

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



Senate
Office of the Secretary

16 JAN 25 P5:01

SENATE
S. No. 3097

RECEIVED BY: J

Introduced by Senator Miriam Defensor Santiago

AN ACT
TO PROVIDE FOR THE ANALYSIS OF THE INCIDENCE AND EFFECTS OF
SEXUAL ABUSE IN DETENTION AND TO PROVIDE INFORMATION,
RESOURCES, RECOMMENDATIONS, FUNDING, AND PUNISHMENT TO
PROTECT INDIVIDUALS FROM SEXUAL ABUSE IN DETENTION

EXPLANATORY NOTE

The Constitution, Article 2, Section 11, provides that:

The State values the dignity of every human person and guarantees full respect for human rights.

Men and women are raped and sexually brutalized in prisons throughout the country. Once subjected to sexual abuse, through violence or intimidation, a prisoner is easily trapped into a sexually subordinate role. Prisoners refer to the initial rape as "turning out" the victim, and the suggestion of transformation is telling. Through the act of rape, the victim is redefined as an object of sexual abuse. A prisoner has been proven weak and vulnerable in the eyes of other inmates.

Prisoners who are unable to escape a situation of sexual abuse may find themselves becoming another inmate's "property." Victims of sexual abuse, in the most extreme cases, are literally the slaves of the perpetrators. Forced to satisfy another person's sexual appetites whenever demanded of the victim, the victim may also be responsible for washing clothes, giving massages, cooking food, cleaning cells, and other chores. The victims are frequently "rented out" for sex, sold, or even auctioned off to other inmates, replicating the financial aspects of traditional slavery.

Sexual abuse is a serious human rights abuse that derails justice and destroys human dignity. This bill seeks to provide for the analysis of the incidence and effects of Sexual abuse and to provide information, resources, recommendations, and punishment to protect individuals from sexual abuse.¹


MIRIAM DEFENSOR SANTIAGO
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¹ This bill was originally filed during the Fourteenth Congress, First Regular Session.



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

1 SECTION 1. *Short Title.* - This Act shall be known as the "Sexual Abuse in
2 Detention Elimination Act."

3 SECTION 2. *Declaration of Policy.* - It is the policy of state to value the dignity of
4 every human person and guarantee full respect for human rights.

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

6 (A) "Inmate" or "prisoner" means any person incarcerated or detained in any
7 facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for,
8 violations of criminal law or the terms and conditions of parole, probation, pretrial
9 release, or diversionary program.

10 (B) "Jail" means a confinement facility of national, city, provincial, and
11 municipal, or local law enforcement agency to hold -

12 (1) persons pending adjudication of criminal charges; or

13 (2) persons committed to confinement after adjudication of criminal
14 charges for sentences of one (1) year or less.

15 (F) "Office" refers to the National Statistics Office

16 (G) "Panel" refers to the Review Panel on Sexual Abuse in Detention

1 (C) "Police lockup" means a temporary holding facility of national, city,
2 provincial, and municipal, or local law enforcement agency to hold -

3 (1) inmates pending bail or transport to jail;

4 (2) inebriates until ready for release; or

5 (3) juveniles pending parental custody.

6 (D) "Prison" means any national, city, provincial or municipal confinement
7 facility, whether administered by such government or by a private organization on behalf
8 of such government, and includes --

9 (1) any local jail or police lockup; and

10 (2) any juvenile facility used for the custody or care of juvenile inmates.

11 (E) "Prosecutor" refers to the Chief State Prosecutor

12 (F) "Sexual Abuse in Detention" refers to the rape, as defined in Article 266-A of
13 the Revised Penal Code and acts of lasciviousness, as defined in Article 336 of the
14 Revised Penal Code, of an inmate in the actual or constructive control of prison officials.

15 SECTION 4. *Purposes.* - The purposes of this Act are as follows:

16 (A) To establish a zero-tolerance standard for the incidence of Sexual Abuse in
17 Detention in prisons in the Philippines;

18 (B) To make the prevention of Sexual Abuse in Detention a top priority in each
19 prison system;

20 (C) To develop and implement national standards for the detection, prevention,
21 reduction, and punishment of Sexual Abuse in Detention;

22 (D) To increase the available data and information on the incidence of Sexual
23 Abuse in Detention, consequently improving the management and administration of
24 correctional facilities;

25 (E) To standardize the definitions used for collecting data on the incidence of
26 Sexual Abuse in Detention;

1 (F) To increase the accountability of prison officials who fail to detect, prevent,
2 reduce, or punish Sexual Abuse in Detention.

