

SIXTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

SENATE

S B No 2603

75 FEB -2 P1 :28

Introduced by Senator Teofisto "TG" Guingona III,
Senator Paolo Benigno "Bam" Aquino IV & Senator Aquilino "Koko" Pimentel III

**"AN ACT
CREATING A FACT-FINDING COMMISSION, TO BE CALLED THE
'MAMASAPANO TRUTH COMMISSION,' WITH PLENARY POWERS TO
INVESTIGATE AND REPORT UPON THE DEATHS AND INJURIES OF
MEMBERS OF THE SPECIAL ACTION FORCE UNIT OF THE PHILIPPINE
NATIONAL POLICE IN MAMASAPANO, MAGUINDANAO"**

EXPLANATORY NOTE

*They went with songs to the battle, they were young,
Straight of limb, true of eye, steady and aglow
They were staunch to the end against odds uncounted,
They fell with their faces to the foe.*

*They shall grow not old, as we that are left grow old
Age shall not weary them, nor the years condemn.
At the going down of the sun and in the morning
We will remember them.*

- Robert Laurence Binyon

On January 25, 2015, while on a mission to serve arrest warrants to two suspected terrorists - Malaysian Jemaah Islamiyah leader, Zulkifli bin Hir also known as "Marwan" and Filipino bomb maker, Abdulbasit Usman, forty-four (44) members of the Philippine National Police Special Action Force (PNP SAF) died, with twelve (12) getting injured in Mamasapano, Maguindanao, during an armed conflict with other armed elements, which allegedly included the Bangsamoro Islamic Freedom Fighters (BIFF) and the Moro Islamic Liberation Front (MILF)."

The facts and circumstances remain unclear as to how this unfortunate event occurred.

This bill creates a fact-finding commission, to be called the "Mamasapano Truth Commission," that will have plenary powers to investigate and report upon this tragedy. This tragedy has far-reaching consequences and implications, which strike at the very heart of the Nation, and may impede the ongoing peace process between the National Government and

the MILF. An independent and impartial Commission is therefore necessary to enable us to get to the bottom of this tragedy.

Forty-four of our bravest elite police force perished in the grisly encounter, and twelve (12) remain suffering because of their injuries. The creation of this Commission shall be our humble way of honoring our fallen heroes, who served the country with excellence, valor and patriotism. We should not allow their deaths or injuries to be in vain.

In view of the foregoing, early passage of this measure is urgently sought.



TEOFISTO "TG" GUINGONA III



PAOLO BENIGNO "BAM" AQUINO IV



AQUILINO "KOKO" PIMENTEL III

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Secretary
of the Senate

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NATIONAL POLICE IN MAMASAPANO, MAGUINDANAO"**

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

1 **SECTION 1. Creation of a Fact-Finding Commission** – There is hereby created an
2 independent ad hoc fact-finding Commission, to be called the "Mamasapano Truth
3 Commission," to determine all the facts and circumstances surrounding the death of forty-
4 four (44) and the wounding of twelve (12) members of the elite Special Action Force (SAF)
5 Unit of the Philippine National Police (PNP) during an encounter with other armed elements,
6 which allegedly included members of the Bangsamoro Islamic Freedom Fighters (BIFF) and
7 the Moro Islamic Liberation Front (MILF) in Mamasapano, Maguindanao on 25 January
8 2015

9 The Commission shall be composed of a Chairperson and two (2) Commissioners, who
10 together will act as an independent collegial body. They shall be appointed by the President
11 of the Philippines.

12 Notwithstanding any vacancy, the Commission shall continue to function and a new
13 Commissioner shall be immediately appointed

14 **SECTION 2. Qualifications of the Chairperson and Commissioners** – No person shall be
15 appointed Chairperson or Commissioner of the "Mamasapano Truth Commission" unless:

- 16 a) he/she is a natural-born Filipino Citizen;
17 b) he/she is of good moral character, unquestionable integrity, probity and patriotism;
18 and
19 c) he/she is of recognized competence in his/her profession

1 The Chairperson, in addition to the aforementioned, should be a member of the Philippine
2 Bar, who has been engaged in the practice of law for at least ten (10) years.

