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Office of the Secretary

EIGHTEENTH CONGRESS OF THE PHILIPPINES)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)

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S E N A T E

COMMITTEE REPORT NO. 17

Submitted by the Committees on Justice and Human Rights; Constitutional Amendments and Revision of Codes; and Accountability of Public Officers and Investigations on NOV - 5 2019.

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 Senator 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 PROPRIO 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 PROPRIO (TSN DATED SEPTEMBER 2, 2019 P.3)**

have considered the same and have the honor to submit this Report to the Senate, recommending the adoption of the recommendations contained therein and their immediate implementation.

Respectfully submitted:

Chairpersons

SENATOR FRANCIS N. PANGILINAN

Committee on Constitutional Amendments
and Revision of Codes

Member, Committee on Justice and
Human Rights

Member, Committee on Accountability of
Public Officers and Investigations
(BLUE RIBBON)



SENATOR RICHARD J. GORDON

Committee on Justice and Human Rights; and
Committee on Accountability of Public Officers
and Investigations (BLUE RIBBON)

Member, Committee on Constitutional
Amendments and Revision of Codes

Vice-Chairpersons




SENATOR SONNY ANGARA

Committee on Accountability of Public
Officers and Investigations (BLUE RIBBON)

Member, Committee on Justice and
Human Rights

Member, Committee on Constitutional
Amendments and Revision of Codes



SENATOR PANFILO M. LACSON

Committee on Justice and Human Rights; and
Committee on Constitutional Amendments and
Revision of Codes

Member, Committee on Accountability of
Public Officers and Investigations (BLUE
RIBBON)

Members

Grace Poe *May amend*
SENATOR GRACE POE

Committees on Constitutional Amendments and Revision of Codes; and Accountability of Public Officers and Investigations (BLUE RIBBON)

I approve with Senator Marcos in the first paragraph of his Comment, as well as refuse assent to the abolition of the PNPA. Art III, Section 14 of the Constitution should now be deleted.

[Signature]

SENATOR FRANCIS "TOL" N. TOLENTINO

Committees on Constitutional Amendments and Revision of Codes; and Accountability of Public Officers and Investigations (BLUE RIBBON)

[Signature]

SENATOR EMMANUEL "MANNY" D. PACQUIAO

Committees on Justice and Human Rights; Constitutional Amendments and Revision of Codes; and Accountability of Public Officers and Investigations (BLUE RIBBON)

[Signature]

SENATOR WIN GATCHALIAN

Committees on Justice and Human Rights; and Accountability of Public Officers and Investigations (BLUE RIBBON)

[Signature] *may amend*

SENATOR CHRISTOPHER BONG GO

Committees on Constitutional Amendments and Revision of Codes; and Accountability of Public Officers and Investigations (BLUE RIBBON)

SENATOR MANUEL "LITO" M. LAPID

Committees on Justice and Human Rights; and Accountability of Public Officers and Investigations (BLUE RIBBON)

Cynthia Villar with reservation

SENATOR CYNTHIA A. VILLAR
Committees on Constitutional Amendments
and Revision of Codes; and Accountability of
Public Officers and Investigations
(BLUE RIBBON)

*Imee H. Marcos (Comment attached and
submitted to the Committee
of Nov 2019)*

SENATOR IMEE R. MARCOS
Committee on Accountability of Public Officers and
Investigations (BLUE RIBBON)

with reservation

Maria Lourdes Nancy S. Binay

**SENATOR MARIA LOURDES NANCY
S. BINAY**
Committee on Constitutional Amendments
and Revision of Codes

A. Pimentel III

**SENATOR AQUILINO "KOKO" LL.
PIMENTEL III**
Committees on Justice and Human Rights; and
Accountability of Public Officers and Investigations
(BLUE RIBBON)

Risa Hontiveros Sarapud

SENATOR RISA HONTIVEROS
Committees on Constitutional Amendments
and Revision of Codes; and Accountability of
Public Officers and Investigations
(BLUE RIBBON)

SENATOR LEILA M. DE LIMA
Committees on Justice and Human Rights; and
Accountability of Public Officers and Investigations
(BLUE RIBBON)

may interpellate

Pia S. Cayetano

SENATOR PIA S. CAYETANO
Committee on Accountability of Public
Officers and Investigations (BLUE RIBBON)

MAY AMEND

Ramon Bong Revilla Jr.

SENATOR RAMON BONG REVILLA JR.
Committee on Accountability of Public Officers and
Investigations (BLUE RIBBON)

For the partial Committee Report on Albayalde et al



SENATOR LEILA M. DE LIMA

Committees on Justice and Human Rights; and
Accountability of Public Officers and Investigations
(Blue Ribbon)



Atty. Phillip D. Sawali

Chief of Staff

Office of Senator Leila M. de Lima

November 05, 2019


Ex-Officio Members



SENATOR RALPH G. RECTO
President Pro-Tempore



SENATOR JUAN MIGUEL F. ZUBIRI
Majority Leader



SENATOR FRANKLIN M. DRILON
Minority Leader

HON. VICENTE C. SOTTO III
Senate President

TRUST BETRAYED

"The systems that were put in place by our Constitution, by the laws against illegal drugs, by the Manual on drug raids/arrests and on the Chain of Custody; the system of Disciplinary Boards and the Internal Affairs Service/s, as well as the traditions of the PMA and the PNPA, failed abysmally. They all failed and thus the people's trust was severely damaged. The current systems failed to preserve the integrity of the police, and allowed these "ninja cops" to repeatedly inflict their odious crimes with impunity upon innocent people."

A. Background

The matter of the Agaw-Bato raid in Pampanga arose out of the revelations during the September 19, 2019 Executive Session of the Justice and Blue Ribbon Committees for Good Conduct Time Allowance (GCTA). During the subsequent hearing on October 1, 2019, General Benjamin Magalong, former Criminal Investigation and Detection Group (CIDG) Commander, now Baguio City Mayor, disclosed to the public his statement uttered in the Executive Session. In said hearing, Magalong testified that sometime on February 2014, then Philippine National Police (PNP) Chief General Alan Purisima instructed the CIDG to investigate a buy-bust which happened on November 29, 2013 at Wood Bridge Subdivision in Lakeshore, Barangay Nueva Victoria, Mexico, Pampanga. General Purisima mentioned that he had information regarding several intelligence officers of the Pampanga Provincial Office having newly acquired SUVs after conducting an operation wherein they claimed to have seized over 36 kilos of shabu.

B. Prologue

A German sociologist defined the state as a "human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory."

Thus, we the people, allow, in a form of implicit contract with the government of our own choosing, that at least two institutions are allowed to bear arms: the armed

forces, primarily designed to protect us from threats without; and, the Philippine National Police principally to maintain peace and order and to protect the citizens and those who sojourn within the Philippines from "enemies" within.

As police, they are given power over our lives and our properties, and these powers are limited by law. Thus, there is a great responsibility imposed upon them: to use what the citizenry has allowed them— "to serve and protect" the people in enforcing the laws and not to abuse them.

But when the police, instead of enforcing the law, violate it, that implied contract is totally negated (e.g., when they conduct raids and only report a portion of drug hauls and "misappropriate, misapply, and fail to account for the confiscated, seized, or surrendered dangerous drugs" so they can profit from them, endangering the people as a consequence). The citizens' trust is thus betrayed and its confidence totally shattered. The police become rogue elements in society and are then called "rotten eggs," or in this case "ninja cops." Those who are presumed to protect us are now the ones perpetrating peril upon us.

C. The Pampanga Raid

"Oh what a tangled web we weave / When first we practice to deceive." — Sir Walter Scott

On the 29th of November 2013, at 1630 HRS, a purported raid was conducted in a house in Pampanga—in Lots 21 & 22 Narra Street corner Walnut Street, Woodbridge Subdivision, Lakeshore, Barangay Nueva Victoria, Mexico, Pampanga.

The buy-bust team composed of the PNP, led by PSUPT Rodney Raymund Louie J. Baloyo IV and supported by PSINP Joven B. De Guzman, PO1 Donald C. Roque, SPO1 Rommel M. Vital, SPO1 Dante M. Dizon, SPO1 Jules L. Laniago, SPO1 Ronald B. Santos, SPO1 Alcindor M. Tinio, SPO1 Eligio D. Valeroso, PO3 Gilbert A. De Vera, PO3 Dindo Dizon, PO3 Romeo Guerrero, Jr. and PO2 Anthony L. Lacsamana, was able to seize thirty-six kilos of shabu, a weighing scale, and P300,000 in cash. They claimed

they arrested two suspects: A Chinese national Ding Wen Kun and the Filipino caretaker Roel Cabag y Luwague @OWIE. The buy-bust operation was characterized as "an achievement" in a press conference held with then-Regional Director Raul Petrasanta and then-PNP Provincial Director Oscar Albayalde, et al.

It was such an inordinate achievement that then-PNP Provincial Director Albayalde wrote a letter dated December 2, 2013 to Acting Regional Director, PRO3, Camp Olivas, San Fernando, Pampanga, lauding his men's accomplishment and ultimately recommending them for either a promotion or a citation. Shamelessly, Albayalde included himself for the recommendation. And why not, after all, a 36-kilo haul of shabu is definitely not an every-day thing, even for the PNP.

But "something was rotten" in the streets of Mexico, Pampanga. The report was a fairy tale, concocted not only to hype a supposedly huge accomplishment; it was woven in order to cover up a more nefarious scheme: Agaw-bato. In fact, it was really a raid or a *hulidap*, not a buy-bust.

Albayalde, mainly utilizing Baloyo's spot report as basis, would have his superiors, and the Filipino people, believe that this is what happened:

From a Memorandum of then Police Senior Superintendent Oscar D. Albayalde to the Acting Regional Director, PRO3, Camp Olivas, San Fernando, Pampanga:

"This pertains to the anti-illegal drugs operation conducted by elements of Pampanga Police Provincial Office at Wood Bridge Subdivision, Lakeshore, Brgy. Divisoria, Mexico, Pampanga on November 29, 2018 at about 5:00 pm that resulted in the arrest of one Ding Wen Kun, 30 yrs old, Chinese National, from Jiangxi Province, Republic of China and one (1) Roel Cabag y Luwague @OWIE, 48 years old, native of Samboan, Cebu City and the recovery of 36.681 kilos of methamphetamine hydrochloride commonly known as shabu with an estimated DDB value of 182.5 Million Pesos, cash money amounting to Php 300,000.00 and the "marked money" of P100,000.00.

The operation was a result of a week-long surveillance and case build-up by members of the PIB/PAIDSOFT of this Office. On November 23,

2013, PSUPT RODNEY BALOYO, Chief, PIB/PAIDSOTF received an information from @BULLET, civilian informant, regarding an alleged drug pushing activity at Lakeshore, Mexico, Pampanga. PSUPT BALOYO immediately informed the undersigned about the information. The undersigned immediately instructed subject PCO to conduct case build-up against the suspect and possible conduct of a buy-bust operation.

The informant further claimed that they can buy the shabu from a certain @OWIE. On November 25, 2013, PSUPT BALOYO instructed the informant to arrange the sale for the purchase of shabu worth P100,000.00. A day after, the informant contacted PSUPT BALOYO that @OWIE agreed to meet them in the afternoon of November 29, 2013 at Narra Street, Wood Bridge Subd., Lakeshore, Brgy. Divisoria, Pampanga for the said drug sale.

At about 3:00 pm, same date, @BULLET informed PSUPT. BALOYO that @OWIE confirmed the availability of shabu at the identified address.”