3 SECTION 5. *Annual Comprehensive Statistical Review.* -

4 (A) IN GENERAL. - The National Statistics Office shall carry out, for each
5 calendar year, a comprehensive statistical review and analysis of the incidence and
6 effects of Sexual Abuse in Detention. The statistical review and analysis shall include,
7 but shall not be limited to the identification of the common characteristics of -

- 8 (1) both victims and perpetrators of Sexual Abuse in Detention; and
9 (2) prisons and prison systems with a high incidence of Sexual Abuse in
10 Detention.

11 (B) CONSIDERATIONS. - In carrying out paragraph (A), the Office shall
12 consider-

- 13 (1) how the Office should collect information about staff-on-inmate sexual
14 assault;
15 (2) how the Office should collect information beyond inmate self-reports
16 of Sexual Abuse in Detention;
17 (3) how the Office should adjust the data in order to account for differences
18 among prisons;
19 (4) the categorization of prisons;
20 (5) whether a preliminary study of Sexual Abuse in Detention should be
21 conducted to inform the methodology of the comprehensive statistical
22 review.

23 (C) SOLICITATION OF VIEWS. - The Office shall solicit views from
24 representatives of the following: Bureau of Correction, National Bilibid Prisons,
25 Women's Correctional, and Municipal jails; the Bureau of Jail Management and

1 Penology; Department of Social Welfare and Development; former inmates; victim
2 advocates; researchers; and other experts in the area of sexual assault.

3 (D) SAMPLING TECHNIQUES. - The review and analysis under paragraph (A)
4 shall be based on a random sample, or other scientifically appropriate sample, of not less
5 than ten percent (10%) of National Bilibid Prisons, Women's Correctional, City jails,
6 provincial and municipal prisons, and juvenile facilities. The selection shall include at
7 least one prison from each city or province. The selection of facilities for sampling shall
8 be made at the latest practicable date prior to conducting the surveys and shall not be
9 disclosed to any facility or prison system official prior to the time period studied in the
10 survey. Selection of a facility for sampling during any year shall not preclude its selection
11 for sampling in any subsequent year.

12 (E) SURVEYS. - In carrying out the review and analysis under paragraph (A), the
13 Office shall, in addition to such other methods as the Office considers appropriate, use
14 surveys and other statistical studies of current and former inmates from a sample of
15 national, provincial and municipal prisons, city jails and juvenile facilities. The Office
16 shall ensure the confidentiality of each survey participant.

17 (F) PARTICIPATION IN SURVEYS.—National, provincial, municipal and city
18 officials or facility administrators who receive a request from the Office under paragraph
19 (D) or (E) will be required to participate in the national survey and to provide access to
20 any inmate in their custody.

21 SECTION 6. *Review Panel on Sexual Abuse in Detention.* -

22 (A) ESTABLISHMENT. - There will be a Panel, established within the
23 Department of Justice, to assist the Office in carrying out the review and analysis under
24 Section 5 paragraph A.

25 (B) MEMBERSHIP. -

1 (1) Composition. - The Panel shall be composed of three members, each of
2 whom shall be appointed by the Secretary of Justice, in consultation with
3 the Secretary of Health and the Secretary of Social Welfare and
4 Development.

5 (2) Qualifications. - Members of the Panel shall be selected from among
6 individuals with knowledge or expertise in matters to be studied by the
7 Panel.

8 (C) PUBLIC HEARINGS. -

9 (1) IN GENERAL. - The duty of the Panel shall be to carry out, for each
10 calendar year, public hearings concerning the operation of the three
11 national, provincial and municipal prisons with the highest incidence of
12 Sexual Abuse in Detention and the two prisons with the lowest incidence of
13 Sexual Abuse in Detention. The Panel shall hold a separate hearing
14 regarding the three jails, police lockups and juvenile facilities with the
15 highest incidence of Sexual Abuse in Detention. The purpose of these
16 hearings shall be to collect evidence to aid in the identification of common
17 characteristics of both victims and perpetrators of Sexual Abuse in
18 Detention, and the identification of common characteristics of prisons and
19 prison systems with a high incidence of Sexual Abuse in Detention, and the
20 identification of common characteristics of prisons and prison systems that
21 appear to have been successful in deterring Sexual Abuse in Detention.

22 (2) Testimony at hearings.-

23 (a) Public officials.- In carrying out the hearings required under
24 subparagraph (C), the Panel shall request the public testimony of
25 national, city, provincial and local officials, including the warden or
26 director of each prison, who bears responsibility for the prevention,

1 detection, and punishment of Sexual Abuse in Detention at each
2 entity, and the head of the prison system encompassing such prison.

