months for nutritional derangement, acute gastroenteritis. Hindi ba stomach ache lang ito? Next a certain Noel Fernandez was confined for electrolyte imbalance from April 5, 2019 until September 19, 2019 or five months. Hindi ba dehydration lang ito? Next is a certain Willy Yang who was confined for omental hernia for five months. We have also Rommel Capones who was confined for hypertension and panic attack for eight months.

²⁸ <https://newsinfo.inquirer.net/1175869/crackdown-on-kubol-contraband-starts-at-nbp>

May I ask, Dr. Cenas, can you explain to us the nature of these illnesses and what is the usual period of confinement for all these illnesses?

MR. CENAS. Your Honor, with regard to acute gastroenteritis, it's not going to take more than two weeks.

SEN. GO. Bakit ang tagal? Kalibanga?

MR. CENAS. Actually kasi, sir, he was for discharge but he was transferred to another ward. Doon po siya nagtagal sa ibang ward. Hindi na po doon sa ward na pinag-admitan (admit) sa kanya.

SEN. GO. Bakit po hindi siya dapat ibalik kung saan siya nakakulong?

MR. CENAS. Sir, iba na po ang may hawak doon sa ward na pinaglipatan sa kanya. So from our ward at Ward 3--tatlo po kaming doctor doon, noong nilipat po si Wilfredo Arias sa Annex Surgery, under another doctor na po. Iyon po iyong dahilan. So kumbaga, kaming naunang tumingin na doctor doon, wala na po kaming habol--hawak sa kanya dahil nalipat po siya sa ibang ward which is sa surgery.

SEN. GO. Tatanungin ko po kayo ulit. Totoo bang mayroong nagpapabayad diyan sa loob para ma-admit at ma-confine sa hospital kahit walang sakit ang inmate?

MR. CENAS. Your Honor, I invoke my right against self incrimination as advised by my counsel.

SEN. GO. Ano ang proseso sa pag-request ng confinement? Magbigay ka ng mga pangalan ng mga inmates na nagre-request na maadmit kahit na wala pong sakit?

MR. CENAS. Your Honor, I could not give the names because the patients we have admitted were—they have complaints. They have complaints.

SEN. GO. Sinong kasamahan mo sa mga hospital na narito ngayon sa loob?

MR. CENAS. Yes, Your Honor. My boss here, Dr. Tamayo, and also our nursing attendant si Meryl Benitez.

SEN. GO. ...Balita ko mayroong dalawang pasyente discharged noon but was deferred by Dr. Tamayo. Bakit ino-overrule? Dr. Tamayo, can you answer?

MR. TAMAYO. Yes, Your Honor. Kasi pumunta po iyong lawyer niya because kamamatay lang po iyong daw mother niya. So binigyan ko po siya ng two to three days para mag-settle down bago po ilipat.

SEN. GO. Totoo bang mayroong bayaran diyan ng 40,000 or higher, mga ganoon?

MR. TAMAYO. Tungkol po sa akin, sa naririnig ko po, wala po. Ang kuwan ko lang, wala po kasi akong hard evidence na may bayaran talaga. Pero mayroon na po akong naririnig tungkol po diyan.

SEN. GO. Narinig lang?

MR. TAMAYO. Yes po. Tsismis lang po kasi kaya ayaw kong kuwan. Kasi mahirap po magturo na walang ebidensiya po.²⁹

Former Mayor of Valencia City Jose M. Galario, Jr., a PDL who was confined at the New Bilibid Hospital after his kidney transplant, testified that a PDL known as "Boy Buwaya of Pasay" transacted his illegal drug operations at the hospital with the assistance of Nurse Meryl Benitez and Dr. Ursicio Cenas.

Other PDLs who were confined at the hospital identified by Mr. Galario as drug lords transacting selling and trading illegal drugs from the hospital were "Commander Cha Cha Camata", "Mayor Louie Castro aka Diablo", "Benjie from Dumaguete City", "Allan from NCR", "Joseph", "Pastor Noel Fernandez from Bohol" "Mong", "Commander Rodel Castellano", "Tata".³⁰ He claims that the inmates-drug lords also bring along other PDL who assist them in their drug transactions and are similarly "confined" at the New Bilibid Hospital

The following were identified as the members of the medical profession who allow the extended confinement of otherwise healthy PDLs at the New Bilibid Hospital:

- Dr. Ernesto Tamayo (Director, Directorate for Health Services, New Bilibid Prison Hospital)
- Dr. Ursicio D. Cenas (Medical Officer, New Bilibid Prison Hospital)
- Ms. Meryl Benitez (Nursing Attendant, New Bilibid Prison Hospital)

Also, the hospital physicians would demand grease payment for the regular issuance of medical certificates, medical abstracts and prescription for drugs. Mr. Galario and his daughter testified that they paid Dr. Cenas a total amount of P8,000 for the release of requested medical abstracts and drug prescriptions.

Other than the hospital physicians, personnel of BuCor would also make money from the confinement of these inmates-drug lords when they would feign to inspect the confinement of these inmates; but, were actually demanding "kotong" from these inmates for their continued stay at the hospital.³¹

²⁹TSN, 19 September 2019, p.137

³⁰ TSN 12 September 2019 pp.194 - 201

³¹ TSN, 12 September 2019. p. 216

Yu Yuk Lai

The Committees also learned of the extended confinement of a convicted drug trafficker – Yu Yuk Lai- for ten months at a private hospital of her choice for “facial pain.” She was allowed to leave the Correctional Institution for Women on at least 3 occasions for laboratory tests, and heat exhaustion.³²

D. Tilapia and more

The shenanigans at the New Bilibid Prison were plentiful and involved a myriad of characters as testified by Rafael Ragos and Jovencio Ablen, Jr.

Ragos was a former deputy director of the National Bureau of Investigation who was appointed Officer-in-Charge of the BuCor from November 2012 to March 2013 by then Secretary of Justice Leila De Lima. Jovencio Ablen, Jr. was an NBI agent who was brought by Ragos to the BuCor to assist the latter in managing the New Bilibid Prison.