Strangely, Baloyo could not even say who owned or lived in the house, something that would be considered vital information before a buy-bust. Upon questioning of the Chairman, he initially said Ding Wen Kun. When the Chairman pursued, he said that he didn't know and even tried to invoke his right against self-incrimination. Apparently, he was trying to maintain their story that a certain Ding Wen Kun, an alleged drug lord who was going to sell them drugs, lived in that house. In fact, it was really Johnson Lee they were after, a Korean national, who lived there according to the security guards of the subdivision and who, according to General Aaron Aquino, was a real drug lord. Later it will be found that after confiscating the drugs, money, car, and other property of Johnson Lee, the *hulidap* team switched (“palit-ulo”) Ding Wen Kun who lived in Rikko Homes in Clark, Pampanga, for Johnson Lee.

Upon questioning of Senator Lacson, Baloyo claimed that PO2 Anthony Lacsamana was assigned to case the house that afternoon.¹ Upon cross examination, Lacsamana denied that he cased the house as he did not even report for work that whole day and he was not with the team that very day.² Baloyo also assigned two (2)

¹ TSN, October 3, 2019, p.247.

² TSN, October 3, 2019, page 247.

personnel of PAIDSOFT, of Pampanga Provincial Police Office (PPO), who acted as poseur-buyers, SPO1 Ronald Santos and @BULLET, their confidential agent, who both immediately proceeded to Narra Street, Wood Bridge Subdivision, Lakeshore, Barangay Nueva Victoria, Mexico, Pampanga. They met @OWIE at the house of Johnson Lee. It must be noted that @BULLET remained an alias and was never identified (who should have been investigated by the PNP Region 3 summary board hearing). @BULLET and SPO1 Santos never appeared in the investigation. Clearly, Region 3 obviously never intended to investigate the WHOLE operation. After the poseur-buyer showed the “marked money” to @OWIE, they entered the house at Lakeshore and while inside the house, the two poseurs saw a Chinese-looking person repacking kilos of white crystalline substances suspected to be shabu. Immediately after @OWIE received the “marked money”, the poseur buyers gave the pre-arranged signal to the other operating teams by ringing the phone of PSI DE GUZMAN of Provincial Intelligence Branch (PIB) from inside the house. This prompted the Chairman to exclaim: “Talaga bang ganoon ang [ginawa]—papasok kayo sa drug den, [at] practically, drug lord iyong papasukin ninyo. [N]akita ninyo may droga doon, [tapos] tatawag ka sa telepono[?] [E] di binaril ka doon.”³

PSI DE GUZMAN then immediately ordered the members of the teams to swoop down the place after his phone rang that resulted in the arrest of the suspects and confiscation of the said suspected shabu placed in one open luggage and one medium-sized box, the cash money amounting to P300,000.00 and the marked money amounting to P100,000.00.⁴

But, some days after this “buy-bust” happened, then-CIDG Head Benjamin Magalong was tasked by then-PNP Director General Alan Purisima to look into yet-unverified reports that there was something fishy in the Pampanga raid. Magalong then discreetly investigated and a counter-narrative emerged.

³ TSN, October 9, 2019, page 184.

⁴ TSN, October 9, 2019, pages 187-188.

D. The Counter Narrative

"Alitur vitium, vivitque tegendo. (Vice thrives and lives by concealment.)"

On the 5th of May the following year, 2014, a Crime Scene Reenactment Report was submitted by PCI Rodolfo S. Gonzales to the Chief of the Criminal Investigation and Detection Unit (CIDU) of the CIDG. The pertinent paragraphs are herein included:

1. The investigation revealed inconsistencies on the reports and documents submitted by the operating team led by PSUPT Rodney Baloyo IV once compared with the accounts of witnesses in the area, as well as documents from the guards of Wood Bridge Subdivision, Lakeshore, Barangay Nueva Victoria (not Divisoria, as stated in the report of PSUPT Baloyo), Mexico, Pampanga;
2. A group, who identified themselves as police, and entered the village towards a house owned by a Mr. Santos, which was then leased to a Johnson Lee;
3. A security guard averred that two vehicles (Nissan Urvan WHY 210 and Hyundai Sta. Fe PLO 505) were stopped at the guard house for counterflow violations. After a short talk with persons in the vehicles, the group then proceeded to Wood Bridge Subdivision. This happened at about 10:00 in the morning. The time was also corroborated by another security guard;
4. The armed men forced their way into the Village and went straight to the house of Mr. Santos. The men entered the house, without permission, by climbing over its concrete walls;
5. When the security guards arrived at the house, the Filipino occupant (Roel Cabag) tried to climb to the top of the roof, while the Chinese occupant,

Johnson Lee, was able to flee to the next village where he sought the help of a barangay kagawad as armed men had entered his house. He even offered money to the barangay personnel so long as he was kept away hidden from the armed men. It turns out later that they got to know who he was—as a drug lord—and therefore, surrendered him to the police.

6. An hour later a Mexico police car entered the village and left after a few minutes. Later on, the police mobile came back with two policemen on board and Mr. Lee;
7. Barangay Captain Roberto Pascua Esguerra, in an interview, also stated that on the 29th of November, at about 11:00 in the morning, he heard his brother-in-law asking for help; a Chinese person came to the barangay hall asking for help, asking that he be hidden from armed men who forcibly entered his house;
8. Eventually, Mr. Lee was brought to a CAFGU detachment, then to the police of Mexico, Pampanga; the latter then brought him back to the Wood Bridge house and was turned over to the PIB/AIDSOFT raiding team; Lee, described as “half-naked with only his pants on,” was then forcibly brought inside his black Fortuner;
9. Mr. Esguerra and his companion alleged that they saw a big unzipped suitcase filled with white crystalline substances which were placed inside transparent plastic bags. The suitcase was so full that the suitcase could not be closed; the same was also seen by Vivian Fontanilla and Rolando Abrenica, both from FGB Megalink Security Services;
10. Ms. Fontanilla also saw at Wood Bridge the armed men carrying a box covered by a blanket with “money showing;”

11. On their way out, the police brought with them their two vehicles plus the black Toyota Fortuner of Mr. Lee, with the latter inside the car. The Mexico police was instructed to bring Cabag to police headquarters;
12. The reenactment determined, through the use of mock-ups, that the shabu seized was about 200 kilos, more or less;
13. The Reenactment Report posits that the report of Albayalde to the Acting Regional Director on 2 December 2013 and the affidavits of two arresting officers are "products of the fruitful imagination of the raiding team to make it appear that the drug operation conducted on 29 November 2013 at 4:00 pm are in the regular performance of their assigned duties;"
14. The Report concludes that:
 - a. The raid is not legitimate and contrary to the Rules;
 - b. The raid was another *hulidap* operation;
 - c. The testimony and **reports made by PAIDSOTF and Albayalde to the Acting Regional Director PRO 3 are adulterated truth of what really happened, to cover up the misdeeds;**
 - d. The operation in Rikko Homes Clark Field was not reported;
 - e. The evidence recovered was misappropriated; and
 - f. The testimony of the arresting officers SPO1 Ronald Santos and PO3 Romeo E. Guerrero are false, warranting perjury charges;
 - g. Lastly, the Report recommends the filing of criminal charges against those responsible from PSUPT RODNEY RAMUND LOUIE J. BALOYO, PSINP JOVEN B. DEGUZMAN, POI Donald C Roque, SPOI Rommel M Vital, SPOI Dante M Dizon, SPOI Jules L Laniago, SPOI Ronald B Santos, SPOI Alcidor M Tinio, SPOI Eligio D Valeroso, PO3 Gilbert A DE Vera, PO3 Dindo Dizon, PO3 Romeo Guerrero, Jr to PO2 Anthony L Lacsamana for violations of

provisions of law particularly, Section 27 (failure to account the seized drugs), Sec 29 (Planting of evidence) and Sec 32 (noncompliance with Sec 21 and 86 of the IRR of R.A. 9165 issued by Dangerous Drug Board) in relation to Sec 28 all R.A. 9165 on planting of evidence, failure to account for seized drugs, and non-compliance with the Rules in Section 28 of the law, and Sections 21 and 86 of the IRR of RA 9165: and, Art. 183 (Perjury) against SPO1 Ronald B. Santos and Romeo Guerrero. Administrative charges for Grave Misconduct were also recommended against all 13 of the men for violation of Section 27, 29, and 32 (non-compliance with Sections 21 and 86 of the IRR of RA 9165) in relation to Section 28 of RA 9165; and, Grave Misconduct charges as well against Santos and Guerrero.

Curiously, no charges were recommended against the Provincial Commander (Albayalde), in spite of "the report of Albayalde to the Acting Regional Director on 2 December 2013 and the affidavits of two arresting officers are 'products of the fruitful imagination of the raiding team' to make it appear that the drug operation conducted on 29 November 2013 at 4:00 pm are in the regular performance of their assigned duties."

E. Findings

"For nothing is hidden that will not become evident, nor anything secret that will not be known and come to light." – Luke 8:17

Under ordinary situations, a he-said-she-said conundrum is difficult to unravel, especially when the two sides present supposedly convincing yet contrasting versions of events, contradictory appreciation of facts, or opposing interpretation of the truth.

Fortunately, this is not a problem for your Committees; the truth is easily determined with a clearly discernible version of what is logical, rational, and true. It is

appalling that the version most believable is coming out only now, nearly six years after the occurrences happened.

This *hulidap* was planned way before November 29, 2013. As early as 23 November, **Albayalde already knew**, because of Baloyo's report that they were surveilling a place suspected to harbor a drug pusher, and that they were trying to conduct a buy-bust operation.

The operation did not happen at 4:30 pm of 29th November; rather, it transpired at 10 am on the same day. Several witnesses testified, or executed affidavits that the raid was conducted in the morning:

1. Rolleth Bacus and Vivian Fontanilla, a security guard and the Finance Marketing Manager, respectively, of FGB Megalink Security Services;
2. The Barangay Captain and kagawads (Mr. Reynaldo Bautista, Mr. Ernesto Canda, Mr. Joselito Lagman, Mr. Danilo Tolentino);
3. The three Mexico, Pampanga policemen (PSSG Jerome C. Bugarin, PO3 Jackson Mariano and PO1 Marlon G. De Quiroz);
4. Two managers of the security agency- Megalink: Vivian Fontanilla and Rolando Abrenica;
5. The reenactment report of the CIDG;
6. The memorandum ordering the dismissal of Baloyo, et. al. coming from Petrasanta;
7. PBGen Albert Ignatius Ferro; and
8. Mugshot indicating that Ding Wen Kun was arrested at 3:00 pm

The persons arrested were the caretaker, Cabag, and a certain Ding Wen Kun, the supposed Chinese drug lord in Baloyo's and Albayalde's reports; but, in truth and in fact, the persons inside the house were Cabag and Lee. Lee, who had escaped by jumping over the fence and fleeing to the adjacent residential area of Barangay Nueva Victoria,⁵ half-naked⁶, run, and sought the help of the locals he could locate, but who

⁵ Crime Scene Reenactment

⁶ TSN, October 3, 2019, pages 179 -180.

was later on delivered to the Mexico, Pampanga police, who in turn turned him over to the raiding team. He was placed inside his own black Toyota Fortuner and then it sped off to a place no one has said where, so far. That was the last time Lee was seen. Immigration records do not show a departure record for Mr. Lee.

Ding Wen Kun, on the other hand, was just a driver for a gambling junket operator in Clark. He was about to prepare for his lunch when men came into his lodgings and picked him up.

Meanwhile, the police from Mexico, Pampanga who brought Cabag to headquarters had to wait for Baloyo and his men. There was a break of about four hours before the Mexico, Pampanga police saw Albayalde's men (in a phone conversation with then Regional Directors Aquino and Lacadin, where he asked for the non-implementation of Petrasanta's Dismissal Order, Albayalde referred to the 13 as "mga bata ko 'yan" (they are my men)) at the HQ. At that time, where did the raiding team go, and where was the black Fortuner? We do not know for certain where they went that time except to say that when Baloyo's team returned, they had a different Chinese suspect with them. There was no more Mr. Lee. They had only 36+ kilos of shabu with them, rather than the 200+ kilos estimated by the witnesses; they turned over P300,000 rather than the monies inside a box covered by a blanket. The whole drug haul and the rest of the money was placed inside the black Fortuner owned by Mr. Lee. It was never seen afterwards. Later on it resurfaced when it was transferred to a certain Efren Cura, a Presidential Anti-Smuggling Group (PASG) operative. Subsequently it was transferred to six different people. The timeline below shows the transfer of ownership of said SUV. The Committees are still trying to investigate how the buy-bust team reportedly acquired various vehicles for themselves.