3 (b) Victims. - The Panel may request the testimony of Sexual Abuse
4 in Detention victims, organizations representing such victims, and
5 other appropriate individuals and organizations.

6 (3) Subpoenas. -

7 (a) Issuance. - The Panel may issue subpoenas for the attendance of
8 witnesses and the production of documents or other matters.

9 (b) Enforcement. - In the case of contumacy or refusal to obey a
10 subpoena, the Secretary of Justice may in a court of appropriate
11 jurisdiction obtain an appropriate order to enforce the subpoena.

12 (D) REPORTS.-

13 (1) Deadline. - Not later than June 30 of each year, the Secretary of Justice
14 shall submit a report on the activities of the Office and the Panel, with
15 respect to Sexual Abuse in Detention, for the preceding calendar year to -

16 (a) Congress;

17 (b) Secretary of Health and

18 (c) Secretary of Social Welfare and Development

19 (2) Contents.--The report required under paragraph (A) shall include-

20 (a) with respect to the effects of Sexual Abuse in Detention,
21 statistical, sociological, and psychological data;

22 (b) with respect to the incidence of Sexual Abuse in Detention-

23 (i) statistical data aggregated for the national, city, provincial,
24 municipal and juvenile prison systems, and the levels of
25 sexual abuse at individual prisons;

1 (ii) a listing of those institutions in the representative sample,
2 separated into each category identified under paragraph (F)
3 and ranked according to the incidence of Sexual Abuse in
4 Detention in each institution; and
5 (iii) an identification of those institutions in the representative
6 sample that appear to have been successful in deterring
7 Sexual Abuse in Detention; and
8 (iv) a listing of any prisons in the representative sample that
9 did not cooperate with the survey conducted pursuant to
10 Section 5.

11 (E) DATA ADJUSTMENTS. - In preparing the information specified in
12 paragraph (D), the Office shall use established statistical methods to adjust the data as
13 necessary to account for differences among institutions in the representative sample,
14 which are not related to the detection, prevention, reduction and punishment of Sexual
15 Abuse in Detention, or which are outside the control of the jurisdiction, prison, or prison
16 system, in order to provide an accurate comparison among prisons. Such differences may
17 include the mission, security level, size, and jurisdiction under which the prison operates.
18 For each such adjustment made, the Attorney General shall identify and explain such
19 adjustment in the report.

20 (F) CATEGORIZATION OF PRISONS. - The report shall divide the prisons
21 surveyed into three categories. One category shall be composed of all national and local
22 prisons. The other two categories shall be defined by the Prosecutor in order to compare
23 similar institutions.

24 (G) Contracts and Grants.--In carrying out its duties under this section, the
25 Prosecutor may--

26 (a) provide grants for research through the Department of Justice;

1 (b) contract with or provide grants to any other entity the Prosecutor deems
2 appropriate.

3 **SECTION 7. *Sexual Abuse in Detention Prevention and Prosecution -***

4 **(A) INFORMATION AND ASSISTANCE. -**

5 (1) National clearinghouse. - There will be a National Clearinghouse
6 established within the National Bilibid Prisons and Women's Correctional
7 for the provision of information and assistance to local authorities
8 responsible for the prevention, investigation, and punishment of instances
9 of Sexual Abuse in Detention.

10 (2) Training and education. - The National Bilibid Prisons and Women's
11 Correctional shall conduct periodic training and education programs for
12 national, city, provincial and local authorities responsible for the
13 prevention, investigation, and punishment of instances of Sexual Abuse in
14 Detention.

15 **(B) REPORTS. -**

16 (1) IN GENERAL. -Not later than September 30 of each year, the National
17 Bilibid Prisons and Women's Correctional shall submit a report to
18 Congress and the Secretary of Health. This report shall be available to the
19 Director of the Office.

20 (2) CONTENTS. - The report required under paragraph (A) shall
21 summarize the activities of the Department of Justice regarding Sexual
22 Abuse in Detention abatement for the preceding calendar year.

23 **(C) PENALTY. -** The sentence imposed upon convicted offenders of Sexual
24 Abuse in Detention shall be one degree higher than those prescribed under the Revised
25 Penal Code for rape or acts of lasciviousness, as applicable.