Ragos and Ablen testified about several transactions of corruption involving the management of the New Bilibid Prison:

1. “Tilapia”³³ – prostitution inside the NBP (Mr. Ragos claimed that an inmate would pay the head of BuCor a minimum of Php 30,000 per night to bring in a prostitute.)
2. Kidnapping³⁴
3. 24 hours gambling inside the kubols³⁵
4. Catering³⁶ (Mr. Ragos claimed that the winning bidder of the catering contract gave P800,000/month to the head of the BuCor.)
5. “SOP”³⁷ – The head of the BuCor is regularly given cash by high profile inmates
6. Bringing in of contraband items (cellphones, electronic gadgets, alcohol, cigarettes, firearms, drugs) / selling of contraband items by BuCor employees³⁸
7. Special Requests³⁹ (Mr. Ragos testified that the Department of Justice (DOJ) Secretary was the approving authority for the conduct of special events inside the New Bilibid Prison.)

Mr. Ragos and Mr. Ablen testified⁴⁰ that in November 2012 they brought money in the amount of Five Million Pesos to the house of then Secretary of Justice Leila

³² TSN, 19 September 2019, p. 165

³³ TSN, 12 September 2019, p. 64

³⁴ TSN, 12 September 2019, p. 68

³⁵ TSN, 12 September 2019, p. 70

³⁶ TSN, 12 September 2019, p. 72

³⁷ TSN, 12 September 2019, p. 75

³⁸ TSN, 12 September 2019, pp. 79 - 80

³⁹ TSN, 12 September 2019, p. 81

⁴⁰ TSN, 12 September 2019, pp. 85 -94

De Lima which was received by Mr. Ronnie Dayan, driver-bodyguard of Sec. De Lima. According to Mr. Ragos, an inmate - Mr. Hans Tan - called him to inform that the money was from Peter Co, an inmate-drug lord, and that the Five Million Pesos should be delivered to Secretary De Lima.

Again, on 15 December 2012, Mr. Ragos and Mr. Ablen brought Five Million Pesos to the house of Secretary De Lima which was received by Ronnie Dayan.

Ablen testified that eventually they required high-profile inmates to give P100,000 per week.⁴¹

Ablen further testified that he estimates that the head of BuCor receives about P300,00 to P500,000 a week as grease payment for various moneymaking transactions inside the New Bilibid Prison.⁴²

E. Catering

The owner of a catering company, V&J Trading, alleged that there are favored caterers in the BuCor. Angelina Bautista testified that her company won the bidding as the official caterer for the Correctional Institute for Women but was not awarded the contract for undisclosed reasons.

The Commission on Audit (COA) also noted some irregularities in the contracts of some catering services in the BuCor:

MS. BESAS (COA). For the past several years, some of these contracts were extended. And these extension contracts were not covered by the approval of the secretary of the Department of Justice, Your Honor. And some of the catering services offered by some of these service providers do not comply with the safety requirements on food rationing. Also, few of these contracts likewise do not conform with the mandatory requirements on the compliance with the documents to be submitted pursuant doon sa requirement po ng COA.

MS. BESAS. Wala po kaming observation or finding on the exceedingly high charges of these catering services because all these were done through public bidding, Your Honor.

THE CHAIRPERSON (SEN. GORDON). So ang basic problem is ini-extend nila without the Department of Justice's approval.

MS. BESAS. Yes, sir.

THE CHAIRPERSON (SEN. GORDON). So, in effect, walang bidding.

⁴¹ TSN, 12 September 2019, pp. 107 - 108

⁴² TSN 12 September 2019, p.99

MS. BESAS. Yes, sir.⁴³

F. Conflict of Interest

Ms. Bautista, the owner of a catering company accredited by the BuCor, revealed that it was Atty. Frederic Santos, Chief of the Legal Division, BuCor, himself who notarized the catering contract with the BuCor and was paid for such .

As chief of the BuCor legal division, the contracts entered into by BuCor emanate from his office; as testified by the caterer, while he is not a member of the Bids and Awards Committee (BAC), he assists the BAC in its proceedings, including those which discuss the catering services at BuCor.

Although he has been allegedly authorized to engage in private practice of his profession; his practice, particularly the notarial services must not involve any real or apparent conflict of interest insofar as his duties are concerned.

G. Poor record-keeping leading to more corruption

The integrity of the record-keeping of the BuCor was also further called into question when it was discovered that the list of inmates released by virtue of the GCTA submitted to the Committees was ill-prepared.

The list of names released under the present administration included "Janet Lim Napoles" convicted supposedly for the crime of rape. There were double entries and wrong attribution of crimes for several PDLs. It was estimated that 10% of the entries in the list submitted to the Committees were wrong entries.

Chief of the Documents and Record Section, Ramoncito "Chito" Roque admitted that their computer system listed double entries.⁴⁴

IV. DISCUSSION

Those convicted of Heinous Crimes cannot avail themselves of Good Conduct Time Allowance.

Section 1 of RA No. 10592, amending Article 29 of the Revised Penal Code, provides for Credit of Preventive Imprisonment. Article 29 expressly states that recidivists, habitual delinquents, escapees and persons charged with heinous crimes are **excluded from the coverage of this Act:**

⁴³ TSN, 3 October 2019, p. 22

⁴⁴ TSN, 12 September 2019, p.14

ART. 29. *Period of preventive imprisonment deducted from term of imprisonment.* – Offenders or accused who have undergone preventive imprisonment shall be credited in the service of their sentence consisting of deprivation of liberty, with the full time during which they have undergone preventive imprisonment if the detention prisoner agrees voluntarily in writing after being informed of the effects thereof and with the assistance of counsel to abide by the same disciplinary rules imposed upon convicted prisoners, except in the following cases:

1. When they are recidivists, or have been convicted previously twice or more times of any crime; and
2. When upon being summoned for the execution of their sentence they have failed to surrender voluntarily.

XXX

Provided, finally, That recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. In case the maximum penalty to which the accused may be sentenced is *destierro*, he shall be released after thirty (30) days of preventive imprisonment. (Underscoring supplied.)

The purpose of RA No. 10592 is to ensure that detainees do not serve their sentence longer than the maximum imposable penalty for the crime they have been charged.

Even though those persons charged with heinous crimes are not expressly provided for under Section 3 of RA No. 10592, we must look at Section 1 of RA No. 10592, which states that recidivists, habitual delinquents, escapees and persons charged with heinous crimes are excluded from the coverage of this Act. The word "Act" refers to the Revised Penal Code. We must remember that RA No. 10592 merely amends the Revised Penal Code. Therefore, the provision on good conduct time allowance necessarily excludes recidivists, habitual delinquents, escapees and persons charged with heinous crimes, through Section 1 of RA No. 10592.