Date	Remarks
2012	Johnson Lee
November 29, 2013	Raid
March 18, 2014	Deed of Sale between Johnson Lee (vendor) to Efren M. Cura (vendee), who is connected with Presidential Anti-Smuggling Group (PASG)
March 18, 2014	Deed of Sale between Efren M. Cura (vendor) to Ted S. Co (vendee)
December 3, 2015	Deed of Sale between Ted S. Co (vendor) to Virgilio M. David, Jr. (vendee)
December 3, 2015	Deed of Sale between Virgilio M. David, Jr. (vendor) to Amy G. Gopez (vendee), Head, Technical and Administrative Support, Central Luzon I and II Area of PAGIBIG
December 11, 2015	Amy Gopez Encumbered the Fortuner to Maybank

It is thus not unsafe to conclude that the missing 4 or 5 hour interregnum from the raid to the eventual reporting to HQ, was the time needed in order to transport the monies, safekeep for themselves the greater volume of drugs, hide Mr. Lee's car and make Mr. Lee disappear.

That Mr. Ding Wen Kun was the wrong person presented to media as the drug dealer, after the raid, is supported not only by witnesses PSSG Jerome C. Bugarin, PO3 Jackson Mariano and PO1 Marlon G. De Quiroz, of the Mexico, Pampanga Police, who said that he was not the man that they had turned over to PSUPT Baloyo, but also by the Regional Trial Court (RTC), Branch 43, City of San Fernando where the criminal case filed against Ding Wen Kun, which found that the evidence shows that **"what happened was not a buy-bust but rather a barge in and arrest operation."**⁷ In the Order dated March 27, 2018, RTC Branch 43 granted Ding Wen

⁷ Order dated March 27, 2018, *People of the Philippines vs. Ding Wenkun*, Criminal Case Nos. 20072-73, Regional Trial Court Branchh 43, p. 23.

Kun's Demurrer to Evidence and acquitted him of the charge (the "RTC Order"). The Ruling of RTC Branch 43 is striking:

"The first loose end of the prosecution's evidence starts with the allegation that on November 29, 2013, a confidential informant appeared before the office of Chief Rodney Raymond Baloyo at the Provincial Police Office and reported the alleged drug activities of one "Owie" and "Intsik (Affidavit of Arrest) and that based on said report, the Intel Operatives Team prepared for a buy bust operation. Yet, on cross examination of prosecution witness of SPO1 Ronald Santos, who was the supposed poseur buyer, he admitted that those who participated in the operation subsequently executed an Affidavit of Direct Participation on where they stated under oath that a confidential informant appeared in office on November 20, 2013 and reported the alleged drug activities of "Owie" and "Intsik."

The sworn and inconsistent statements should immediately put the Honorable Court on alert that **THE POLICE OFFICERS-WITNESSES ARE NOT AVERSE TO LYING UNDER OATH.**

Second. Unlike in other buy bust operation where boodle money is used, the alleged buy bust money consisting of 100 pieces of Php 1,000.00 bills were all real. If we were to believe the Prosecution that their first contact with the confidential informant was in the afternoon of November 29, 2013, that a few hours later, the arresting team mounted the operation, then the team had very limited time to produce the Php 100,000.00 buy bust money. The amount of Php 100,000 is certainly not a token sum by any standards. Witness PO3 Guerrero said it came from their chief, Supt., Rodney Baloyo but he did not exactly know where the latter got it. As of the last account, no one has claimed it back and it still in the possession of the Honorable Prosecutor. The Prosecution has not presented any oral or documentary evidence that such amount was withdrawn from any PNP operational funds. An amount that size would certainly merit enough paper trail if it came from the PNP, as is always the case with government funds. It would also be unbelievable that Supt. Baloyo would cough up this sum out of his own pocket considering that it is worth more than one month of his salary, knowing that it would form part of the evidence and come under the custody of the court. Since it is improbable that Supt. Baloyo or anyone would be willing to loose Php 100,000 for nothing, then the fund could only have been confiscated from the accused. **THIS CAN ONLY MEAN THAT THERE WAS NO BUY BUST OPERATION AND THAT THE TESTIMONIES OF OFFICERS GUERRERO AND SANTOS THAT THERE WAS AN EXCHANGE OF MONEY FOR THE SHABU WAS NOTHING BUT A FABRICATION.** " (emphasis supplied)

Poor Mr. Cabag did not live to see justice due him. He died while detained in prison.

For us, this act is most egregious, truly immoral, deserving of calumny, and that which merits the most severe of punishments. How, in conscience's sake, can a policeman **knowingly** present an innocent man, Ding Wen Kun, as suspect in a crime that is penalized with capital punishment whilst in exchange letting an obviously guilty man go after they robbed him of his drugs, money, and other belongings and released him? And this egregious act continuous to happen every day as there are reports of policemen planting drugs and then later on making their poor victims sell it.

There is an old aphorism, "it is better that ten guilty persons escape than that one innocent suffer." (Blackstone's Ratio). Alas, the opposite is the standard subscribed to by Baloyo and his ilk.

In the end, only General Albayalde and his man, PSUPT Baloyo, believed that the raid happened at 4:30 pm, rather than 10:00 am; and that the confiscated goods amounted to only 36+ kilos of shabu and P300,000, and that the drug lord is Ding Wen Kun, not Johnson Lee. The rest of the world- at least, the rest of the police and security guards, and barangay officials believe the opposite. Albayalde claimed that he knew about the raid only on the day itself. This is contrary to his special report that he knew about the plan as far back as November 23, 2013. Further, he cannot feign ignorance as to the activities of his man, Baloyo, during the day of the raid. Commanders are, by necessary practice, informed as to the status of an ongoing operation constantly. Albayalde had to be informed at regular intervals while the raid was ongoing. An email sent by Lacadin to Magalong in February of the following year is very revealing. Lacadin says: that in the morning of November 29 a call was made between PSupt Bernard Marzal of RAIDSOTF 3 and PSupt Victor Valencia the former asking if there was a drug operation going on. This was at 10:45 am. Valencia said "negative."; Valencia then called PCI Bienvenido Reydado, PO of Pampanga CIDG if

they had drug operation that day, Reydado answered in the negative. This was at 1115; Reydado received two calls from Valencia and PCI Melvin Montana of R2 PRO3 regarding an ongoing operation in Wood Bridge House. Again he answered in the negative.

Reydado then sent two of his men at 2:00 pm to check where the operations were supposedly held. The men arrived at 3:00 pm and what they found was a house in disarray and white crystalline substances all over the place.

Albayalde dissimulates if he wants us to believe that given these calls, not one informed him or asked him about an ongoing raid that no one had knowledge about.

We could not understand, at first, why Albayalde's man, Baloyo, incessantly asserts that the raid was conducted at 4:30 pm, when it was actually executed in the morning. We found out later that the required coordination document with PDEA (a requisite in drug raids) was scheduled only for 4:00 pm of November 29, until 4:00 am of the following day. PDEA Agent Janice Aviso's testimony tell us that there was no report, only a phone call made to inform PDEA. Therefore, they had to fit those hours within that document lest they be accused of violating a regulation that required prior coordination. Talk about irony.

The question as to where the excess drugs, the monies, and Mr. Lee went still hangs to this day, six years after the dreadful event.

Albayalde and Baloyo, also want us to believe that the purported sale happened in the very house where the drug lord was repacking drugs. This is a stretch of the imagination, for why would a drug lord let someone enter his own house and allow the retail sale (tingi) of P100,000 worth of drugs in the house where the supposed 36+ kilos were stored? Logic tells us that, at the very least, the drug lord would have made the sale far away from the cache of more voluminous drugs. Albayalde's man, Baloyo, taxes our credulity when he asserts that they made the bust for the rest of the drugs because they had seen the Chinese person weighing shabu on the first floor

of the house, where it could be seen by someone near the door to the house. In a house of more than one storey, why would one weigh drugs on the first floor where one could be plainly seen.

Albayalde's man, Baloyo, also claims that they were threatened by two subdivision guards with a shotgun, thus necessitating the hauling of the drugs for inventory at headquarters rather than at the place where they were seized. Baloyo and his men totaled ten (10) persons. Surely the guards were outnumbered 10 versus 2. And he wants us to believe that they felt threatened by the guards, when it was they who threatened the guards by entering the village forcibly. The logbook of the village security guards, as written by Security Guard Ernesto Bacus, reads:

LOGBOOK⁸	
Time	Event
1000	Area of responsibility is in critical condition specifically in the Woodridge. Two vehicle on board men with guns and they force the guard of Woodridge to enter because they are policemen. Then they go to Mr. Santos residence who happen to be rent by Mr. Dy. Situation got hotter when the armed men forced to enter also the house of Mr. Santos. Commander, SO Cayab respond to the situation and alert all other stations to be vigilant because of armed men. Armed men are inside the Woodridge village and they're putting up guns on the head of Mr. Dragon and SO Cayabyab. All that in <i>*unreadable*</i> they're subjects has been threatened with gun. Brgy. Sebitanan Captain and Bryg. Tanod rescue the call of Lakeshore residents all guards alerted officers alerted.
1030	Police patrol from Mexico arrive and goes to Woodridge to respond the call of the situation of Woodridge. OM arrive at the Lakeshore together with Maam Vivian. Maam Dish arrive at the post asking for the situation they're all in panic.
1130	The alleged vehicle leave the situation almost bet. time

⁸ TSN, October 3, 2019, page 166.

1200	Area of responsibility come back in normal situation. Lakeshore maintenance on duty now. Maam Vivian and operations manager arrive at the post for turnover the *unreadable* after a while leave the area.
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Oddly, Baloyo never made a report nor filed any complaint about this so-called threat. The least that could have been done was to make a report so that the guards are deprived of their licenses. After all, the PNP is in charge of the licensing of guards. In fine, Albayalde's man, Baloyo, did not report the threat because there was NO threat. It was all fiction.

They also had to concoct this story because they had no search warrant. They did not intend to secure a search warrant, because their purpose was not to serve the ends of justice, was not to enforce the law, but to enrich themselves and their ilk, and their superior Albayalde who confessed to Lacadin, "maliit lang naman ang napunta sa akin dito."⁹

Baloyo also did not know who the owner of the house was. Wouldn't a properly coordinated raiding team not know the owner of the house they are raiding, who they claim is a drug lord?

It is clear that the true operations happened not in the afternoon of November 29 but in the morning. Since the police officers are hiding their true operations, it is but natural and logical that none of the standard police protocols in a legitimate buy-bust operations could never have been followed neither can they prove that they followed the Manual. Simply put, the following procedures provided for in the **PNP Manual for Anti-Illegal Drugs Operations**¹⁰ were **NOT FOLLOWED**:

⁹ TSN, October 9, 2019, p. 251.

¹⁰ Manual on Anti-Illegal Drugs Operation and Investigation, 2010.