26 **SECTION 8. *Grants to Protect Inmates and Safeguard Communities -***

1 (A) GRANTS AUTHORIZED. - From amounts made available for grants under
2 this section, the Prosecutor shall make grants to assist national, city, provincial, and
3 municipal authorities in ensuring that budgetary circumstances (such as reduced national
4 and local spending on prisons) do not compromise efforts to protect inmates (particularly
5 from Sexual Abuse in Detention) and to safeguard the communities to which inmates
6 return. The purpose of grants under this section shall be to provide funds for personnel,
7 training, technical assistance, data collection, and equipment to prevent and prosecute
8 prisoner rape.

9 (B) USE OF GRANT AMOUNTS. - Amounts received by a grantee under this
10 section may be used by the grantee, directly or through sub-grants, only for one or more
11 of the following activities:

12 (1) Protecting inmates.--Protecting inmates by-

- 13 (a) undertaking efforts to more effectively prevent Sexual Abuse in
14 Detention;
15 (b) investigating incidents of Sexual Abuse in Detention; or
16 (c) prosecuting incidents of Sexual Abuse in Detention.

17 (2) Safeguarding communities.--Safeguarding communities by-

- 18 (a) making available, to officials of national and local governments
19 who are considering reductions to prison budgets, training and
20 technical assistance in successful methods for moderating the growth
21 of prison populations without compromising public safety, including
22 successful methods used by other jurisdictions;
23 (b) developing and utilizing analyses of prison populations and risk
24 assessment instruments that will improve national and local
25 governments' understanding of risks to the community regarding
26 release of inmates in the prison population;

1 (c) preparing maps demonstrating the concentration, on a
2 community-by community basis, of inmates who have been released,
3 to facilitate the efficient and effective -

4 (i) deployment of law enforcement resources (including
5 probation and parole resources); and

6 (ii) delivery of services (such as job training and substance
7 abuse treatment) to those released inmates;

8 (d) promoting collaborative efforts, among officials of national and
9 local governments and leaders of appropriate communities, to
10 understand and address the effects on a community of the presence
11 of a disproportionate number of released inmates in that community;

12 or

13 (e) developing policies and programs that reduce spending on
14 prisons by effectively reducing rates of parole and probation
15 revocation without compromising public safety.

16 **(C) GRANT REQUIREMENTS. -**

17 (1) Period. - A grant under this section shall be made for a period of not
18 more than two years.

19 (2) Amount. - The amount of a grant under this Section shall be
20 appropriated from the National Treasury.

21 (3) Matching. - The National share of a grant under this section should not
22 exceed fifty percent (50%) of the total costs of the project described in the
23 application submitted under paragraph (D) for the fiscal year for which the
24 grant was made under this section.

25 **(D) APPLICATIONS. -**

1 (1) IN GENERAL. - To request a grant under this section, the chief
2 executive of a national, city, provincial, or municipal government agency
3 shall submit an application to the Prosecutor at such time, in such manner,
4 and accompanied by such information as the Prosecutor may require.

5 (2) CONTENTS. - Each application required by paragraph (A) shall-

6 (a) include the certification of the chief executive that the
7 jurisdiction receiving such grant-

8 (i) has adopted all national Sexual Abuse in Detention
9 standards that, as of the date on which the application was
10 submitted, have been promulgated under this Act; and

11 (ii) will consider adopting all national Sexual Abuse in
12 Detention standards that are promulgated under this Act after
13 such date;

14 (b) specify with particularity the preventative, prosecutorial, or
15 administrative activities to be undertaken by the jurisdiction with the
16 amounts received under the grant; and

17 (c) in the case of an application for a grant for one or more activities
18 specified in subsection (2) of paragraph (B), review the extent of the
19 budgetary circumstances affecting the jurisdiction generally;
20 describe the rate of growth of the national, city, provincial, or
21 municipal prison population over the preceding 10 years and explain
22 why the jurisdiction may have difficulty sustaining that rate of
23 growth; and explain the extent to which officials (including law
24 enforcement officials) of national and local governments and victims
25 of crime will be consulted regarding decisions whether, or how, to

1 moderate the growth of the national, city, provincial or municipal
2 prison population.

3 (E) REPORTS BY GRANTEE. -

4 (1) IN GENERAL. - The Prosecutor shall require each grantee to submit,
5 not later than ninety (90) days after the end of the period for which the
6 grant was made under this Section, a report on the activities carried out
7 under the grant. The report shall identify and describe those activities and
8 shall contain an evaluation of the effect of those activities on-

9 (a) the number of incidents of Sexual Abuse in Detention, and the
10 grantee's response to such incidents; and

11 (b) the safety of the prisons, and the safety of the communities in
12 which released inmates are present.

