

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

SENATE
OFFICE OF THE SECRETARY

10 AUG 17 P2:33

SENATE
S. No. 2422

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

There are quarters in our political system that succumb to the temptation of using their power and in the process undermine the system of justice and accountability just to remain in power and position. Many killings and disappearances of human rights activists and members of the media remain unsolved and allegations of military and police involvement in the crimes are being pointed out by many victims and witnesses. The continuing persistent deviation by any subordinate of a state agent cannot continue without the approval and acquiescence of his or her superior and this we cannot allow to continue. State agents like the members of the military, the police and other allied government security services should always adhere to our laws and when they commit a malfeasance, misfeasance and non-feasance and in the result violate the rights of the people. Thus, we should not allow impunity and it is imperative that we punish the most responsible for the crime or violation to prevent any possibility of a state turning against its own citizens by abusing its power using violence, intimidation and impunity.

The entrenchment of the doctrine of superior responsibility in our laws is part of the administration of justice particularly on crimes and cases of human rights violation. This doctrine is in consonance with the constitutional mandate that in a republican system of government, public officers are vested with power to uphold the rule of law. In cases of breach by their subordinates, they would also be held accountable for their acts and answerable to the people for such breach of mandate and responsibility to clearly draw the lines of accountability and responsibility.

Hence, this bill seeks to strengthen the application of the doctrine of command responsibility in our criminal laws and punish those who are most responsible for gross human

rights violation and avoid “blank wall” conclusions in investigations, of the same, thereby ending impunity in such cases.

This bill was originally filed by President Benigno S. Aquino III during the Fourteenth Congress.

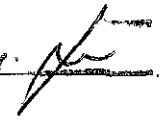
miriam defensor santiago
MIRIAM DEFENSOR SANTIAGO
acc.

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1 AN ACT
2 ADOPTING THE DOCTRINE OF "SUPERIOR RESPONSIBILITY"
3 IN ALL ACTIONS INVOLVING MILITARY PERSONNEL, MEMBERS OF
4 THE PHILIPPINE NATIONAL POLICE AND OTHER CIVILIANS
5 INVOLVED IN LAW ENFORCEMENT

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

6 SECTION 1. *Short Title.* – This Act shall be known as the "Superior Responsibility Act".

7 SECTION 2. *Declaration of Policy.* – It is a declared policy of the State that a public
8 office is a public trust and that public officers and employees must at all times be accountable to
9 the people and serve them with utmost responsibility. It is also declared as a policy that
10 accountability is a key component in good governance and is a cornerstone of any democratic
11 society. To this end, public officials and employees should be held liable for abuse of power
12 when they arrogate authority unto themselves. It is also declared that state instruments should
13 not be used to violate the rights of the people, since the government exists for their betterment
14 and protection. Towards this end, a high degree of professionalism, responsibility and
15 accountability must be imposed on superiors and senior officers of government who has control
16 and supervision over the military, the police and their allied services, and hold such superior and
17 senior officers, who by their consent, toleration or negligence in the control and supervision of
18 their subordinates, the citizens whom they vowed to protect, become their victims.

19 SECTION 3. *Definition of Terms.* – As used in this Act, the term:

20 a. "Superior responsibility" refers to the responsibility and accountability of a public
21 officer who has administrative and operational control over the security and police forces
22 including other allied government security services who have direct or effective control over the

1 acts of his or her subordinates if such senior or superior officer has knowledge that a crime or
2 offense punishable under the Revised Penal Code and other special penal laws or any human
3 rights violation, has been committed, is being committed, or shall be committed by his or her
4 subordinates, or by others and despite such knowledge, such senior or superior officer did not
5 take corrective action either before, during or immediately after its commission and failed to
6 prevent any feasible measure within his powers to prevent the breach;

7 b. "Superior" refers to a person exercising effective control over his/ her subordinates.

8 c. "Effective control" refers to the material ability of a superior to control the actions of
9 his/her subordinates in preventing and/or or punishing a criminal conduct.