Common sense dictates that if those still *charged* with heinous crimes are already excluded from the coverage of the credit for imprisonment, what more for those prisoners who have already been proven and convicted of heinous crimes? Are they supposed to be granted Good Conduct Time Allowance? We do not think so.

RA No. 9346 or the Anti-Death Penalty Law provides that persons convicted of offenses punished with *reclusion perpetua* shall not be eligible for parole.

SECTION 3. Persons convicted of offenses punished with *reclusion perpetua*, or whose sentences will be reduced to *reclusion perpetua*, by reason of this Act, shall not be eligible for parole under Act No. 4103, otherwise known as the Indeterminate Sentence Law, as amended. (Underscoring supplied.)

Act No. 4103 or the Indeterminate Sentence Law provides that the Indeterminate Sentence Law does not apply to persons convicted of offenses punished with death penalty or life imprisonment:

SEC. 2. This Act shall not apply to persons convicted of offenses punished with death penalty or life-imprisonment; to those convicted of treason, conspiracy or proposal to commit treason; to those convicted of misprision of treason, rebellion, sedition or espionage; to those convicted of piracy; to those who are habitual delinquents; to those who have escaped from confinement or evaded sentence; to those who having been granted conditional pardon by the Chief Executive shall have violated the terms thereof; to those whose maximum term of imprisonment does not exceed one year, nor to those already sentenced by final judgment at the time of approval of this Act, except as provided in Section 5 hereof. (Underscoring supplied.)

A statute should be construed not only to be inconsistent with itself, but also to harmonize other laws on the same subject matter as to form a complete, coherent and intelligible system. *Interpretare et concordare legis legibus est optimus interpretandi* - "To interpret and reconcile laws with laws is the best manner of construing them."

The Doctrine of Absurdity states that laws should be construed in a manner that avoids absurdity or unreasonableness.

Therefore, given that similar laws on the same subject of time allowance and reduction of sentence have already excluded those convicted of heinous crimes from the coverage thereof, those convicted of heinous crimes should also be excluded from the coverage of the Good Conduct Time Allowance. It is absurd to apply the exception of those convicted of heinous crimes to mere detainees but not to those already convicted of heinous crimes.

This was confirmed during the hearing wherein Secretary of Justice Guevarra stated that proper interpretation of RA 10592 insofar as the exclusions are concerned would be to exclude those convicted with heinous crimes from the benefit of the good conduct time allowance law.⁴⁵

Implementing Rules and Regulations

The Implementing Rules and Regulations of RA No. 10592 was jointly issued by then Secretary of Justice Leila de Lima and then Secretary of Interior and Local Government Manuel (Mar) Roxas II on 26 March 2014, (10 months after the enactment of RA No. 10592).

⁴⁵ TSN 2 September 2019, pp.29-30.

RULE V
GOOD CONDUCT TIME ALLOWANCE
(GCTA)

Section 1. Who are entitled – The good conduct of the following shall entitle them to the deductions described in Section 2 hereunder from their sentence as good conduct time allowance (GCTA) pursuant to Article 29 of the Revised Penal Code, as amended, and to Sections 2 to 8 hereof :

- a. A detention prisoner qualified for credit for preventive imprisonment for his good conduct and exemplary behavior; and
- b. A prisoner convicted by final judgment in any penal institution, rehabilitation or detention center or any other local jail for his good conduct and exemplary behavior.”

The IRR does not specify that those convicted of heinous crimes are among those not entitled to the grant of GCTA. This allowed the “sale of GCTA” to high profile inmates who could afford to bribe prison officials to tamper with their records and release them.

It must be stated here that there was responsibility lodged in the DOJ and in the Department of Interior and Local Government to draft the IRRs of RA No. 10592 (GCTA), which was intended to be finalized in 60-days. RA No. 10575’s (on the Bureau of Corrections Act of 2013) IRR was mandated to be finished in 90 days. But what happened was that RA No. 10592’s IRR was released only nearly eleven months later; while RA No. 10575’s was finalized only after a long 19 months by DOJ, BuCor, Civil Service Commission, Department of Budget and Management, and Department of Finance. We now wonder how many new persons (PDLs) were deprived of newly-granted rights and/or privileges simply because of government inaction? This situation can truly be said as being violative of the PDL’s human rights.

No Rule of Law in the Implementation of RA No. 10592

The grant of GCTA and consequent release of PDLs has been clouded in obscurity and ambiguity. There is no transparency in the release of PDLs under the GCTA. There is no requirement for notice to the offended party or their immediate relatives.

The approval of the Secretary of Justice on the release of prisoners/inmates sentenced to Life Imprisonment or *Reclusion Perpetua* or high risk inmates has not been sought, despite the requirement under DOJ Department Order No. 953 (25 November 2015).

The records and the computation of the GCTA are not accessible to the public. In addition, the records are not digitized, contrary to the IRR of RA No. 10592.

Second, there is no predictability. The computation of the grant of GCTA must be predictable based on the rules. Concomitantly, the non-grant of GCTA to a PDL

must be based on the gravity of the infractions. Currently, the Uniform Manual on Time Allowance and Service of Sentence provides that if a PDL has violated *any* of the prison rules, the PDL shall not be entitled to the grant of GCTA for that month only. There is no such provision in RA No. 10592.

Third, there is no consistency. There are no concrete standards applicable to all PDLs. As was seen during the hearings, if you have money, then BuCor officials can sell GCTA and make the computation favorable for the PDL.

Fourth, there is no accountability. There is nothing in RA No. 10592 which states that the grant of GCTA and the release of inmates pursuant to such shall be reviewed by the Secretary of Justice.

WHO ARE RESPONSIBLE FOR THIS MESS

- **Undersecretary Nicanor Faeldon**

BuCor Director General Nicanor Faeldon is guilty of malfeasance, misfeasance, and nonfeasance.

DG Faeldon cannot feign ignorance of DO 953 and its requirements.

DO No. 953, dated 26 November 2015, provides for the rules/procedure in the release of national prisoners with expired sentences. DG Faeldon failed to comply with all the requirements of DO No. 953.