13 (2) Dissemination. - The Prosecutor shall ensure that each report submitted
14 under paragraph (1) is made available under the national clearinghouse
15 established under Section 7.

16 SECTION 9. *National Sexual Abuse in Detention Elimination Commission*

17 (A) ESTABLISHMENT.—There is established a commission to be known as the
18 National Sexual Abuse in Detention Elimination Commission (in this section referred to
19 as the "Commission").

20 (B) MEMBERS.—

21 (1) IN GENERAL.—The Commission shall be composed of nine
22 members, of whom—

23 (a) three shall be appointed by the President;

24 (b) two shall be appointed by the Speaker of the House of
25 Representatives, unless the Speaker is of the same party as the
26 President, in which case 1 shall be appointed by the Speaker of the

1 House of Representatives and 1 shall be appointed by the minority
2 leader of the House of Representatives;

3 (c) one shall be appointed by the minority leader of the House of
4 Representatives (in addition to any appointment made under
5 subparagraph (B));

6 (d) two shall be appointed by the majority leader of the Senate,
7 unless the majority leader is of the same party as the President, in
8 which case one shall be appointed by the majority leader of the
9 Senate and one shall be appointed by the minority leader of the
10 Senate; and

11 (e) one member appointed by the minority leader of the Senate (in
12 addition to any appointment made under subparagraph (D)).

13 (2) PERSONS ELIGIBLE.—Each member of the Commission shall be an
14 individual who has knowledge or expertise in matters to be studied by the
15 Commission.

16 (3) CONSULTATION REQUIRED.—The President, the Speaker and
17 minority leader of the House of Representatives, and the majority leader
18 and minority leader of the Senate shall consult with one another prior to the
19 appointment of the members of the Commission to achieve, to the
20 maximum extent possible, fair and equitable representation of various
21 points of view with respect to the matters to be studied by the Commission.

22 (4) TERM.—Each member shall be appointed for the life of the
23 Commission.

24 (5) TIME FOR INITIAL APPOINTMENTS.—The appointment of the
25 members shall be made not later than 60 days after the date of enactment of
26 this Act.

1 (6) VACANCIES.—A vacancy in the Commission shall be filled in the
2 manner in which the original appointment was made, and shall be made not
3 later than 60 days after the date on which the vacancy occurred.

4 (C) OPERATION.—

5 (1) CHAIRPERSON.—Not later than 15 days after appointments of all the
6 members are made, the President shall appoint a chairperson for the
7 Commission from among its members.

8 (2) MEETINGS.—The Commission shall meet at the call of the
9 chairperson. The initial meeting of the Commission shall take place not
10 later than 30 days after the initial appointment of the members is
11 completed.

12 (3) QUORUM.—A majority of the members of the Commission shall
13 constitute a quorum to conduct business, but the Commission may establish
14 a lesser quorum for conducting hearings scheduled by the Commission.

15 (4) RULES.—The Commission may establish by majority vote any other
16 rules for the conduct of Commission business, if such rules are not
17 inconsistent with this Act or other applicable law.

18 (D) COMPREHENSIVE STUDY OF THE IMPACTS OF SEXUAL ABUSE IN
19 DETENTION.—

20 (1) IN GENERAL.—The Commission shall carry out a comprehensive legal
21 and factual study of the penalogical, physical, mental, medical, social, and
22 economic impacts of Sexual Abuse in Detention in the Philippines on—

23 (a) National, provincial and local governments; and

24 (b) communities and social institutions generally, including
25 individuals, families, and businesses within such communities and
26 social institutions.

1 (2) MATTERS INCLUDED.—The study under paragraph (1) shall
2 include—

3 (a) a review of existing national, provincial and local government
4 policies and practices with respect to the prevention, detection, and
5 punishment of Sexual Abuse in Detention;

6 (b) an assessment of the relationship between Sexual Abuse in
7 Detention and prison conditions, and of existing monitoring,
8 regulatory, and enforcement practices that are intended to address
9 any such relationship;

10 (c) an assessment of pathological or social causes of Sexual Abuse
11 in Detention;

12 (d) an assessment of the extent to which the incidence of Sexual
13 Abuse in Detention contributes to the spread of sexually transmitted
14 diseases and to the transmission of HIV;

15 (e) an assessment of the characteristics of inmates most likely to
16 commit Sexual Abuse in Detention and the effectiveness of various
17 types of treatment or programs to reduce such likelihood;

18 (f) an assessment of the characteristics of inmates most likely to be
19 victims of Sexual Abuse in Detention and the effectiveness of
20 various types of treatment or programs to reduce such likelihood;