LAW	REMARKS
<p>Rule III, Section 19 A (a) – Prior to the Buy Bust Operation, the Team Leader shall see to it that prior reports have been submitted which may include:</p> <ol style="list-style-type: none"> 1. Summary of Information of the target/s 2. Special Report 3. Surveillance Report 4. Contact meeting report 5. Development report 	<ul style="list-style-type: none"> • Baloyo, as the team leader of the operation, did not submit Prior Reports <ul style="list-style-type: none"> ○ They did not know who owns the house or who leases the house ○ They should know the address where the house is located ○ They should know what possible opposition they are going to face ○ They should know what firearms are required for the operation, they only carried pistols ○ There were no calls made between Albayalde to supervise the men; nor was there a call from Baloyo to report to his superiors
<p>(b) If necessary, a test buy may first be conducted. If there's any, the dangerous drugs purchased shall be photographed, marked, packaged, sealed and submitted to PNP Crime Laboratory for examination. The PNP Crime Laboratory shall issue a laboratory result for the purpose.</p>	<ul style="list-style-type: none"> • There was no test buy, by either the seller or the buyer. • It is important to test buy to confirm whether it is really shabu • A drug lord would never allow a buyer to enter inside his house • There were no photographs of the morning drug haul ever taken and filed.
<p>(c) Preparation of the buy-bust or boodle money. The "buy-bust" money shall be duly marked or dusted with ultra-violet powder by the PNP Crime Laboratory. It shall be properly photographed, reproduced and/ or recorded indicating the serial numbers and the person who released the money, the officer who received the same and delivered to the PNP Crime Laboratory for dusting. The officer receiving the money shall issue a receipt for the purpose.</p>	<ul style="list-style-type: none"> • Baloyo admitted that P100,000 used in the buy-bust was not marked or dusted with ultra-violet powder. • Buy-bust money was merely marked as "RS", the initial of SPO1 Roland Santos. • What was shown to the Committee was a receipt for P100,000 signed by SPO1 Ronald Bayas Santos, and "conformed" by another co-conspirator PSI Joven B. De Guzman. They do not tell us where the money came from, except that we are informed by that Certification where the two members of the same team (Santos and De Guzman) dealt only with each other. De Guzman must

LAW	REMARKS
	have advanced the money.
d. Preparation of the prior coordination with PDEA as far as practicable and the territorial police units.	<ul style="list-style-type: none"> There is a coordination document that says that the document is valid for twelve hours: from 4pm of the 29th- 4am of the 30th. PDEA Agent Aviso says that there was just a call. That cannot be constitutive of a coordination contemplated by the Rules.
e. Preparation of the Inventory Receipt of Evidence Form for recovered evidence, the Technical Inspection Receipt form for recovered vehicles, and other pro-forma documents needed in the operation.	<ul style="list-style-type: none"> The raiding team seized the Fortuner where Johnson Lee was made to ride in, but there was no report of its seizure. We only get to know, much later, that Johnson Lee (we do doubt that it was he because he had disappeared) had sold the car to Efren Cura of the PASG.

Baloyo cannot tell a straight story: He did not follow the rules; he did not surrender the car; he dissembles; he lies; he prevaricates. There was absolutely no buy-bust operation. What happened was pure, unadulterated *hulidap*. HIS SUPERVISOR ALBAYALDE NEVER CHECKED ON ANY OF THE ABOVE. WHY DID HE NOT? THESE ARE THE QUESTIONS THAT A COMMANDER WOULD ASK HIS MEN.

But Cura cannot testify. He has died. Cabag, Johnson Lee's caretaker, has also kicked the bucket. Santos (poseur-buyer) is missing. @BULLET (poseur-buyer) is missing. Johnson Lee is nowhere to be found. We are afraid that these three may have joined the choir invisible.

Though there was a recommendation to hale Baloyo and his kind to criminal court, only the administrative case was pursued. The criminal case is still pending in the Department of Justice, the last act being a recommendation for the cases' dismissal.

F. Who are responsible for this continuing injustice inflicted on the Filipino people? Who covered things up, that it took nearly six years for the people to finally get to know about this catastrophe?

Fiat Justitia Ruat Coelum (Let justice be done though the heavens fall)

In Espeneli v. People, GR 1759535, June 9, 2014, the Supreme Court held that for a circumstantial evidence to support a conviction, all circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty:

“For circumstantial evidence to be sufficient to support a conviction, all circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty, and at the same time inconsistent with the hypothesis that he is innocent x x x.” Thus, conviction based on circumstantial evidence can be upheld provided that the circumstances proven constitute an unbroken chain which leads to one fair and reasonable conclusion that points to the accused, to the exclusion of all others, as the guilty person.”

The Committees found circumstantial evidence to prove that a conspiracy to commit a wrong was committed, but we leave it up to the courts to decide on the matter.

1. Police Provincial Director Oscar Albayalde

All the circumstances discussed below shows how the acts and omissions of Albayalde, taken together, points to a single conclusion that Albayalde is part of the *hulidap* and the subsequent cover up. This militates against his innocence.

That he knew about the raid only on that day is not the truth. His memo stated that he knew about the plan as far back as the 23rd of November.

- a. While the operation is going on, a good officer would have a continuing monitoring of his men for their safety and for the success of their

mission. That he did not monitor the movements of his policemen, especially considering that this is a big buy bust operation, they had ten people there. He did not ask for reports during and immediately after the raid, as what a responsible commander should require. As the commanding officer, he should have been told that security guards “threatened” his men.

- b. During the time that he was being accused left and right—He only said to his defense “ganging up on me, politika, may galit sa akin, inggit, pinagtutulungan ako.” He never said anything of substance to bolster his defense, he never said anything to the effect that “ito lang nakuha ko, 36 kilos lang”. The proper time to defend himself was the very first time the case was investigated. The Committee even had an “Albayalde Day Hearing” in order to give him a chance to defend himself but his only reply was to question the motivations of those who made accusations against him:

“MR. ALBAYALDE. Yes, sir. I really do not know, sir, kung ano po iyong conspiracy dito. It seems that everybody is ganging up on me, I really do not know. It’s very unlikely naman po na General Lacadin na sasabihin mo, sir, we never had a chance of having under one office. Hindi ko po alam kung anong against niya sa akin, si General Lacadin, pero kung sabihin mong sinabi ko iyon, ang tanong po ulit, why was I not charged? After all these investigations, tatlo na po ang nag-imbistiga, Your Honor. Why was I not charged? Why in all the investigations hindi ako na-charge?”¹¹

Albayalde, instead of relying on ad hominem statements should have explained the following:

1. Did he regularly check on his men as the raid was being executed?

¹¹ TSN, October 9, 2019, page 212.

2. Did he check the suspects?
 3. Did he check the address? The owner of the house and the residents?
 4. Did he demand a detailed report more than the proforma one?
 5. What did they seize from the house? Drugs? Money? Cars? Guns?
 6. How many were arrested? Who were arrested? Where are they from?
 7. Did his men follow the rules on chain of custody? Did they follow the PNP Manual on buy-bust raids? Did they make a post-operation report?
- c. That he believed solely on Baloyo's report alone on his men's accomplishments, without verifying its authenticity and then later on recommended promotions and citations for the raid's participants, in spite of showings to the contrary;¹²
- d. He was protecting his men and covering up for them and their crimes when he made a call to then - Police Regional Director Rudy Lacadin, requesting the latter to let go of the dismissal order previously issued by Gen. Raul Petrasanta, who was his superior in region III, especially when he confessed on October 9, 2019 that:

"And as a friend, it pains me to give statements that might affect the integrity of a fellow officer. But inasmuch as we are seeking the truth, there was a time that during the investigation I am conducting, I cannot remember if he was still the PD of Pampanga that time, he called me up actually. And ang usapan--I cannot exactly remember the conversation but ang maalala ko is that, "Sir, parang naimbistigahan ninyo daw kami." Iyon ho ang tono. So, sabi ko, "Yes, Oca, I cannot inform you na nagka-conduct ako ng investigation because this is just a validation. But if you have nothing to hide, wala

¹² TSN, October 9, 2019, page 45.

naman kayong dapat katakutan." Iyon lang ho iyong aking tono. And ang sabi niya is--I don't know if jokingly, ang sabi niya, "Actually, sir, kaunti lang naman ang napunta sa akin diyan." I did not elaborate because I don't want to be influenced in the validation process"¹³

At this time, Albayalde was already a one-star general, thus with sufficient influence to even attempt to influence his fellow PNP official.

- e. He continued the attempt at cover-up when he asked Aaron Aquino, Lacadin's successor, to sit on the Order and not implement the Order because they are his boys (mga bata ko ito). Aquino testified on October 3, 2019 that:

"I wish to explain that my statement yesterday that General Albayalde called me up to know the status of that case of Baloyo and others is the truth. But he also added during the same call a request and I quote, "Sir, baka puwedeng huwag mo munang i-implement ang order." Then, I asked him, "Bakit, Oca"? Where he answered, "Kasi mga tao ko sila." Then, I answered, "Oca, ipari-review ko itong case folder sa legal at ipapatapon ko ang lahat ng tao mo sa Mindanao."¹⁴

- f. He was administratively relieved for command responsibility on March 27, 2014; but how come they did not dig deeper? Why were they cherry-picking to favor a fellow PMA? But he did not complain about it, he did not assert his innocence. He did not want to ruffle feathers. He chose to bide his time, which in hindsight was a wa-is move. If he was really a commanding officer, he should have fought for his men during trial; but, no, he chose to go the *ayusan* way. The wicked run when no one is chasing them, but an honest person is as brave as a lion. It is not acceptable for him to say that he could not do anything because soldiers merely follow orders. They do not question why. That may be understandable in the battlefield, as the consequences for orders not

¹³ TSN, October 9, 2019, page 210.

¹⁴ TSN, October 3, 2019, page 105.

being followed immediately could be disastrous. But never in peacetime, never on a law enforcement action that was prepared for days ahead.

- g. He did not appeal or filed a Motion for Reconsideration regarding his floating status. He accepted his fate because he did not want to ruffle feathers and beat the bushes. As aptly put in the article of Florencio Fianza in the Manila Standard dated October 17, 2019:

"Gordon was actually right. This issue as to whether the PNP is actually a military organization masquerading as a civilian organization is an issue that no one in the organization has addressed seriously since its inception. This is perhaps because in 1992 when the PNP came into being, the entire leadership of the PNP came from the Philippine Constabulary. The military customs and traditions have not changed much. Changing the ranks and designations did nothing to change anything.

Senator Gordon was struggling to understand why then Senior Superintendent Oscar Albayalde did not raise any objections when he was relieved as Provincial Director of Pampanga in 2013 if he did nothing wrong. In a truly civilian organization, this indeed should have been done but for Albayalde, prudence was the better part of valor. Had he complained, he most certainly would have been in deeper trouble, so he simply kept quiet and said nothing and hoped that the issue would blow away soon which was what happened and he was soon back in harness."¹⁵

His active involvement in the case may result in the discovery of his connection with his men and his involvement in the *hulidap*. His excuse was there was no due process because he had to follow orders. But, even the IAS require due process. If he really thought that his men were just doing their job, why didn't he actively protect his men in the open? He thought that if he remained quiet, it will just go away. He will fix it later, as he did with Aquino, Corpus. The best time to fight for his men was on the very first stage of the action. If you are really honorable,

¹⁵ <http://manilastandard.net/mobile/article/307584>

you will stand up for the rights of your men in open hearing. But he chose surreptitious, sneaky, behind-the- scene means.

- h. There is this "Kabaro" system, "Bata" system, the mistah structure. This system that requires protection of each other became corrupt. It can be a good system, if the tenets of courage, integrity, loyalty is applied to render justice; but, it is an awful system if you get people off the hook even if they do wrong. What is most important is Albayalde, and other officers in the uniformed service, must also be made to realize that his subordinates are not his "boys", *hindi mo sila bata, bata sila ng sambayanan!* The value system must be loyalty to country first before loyalty to your people. Loyalty must not just be to his men or his fellow mistah but to the country above all. During the October 3, 2019 hearing, we stressed the importance of a professionalized police force:

THE CHAIRPERSON (SEN. GORDON). Thank you very much. We'll do that.
Go ahead, General Aquino.
So, again, my question remains. When you [are] relieved, and you feel that it is unfair, the natural impulse should be to say, "Can I ask for a motion for reconsideration? Can I ask for a bill of particulars?" You have gotten a lawyer, "Bakit ako ni-relieve?"