Paragraph 2 of DO No. 953 provides that:

The said authority of the Director-General of the Bureau of Corrections to release of national prisoners shall not apply to prisoners/inmates sentenced to Life Imprisonment or Reclusion Perpetua or high risk inmates, whose release due to expired sentences, shall only be implemented upon prior approval of the Secretary of Justice. (Underscoring supplied.)

During the hearing, when asked by the Chairman on whether DG Faeldon was aware of the requirement that there must first be prior approval of the Secretary of Justice before the releasing of national prisoners sentenced to life imprisonment, DG Faeldon said that he was not aware of such requirement prior to the hearings:⁴⁶

THE CHAIRPERSON (SEN. GORDON). All right. "The said authority of the Director General of the Bureau of Corrections to release of national prisoners shall not apply to prisoners/inmates sentenced to life imprisonment or *reclusion perpetua* or high risk inmates, whose release

⁴⁶ TSN, 9 September 2019, p. 23-24.

due to expired sentences, shall only be implemented upon prior approval of the Secretary of Justice." You are aware of that?

MR. FAELDON. Not prior to this inquiry, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Not prior to this inquiry. Okay. Ang sinasabi mo, hindi mo alam ito dahil hindi mo nabasa prior to this inquiry. Pero ang lumalabas dito, and correct me if I am wrong, Mr. lawyer, Atty. Santos, nakalagay dito malinaw, "shall not apply to prisoners/inmates sentenced to life imprisonment or *reclusion perpetua*." So malinaw, hindi sila pwede. xxx

Paragraph 3 of DO 953 provides that:

In cases where the release of prisoners shall require the approval of the Director-General of the Bureau of Corrections *only*, the Bureau shall furnish the Secretary of Justice with the list of inmates due to be released at least one (1) month before their expected date of release. (Underscoring supplied)

When asked by the Chairman on whether DG Faeldon furnished a list of PDLs due to be released at least one (1) month before their expected date of release, DG Faeldon said that he did not comply with such requirement:⁴⁷

THE CHAIRPERSON (SEN. GORDON). xxx All right. "(3) In cases where the release of prisoners shall require the approval of the Director General of the Bureau of Corrections only, the Bureau shall furnish the Secretary of Justice with the list of inmates due to be released at least one month before their expected date of release." Naintindihan mo iyon, Mr. Faeldon?

MR. FAELDON. Yes, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Sa madaling sabi, kailangan one month before their expected date of release, dapat masasabihan ang secretary of Justice. Nangyari po ba iyon?

MR. FAELDON. No, Your Honor.

Paragraph 4 of DO No. 953 provides that:

In all cases, and in order to ensure that the computations made by the Bureau of Corrections is accurate specifically as regards the grant of good conduct time allowance (GCTA), credit for preventive imprisonment (CPI) and other similar credits affecting the sentence of an inmate, the Director-General of the Bureau of Corrections shall issue a certification as to the correctness and accuracy of the computation of the credits granted and expiration of sentence of the prisoners affected. (Underscoring supplied.)

⁴⁷ TSN, 9 September 2019, p. 24.

The Chairman asked DG Faeldon if he issued a certification as to the correctness and accuracy of the computations of the credits granted and the expiration of sentence of the prisoners affected, to which DG Faeldon answered that he did not:⁴⁸

THE CHAIRPERSON (SEN. GORDON). Hindi nangyari. Okay. "(4) In all cases, and in order to ensure that the computations made by the Bureau of Corrections is accurate specifically as regards the grant of good conduct time allowance, credit for preventive imprisonment and other similar credits affecting the sentence of an inmate, the Director General of the Bureau of Corrections shall issue a certification as to the correctness and accuracy of the computation of the credits granted and expiration of sentence of the prisoners affected." Naintindihan po ninyo iyon?

MR. FAELDON. Yes, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Dapat mag-i-issue kayo ng certification, ano po?

MR. FAELDON. Yes, Your Honor, according to the department order, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Nangyari po ba iyon?

MR. FAELDON. No, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Hindi nangyari. Okay. Thank you.

In fact, DG Faeldon admitted that he did not know the *existence* of DO No. 953, he admitted ignorance of DO No. 953. The Chairman asked DG Faeldon if it was a shortcoming on his part that he did not know DO No. 953 considering that he is the Director General of the BuCor, to which he admitted that it was in fact a shortcoming on his part.⁴⁹

MR. FAELDON. I read it, sir. But prior to that, it was just recent when the secretary informed me about the department order. That was the first time I heard about it, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Senator Drilon was the one who asked you a question about 953, both have the same certificate, the same order. I'll show you 953 and I will just ask you questions. Because hindi ba dapat alam ninyo kung ano ang mga department order ng Secretary of Justice lalo na sa inyo, Bureau of Corrections kayo?
Sir?

MR. FAELDON. Yes, Your Honor.

⁴⁸ TSN, 9 September 2019, pp. 24-25.

⁴⁹ TSN 9 September 2019, pp, 12-13

THE CHAIRPERSON (SEN. GORDON). So alam ninyo dapat iyan?

MR. FAELDON. Yes, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Pero hindi mo nabasa?

MR. FAELDON. Prior to this inquiry, sir, I did not have the opportunity to read it. I was not briefed about it, Your Honor.

THE CHAIRPERSON (SEN. GORDON). So up to and until this inquiry, you never heard about it, you never saw it, is that correct?

MR. FAELDON. Yes, Your Honor.

THE CHAIRPERSON (SEN. GORDON). All right.
Hindi ba nagkulang ka doon?

MR. FAELDON. Yes, Your Honor.

However, Atty. Fredric Anthony E. Santos ("Atty. Santos"), Chief - Legal Division of BuCor admitted that he mentioned DO 953 to DG Faeldon even prior to this Senate inquiry:⁵⁰

MR. SANTOS. Sinabi po namin iyang ano na iyan.

THE CHAIRPERSON (SEN. GORDON). Kanino?

MR. SANTOS. Kay sir, iyang 953 na iyan.

THE CHAIRPERSON (SEN. GORDON). Sinabi mo kanino?

MR. SANTOS. Kay General, na mayroon pong ganyan. Ang nangyari po kasi—

THE CHAIRPERSON (SEN. GORDON). Sandali, sandali.
Importante ito.
Sinabi mo kay Secretary Faeldon, kailan? Bago niya pinirmahan?

MR. SANTOS. Sir, I can't remember the exact—

THE CHAIRPERSON (SEN. GORDON). Anong you cannot remember? Hindi ba, you have a good memory here. You're a lawyer.