21 (g) an assessment of the impacts of Sexual Abuse in Detention on
22 individuals, families, social institutions and the economy generally,
23 including an assessment of the extent to which the incidence of
24 Sexual Abuse in Detention contributes to recidivism and to increased
25 incidence of sexual assault;

1 (h) an examination of the feasibility and cost of conducting
2 surveillance, undercover activities, or both, to reduce the incidence
3 of Sexual Abuse in Detention;

4 (i) an assessment of the safety and security of prison facilities and
5 the relationship of prison facility construction and design to the
6 incidence of Sexual Abuse in Detention;

7 (j) an assessment of the feasibility and cost of any particular
8 proposals for prison reform;

9 (k) an identification of the need for additional scientific and social
10 science research on the prevalence of Sexual Abuse in Detention in
11 national, provincial, and local prisons;

12 (l) an assessment of the general relationship between Sexual Abuse
13 in Detention and prison violence;

14 (m) an assessment of the relationship between Sexual Abuse in
15 Detention and levels of training, supervision, and discipline of prison
16 staff; and

17 (n) an assessment of existing national and provincial systems for
18 reporting incidents of Sexual Abuse in Detention, including an
19 assessment of whether existing systems provide an adequate
20 assurance of confidentiality, impartiality and the absence of reprisal.

21 (3) REPORT.—

22 (a) DISTRIBUTION.—Not later than one year after the date of the
23 initial meeting of the Commission, the Commission shall submit a
24 report on the study carried out under this subsection to—

25 (i) the President;

26 (ii) the Congress;

- 1 (iii) the Secretary of Justice;
- 2 (iv) the Health Secretary;
- 3 (v) the Director of the Bureau of Corrections;
- 4 (vi) the Director of the Bureau of Jail Management and
- 5 Penology;
- 6 (vii) the Department of Social Welfare and Development;
- 7 (viii) the Governor of each province; and
- 8 (ix) the Director of the Jail Division of each province.

9 (b) CONTENTS.—The report under subparagraph (A) shall include—

- 10 (i) the findings and conclusions of the Commission;
- 11 (ii) recommended national standards for reducing Sexual
- 12 Abuse in Detention;
- 13 (iii) recommended protocols for preserving evidence and
- 14 treating victims of Sexual Abuse in Detention; and
- 15 (iv) a summary of the materials relied on by the Commission
- 16 in the preparation of the report.

17 (E) RECOMMENDATIONS.—

18 (1) IN GENERAL.—In conjunction with the report submitted under

19 subsection (d)(3), the Commission shall provide the Director of Justice and

20 the Health Secretary with national standards for enhancing the detection,

21 prevention, reduction, and punishment of Sexual Abuse in Detention.

22 (2) MATTERS INCLUDED.—The information provided under paragraph

23 (1) shall include recommended national standards relating to—

- 24 (a) the classification and assignment of prisoners, using proven
- 25 standardized instruments and protocols, in a manner that limits the
- 26 occurrence of Sexual Abuse in Detention;

1 (b) the investigation and resolution of rape complaints by
2 responsible prison authorities, the Philippine National Police, and
3 national and provincial prosecution authorities;

4 (c) the preservation of physical and testimonial evidence for use in
5 an investigation of the circumstances relating to the rape;

6 (d) acute-term trauma care for rape victims, including standards
7 relating to—

8 (i) the manner and extent of physical examination and
9 treatment to be provided to any rape victim; and

10 (ii) the manner and extent of any psychological examination,
11 psychiatric care, medication, and mental health counseling to be
12 provided to any rape victim;

13 (e) referrals for long-term continuity of care for rape victims;

14 (f) educational and medical testing measures for reducing the
15 incidence of HIV transmission due to Sexual Abuse in Detention;

16 (g) post-rape prophylactic medical measures for reducing the
17 incidence of transmission of sexual diseases;

18 (h) the training of correctional staff sufficient to ensure that they
19 understand and appreciate the significance of Sexual Abuse in
20 Detention and the necessity of its eradication;

21 (i) the timely and comprehensive investigation of staff sexual
22 misconduct involving rape or other sexual assault on inmates;

23 (j) ensuring the confidentiality of Sexual Abuse in Detention
24 complaints and protecting inmates who make complaints of Sexual
25 Abuse in Detention;

1 (k) creating a system for reporting incidents of Sexual Abuse in
2 Detention that will ensure the confidentiality of Sexual Abuse in
3 Detention complaints, protect inmates who make Sexual Abuse in
4 Detention complaints from retaliation, and assure the impartial
5 resolution of Sexual Abuse in Detention complaints;

6 (l) data collection and reporting of—

7 (i) Sexual Abuse in Detention;

8 (ii) prison staff sexual misconduct; and

9 (iii) the resolution of Sexual Abuse in Detention complaints
10 by prison officials and national, provincial and local
11 investigation and prosecution authorities; and

12 (m) such other matters as may reasonably be related to the
13 detection, prevention, reduction, and punishment of Sexual Abuse in
14 Detention.

