

'16 SEP -5 P4:03

SENATE
P.S. Res 126

RECORDED BY: 

Introduced by Senator Poe

RESOLUTION

URGING THE SENATE COMMITTEE ON PUBLIC ORDER AND DANGEROUS DRUGS TO CONDUCT AN INQUIRY, IN THE EXERCISE OF CONGRESS' OVERSIGHT FUNCTION, AS REGARDS THE MANDATORY INVESTIGATION THAT SHALL BE CONDUCTED BY THE INTERNAL AFFAIRS SERVICE (IAS) OF THE PHILIPPINE NATIONAL POLICE (PNP) IN CASES OF DEATH DURING POLICE OPERATIONS, WITH THE END GOALS OF FORMULATING MEASURES TO ENSURE COMPLIANCE WITH PNP MANUAL IN THE CONDUCT OF ITS OPERATIONS, AND TO ENSURE THAT THE GOVERNMENT'S CONSTITUTIONAL DUTY TO PROTECT LIFE SHALL BE FOLLOWED AT ALL TIMES

WHEREAS, Section 4, Article II of the 1987 Philippine Constitution ("Constitution") states that "the prime duty of the Government is to serve and protect the people";

WHEREAS, Section 5, Article II of the Constitution provides that "the maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy";

WHEREAS, on 3 September 2016, ABS CBN News reported¹ that a four (4)-year old nursery student, ALTHEA FHEM BARBON ("Althea"), and her father, ADRIC BARBON, were killed by members of Guihulngan City Police in the Province of Negros Oriental last 30 August 2016;

WHEREAS, reports state that Althea was then riding a motorcycle driven by her father, a suspected drug dealer, when they were stopped by cops who then shot them dead claiming that her father attempted to shoot the cops first²;

¹ <http://news.abs-cbn.com/news/09/02/16/4-year-old-girl-dad-shot-dead-by-cops-in-drug-operation>

² *Ibid.*

WHEREAS, the Chief of Guihulngan City Police, Superintendent D'Artagnan Katalbas, simply stated, "we regret to know that a life was crossed and it's sad that just like in any other operation, she (Althea) was made a collateral damage"³;

WHEREAS, it bears repeating that the "prime duty of the Government is SERVE AND PROTECT THE PEOPLE", and that the "PROTECTION OF LIFE" is one of the essentials for the enjoyment of the blessings of democracy;

WHEREAS, nowadays, numerous children and/or minors are being killed in legitimate police operations as if in total disregard of the Constitutional mandate to "PROTECT THE PEOPLE" and to protect "LIFE";

WHEREAS, some who defend or justify police killings claim that said killings enjoy presumption of regularity;

WHEREAS, the Supreme Court in *Aguilar vs. Department of Justice, et al*⁴ and *Ortega vs. Sandiganbayan*⁵ ruled that the killing of a suspect or criminal is only justified if a suspect or criminal "poses imminent danger" to the life of a policeman (a "justifying circumstance") and if said suspect or criminal was killed during a police operation, the burden of proof that there was indeed a "justifying circumstance" shifts to the police officer who killed the suspect or criminal;

WHEREAS, pursuant to Section 39 of Republic Act (R.A.) No. 8551, otherwise known as the "*Philippine National Police Reform and Reorganization Act of 1998*", the Internal Affairs Service (IAS) SHALL CONDUCT, MOTU PROPRIO, AUTOMATIC INVESTIGATION OF THE FOLLOWING CASES:

- a. incidents where a police personnel discharges a firearm;
- b. incidents where DEATH, serious physical injury, or any violation of human rights occurred in the CONDUCT OF A POLICE OPERATION;⁶

xxx

xxx

xxx

- e. incidents where the established rules of engagement have been violated.

WHEREAS, pursuant to the Constitution and R.A. No. 8551, the IAS of the Philippine National Police should investigate and ultimately account for the deaths of

³ *Ibid.*

⁴ G.R. No. 197522.


⁵ G.R. No. L-57664.

⁶ Emphasis supplied.

innocent people, especially children and/or minors who are clearly not involved in drugs or criminality, so as not to compromise the Government's Constitutional duty to PROTECT LIFE;

BE IT RESOLVED, AS IT IS HEREBY RESOLVED, by the Senate of the Philippines, urging the Senate Committee on Public Order and Dangerous Drugs to conduct an inquiry, in the exercise of Congress' oversight function, as regards the mandatory investigation that shall be conducted by the Internal Affairs Service (IAS) of the Philippine National Police (PNP) in cases of death during police operations, with the end goals of formulating measures to ensure compliance with PNP Manual in the conduct of its operations, and to ensure that the Government's Constitutional duty to protect life shall be followed at all times.

Adopted,


GRACE POE