MR. SANTOS. Sinabi po namin, sir, before—

THE CHAIRPERSON (SEN. GORDON). Sinabi ninyo kailan?

MR. SANTOS. Before, yes, before the ano—

⁵⁰ TSN, 9 September 2019 pp. 39, 41-42.

THE CHAIRPERSON (SEN. GORDON). Before he signed it?

MR. SANTOS. Yes, sir, na may 953, but not the exact—the immediate date of that release. Mga prior po.

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THE CHAIRPERSON (SEN. GORDON). Pero sinabi mo, one thing is clear, sinabihan mo si Undersecretary Faeldon na dapat tingnan mo muna iyong 953 bago mo pirmahan. Tama ba iyon?

MR. SANTOS. Yes, sir.

THE CHAIRPERSON (SEN. GORDON). Anong sabi niya?

MR. SANTOS. Hindi ko na po matandaan—

THE CHAIRPERSON (SEN. GORDON). Pinirmahan niya pa rin, so hindi niya sinunod iyong advice mo.

MR. SANTOS. Sir, not that—

THE CHAIRPERSON (SEN. GORDON). Answer my question.

MR. SANTOS. Hindi po doon ko sinabi sa kanya iyong pagkakataon ng 953 before.

THE CHAIRPERSON (SEN. GORDON). Answer my question. Sinabi mo pero pinirmahan pa rin niya.

MR. SANTOS. Hindi ko po nakita noong pinirmahan niya po iyong ano...

THE CHAIRPERSON (SEN. GORDON). No, no, no. You're evasive.

MR. SANTOS. ...ni Sanchez.

THE CHAIRPERSON (SEN. GORDON). You're evading. Ang sabi mo, sinabihan mo siya. So, kung sinabihan mo siya, kahit na *post facto*, pinirmahan niya pa rin, labas ka. Tama ba iyon?

MR. SANTOS. Yes, sir.

THE CHAIRPERSON (SEN. GORDON). So, sinabihan mo siya bago niya pirmahan?

MR. SANTOS. Yes, sir.

THE CHAIRPERSON (SEN. GORDON). Okay. Thank you. Don't try to skunk out of here. Lalaki pa iyong sunog sa inyo.

MR. SANTOS. Yes, sir.

Atty. Santos, later on backtracked and said that he may have mentioned DO 953 to the staff of DG Faeldon and not to DG Faeldon himself. However, DG Faeldon confirmed that Atty. Santos mentioned DO 953 to him and that he committed a mistake by not following DO 953.⁵¹

MR. SANTOS. Hindi ko po matandaan na kung sa staff niya o sa kanya...

THE CHAIRPERSON (SEN. GORDON). Hindi mo matandaan. Napaka-importante nitong kasong ito, hindi mo matandaan. Go ahead. Try. Try your best.

MR. SANTOS. Ang alam ko po, sir, nasabi ko kung sa staff niya o sa admin officer o sa head executive assistant niya noong mga panahon na iyon.

THE CHAIRPERSON (SEN. GORDON). You know, you are dangerously skirting with contempt. Evasive ka. Sinabi mo kanina, sinabihan mo si Undersecretary Faeldon, tama?

MR. SANTOS. Yes, Your Honor.

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THE CHAIRPERSON (SEN. GORDON). Noong isang araw, nakita ko—ayaw kitang pagsalitain dahil you were here as a lawyer, hindi ba? Pero ngayon, puwede ka nang magsalita as a person with 20 years experience. So ngayon, ang sinasabi mo, puwede mo nang sabihin ngayon na sinabihan mo siya, right? At ngayon, dapat kung sinabihan mo siya, alam niya na bawal iyon and, therefore, nagkamali siya. Tama?

MR. SANTOS. Yes, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Thank you.

In fact, it can be seen in the Memorandum Order of Release of former Mayor Sanchez, which DG Faeldon signed himself, that there was a reference to DO 953. And even if there was such a reference, DG Faeldon still did not bother knowing or reading DO 953:⁵²

THE CHAIRPERSON (SEN. GORDON). References and I quote: "References Department Order No. 953 dated November 26, 2015." So alam ninyo?

MR. SANTOS. Hindi po dumaan sa akin iyang—

THE CHAIRPERSON (SEN. GORDON). Pero alam ni—Nick, alam mo iyon, hindi ba? Pinirmahan mo iyon.

⁵¹ TSN 9 September 2019 pp 45-47

⁵² TSN.9 September 2019 pp 19-21.

MR. FAELDON. Yes, sir. I signed that document, sir, but the exact wordings of the 953 and the—

THE CHAIRPERSON (SEN. GORDON). Hindi mo na nabasa, hindi mo na nabasang maigi?

MR. FAELDON. Yes, sir.

THE CHAIRPERSON (SEN. GORDON). Okay. But the point is, nakalagay diyang, "Department Order 953 dated November 26, 2015. Decision of the consolidated petition with GR Nos. 3212719 and 214537. In compliance with the—tapos nakalagay diyang, "other said documents."

"In compliance with the above reference PDL last name Sanchez, first name Antonio, middle name, Leyza, Prison No. N95P-0481, Actual TS, 2630, TS with TA, 49B21, who was found to have served 40 years upon retroactive application of RA No.10592 and was certified to have no other legal cause to be further detained shall be released from commitment.

"(3) The process of release shall be subject to strict compliance with pertinent laws, rules and regulations; four, submit report of compliance to the Office of the Director General of the Bureau of Corrections within five days from the actual date of release.

"Copy furnished: The Chief, Document Section."

Signed: Usec Nicanor E. Faeldon, Director General (signed). You're familiar with this?

MR. FAELDON. Yes, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Tanggap mo ito?

MR. FAELDON. Yes, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Okay. So, madaling sabi, alam ninyo talagang may 953. At alam ninyo na doon sa 953, kailangan susundin natin, halimbawa—All right. xxx

DG Faeldon cannot feign ignorance of DO No. 953. As was already established, Atty. Santos already told him about the existence of DO No. 953. In addition, DG Faeldon signed the Memorandum Order of Release of former Mayor Sanchez which expressly gave reference to DO No. 953. Also, DG Faeldon is the Director-General of the BuCor. It is his job, it is his duty, to know all the rules and regulations regarding the release of prisoners.