15 (F) CONSULTATION WITH RELATED ORGANIZATIONS.—In developing
16 recommended national standards for enhancing the detection, prevention, reduction, and
17 punishment of Sexual Abuse in Detention, the Commission shall consider any standards
18 that have already been developed, or are being developed simultaneously to the
19 deliberations of the Commission.

20 (G) HEARINGS.—

21 (1) IN GENERAL.—The Commission shall hold public hearings. The
22 Commission may hold such hearings, sit and act at such times and places,
23 take such testimony, and receive such evidence as the Commission
24 considers advisable to carry out its duties under this section.

1 (2) WITNESS EXPENSES.—Witnesses requested to appear before the
2 Commission shall be paid an appropriate fee, to be paid from funds
3 appropriated to the Commission.

4 (H) INFORMATION FROM NATIONAL AGENCIES.—The Commission may
5 secure directly from any national government department or agency such information as
6 the Commission considers necessary to carry out its duties under this section. The
7 Commission may request the head of any provincial or local department or agency to
8 furnish such information to the Commission.

9 (I) PERSONNEL MATTERS.—

10 (1) TRAVEL EXPENSES.—The members of the Commission shall be
11 allowed reasonable travel expenses.

12 (K) SUBPOENAS.—

13 (1) ISSUANCE.—The Commission may issue subpoenas for the
14 attendance of witnesses and the production of written or other matter.

15 (2) ENFORCEMENT.—In the case of contumacy or refusal to obey a
16 subpoena, the Secretary of Justice may obtain an appropriate order to
17 enforce the subpoena.

18 (3) CONFIDENTIALITY OF DOCUMENTARY EVIDENCE.—

19 Documents provided to the Commission pursuant to a subpoena issued
20 under this subsection shall not be released publicly without the affirmative
21 vote of 2/3 of the Commission.

22 (L) AUTHORIZATION OF APPROPRIATIONS.—There are authorized
23 to be appropriated such sums as may be necessary to carry out this section.

24 (M) TERMINATION.—The Commission shall terminate on the date that is 60 days
25 after the date on which the Commission submits the reports required by this section.

1 (O) IMPLEMENTATION.—The Secretary of Justice shall establish procedures
2 and a timeline for the implementation of this subsection.

3
4 SECTION 10: *SADEA Independent Oversight Agency*

5
6 (A) ESTABLISHMENT. – The Commission on Human Rights of the Philippines
7 (CHR) will establish, designate or maintain an independent oversight agency (IOA) to
8 oversee the implementation of SADEA, including by auditing and measuring compliance
9 with the SADEA standards developed by the Commission, pursuant to Section 9,
10 paragraph E.

11 (1) The IOA and the IOA personnel shall be wholly independent from the
12 Department of Justice, the Philippine National Police, the Department of
13 Social Welfare and Development, and the Bureau of Jail Management and
14 Penology.

15 (2) The CHR shall take necessary measures to ensure that the members of
16 the IOA have the required capabilities and professional knowledge to serve
17 the IOA effectively and efficiently.

18 (3) The IOA shall carry out its oversight and monitoring functions in
19 accordance with international treaties to which the Philippines is a state
20 party.

21 (B) POWERS OF THE IOA. – At a minimum, the IOA shall be authorized:

22 (1) to visit all facilities, as defined in Section 3, paragraphs A-C, at any
23 time without notification.

24 (2) to have private interviews with inmates without witnesses, either
25 personally or with a translator if deemed necessary, as well as with any
26 other person who the IOA believes may supply relevant information.

1 (3) to receive confidential communications from any interested stakeholder,
2 including inmates, their relatives, corrections staff, and advocates.

3 (4) to exercise the powers granted to the CHR under Section 18 of the
4 Constitution and Section 3 of Executive Order No. 163, except the power
5 to grant immunity from prosecution.

6 (C) DUTIES OF THE IOA.

