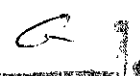


THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

04 OCT 20 2 1 27

RECEIVED BY: 

SENATE

Senate Bill No. 1823

Introduced By Senator Francis N. Pangilinan

EXPLANATORY NOTE

The recent events involving Major General Carlos Garcia of the Armed Forces of the Philippines appear to uncover graft and corrupt acts in the highest levels of the AFP thus making it imperative for an independent and impartial body to initiate and undertake an investigation on the matter in order to identify the root causes of malpractices in the Armed Forces and recommend criminal prosecution as well as long term solutions and reform measures. The AFP is the fortress of national defense and as such must maintain integrity and stability at all times. Allegations of graft and corruption, especially where higher ranking AFP officials are allegedly involved, should not go unnoticed for these breed political and military disenchantment. To turn a blind eye is to tolerate and encourage further acts of graft and corruption, endangering political stability. Moreover, it is the responsibility of the State to ensure that the annual budget allocated to the military is properly accounted. Thus, the formidable challenge of ridding the government of graft and corruption may as well begin with the cleansing of one of the most powerful government institutions.


The proposed bill seeks to create an independent fact-finding commission that will investigate and delve into the alleged anomalies permeating within the AFP bureaucracy at various levels, committed by uniformed personnel and AFP officers alike. The commission, to be composed of a retired Justice of the Supreme Court, a retired officer of the Armed forces with known probity and integrity and representatives of both Houses of Congress, is vested with powers necessary to perform its functions: inquire, without need of court order, into bank accounts or investments which the commission has reasonable ground to believe contains proceeds of or are in any way related to acts of graft and corruption, issue summons and subpoena, and call upon other government agencies for assistance. Based on its findings, the proposed fact-finding commission is also tasked to recommend measures to prevent the commission and perpetuation of graft and corruption in the AFP.

In view of the foregoing, the immediate approval of this bill is earnestly sought.


FRANCIS N. PANGILINAN

04 OCT 20 01:47

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Senate Bill No. 1823

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AN ACT CREATING AN INDEPENDENT COMMISSION TO CONDUCT A THOROUGH FACT-FINDING INVESTIGATION OF ALLEGATIONS OF GRAFT AND CORRUPTION IN THE ARMED FORCES OF THE PHILIPPINES

SEC. 1. *Creation.* — There is hereby created an independent Commission which shall investigate all the facts and circumstances of the alleged graft and corruption in the Armed Forces of the Philippines, and recommend measures to prevent the same.

SEC. 2. *Powers and Functions.* — The Commission shall have the following powers and functions:

- (a) Conduct a thorough fact-finding investigation of the allegations of graft and corruption in the Armed Forces of the Philippines and submit its findings and recommendations to the President, the Congress, and other appropriate authorities not later than three (3) months from the effectivity of this Act;
- (b) Receive, review and evaluate the evidence adduced and to this end, summon witnesses, administer oaths, take testimony or receive evidence relevant to the investigation, and to issue subpoena ad testificandum or subpoena duces tecum to produce documents, books, records and other papers;
- (c) Turn over to the appropriate prosecutorial authorities all evidence involving any person when in the course of its investigation, the Commission finds that there is reasonable ground to believe that such person appears to be liable for acts of graft and corruption;
- (d) Notwithstanding the provisions of Republic Act No. 1405, as amended, Republic Act No. 6426, as amended, Republic Act No. 8791, and other laws, the Commission may inquire into or examine any bank deposit, trust or investment fund, or banking transaction in the name of and/or utilized by a person, natural or juridical, under investigation by the Commission, in any banking or non-bank financial institution and their subsidiaries and affiliates, without need of court order, when the Commission has reasonable ground to believe that such funds contain proceeds of or are in any way related to the alleged acts of graft and corruption; and

(e) Exercise such other acts incident to or are appropriate and necessary in connection with the objectives of this Act.

SEC. 3. *Bar Against Court Injunction; Exception, Supreme Court.* — No court, except the Supreme Court, shall issue any restraining order or preliminary injunction on any matter involving the official acts of the Commission pursuant to this Act and of the Monetary Board under paragraph (d) of Section 2 hereof.