10 d. "Knowledge" refers to the awareness that the relevant crimes or violation were
11 committed or are about to be committed. It could take in the following forms:

12 i. Actual knowledge

13 ii. Serious personal dereliction on the part of the superior as to constitute willful and
14 wanton disregard of the possible consequences.

15 iii. An imputation of constructive knowledge that is, despite pleas to the contrary, the
16 superior, under the facts and circumstances of the particular case, must have known
17 of the crimes committed and charged and acquiesced therein.

18 SECTION 4. *Persons Covered.* – This Act shall cover the following:

19 (a) Superior civilians who has administrative and operational control of the following
20 government offices:

21 1. AFP and its component units including the CAFGUs.

22 2. Department of National Defense

23 3. National Security Council

24 4. Philippine National Police

25 5. Bureau of Jail Management

26 6. Bureau of Corrections

27 7. Bureau of Fire Protection

28 8. Philippine Coastguard

1 9. National Bureau of Investigation

2 10. Other government offices involved in law enforcement which may be created by law.

3 Provided that they have direct knowledge of any crime and human rights violation by
4 reason of his or her office, which consciously disregarded information on such violation by their
5 subordinates.

6 (b) All officers and their subordinates in active service of the Armed Forces of the
7 Philippines.

8 (c) All officers and subordinates of the Philippine National Police.

9 SECTION 5. *Acts covered.* – Any act or crime punishable under the Revised Penal Code
10 (Act 3815) other special penal laws, as well as the Articles of War (Commonwealth Act 408) are
11 hereby covered.

12 SECTION 6. *Elements of Command Responsibility.* – The following elements must be
13 proven in order for a superior to incur responsibility under this Act:

- 14 1. The existence of a relationship of superiority and subordination between the superior
15 and the perpetrator of the underlying crime or violation.
- 16 2. An effective control on the part of the superior within his jurisdiction and he or she
17 exercised feasible measures in all circumstances and are within his or her power.
- 18 3. The knowledge of the superior that his or her subordinate had committed or about to
19 commit the crime
- 20 4. The superior failed to prevent the commission of the crime, the investigation thereof
21 or to punish the perpetrator

22 SECTION 7. *Presumption of Knowledge.* – Senior or Superior Officers are presumed to
23 have knowledge of the commission of irregularities or crimes committed by his or her
24 subordinates herein provided in any of the following circumstances:

- 25 a) When the acts or crimes are committed in a widespread manner within his or her area
26 of jurisdiction;

1 b) When the said acts or crime have been repeatedly or regularly committed within his or
2 her area of responsibility; or

3 c) When members of his immediate staff, office personnel or command are involved or
4 implicated.

5 SECTION 8. *Liability.* – Senior or superior officers found to be accountable under the
6 doctrine of superior responsibility under this Act shall be administratively, civilly and criminally
7 liable as a principal as defined under Act No. 3815 or the Penal Code, Article 17, and shall suffer
8 the penalty provided for the crimes committed by his or her subordinates, as provided by the
9 Revised Penal Code and other special penal laws.

10 SECTION 9. *Implementing Rules and Regulations.* – The Department of National
11 Defense (DND), in coordination with the Department of Justice (DOJ), the Department of
12 Interior and Local Government, the Commission on Human Rights and the President of the
13 Integrated Bar of the Philippines (IBP), and the UP Law Center shall promulgate the necessary
14 implementing rules and regulations of this act within thirty (30) days after the passage of this
15 Act.

16 SECTION 10. *Separability Clause.* – If any provision of this Act shall be declared
17 unconstitutional, any other provision not affected thereby shall remain in full force and effect.

18 SECTION 11. *Repealing Clause.* – All laws, decrees, orders, rules and regulations, or
19 parts thereof inconsistent with this Act are hereby repealed or amended accordingly.

20 SECTION 12. *Effectivity.* – This Act shall take effect fifteen (15) days after its
21 publication in at least two (2) newspapers of general circulation.

Approved,