7 (1) The IOA shall monitor implementation of SADEA at the national,
8 provincial, and municipal levels by:

9 (a) gathering the views and concerns of SADEA stakeholders,
10 including provincial, municipal and national departments of
11 corrections, professional organizations, prisoners' rights advocates,
12 former and current prisoners, and other organizations and individuals
13 with expertise and experience regarding Sexual Abuse in Detention
14 and policies and practices to eliminate it;

15 (b) reviewing statistical studies, academic and other analyses,
16 litigation addressing Sexual Abuse in Detention, and Sexual Abuse
17 in Detention criminal prosecutions;

18 (c) consulting with the National Statistics Office, the National
19 Clearinghouse, the Sexual Abuse in Detention Elimination
20 Commission, the Review Panel on Sexual Abuse in Detention, and
21 the Chief State Prosecutor.

22 (2) The IOA shall audit each facility, in accordance with Section D, to
23 measure compliance with the SADEA standards.

24 (3) The IOA shall publish reports of its findings, in accordance with

25 Section G.

26 (D) FACILITY AUDITS

1 (1) Effective one year after the release of the national standards, as
2 established in Section 9, the IOA shall audit each prison, jail, and police
3 lock-up to measure its compliance with the standards. These audits will
4 occur on a rotating basis, such that one-third of all facilities are audited
5 each year, and every facility has been audited within a three year period.

6 (2) As part of each audit, the IOA shall visit and examine facilities as
7 defined in Section 3, paragraphs A-C, and to examine the treatment of
8 inmates as defined in Section 3, paragraph E, to assess compliance with the
9 national standards.

10 (3) When conducting audits, the IOA must (a) identify and gather data to be
11 analyzed, (b) employ proper professional judgment when analyzing data,
12 and (c) work effectively with the appropriate authorities in planning audits.

13 (E) ACCESS TO INFORMATION -- In order to enable the IOA to fulfill its
14 duties, the Department of Justice undertakes to grant it:

15 (1) Access to all information concerning the number of inmates, as well as
16 the number of places of detention and their location;

17 (2) Access to all information referring to the treatment of inmates as well as
18 their conditions of detention;

19 (3) Access to all places of detention and their installations and facilities;

20 (4) The opportunity to have private interviews with any inmate without
21 witnesses, either personally or with a translator if deemed necessary, as
22 well as with any other person who the IOA believes may supply relevant
23 information;

24 (5) The liberty to choose places to visit and the persons to interview;

25 (F) PROTECTION OF INFORMATION

1 (1) No authority or official shall order, apply, permit or tolerate any
2 sanction against any person or organization for having communicated to the
3 IOA any information, whether true or false, and no such person or
4 organization shall be otherwise prejudiced in any way.

5 (2) Confidential information collected by the IOA shall be privileged. No
6 personal data shall be published without the express consent of the person
7 concerned.

8 (G) REPORTS

9 (1) The IOA shall submit an annual report to Congress, the Secretary of
10 Justice, the Secretary of Health, the Secretary of Social Welfare and
11 Development, and the National Clearinghouse established under Section
12 7 that includes:

13 (a) an assessment of national SADEA implementation;

14 (b) identified gaps in the progress of SADEA-related efforts;

15 (c) inconsistencies between SADEA and other laws and policies;

16 and

17 (d) recommendations for further action.

18 (2) At the conclusion of each facility audit, the IOA shall publish a report
19 measuring the level of compliance with the national standards. In addition
20 to identifying with which standards the facility is not in compliance, the
21 report will discuss the level of cooperation afforded by facility officials
22 and administration, the extent of changes made throughout the audit
23 process, and recommendations for further improvements.

24 (3) Facility audit reports shall be provided to the chief executive with
25 jurisdiction over that facility, the warden of the facility audited, the Review
26 Panel on Sexual Abuse in Detention, and the National Clearinghouse.

1 (4) All reports shall be made publicly available on the CHR website and
2 under the National Clearinghouse established under Section 7.

3 SECTION 11. *Appropriations.* - To carry out the provisions of this Act, such
4 amount as may be necessary is hereby authorized to be appropriated from the National
5 Treasury.

6 SECTION 12. *Separability Clause.* - If any provision or part hereof, is held invalid
7 or unconstitutional, the remainder of the Act or the provision not otherwise affected shall
8 remain valid and subsisting.

9 SECTION 13. *Repealing Clause.* - Any law, presidential decree or issuance,
10 executive order, letter of instruction, administrative order, rule or regulation contrary to,
11 or inconsistent with the provisions of this Act is hereby repealed, modified or amended
12 accordingly.

13 SECTION 14. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after
14 its publication in at least two (2) newspapers of general circulation.

Approved,

/apm12January2016