The act of DG Faeldon in not following DO No. 953, such as the signing of the release orders of prisoners sentenced to Life Imprisonment or Reclusion Perpetua or high risk inmates without the prior approval of the Secretary of Justice, is a violation of Section 3(e) of RA 3019 or the Anti-Graft and Corrupt Practices Act, which states:

Section 3. *Corrupt practices of public officers.* – In addition to acts or omissions of public officers already penalized by existing law, the following

shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

xxx

(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

The three essential elements for violation of Section 3(e) of RA 3019 are:

- (1) that the accused is a public officer discharging administrative, judicial or official functions;
- (2) that the accused acted with manifest partiality, evident bad faith or gross inexcusable negligence; and
- (3) that the accused caused undue injury to any party including the Government, or giving any private party unwarranted benefits, advantage or preference in the discharge of his functions.⁵³

With regard to the second element, that the public officer acted with manifest partiality, evident bad faith or gross inexcusable negligence, the case of *Albert v. Sandiganbayan*, G.R. No. 164015, 25 February 2009, explained the different modes by which the crime may be committed:

The second element provides the different modes by which the crime may be committed, that is, through "manifest partiality," "evident bad faith," or "gross inexcusable negligence." In *Uriarte v. People*, this Court explained that Section 3(e) of RA 3019 may be committed either by *dolo*, as when the accused acted with evident bad faith or manifest partiality, or by *culpa*, as when the accused committed gross inexcusable negligence. There is "manifest partiality" when there is a clear, notorious, or plain inclination or predilection to favor one side or person rather than another. "Evident bad faith" connotes not only bad judgment but also palpably and patently fraudulent and dishonest purpose to do moral obliquity or conscious wrongdoing for some perverse motive or ill will. "Evident bad faith" contemplates a state of mind affirmatively operating with furtive design or with some motive or self-interest or ill will or for ulterior purposes. "Gross inexcusable negligence" refers to negligence characterized by the want of even the slightest care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but willfully and intentionally, with conscious indifference to consequences insofar as other persons may be affected.

⁵³ *Catindig v. People*, G.R. No. 183141, 18 September 2009, 600 SCRA 749; *Soriano v. Marcelo*, 610 Phil. 72 (2009); *People v. Pajaro*, 577 Phil. 441 (2008)

The terms partiality, bad faith, and gross inexcusable negligence have been explained as follows:

"Partiality" is synonymous with "bias" which "excites a disposition to see and report matters as they are wished for rather than as they are." "Bad faith does not simply connote bad judgment or negligence; it imputes a dishonest purpose or some moral obliquity and conscious doing of a wrong; a breach of sworn duty through some motive or intent or ill will; it partakes of the nature of fraud." "Gross negligence has been so defined as negligence characterized by the want of even slight care, acting or omitting to act in a situation where there is a duty to act, not inadvertently but wilfully and intentionally with a conscious indifference to consequences in so far as other persons may be affected. It is the omission of that care which even inattentive and thoughtless men never fail to take on their own property."⁵⁴

On the third element of the offense — that the act of the accused caused undue injury to any party, including the Government, or gave any private party unwarranted benefit, advantage or preference in the discharge of the functions of the accused:

In order to be found guilty (in giving any private party unwarranted benefit, advantage or preference in the discharge of the functions), it suffices that the accused has given unjustified favor or benefit to another, in the exercise of his official, administrative or judicial functions.⁵⁵

DG Faeldon did not exercise due diligence in the implementation of RA 10592

DG Faeldon, disregarded Section 8 of RA No. 10575 or the Bureau of Corrections Act of 2013, wherein it states:

Section 8. *Supervision of the Bureau of Corrections.* – The Department of Justice (DOJ), having the BuCor as a line bureau and a constituent unit, shall maintain a relationship of administrative supervision with the latter as defined under Section 38(2), Chapter 7, Book IV of Executive Order No. 292 (Administrative Code of 1987), except that the DOJ shall retain authority over the power to review, reverse, revise or modify the decisions of the BuCor in the exercise of its regulatory or quasi-judicial functions. (Underscoring supplied.)

Under the said provision, the Department of Justice ("DOJ") retains authority over the power to review, reverse, revise or modify the decisions of the BuCor over the exercise of its regulatory or quasi-judicial functions. This supervision of the DOJ was legislated as early as 1917 in Act No. 2711 or the Revised Administrative Code of 1917, wherein it states:

SECTION 83. Bureaus and offices under the Department of Justice. — The Department of Justice shall have the executive supervision over the Bureau

⁵⁴ Alvarez v. People, G.R. No. 192591, June 29, 2011, 653 SCRA 52, 59.

⁵⁵ Ampil vs. Ombudsman G.R. No. 192685, July 31, 2013

of Justice, the Courts of First Instance and inferior courts; the Public Service Commission, the Bureau of Prisons, and the General Land Registration Office. It shall also have the general supervision and control of the provincial sheriffs, the provincial fiscals, and all other law officers of the Government. (Underscoring supplied.)

Again, the supervision by the DOJ over Bucor was reiterated in Executive Order No. 292 or the Administrative Code of 1987 wherein it states:

TITLE III Justice
Chapter 1

SECTION 4. *Organizational Structure.* — The Department shall consist of the following constituent units:

- xxx
- (7) Bureau of Corrections;
xxx

Book IV, Chapter 7, Section 38 (2) of the Administrative Code of 1987 defines Administrative Supervision as:

(2) *Administrative Supervision.* — (a) Administrative supervision which shall govern the administrative relationship between a department or its equivalent and regulatory agencies or other agencies as may be provided by law, shall be limited to the authority of the department or its equivalent to generally oversee the operations of such agencies and to insure that they are managed effectively, efficiently and economically but without interference with day-to-day activities; or require the submission of reports and cause the conduct of management audit, performance evaluation and inspection to determine compliance with policies, standards and guidelines of the department; to take such action as may be necessary for the proper performance of official functions, including rectification of violations, abuses and other forms of maladministration; and to review and pass upon budget proposals of such agencies but may not increase or add to them;

The crimes committed by former Mayor Sanchez were so gross that this should have prompted DG Faeldon to act with due diligence. Due diligence is defined as such a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent man under the particular circumstances; not measured by any absolute standard, but depending on the relative facts of the special case.⁵⁶

DG Faeldon admitted that he did not exercise due diligence regarding the release of former Mayor Sanchez:

⁵⁶ Black's Law Dictionary.