3 **SECTION 3. Powers and Functions.** – The Commission is primarily tasked to conduct a
4 thorough fact-finding investigation of the facts and circumstances surrounding the
5 “Mamasapano incident ” In particular, it shall:

- 6 a) Collect, receive, review and evaluate evidence related to the incident;
- 7 b) Issue *subpoena ad testificandum* or *subpoena duces tecum*, and other compulsory
8 processes requiring the attendance and testimony of witnesses and the production of any
9 evidence relative to any matter under investigation by the Commission
- 10 c) Administer oaths and affirmations and examine witnesses;
- 11 d) Cite in contempt, and impose appropriate penalties as a result thereof, any person who
12 refuse, without lawful excuse, to obey a subpoena, take an oath, or give testimony or produce
13 documents for inspection as required by the Commission;
- 14 e) Write a report, with its findings, conclusions and recommendations, based on its
15 independent investigation,
- 16 f) Recommend, in cases where there is a need to utilize any person as a state witness to
17 ensure that the ends of justice be fully served, that such person, who qualifies as a state
18 witness, under the Revised Rules of Court of the Philippines, be admitted for that purpose;
- 19 g) Call upon the departments, bureaus, offices, agencies or instrumentalities of the
20 Government, including government-owned and controlled corporations, to extend such
21 assistance and cooperation as the Commission may need in the exercise of its powers,
22 execution of its functions, and discharge of its duties and responsibilities, with the end in
23 view of accomplishing its mandate;
- 24 h) Engage or contract the services of resource persons, consultants, professionals, and
25 other personnel determined by it as necessary to carry out its mandate,
- 26 i) Promulgate its rules and regulations or rules of procedure it deems necessary to
27 effectively and efficiently carry out the objectives of this law, and to ensure the orderly
28 conduct of its investigations, proceedings and hearings, including the presentation of
29 evidence, and
- 30 j) Exercise such other acts incident to or are appropriate and necessary in connection with
31 the objectives and purposes of this Order

32 **SECTION 4. Conduct of Proceedings.** – The proceedings of the Commission shall be in
33 accordance with the rules promulgated by the Commission. Hearings or proceedings of the
34 Commission shall be open to the public. However, the Commission may, *motu proprio*, or
35 upon the request of the person testifying, hold an executive or closed-door hearing, where
36 matters of national security or public safety are involved, or when the personal safety of the
37 witness warrants the holding of such executive or closed-door hearing. The Commission shall
38 provide the rules for such hearing

1 **SECTION 5. Constitutional Rights of Witnesses/Resource Persons.** – The Constitutional
2 rights of any person called to testify before the Commission shall be respected

3 **SECTION 6. Report of the Commission** – Within a reasonable time, the Commission shall
4 endeavor to complete the investigation and submit its comprehensive final report with its
5 findings, conclusions, and recommendations.

6 Prior thereto, the Commission, in its sole discretion, may publish such special interim reports
7 from time to time.

8 Reports of the Commission shall be sent to the Office of the President, copies of which shall
9 be provided to Congress.

10 All of the Commission’s reports shall also be made public.

11 Once the Commission has completed and published its report, the Commission shall
12 become *functus officio*, and all its assets and properties shall revert to the National Treasury.

13 **SECTION 7. Accountability of the Commission** – The “Mamasapano Truth Commission,”
14 as an entity created to serve justice, must at all times be accountable to the sovereign Filipino
15 People, by conducting investigations and issuing reports in an objective, thorough and
16 efficient manner.

17 **SECTION 8. Budget of the Commission** – The sum of Fifty Million Pesos
18 (₱50,000,000 00) is hereby appropriated out of available funds in the National Treasury for
19 the operational expenses of the Commission.

20 **SECTION 9. Separability Clause** — If for any reason, any section or provision of this Act
21 is declared to be unconstitutional or invalid, the other sections or provisions hereof which are
22 not affected thereby shall continue to be in full force and effect
23

24 **SECTION 10. Repealing Clause** — All laws, decrees, orders or rules and regulations, and
25 other issuances which are inconsistent with the provisions of this Act are hereby repealed,
26 amended or modified accordingly.
27

28 **SECTION 11. Effectivity** — This Act shall take effect fifteen (15) days after its publication
29 in two (2) national newspapers of general circulation
30

Approved,