SEN. MARCOS. [Off-mike] Hindi iyon puwede sa pulis.

THE CHAIRPERSON (SEN. GORDON). But do not say that because we are investigating here.

MR. ALBAYALDE. Sir, may I explain, sir?
When I was relieved, I was never charged.

THE CHAIRPERSON (SEN. GORDON). You don't do that. You don't do that. There is such a thing as a chain of command. When you are relieved and it is unfair, you're talking about due process earlier, you'll have to say, "Due process dictates that you tell me what I am accused of and why you are suddenly relieving me because it causes me severe, considerable embarrassment."

I would advise my fellow senators to refrain from making remarks on the side. If you have something to say, say it on the forefront.

SEN. MARCOS. Yes. I think it's not usual practice in the PNP to dispute to, to contest orders, you simply obey them.

THE CHAIRPERSON (SEN. GORDON). All right. And that is why this order was not implemented. Everybody was walking on eggs. Nobody wants to hurt the feelings of their fellow officers. Nobody wants to say, "Uy! Tanggal na kayo." Nobody wanted to implement it. And that's what we want to remove. We want a professional police force. I was in the Constitutional Convention in 1971 when your father proposed PNP, the Integrated National Police Force, and I said, "No. I am against that. I want the NBI, I want the PNP, I want other law enforcement agencies because if we have a centralized agency, once it becomes corrupt, it's so hard to remove the corruption because there will become a culture of corruption.

I am here for that. I am not here against Albayalde or any of you people. I am here to restore the dignity and the integrity of our police forces. And I don't believe—"Eh talagang ganyan." I don't believe that. I don't believe—you don't do that. I don't believe that. I believe we're here to fix the problem.

So, again, my question—my question is, ano ang nangyari? Hindi ka na umangal? Tinanggap mo iyong floating status, pitong buwan?

MR. ALBAYALDE. Yes, sir. I was on a floating status. The reason why I did not apply for an MR because I was never charged. Hindi po ako nakasuhan.

THE CHAIRPERSON (SEN. GORDON). O, 'di lalong masama. You were never charged.¹⁶

- i. He was the one who signed the order to put Baloyo in Tagaytay as OIC, and De Guzman in Antipolo. This indicates that he is trying to show to his men, in order to secure loyalty, that now that he is the PNP Chief, he can place them in choice positions. Four personnel involved in the

¹⁶ TSN, October 3, 2019, pages 153 - 155.

Pampanga agaw-bato, were rehabilitated during Albayalde's watch. They were assigned to Antipolo; and who were later involved again in an agaw-bato cum robbery in Antipolo on May 4, 2019:

1. PSINP JOVEN B DE GUZMAN
2. SPO1 Donald C Roque
3. SPO1 Rommel M Vital
4. PO3 Romeo Guerrero, Jr.

So much for Albayalde's protection of his men. Don't we ever learn?

2. The police organization, especially in Region 3

- a. In the first place, the police sat on the dismissal. It took the police 16 months for the Order to be received. What is inexcusable is that these men were just either in Pampanga or already in Mindanao and certainly still subject to PNP's reach. We are sure that they were receiving their salaries at a specified place and thus could have been made to receive the Order there. But, no, the leadership sat on it. PNP officials by their inaction permitted rouge policemen to remain in active service. In the end, this inaction backfired at the PNP when these same men were later found engaging in a similar Agaw-Bato activity in Antipolo in May 2019, for which a recommendation for dismissal is once again given to the PNP leadership.
- b. Why was the charge of Grave Misconduct against Baloyo and the twelve others, characterized only by their failure to account (or their mishandling) of the evidence collected during the raid? Why was this the only charge? It is no surprise anymore thus, that demotion was the final result. Had the charges been more serious, dismissal would have been the only recourse for the authorities. A further investigation should be conducted in this regard. The following is instructive:

“MS. LOPEZ. What was presented in the folder that was certified, Your Honor, taking into consideration the facts of the case and taking into consideration the circumstances given by the NAPOLCOM memorandum circular with appropriate aggravating and the best defense of mitigating, I would not probably, Your Honor— hypothetical answer, is probably, I WOULD NOT GIVE THEM ONE RANK DEMOTION BUT A DISMISSAL.”¹⁷

Senator Franklin Drilon noted that there was no independent investigation because Col. Santos-Lopez could not consider anything that is not indicated in the report. He further emphasized that because there was no validation on what really transpired, evidence could have been manipulated.

“And wala kang magawa because that is what is presented. But you know, we all know that the evidence can be manipulated. And I think this is what happened here. The cases were being manipulated. The evidence was being suppressed.”¹⁸

- c. Why are these people, when they commit infractions are “thrown” to Mindanao? It is not fair to Mindanaoans that what they get are the dregs of the police force. What should be done is to dismiss them so they do not inflict more hardships on our people. Why are we “recycling” police officers that should have been dismissed in the first place? With this practice, we open the opportunity for these rogue police officers to perpetuate crimes.
- d. The case by Petrasanta against the 13 police officers resulted to dismissal from service. From the time of the filing of the Motion for Reconsideration, it took many months before the case was finally resolved. Then Pampanga Regional Director Aaron Aquino sat on the

¹⁷ TSN, October 9, 2019, page 139.

¹⁸ TSN, October 9, 2019, page 256.

case. It took Albayalde's classmate, General Amador Corpus to finally decide- reversing the original Dismissal Order by ruling, deciding that demotion was a proper punishment rather than dismissal. Senator Franklin Drilon even pointed out that there seems to be a deliberate effort to delay the decision. Senator Drilon said:

"Now, it is on that basis—so February 1, 2016, binalik po sa Region III for your disposition. That is the fact. Now—And it was only—Because it was only March 2, after it was received, that the order was implemented. And it took—And it took, again, after the MR was filed on March 14, it took another 20 months for the demotion to be implemented. Dinemote (demote) na nga, dinelay (delay) pa. This is truly unusual, and I, myself, am not convinced that there was no effort to delay this, to sit on it deliberately for the agenda of some people."¹⁹

Senator Panfilo Lacson also opined the same thing:

"How I would imagine if I were chief, PNP, and I was the chief, PNP, at a time, kung mayroon kasong ganito kagrabe iyong circumstances, I would prioritize it. Either I dismiss it for lack of sufficient evidence or I would act outright and resolve the case. Either I modify or dismiss or sustain the dismissal order. Kasi sabi ko nga, ilang regional directors iyong nagdaan pero parang naupuan itong kaso."²⁰

DISMISSAL ORDER TIMELINE

DATE	EVENTS
November 14, 2014	Gen. Petrasanta signed the first Dismissal Order. After the signing of the dismissal order, the entire case folder was forwarded to the Directorate for Personnel and Records Management.
August 11, 2015	Appointment of Gen. Lacadin as Regional Director of Pampanga.

¹⁹ TSN, October 9, 2019, page 172.

²⁰ TSN, October 1, 2019, page 121.

DATE	EVENTS
February 1, 2016	PNP policy that Regional Directors can now decide all administrative cases within their jurisdiction, including grave offenses against Police Commissioned Officers.
March 2, 2016	<p>Service to the Respondents of the decision dated November 14, 2014.</p> <p>According to Gen. Petrasanta, they cannot have possibly serve the decision of Gen. Petrasanta from November 14, 2014 until it was remanded back to Region III, February 2016, because the documents were in the possession of their national headquarters.</p>
March 14, 2016	<p>Respondents filed their consolidated Motion for Reconsideration.</p> <p>Because of the Motion for Reconsideration, the implementation of the penalty was held in abeyance.</p>
	<p>In the October 9, 2019 testimony of Gen. Lacadin before the Justice and Blue Ribbon Committees, he said:</p> <p>“And as a friend, it pains me to give statements that might affect the integrity of a fellow officer. But inasmuch as we are seeking the truth, there was a time that during the investigation I am conducting, I cannot remember if he was still the PD of Pampanga that time, he called me up actually. And ang usapan--I cannot exactly remember the conversation but ang maalala ko is that, “Sir, parang naimbistigahan ninyo daw kami.” Iyon ho ang tono. So, sabi ko, “Yes, Oca, I cannot inform you na nagka-conduct ako ng investigation because this is just a validation. But if you have nothing to hide, wala naman kayong dapat katakutan.” Iyon lang ho iyong aking tono. And ang sabi niya is--I don’t know if jokingly, ang sabi niya, “Actually, sir, kaunti lang naman ang napunta sa akin diyan.” I did not elaborate because I don’t want to be influenced in the validation process. Iyon lang po ang aking</p>

DATE	EVENTS
	masasabi. ²¹
March 17, 2016	PNP Region III Legal Service received the Motion for Reconsideration.
May 30, 2016	Gen. Lacadin was relieved from service as Pampanga Regional Director. He was replaced by Gen. Aaron Aquino.
August 2016	<p>Gen. Mijares, deputy chief, PNP for operation received a call from Gen. Magalong and the latter told him:</p> <p style="padding-left: 40px;">"I was trying to call the regional director, hindi ko makontak. So I am calling you. Ikaw iyong tinawagan ko instead. You just make sure you have this instruction relay to your RD. This is regarding the case of Colonel Baloyo. This is a very serious case. I want you to relay to him to ensure that this case will not be reduced or lowered."²²</p> <p>When Gen. Mijares, initially saw the case folder of Baloyo et al., it appeared that they were considering to change dismissal to demotion but it was not final so he followed Magalong's advice and kept it at dismissal. After three weeks, the case folder came back to Mijares. He only checked on the dispositive portion, which clearly showed to him it was dismissal.</p>
Between September to November 2016	<ol style="list-style-type: none"> 1. Gen. Aquino received a call from Gen. Albayalde requesting him not to implement the order against Albayalde's men. At this time, Albayalde already outranked Gen. Aquino, being a 2-star general already. 2. Gen. Aquino made this statement during the October 3, 2019 Hearing: <p style="padding-left: 40px;">"I wish to explain that my statement yesterday that General Albayalde called me up to know the</p>

²¹ TSN October 9, 2019, page 210-211.

²² TSN October 9, 2019, page 102.

DATE	EVENTS
	<p>status of that case of Baloyo and others is the truth. But he also added during the same call a request and I quote, "Sir, baka puwedeng huwag mo munang i-implement ang order." Then, I asked him, "Bakit, Oca"? Where he answered, "Kasi mga tao ko sila." Then, I answered, "Oca, ipari-review ko itong case folder sa legal at ipapatapon ko ang lahat ng tao mo sa Mindanao."²³</p> <p>3. Gen. Aquino told Gen. Mijares, "Ilagay mo lang muna iyan sa table ko at ipapa-review ko iyan."²⁴</p> <p>4. General Aquino ordered the transfer of Baloyo and 12 other policemen to Mindanao.</p>
2017	<p>Gen. Amador Corpus replaced Gen. Aquino as the Regional Director of Pampanga.</p> <p>Gen. Corpus, like Gen. Albayalde, is a member of PMA Sinagtala batch '86.</p> <p>After 2 dismissals, Gen. Corpus asked that the case be reviewed again.</p> <p>When given the case folder of Baloyo et al., Gen. Corpus gave referred the same to his Regional Legal Officer PCOL Judy P. Santos-Lopez, the same officer who advised Gen. Aquino to impose just one rank demotion. She likewise recommended the same to Gen. Corpus.</p> <p>According to PCOL Lopez, she stands by her recommendation to just impose 1 rank demotion because not all facts which were revealed during the hearing were alleged in the case records she examined. HAD ALL THE FACTS BEEN WRITTEN INTO THE RECORDS SHE REVIEWED, SHE WOULD HAVE RECOMMENDED FOR DISMISSAL FROM SERVICE.</p>
October 17, 2017	Respondents were demoted – Order signed by Gen. Amador Corpus

²³ TSN October 3, 2019, page 105.