THE CHAIRPERSON (SEN. GORDON). So in other words, nag-iingat lang, ano. Ang due diligence po, ang tawag namin diyan sa batas ay such a measure of prudence—ano ba ang prudence sa Tagalog, prudence--activity, or assiduity, as is properly to be expected from, and ordinarily exercised by a reasonable and prudent man under the particular circumstances, not measured by any absolute standard, but depending on the relative facts of the special case. Iyan po ay Black's Law Dictionary. In other words, dapat lahat kayo mayroon kayong due diligence na ginagawa para talagang mag-aaral.

Ngayon, sir, kahit na hindi ninyo nabasa—kahit na hindi ninyo nabasa itong order na ito, tatanungin ko kayo ngayon, palagay ninyo nag-due diligence kayo? Alam ninyo na itong si Sanchez ay malaking kaso ito, nine cases of life imprisonment at murder with rape ang kaso niya, dapat siguro nag-due diligence kayo, dapat nag-ingat kayo, tama po ba iyon? Of course, this is all retrospect, nangyari na iyan, wala na tayong magagawa.

MR. FAELDON. Yes, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Thank you.⁵⁷

Knowing that the DOJ has administrative supervision over BuCor and considering the gravity of the crimes of former Mayor Sanchez, DG Faeldon should have consulted with the Secretary of Justice regarding this. His failure to consult the Secretary of Justice is gross inexcusable negligence on his part and shows how he did not exercise due diligence.

The acts of DG Faeldon are suspicious

DG Faeldon stated that he recalled the Memorandum Order of Release of former Mayor Sanchez. However he only did so verbally and not formally with a written recall order:⁵⁸

THE CHAIRPERSON (SEN. GORDON). So pinirmahan ninyo practically on the same day about an hour or an hour and a half, winidraw (withdraw) ninyo. Mayroon po ba kayong papel na nagpapatunay na winidraw (withdraw) ninyo?

MR. FAELDON. I have not issued written—

THE CHAIRPERSON (SEN. GORDON). A recall order.

MR. FAELDON. Yes, Your Honor.

THE CHAIRPERSON (SEN. GORDON). Walang recall order?

MR. FAELDON. I verbally instructed my admin officer to recall it, Your Honor.

⁵⁷ TSN 9 September 2019, p 33.

⁵⁸ TSN 9 September 2019, pp. 27-28.

As can be seen in various reports, the family of former Mayor Sanchez were confident that former Mayor Sanchez would be entitled to the GCTA, and walk free. The family knew that he was prisoner #187, they already had plans to bring Mayor Sanchez to eat at his favorite Japanese restaurant in Makati, and they had plans to visit an eye clinic for his cataract problem.⁵⁹

In the Inquirer video,⁶⁰ one of his sons Allan, mentioned to DG Faeldon that "Sir nagusap po tayo, nangako kayo, according to GCTA isa siya sa qualified." His other son, Anthony, mentioned that they were already being congratulated for the impending release of their father.

Based on the statements and the tone of the children in their interview, it seems clear that there was an agreement between DG Faeldon and the family of former Mayor Sanchez.

However, during the Senate hearing, the family of former Mayor Sanchez denies knowing or speaking with DG Faeldon:⁶¹

THE CHAIRPERSON (SEN. GORDON). Ma'am, kilala ninyo ba si Director Faeldon bago kayo nagpunta diyan? Kilala niyo?

MS. E. SANCHEZ. Personally, hindi pa ho namin siya—

THE CHAIRPERSON (SEN. GORDON). No, no, tinatanong ko lang, hindi personally. Do you know him?

MS. E. SANCHEZ. Opo, siya po ang direktor noong BuCor.

THE CHAIRPERSON (SEN. GORDON). Nakakausap mo siya doon?

MS. E. SANCHEZ. Never pa ho namin siyang nakakausap.

THE CHAIRPERSON (SEN. GORDON). Iyong mga anak ninyo, nakakausap siya?

MS. E. SANCHEZ. Never po.

His First In First Out Rule in the release of PDLs has no legal basis

During the 3 September 2019 hearing, Mrs. Elvira Sanchez mentioned that the release of PDLs will be on a first in first out basis:⁶²

MS. E. SANCHEZ. Okay.

⁵⁹ <https://newsinfo.inquirer.net/1158325/public-outrage-stopped-aug-20-sanchez-release-his-family-says>

⁶⁰ *Id.*

⁶¹ TSN, 3 September 2019, p. 30

⁶² TSN, 3 September 2019, p. 22.

I told him, "Direktor, andito po kaming pamilya ni Mayor Sanchez to clarify things. Kasi kahapon ho narinig namin na lalaya na ho ang asawa namin. Because somebody texted me na he is about to release." And then ang sagot pa ho niya sa amin, "Mrs. Sanchez, hindi ko alam iyan pero hinold (hold) ko iyong proseso ng pagpapalabas kasi may bago akong direktiba sa ibaba na first in, first out." Ang sabi ko sa kanya, "Direktor, ano ho iyong first in, first out?" Sabi niya, "Kung sino iyong mauna na pumasok, siya ang maunang lalabas." Ang sabi ko naman sa kanya, "E bakit ho si Asnar nakalabas na e 1997 ho iyon?" That was actually what I said to him. xxx

However, this first in first out policy has no basis in law.

RESULTS OF THE SENATE INVESTIGATION

- *Re-arrest of Heinous Crimes Convicts*

The revelations unearthed in these investigations led to the order of President Rodrigo Duterte to re-arrest the convicts of heinous crimes released under GCTA.

On 4 September 2019, the President, in a televised speech, ordered heinous crimes convicts to surrender to authorities within 15 days. The Philippine National Police was ordered to re-arrest PDLs who will not surrender within 15 days. Also, a bounty of P1 Million was promised for each PDL still at large .

Even prior to the directive of the President, the Secretary of Justice ordered the suspension of deportation of foreign convicts who were released under the GCTA law and turned over to the Bureau of Immigration.⁶³

- *BuCor Director General Faeldon was fired by President Duterte*

In the same televised speech, President Duterte demanded the immediate resignation of DG Faeldon.