²⁴ TSN October 9, 2019, page 114.

3. Major Baloyo and the 12 other policemen

We cannot go into the minds of Baloyo and his men. We do not even want to. But, here is Baloyo, an officer whose schooling was paid for by the people's taxes in the most elite of police schools our country can provide. All of the men involved had their schooling paid for by people's taxes) What should we do with scalawags like these? They are paid with taxpayers' money. The President even had their salaries raised. He is a member of class '99 of the PNPA. As taxpayers we have a right to expect that the persons we send to school behave properly, uphold and enforce the law without fear or favor, and that they live by the tenet of "to protect and to serve."

But Baloyo is a dangerous man, he is a menace to society, and a threat to law and order. He must be removed from service and dropped from the rolls. Here is a man we have invested in, but who has turned out not merely as a bad expense on the taxpayers' part, but one who should not be trusted with any responsibility- not even dog- catching.

Where did we go wrong? The Academy we maintain in order to produce the best of the best, has produced a police officer whose morality is so bankrupt he would set free a drug lord and arrest an innocent man in the former's stead. What could be more immoral than that? He confiscates drugs, in a procedure violative of their own (PNP) rule book, in order to gain profit for himself and his men, perhaps even a superior, contributing to the scourge of drugs inflicting harm on our people. Instead, he is assigned to Zamboanga del Sur as Asst. Provincial Commander; later on he gets reassigned as Acting Police Chief of cool Tagaytay City, a cushy assignment.

All the while, little people are being killed. These reprobate policemen will just seize drugs, resell the drugs and arrest small people. This impunity must be stopped. By recycling drugs, they are perpetrating further the decline in societal norms, fostering even greater impunity in the country.

We do not reward recalcitrant police men, we punish them. But, not in Albayalde's case; he recommends them for promotion or citation, including- in an act of shameless, and unethical "self-dealing-" himself.

He and his other policemen pledged, to "...oblige myself to maintain a high standard of morality and professionalism;" That they did not keep. They not only broke their pledges, they violated our laws. They betrayed the people's trust. Gen. Albayalde should have been loyal to the country first. Because of his misplaced loyalty to his men, people's welfare was compromised. His men persisted in committing Agaw-Bato operations in different locations such as Antipolo, tarnishing his credibility and reputation as the Chief PNP.

G. PEOPLE RESPONSIBLE AND LAWS BROKEN

According to Rule X, Section 13 par. 34, the jurisdiction of the Blue Ribbon includes all matters relating to, including investigation of malfeasance, misfeasance and nonfeasance in office by officers and employees of the government, its branches, agencies, subdivisions and instrumentalities; implementation of the provision of the Constitution on nepotism; and investigation of any matter of public.

Malfeasance – the doing, through ignorance, inattention or malice, of an act which he had no legal right to perform

Misfeasance – failure to use that degree of care, skill, and diligence required in the performance of official duty

Nonfeasance – neglect or refusal to perform an act which is the officer's legal obligation to perform

However, upon the Committees' investigation, we found out that the following people may be guilty of malfeasance, misfeasance, and nonfeasance, who may be subjected to the following criminal and/or civil charges:

1. Oscar Albayalde

ACTS COMMITTED	LAWS VIOLATED	PENALTY
<p>MALFEASANCE</p> <p>Profited from the sale of shabu made by Baloyo and his men - "kaunti lang naman and napunta sa akin diyan"²⁵</p>	<p>Section 27 of R.A. No. 9165 or the Comprehensive Dangerous Drugs Act of 2002.</p> <p><i>SECTION 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized and/or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed.</i> – Any public officer or employee who misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.</p> <p>Any elective local or national official found to have benefited from the proceeds of the trafficking of dangerous drugs as prescribed in this Act, or have received any financial or material contributions or donations from natural or juridical persons found</p>	<p>The penalty of life imprisonment to death²⁶ and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office.</p>

²⁵ TSN October 9, 2019, page 211.

²⁶ Originally penalized with Death. But by virtue of RA 9346, the penalty of reclusion perpetua / life imprisonment shall be imposed in lieu of death penalty.

ACTS COMMITTED	LAWS VIOLATED	PENALTY
	<p>guilty of trafficking dangerous drugs as prescribed in this Act, shall be removed from office and perpetually disqualified from holding any elective or appointive positions in the government, its divisions, subdivisions, and intermediaries, including government-owned or - controlled corporations.</p>	
<p>MALFEASANCE Calling Lacadin and Aquino not to implement the Dismissal Order signed by Petrasanta</p>	<p>Article 208 of the Revised Penal Code ARTICLE. 208. <i>Prosecution of offenses; negligence and tolerance</i> - Any public officer, or officer of the law, who, in dereliction of the duties of his office, shall maliciously refrain from instituting prosecution for the punishment of violators of the law, or shall tolerate the commission of offenses</p>	<p>The penalty of prison correccional in its minimum period and suspension</p>
<p>MALFEASANCE Calling Lacadin and Aquino not to implement the Dismissal Order signed by Petrasanta</p>	<p>Section 3 (a) R.A. No. 3019 (Anti-Graft and Corrupt Practices Act) (a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.</p>	<p>Imprisonment for not less than one year nor more than ten years, perpetual disqualification from public office, and 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>MALFEASANCE Caused injury to the</p>	<p>Section 3 (e) RA 3019 (Anti-Graft and Corrupt Practices Act)</p>	

ACTS COMMITTED	LAWS VIOLATED	PENALTY
State, Ding Wen Kun, and Johnson Lee	(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.	

2. Baloyo and his merry men

ACTS COMMITTED	LAWS VIOLATED	PENALTIES
<p>MALFEASANCE</p> <p>Baloyo and the buy-bust team fails to properly account the seized contraband.</p>	<p>Section 27 of R.A. No. 9165 (the Comprehensive Dangerous Drugs Act of 2002)</p> <p><i>SECTION 27. Criminal Liability of a Public Officer or Employee for Misappropriation, Misapplication or Failure to Account for the Confiscated, Seized or Surrendered Dangerous Drugs, Plant Sources of Dangerous Drugs, Controlled Precursors and Essential Chemicals, Instruments/Paraphernalia and/or Laboratory Equipment Including the Proceeds or Properties Obtained from the Unlawful Act Committed. – Any public officer or employee who</i></p>	<p>The penalty of life imprisonment to death²⁷ and a fine ranging from Five hundred thousand pesos (P500,000.00) to Ten million pesos (P10,000,000.00), in addition to absolute perpetual disqualification from any public office.</p>

²⁷ Originally penalized with Death. But by virtue of RA 9346, the penalty of reclusion perpetua / life imprisonment shall be imposed in lieu of death penalty.

ACTS COMMITTED	LAWS VIOLATED	PENALTIES
	<p>misappropriates, misapplies or fails to account for confiscated, seized or surrendered dangerous drugs, plant sources of dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment including the proceeds or properties obtained from the unlawful acts as provided for in this Act.</p>	
<p>MALFEASANCE</p> <p>Baloyo and the buy-bust team conducted a sham buy bust in the house owned by Ding Wen Kun.</p>	<p>Planting of Evidence</p> <p>Section 29 of RA 9165 (Comprehensive Dangerous Drugs Act)</p> <p>Section 29. <i>Criminal Liability for Planting of Evidence.</i> – Any person who is found guilty of "planting" any dangerous drug and/or controlled precursor and essential chemical, regardless of quantity and purity, shall suffer the penalty of death.</p>	<p>Life Imprisonment²⁸</p>
<p>MALFEASANCE</p> <p>Baloyo and the buy-bust team took the items they seized during the alleged buy-bust</p>	<p>Robbery</p> <p>Article 293 of the Revised Penal Code</p> <p>Article 293. Who are guilty of robbery. — Any person who, with intent to gain, shall take any personal property belonging to another, by means of violence or intimidation of any person, or using force upon anything shall be guilty of robbery</p>	<p>The penalty of prision mayor in its maximum period to reclusion temporal in its medium period, if the violence or intimidation employed in the commission of the robbery shall have been carried to a degree clearly unnecessary for the commission of the crime, or when the</p>

²⁸ Originally penalized with Death. But by virtue of RA 9346, the penalty of reclusion perpetua / life imprisonment shall be imposed in lieu of death penalty.

ACTS COMMITTED	LAWS VIOLATED	PENALTIES
		course of its execution, the offender shall have inflicted upon any person not responsible for its commission any of the physical injuries
<p>MALFEASANCE</p> <p>Baloyo and the buy-bust team arrested Ding Wen Kun</p>	<p>Unlawful Arrest</p> <p>Article 269 of the Revised Penal Code</p> <p>Article 269. <i>Unlawful arrest.</i> — Any person who, in any case other than those authorized by law, or without reasonable ground therefor, shall arrest or detain another for the purpose of delivering him to the proper authorities.</p>	<p>Arresto mayor and a fine not exceeding 100,000 pesos (RA 10591)</p>
	<p>Article 32 of the Civil Code</p> <p>Article 32. Any public officer or employee, or any private individual, who directly or indirectly obstructs, defeats, violates or in any manner impedes or impairs any of the following rights and liberties of another person shall be liable to the latter for damages:</p> <p style="text-align: center;">xxx</p> <p>(4) Freedom from arbitrary or illegal detention;</p> <p style="text-align: center;">xxx</p> <p>(6) The right against deprivation of property without due process of law;</p> <p style="text-align: center;">xxx</p>	<p>Civil Damages</p>

ACTS COMMITTED	LAWS VIOLATED	PENALTIES
	(9) The right to be secure in one's person, house, papers, and effects against unreasonable searches and seizures;	

H. **RECOMMENDATIONS**

A. **LEGISLATIVE PROPOSALS**

1. Strengthen the Internal Affairs Service (IAS)
 - Make IAS a truly independent institution, not within the PNP.
2. Amend the Dangerous Drugs Act of 2002.
 - Persons of good repute (retired judges/ lawyers / teachers, etc.) should monitor if the procedures on Chain of Custody and drug buy-bust were followed.
3. Suspension or dismissal of rogue policemen; not merely reassignment to other posts.
4. Confiscation of service firearms and badges of rogue policemen who have been dismissed or suspended or facing criminal and administrative charges.
5. Shorten the review of administrative cases filed against rogue policemen.
6. Creation of a training program which will conduct mandatory training on values, character formation and leadership for all policemen in order to professionalize the police force in all levels.
7. Police officers should have 4-year college course not taken with the PNPA. PNPA should focus on specific after-collegiate training (boot camp; 27 weeks).

I. Not quite an epilogue, yet... (A luta continua; a vitória é certa)

1. Stop kabaro system. The principles of mistah, bok, classmate, etc. must be reconfigured back to its original intentions: Loyalty, is not loyalty to a mistah, loyalty is to justice and to country above self.

"The fault, dear Brutus, is not in our stars / But in ourselves, that we are underlings."

2. Abolish PNPA, and in its stead, require college graduates for recruitment with a two-year program toward specialization, e.g., forensics, cyber-crime, traffic management, etc.
3. Now is a time for a cooling period for PNP. A period for decompression, and de-stressing while continuing to investigate the crimes of 2013.
4. Resignation from office is not exemption from liability; if no suspension can be imposed, fines may be imposed chargeable to whatever benefits Albayalde may still get and/or file administrative charges before he retires; probable criminal case must continue to be investigated.
5. Choose a PNP DG one who has a clean record; and one whose stress is the cleansing of the ranks, the reinstatement of proper values, e.g., love of country over self.

We can raise salaries of the PNP, inculcate & focus on value and character -building but any lofty system we create will crumble from the rot of greed, covetousness & blind pursuit of power if we do not fortify daily the values of principled leadership.

6. Quicker disposition of PNP disciplinary/administrative cases. It may now be time for the IAS to be an independent body outside of the police system. (model: UK's Independent Police Complaints Commission.)
7. There is a need to perpetuate testimonies of possible witnesses. Witnesses to this case are dying. Both Cura and Cabag died.
8. Arresting Officer Santos should be found and captured, and made to testify.
9. Unless all participate in the efforts to cleanse the existing system, we will all fail. The Bureau of Immigration must ensure that all those who enter our country are those whose intentions are not criminal or degenerate.
10. For example, the Bureau should look into why there are always Chinese nationals involved in the drug trade. We saw their clear participation in smuggling shabu by using steel canisters which were found in Bulacan and Manila, after passing through our porous Customs Bureau.
11. Later we discovered that a new modus operandi was utilized in smuggling illegal drugs; magnetic lifters were used this time in smuggling shabu. Again, Chinese nationals were seen in Cavite apparently opening the lifters to free its contents of shabu. In the investigation of the BuCor, we found out that Chinese drug lords hold court in Bilibid, so to speak, using the prison as virtual stock exchange of shabu- utilizing Filipinos as mere employees and enablers.
12. Here in this Pampanga raid, a foreign national drug lord- Korean or Chinese?- is again involved. We cannot sit idly by and allow this to happen. All shabu smuggled into this country come from China, under the control of Chinese nationals. This problem is so serious that this needs closer investigation.

13. The existing system of police discipline has failed us; it has failed the Filipino people. Despite his relief, no charges were filed against Albayalde for his failures in Pampanga. There is no clear report as to where the more substantial shabu and monies seized from Johnson Lee's house went. Those involved in the Pampanga *hulidap* were "exiled," and, under Albayalde's watch, rehabilitated and brought back to Luzon. Because no serious efforts to cleanse PNP's ranks had been made, these policemen led by Joven de Guzman has gone back to their old criminal ways. *Sila ay naghasik na naman ng kanilang lagim sa mga inosenteng mamayan ng ating bayan. Masisi ba ang bayan kung sasabihin na sila ay trinaydor ng mga pulis na dapat mag kandili sa kanila.? Sana itong pagsusumikap ng inyong mga Senador ay maging umpisa ng tunay na pagbabago.*

-end-



Senate

Office of the Secretary

'19 NOV -5 P 3:15

RECEIVED BY:

A handwritten signature in black ink, appearing to be "J", written over a horizontal line.

Republic of the Philippines
Senate of the Philippines
Pasay City

04 November 2019

RICHARD J. GORDON

Chairman

Committee on Justice and Human Rights
Senate of the Philippines

Thru: **Atty. Jose A. Babia**

Committee Secretary

Committee on Justice and Human Rights

Dear Senator Gordon:

This letter refers to the Comment I herewith submit to your good office, as Chairman of the Committee on Justice and Human Rights, with regard to the draft report by the Committees on Justice and Human Rights, Constitutional Amendments and Revision of Codes, and Accountability of Public Officers and Investigations (Blue Ribbon) on the joint inquiry regarding the implementation of R.A. No. 10592.

Thank you very much.

Yours sincerely,

A handwritten signature in black ink, appearing to be "Imee A. Marcos", written over a horizontal line.

IMEE R. MARCOS




Senate

Office of the Secretary

COMMENT

of SEN. IMEE R. MARCOS

to Committee Report No. 17 '19 NOV -5 P3 :15

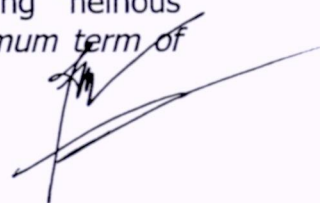
of the Committee on Justice and Human Rights, Committee on Constitutional Amendments and Revision of Codes, and the Committee on Accountability of Public Officers and Investigations (Blue Ribbon) 

I concur with the Committee Report, but only with regard to the noble intentions of strengthening the Philippine National Police (PNP), improving the police service, including the Internal Affairs Service (IAS), and our existing dangerous drugs law. Those aspects are clearly legislative in nature, and as senators, we owe it to the people to provide them with a police force that truly serves and protects them faithfully, and dangerous drugs laws that not only serve the compelling state interests, but are also fair and just for everyone, even to those who may be charged under it.

However, I must dissent with the rest of the report. I strongly recommend that the root cause of this investigation be put in light, which is the intent and implementation of R.A. No. 10592 particularly on the application of preventive imprisonment and allowance for good conduct. I also dissent on how it concludes that General Oscar Albayalde, Major Rodney Bayolo, among others are guilty or could be charged with criminal and administrative charges. Not only is it beyond our powers as senators to pass any form of judgment on criminal matters, it is likewise not our duty to question the President's appointment.

AMENDMENT OF R.A. NO. 10592

R.A. No. 10592 entitled, "*AN ACT AMENDING ARTICLES 29, 94, 97, 98 AND 99 OF ACT NO. 3815, AS AMENDED, OTHERWISE KNOWN AS THE REVISED PENAL CODE*" should be amended specifically on Sections 1 (Amending Art. 29 of the Revised Penal Code on period of preventive imprisonment deducted from term of imprisonment) and 3 (Amending Art. 97 of the Revised Penal Code on the allowance for good conduct) to remove confusions in the implementation of the law. A mere revision of the Implementing Rules and Regulations is not enough so as not to include habitual delinquents, recidivists, escapees, and persons charged with heinous crimes from earning Good Conduct Time Allowance (GCTAs) which may shorten their serving of sentences and credit for preventive imprisonment.

Moreover, the proviso, as provided in the law regarding "heinous crimes" should be simplified as: "*persons charged with a maximum term of*" 

imprisonment of more than six (6) years" so as to provide clarity in the implementation of the law, echoing P.D. No. 968 otherwise known as the "Probation Law."

STRENGTHENING THE PHILIPPINE NATIONAL POLICE (PNP) AND ITS DISCIPLINARY SYSTEM

A loyal and upright police force and a drug-free society, those are worthy objectives, and as lawmakers, we should debate and discuss on how to best provide them to our countrymen through the enactment and amendment of the laws attendant to the training and professionalism of the force.

A review of the disciplinary mechanism, especially on crimes punishable by six (6) years or more must be made. The Internal Affairs Service (IAS) should be a truly independent body with fiscal autonomy and adjudicatory powers. The PNP must periodically assess the effectiveness of the PNP's internal disciplinary mechanism especially the speedy investigation of cases.

The *kabaro* system can best be stopped by legislating its punishment. To prevent any undue injury to any party, including the government by giving any unwarranted benefits, advantage, or preference of *mistahs*, *boks*, classmates, etc., the current laws (ie. R.A. No. 3019 otherwise known as the "Anti-Graft and Corrupt Practices Act", R.A. No. 6713 otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees", etc.) should be expanded to include nepotism to ensure that officials should not unduly favor family or school friends and instead discharge their duties in a justly manner without manifest partiality, evident bad faith, or gross inexcusable negligence.

Courage, loyalty, and integrity are virtues the Philippine Military Academy (PMA) inculcates in their cadets. It is for national interest since when PMA cadets graduate, they play a significant role in nation building. These virtues have never been for personal interest.

We further dissent regarding the abolition of the PNPA, nonetheless, there should be a professional and leadership program in the institution and the current in-service Basic, Advanced, and Senior Executive Courses for police officers should be enhanced to be able to raise the level of professionalism within the police officer corps.

The PNP should undertake a genuine "general house-cleaning" program. Scalawags, "kotong" and "ninja cops" should be finally undertaken to restore the citizenry's belief in its police force and the laws.



MALFEASANCE, MISFEASANCE, AND NONFEASANCE

Although the Report states that Gen. Albayalde, Major Bayolo, among others "may" be guilty and subjected to the following criminal and administrative charges, we cannot, as legislators, call for a verdict. As of the moment, the Department of Justice (DOJ) and Department of Interior and Local Government (DILG) are conducting a probe on the issue and we must prevent a trial by publicity, as this may cause injustice to people who may be charged in violation of the law.

We are lawmakers. We create the law, but the Constitution does not give us the power to declare that there has been a violation of that law, nor to indict anybody for an alleged violation of that law. When we conduct hearings, it is not to ascribe guilt or innocence, or ensure punishment; we do so only in aid of legislation, to inform us of matters that will aid in the creation of better laws. As stated by the US Supreme Court in *Watkins v. United States*¹, and oft-quoted in our own Supreme Court rulings:


We start with several basic premises on which there is general agreement. **The power of the Congress to conduct investigations is inherent in the legislative process. That power is broad.** It encompasses inquiries concerning the administration of existing laws, as well as proposed or possibly needed statutes. It includes surveys of defects in our social, economic or political system for the purpose of enabling the Congress to remedy them. It comprehends probes into departments of the Federal Government to expose corruption, inefficiency or waste. **But, broad as is this power of inquiry, it is not unlimited.** There is no general authority to expose the private affairs of individuals without justification in terms of the functions of the Congress. This was freely conceded by the Solicitor General in his argument of this case. **Nor is the Congress a law enforcement or trial agency. These are functions of the executive and judicial departments of government. No inquiry is an end in itself; it must be related to, and in furtherance of, a legitimate task of the Congress. Investigations conducted solely for the personal aggrandizement of the investigators or to "punish" those investigated are indefensible.**

The report, sadly, goes beyond the legislative's jurisdiction. We are not a court of law; we are not an administrative tribunal; we are not prosecutors. We must be careful in making such pronouncements that do not contemplate

¹ *Watkins v. United States*, 354 U.S. 178, 187 (1957).



possible legislation but instead encroach on the functions of the executive and the judiciary, ever mindful of the fact that the principle of separation of powers limits our functions to law-making only.²


IMEE R. MARCOS

² A legislative investigation in aid of legislation and court proceedings has different purposes. On one hand, courts conduct hearings or like adjudicative procedures to settle, through the application of a law, actual controversies arising between adverse litigants and involving demandable rights. On the other hand, inquiries in aid of legislation are, inter alia, undertaken as tools to enable the legislative body to gather information and, thus, legislate wisely and effectively; and to determine whether there is a need to improve existing laws or enact new or remedial legislation, albeit the inquiry need not result in any potential legislation. xxx [Romero II v. Estrada, 583 SCRA 396, 405, G.R. No. 174105, April 2, 2009. *En banc.*]

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SENATE

P.S. Res. No. 106

'19 AUG 22 P 3 :35

Introduced by Senator FRANKLIN M. DRILON

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

1 WHEREAS, Secretary of Justice Menardo Guevarra has publicly announced that
2 some 11,000 inmates, including former Calauan, Laguna mayor Antonio Sanchez, may
3 be released from prison within the next two months pursuant to the provisions of
4 Republic Act No. 10592 and in accordance with the Supreme Court decision in *Inmates*
5 *of the New Bilibid Prison, et al. v. Sec. Leila M. De Lima, et al.* and *Reynaldo D. Edago,*
6 *et al. v. Sec. Leila M. De Lima, et al.* (G.R. Nos. 212719/214637, 25 June 2019);

7 WHEREAS, Bureau of Corrections spokesperson Sonny Del Rosario has also
8 publicly stated that Antonio Sanchez, who was convicted of seven (7) counts of rape
9 with homicide and sentenced to suffer the penalty of seven (7) *reclusion perpetua* for
10 the gruesome rape-slay of Eileen Sarmenta and killing of Allan Gomez in 1993 has
11 "already served 49 years based on the computation of his good conduct time
12 allowance";

13 WHEREAS, Art. 94 of the Revised Penal Code (RPC), as amended by R.A. No.
14 10592, provides that criminal liability is extinguished partially for good conduct
15 allowances which the culprit may earn while he is undergoing preventive imprisonment
16 or service sentence;