The President explained that DG Faeldon failed to follow the President's order of "no releases until further order by higher authority" and instead came up with a statement that the case of Mayor Sanchez would still be subject to re-computation.⁶⁴

- *New IRR of the GCTA Law*

The Department of Justice and the Department of Interior and Local Government issued a new IRR of RA No. 10592 which took effect on 4 October 2019, a month after the Senate Committees started this investigation.

⁶³ TSN, 2 September 2019, p. 87-88

⁶⁴ <https://www.rappler.com/nation/239278-duterte-fires-nicanor-faeldon-as-bureau-corrections-chief>

PDLs convicted of heinous crimes are now clearly provided as ineligible for GCTA under the revised IRR.

- *Investigation on Ninja Cops*

Former PNP Criminal Investigation and Detection Group (CIDG) Chief (now Baguio City Mayor) Benjamin Magalong was invited to testify on the information of the PNP CIDG that Chinese drug inmates continue to control and manage the drug trade in the Philippines from inside the New Bilibid Prison. He testified that he presented a special operations intelligence plan to then Secretary De Lima to allow them to conduct a raid at the Bilibid but he realized that his request was being disregarded and the raid proceeded 7 months after, without the participation of the PNP CIDG.⁶⁵

In the course of his testimony, he was asked if he had knowledge of the involvement of members of the Philippine National Police in the reported recycling of confiscated drugs. This led to the investigation of law enforcement officers engaged in the "agaw-bato" scheme.⁶⁶

This has been reported out in a separate Committee Report.

⁶⁵ TSN, 19 September, p. 42 -82

⁶⁶ TSN, 19 September 2019, p.50-59

RECOMMENDATIONS

	LAWS VIOLATED	PENALTIES
<p>Nicanor Faeldon NONFEASANCE -did not follow the procedures/ requirements of DO 953.</p>	<p>Section 3(e) of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019) which states :</p> <p>Section 3. <i>Corrupt practices of public officers.</i> – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:</p> <p style="text-align: center;">x x x x</p> <p>(e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.</p>	<p>Imprisonment for not less than one year nor more than ten years</p> <p>Perpetual disqualification from public office, and</p> <p>Confiscation or forfeiture in favor of the Government of any prohibited interest and unexplained wealth manifestly out of proportion to his salary and other lawful income.</p>

<p>Ramoncito "Chito" Roque (Chief of the Documents and Record Section of BuCor)</p> <p>Ma. Benilda "Mabel" Bansil (Corrections Senior Inspector, Bureau of Corrections),</p> <p>Veronica "Boday" Buno (Corrections Officer, Bureau of Corrections)</p>	<p>Grave Offense (Rule 10, Section 50.A.10, 2017 Rules on Administrative Cases in the Civil Service)</p> <p>Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value in the course of one's official duties or in connection with any operation being regulated by or any transaction which may be affected by the functions of one's office.</p>	<p>Dismissal from Service</p>
<p>MALFEASANCE</p> <p>-accepting money for the promise of early release of prisoners</p>	<p>Direct Bribery under Art. 210 of the Revised Penal Code</p> <p>Art. 210. <i>Direct bribery.</i> — Any <u>public officer</u> who shall <u>agree to perform an act constituting a crime</u>, in connection with the performance of this official duties, <u>in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another.</u></p>	<p>Penalty of prison mayor in its medium and maximum periods and a fine [of not less than the value of the gift and] not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed</p>

<p>Dr. Ernesto Tamayo (Director, Directorate for Health Services, New Bilibid Prison Hospital)</p> <p>Dr. Ursicio D. Cenas (Medical Officer, New Bilibid Prison Hospital)</p> <p>Ms. Meryl Benitez (Nursing Attendant, New Bilibid Prison Hospital)</p> <p>MALFEASANCE</p> <p>-accepting money in order for the PDLs to be confined in the New Bilibid Prison</p>	<p>Grave Offense (Rule 10, Section 50.A.10, 2017 Rules on Administrative Cases in the Civil Service)</p> <p>Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value in the course of one's official duties or in connection with any operation being regulated by or any transaction which may be affected by the functions of one's office</p>	<p>Dismissal from the service</p>
	<p>Direct Bribery under Art. 210 of the Revised Penal Code</p> <p>Art. 210. <i>Direct bribery.</i> — Any <u>public officer</u> who shall <u>agree to perform an act constituting a crime</u>, in connection with the performance of this official duties, <u>in consideration of any offer, promise, gift or present received by such officer, personally or through the mediation of another.</u></p>	<p>Penalty of prison mayor in its medium and maximum periods and a fine [of not less than the value of the gift and] not less than three times the value of the gift in addition to the penalty corresponding to the crime agreed upon, if the same shall have been committed</p>

- There should be transparency, especially with regard to the computation of time allowances and release of prisoners. Full digitization of all prisoner records is a must. The public must have access to the possible release dates of the PDLs.
- In addition, the records of BuCor and BJMP employees and personnel should also be digitalized for easy monitoring and filing.
- The use of artificial intelligence, digital and video analytics with command center independent from each other, inside our prison facilities. This would ensure that the PDLs, guards, employees are constantly monitored. Funds should be provided, as suggested by the other Senators.
- The DOJ must conduct a thorough investigation of the confinement, at the New Bilibid Hospital and other hospitals, of drug convicts and high profile inmates. The DOJ should institute guidelines to ensure that only those with actual sickness and diseases are confined in hospitals. There should also be a strict monitoring of those PDLs confined in the hospitals to ensure that they are not using their confinement as a medium for their "illegal business/transactions".
- The DOJ must investigate the alleged mischief carried out in the catering business specifically with regard to the bidding.
- BuCor officials/employees should be replaced with more qualified personnel.
- PDLs convicted of heinous crimes should not be credited good conduct time allowance, pursuant to RA 10592 and the revised IRR.
- Ensure that the revised IRR is fully and properly implemented.
- Agencies tasked with the drafting of IRRs to laws passed by Congress must be made to comply with the time period provided for in the law. Human rights violations or injustices are committed when the Departments so assigned take their own sweet time-as in the two laws involved here.

The BuCor, alas, is manned by rotten apples, and corrupt officials. It is rotten to the core—and, from top to bottom. If we are to improve its functions, if we are to have the Bureau regain the trust of our people, no less than a massive change in personnel and in character is required. Mere lancing of the boil will not be sufficient; putrefaction in that agency is so far advanced, only a total replacement of the whole bureaucracy will allow us to see a new, honest, sincere, serious, and effective agency.

- end -