17 WHEREAS, the primordial impetus for allowing early release of prisoners for
18 good conduct allowances is to give premium reward to inmates who have shown good
19 behavior, remorse and have signified rehabilitative behavior;

20 WHEREAS, the Implementing Rules and Regulations (IRR) of R.A. No. 10592
21 defines "good conduct" as the "conspicuous and satisfactory behavior of a detention

1 or convicted prisoner consisting of active involvement in rehabilitation programs,
2 productive participation in authorized work activities or accomplishment of exemplary
3 deeds couple with faithful obedience to all prison/jail rules and regulations”;

4 WHEREAS, Section 4 of the IRR further provides that the grant of good conduct
5 time shall be “understood that in all instances, the detained or convicted prisoner must
6 faithfully obey all prison/jail rules and regulations”;

7 WHEREAS, Sanchez’s alleged good behavior is questionable because in 2006
8 he was charged with possession of illegal drugs after a prison guard allegedly found
9 him to be keeping a packet of “shabu” and marijuana, along with other illegal drugs
10 paraphernalia;

11 WHEREAS, in 2010, then New Bilibid Prison Director General Oscar Calderon
12 told the media that Sanchez is suspected of selling P1.5 million-worth of “shabu” to
13 his fellow prisoners;


14 WHEREAS, Art. 29 of RPC, as amended by R.A. No. 10592, states that the grant
15 of credit for preventive imprisonment shall not apply to an accused who has been
16 convicted previously twice or more times of any crime;

17 WHEREAS, in 1999, Antonio Sanchez was convicted of double murder for the
18 deaths of Nelson and Rickson Peñalosa (*People v. Sanchez*, G.R. No. 131116, 27
19 August 1999), thereby disqualifying him for credit under the law;

20 WHEREAS, based on the foregoing, the Bureau of Corrections, together with
21 the Bureau of Jail Management, who is mandated under R.A. No. 10592 to compute
22 and grant the time allowances for good conduct, must therefore do the same with
23 utmost due diligence, and in accordance with the law; Now, therefore, be it

24 RESOLVED BY THE SENATE, as it is hereby resolved to direct the Senate
25 Committee on Justice and Human Rights to conduct an inquiry, in aid of legislation,
26 into the reported eligibility of Antonio Sanchez for an early release from prison with
27 the end in view of ensuring the proper implementation of, and enacting remedial
28 legislation to, Republic Act No. 10592.

Adopted,


FRANKLIN M. DRILON

EIGHTEENTH CONGRESS OF THE }
REPUBLIC OF THE PHILIPPINES }
First Regular Session }



S E N A T E
P.S. Resolution No. 107

Introduced by **SENATOR VICENTE C. SOTTO III**

RESOLUTION

DIRECTING THE SENATE COMMITTEES ON JUSTICE AND HUMAN RIGHTS; CONSTITUTIONAL AMENDMENTS AND REVISION OF CODES; 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

WHEREAS, Republic Act Number 10592, which expanded the application of good conduct time allowance (GCTA) for prisoners even during preventive imprisonment and increased the number of days that may be credited for good conduct, was enacted into law on May 29, 2013;

WHEREAS, the GCTA recognizes the ability of prisoners to reform while serving their sentences, and its purpose is to reward the inmates of their good conduct and exemplary behavior during their incarceration;

WHEREAS, RA 10592's implementation is now being put to the test by reason of the possible release of former Calauan, Laguna Mayor Antonio Sanchez who has been sentenced to suffer the maximum penalty of seven (7) counts of *reclusion perpetua* for the crime of rape with homicide – which is one of the most sensational crimes of the 1990s;

WHEREAS, former Mayor Sanchez's possible release from prison pursuant to RA 10592 is now being questioned, particularly on the correctness of the computation of the GCTA and the propriety of its application to the former mayor, to begin with – considering that in 2006, while serving his sentence, Antonio Sanchez was charged with illegal

possession of drugs; and in 2010, P1.5 million worth of shabu was found in his prison cell. These acts will not entitle Mayor Sanchez for GCTA as they are considered violation of prison rules, based on the Uniform Manual on Time Allowances and Service of Sentence;

WHEREAS, in this regard, the inclusion of a provision on the forfeiture of earned GCTA in cases of commission of a crime or any violation of law, and the conditions for entitlement to the privilege under the subject law must also be considered;

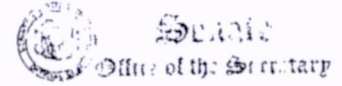
WHEREAS, by virtue of RA 10592, about 11,000 prisoners under the Bureau of Corrections will likewise be released – whether they committed light or grave felonies;

WHEREAS, the purpose of the law may be good and favorable especially to those poor criminals who were found guilty because they cannot afford private lawyers who can competently represent them; however, there are some who do not deserve to enjoy the benefits of this law but will receive it just the same;

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved by the Senate of the Philippines, to direct 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.

Adopted.


VICENTE C. SOTTO III



SENATE
P. S. Res No. 108

'19 AUG 27 P2:51

Introduced by Senator Maria Lourdes Nancy S. Binay

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

1 WHEREAS, there has been a public outcry regarding the impending release of
2 11,000 inmates due to the Republic Act 10595 and the ruling of the Supreme Court
3 to apply the said law retroactively;

4 WHEREAS, the implementation of Republic Act 10592 had also raised
5 questions on the computation of Good Conduct Time Allowance (GCTA) of persons
6 deprived of liberty;

7 WHEREAS, according to reports, one of the possible beneficiary of the law
8 increasing the GCTA is former Calauan, Laguna mayor, Antonio Sanchez, who has
9 been convicted for the gruesome rape-slay of Eileen Sarmenta, and the murder of
10 Allan Gomez, both students of the University of the Philippines-Los Banos at the time
11 of the crime¹;

12 WHEREAS, Section 3 of Republic Act 10592 provides,

13 "Article 97 of the same Act is hereby further amended to read as follows:

¹ Philstar news website, "Ex-mayor Antonio Sanchez set for release,
<https://www.google.com.ph/amp/s/www.philstar.com/headlines/2019/08/21/1945203/ex-mayor-antonio-sanchez-set-release/amp/>

14 "ART. 97. Allowance for good conduct. – The good conduct of any offender qualified for
15 credit for preventive imprisonment pursuant to Article 29 of this Code, or of any
16 convicted prisoner in any penal institution, rehabilitation or detention center or any
17 other local jail shall entitle him to the following deductions from the period of his
18 sentence:

19 "1. During the first two years of imprisonment, he shall be allowed a deduction of
20 twenty days for each month of good behavior during detention;

21 "2. During the third to the fifth year, inclusive, of his imprisonment, he shall be allowed
22 a reduction of twenty-three days for each month of good behavior during detention;

23 "3. During the following years until the tenth year, inclusive, of his imprisonment, he
24 shall be allowed a deduction of twenty-five days for each month of good behavior
25 during detention;

26 "4. During the eleventh and successive years of his imprisonment, he shall be allowed a
27 deduction of thirty days for each month of good behavior during detention; and

28 "5. At any time during the period of imprisonment, he shall be allowed another
29 deduction of fifteen days, in addition to numbers one to four hereof, for each month of
30 study, teaching or mentoring service time rendered.

31 "An appeal by the accused shall not deprive him of entitlement to the above allowances
32 for good conduct."

33 WHEREAS, Justice Secretary Menardo Guevarra said Sanchez may be released
34 from prison along with at least 11,000 inmates in the next two months because of a
35 new law increasing good conduct allowance (GCTA) and a Supreme Court (SC)
36 decision applying the same law retroactively²;

37 WHEREAS, The Supreme Court in their En Banc session on 25 June 2019 and
38 in a decision penned by Associate Justice Diosdado M. Peralta, declared invalid
39 Section 4, Rule 1 of the Implementing Rules and Regulations ("IRR") of Republic Act
40 No. 10592 ("R.A. 10592") in so far as the said IRR provided for the prospective

² Philstar news website, "Ex-mayor Antonio Sanchez set for release,
<https://www.google.com.ph/amp/s/www.philstar.com/headlines/2019/08/21/1945203/ex-mayor-antonio-sanchez-set-release/amp/>

41 application of the grant of time allowance of prisoners for: i.) good conduct, ii.)
42 study, teaching, and mentoring service, and iii.) loyalty³.

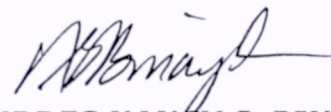
43 WHEREAS, as a consequence, all prisoners regardless of whether already
44 serving his/her sentence or undergoing preventive imprisonment may qualify for the
45 reduction of their sentence pursuant to the time allowances under R.A. 10592⁴;

46 WHEREAS, there is a need to revisit the purpose and coverage of Republic Act
47 No. 10592;

48 WHEREAS, it is imperative that the Senate of the Philippines to look into the
49 matter to improve people's trust in our government institutions and justice system;

50 BE IT RESOLVED, AS IT IS HEREBY RESOLVED, to direct the appropriate
51 Senate Committees, to conduct an inquiry in aid of legislation, on the implementation
52 of Republic Act 10592 particularly the computation of the Good Conduct Time
53 Allowance (GCTA) of persons deprived of liberty, in light of the impending release of
54 11,000 inmates due to the revision of the computation of GCTA and its retroactive
55 application.

Adopted,



MARIA LOURDES NANCY S. BINAY
Senator

³ sc. Judiciary.gov.ph/4510/

⁴ Ibid.

EIGHTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
First Regular Session)



SENATE
P. S. RES. No. 123

'19 SEP -3 P3:14

Introduced by SENATOR RONALD "BATO" DELA ROSA

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

WHEREAS, on May 29, 2013, then President Benigno Simeon Aquino III signed into law Republic Act No. 10592 or "An Act Amending Articles 29, 94, 97, 98, and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code. The law provides for longer deductible time allowance for good conduct, time allowance for study, teaching and mentoring, and special time allowance for loyalty;

WHEREAS, the Department of Justice (DOJ) and the Department of Interior and Local Government (DILG) issued the Implementing Rules and Regulations (IRR) of Republic Act No. 10592 on March 26, 2014;

WHEREAS, the Supreme Court in a decision promulgated on June 15, 2019 declared invalid the prospective application of Section 4 of the IRR of Republic Act No. 10592 as stated in the Implementing Rules and Regulations issued jointly by the DOJ and DILG;

WHEREAS, as a result of the decision of the Supreme Court on the retroactive application of Republic Act No. 10592, news reports on alleged release of convicted heinous crime offenders started to circulate;

WHEREAS, former Calauan, Laguna Mayor Antonio Sanchez who has been sentenced by final judgment to suffer seven (7) *reclusion perpetua* for the crime of rape with homicide has been reported to have been approved and will be allowed for release by virtue of the retroactive application of Republic Act No. 10592;

WHEREAS, the Senate investigation, in aid of legislation, thru the Committee on Justice and Human Rights, revealed the misinterpretation and possible confusion on the legislative intent and rationale of the DOJ and DILG thru its issued IRR on the enactment of Republic Act No. 10592;

WHEREAS, in the case of ABAKADA Guro Partylist vs. Purisima, G. R. No. 166715 promulgated on August 14, 2008, declared that "As such, they (IRR) have the force and effect of law and enjoy the presumption of constitutionality and legality until they are set aside with finality in an appropriate case by a competent court. Congress in the guise of assuming the role of an overseer, may not pass upon their legality by subjecting them to its stamp of approval without disturbing the calculated balance of powers established by the Constitution."

WHEREAS, to ensure the inviolable principle of separation of powers, the Congress may only express its sense on the possible misinterpretation of the executive branch of the government on the legislative intent of any enacted laws.

RESOLVED BY THE SENATE, as it is hereby resolved, by the Philippine Senate, to urge the Department of Justice and Department of Interior and Local Government to review, amend and modify the issued Implementing Rules and Regulation 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.

Adopted,


RONALD "BATO" DELA ROSA