SEC. 4. *Composition, Qualification, and Salary.* — The Commission shall be composed of five (5) members, of whom:

(a) Members.—The Commission shall be composed of seven (7) members:

(1) a Chairman, who shall be a retired Justice of the Supreme Court and shall be appointed by the President;

(2) two (2) members, who shall be designated by the Senate President, one of whom shall be a member of the majority party and one of whom shall be a member of the minority party; and

(3) two (2) members, who shall be designated by the Speaker of the House, one of whom shall be a member of the majority party and one of whom shall be a member of the minority party.

(4) one (1) member, who shall be a retired officer of the Armed Forces of the Philippines of recognized probity and unquestionable integrity and shall be appointed by the President;

(5) one (1) member, representing the private sector of recognized probity and integrity and shall be appointed by the President.

(b) Qualifications. — The Chairman and members shall be citizens of the Philippines, at least forty (40) years of age, and have an established reputation for integrity, honesty, probity and professional competence.

(c) Salary.—The Chairman and members shall be entitled to receive reasonable compensation.

SEC. 5. *Tenure and Turn Over of Records.* — The Commission is hereby given six (6) months from the effectivity of this Act to attain the objectives set forth herein. The Commission shall be *functus officio* upon the lapse of such period and upon submission of its report, and shall turn over all its records, assets and properties to the Department of Justice.

SEC. 6. *Orderly Conduct of Proceedings.* — The Commission shall adopt rules and procedures for orderly conduct of its investigation, proceeding and hearing, including the presentation of evidence. The rules of evidence under the Revised Rules of Court shall have suppletory application.

SEC. 7. *Conduct of Hearings.* — Proceedings and hearings of the Commission, sitting en banc, shall be open to the public. The Commission may, *motu proprio* or upon request of the person testifying, hold an executive or closed-door hearing where matters of national security or public safety are involved or the personal safety of the witness warrants the holding of such executive or closed-door hearing. The Commission shall prescribe the rules to govern such executive or closed-door hearings.

Any person called to testify before the Commission shall have the right to counsel at any stage of the proceedings.

SEC. 8. *Right Against Self-Incrimination; Protection of Witness.* — No person shall be excused from attending and testifying or from producing documents, books, records, correspondence, or other evidence in obedience to a subpoena issued by the Commission on the ground that his testimony or other evidence required of him may tend to incriminate him or subject him to penalty or forfeiture. After having invoked his right against self-incrimination, his testimony or any evidence produced by him shall not be used against him in any proceedings, except for perjury committed in so testifying.

The Commission shall protect any person called to testify by providing the necessary and reasonable security arrangements with the assistance and cooperation of the Armed Forces of the Philippines and other appropriate government agencies.

SEC. 9. *Direct or Indirect Contempt.* — The Commission may file a petition to cite in direct or indirect contempt any person guilty of misbehavior in the presence of or so near the Commission as to obstruct or interrupt the proceedings before the same, including disrespect towards its officials, offensive personalities towards other, or refusal to be sworn or to answer as a witness, or to subscribe to an affidavit or deposition, or produce documents, when lawfully required to do so.

SEC. 10. *Personnel of the Commission.* — The Chairman shall have the power to engage the services of such persons or personnel including a Commission Counsel, Deputy Commission Counsel(s) or such other officials as may be required for the effective performance of its functions and responsibilities, to fix their duties and compensation, to organize the structure and staffing pattern of the Commission; and to authorize the payment of honoraria and/or allowance for deputized officers and officials subject to the pertinent accounting and auditing rules and procedures. The persons appointed, designated, deputized or contracted by the Commission shall be subject to the Civil Service Law, rules and regulations.

SEC. 11. *Promulgation of Rules and Regulations; Publication of Rules and Reports.* — The Commission shall have the power to promulgate its rules and regulations, enter into contracts, and perform any and all other acts necessary or incidental to the attainment of the objectives of this Act.

Commission rules and regulations shall be published in at least two (2) national newspapers of general circulation and shall take effect two (2) days after its publication. The final report submitted to the President and to Congress shall be published.

SEC. 12. *Role of Other Government Agencies.* — The Commission may call upon any government investigative and prosecutorial agency, including the National Bureau of Investigation and the Philippine Constabulary/Integrated National Police, to make available their offices, personnel and facilities to attain the objectives of this Act.

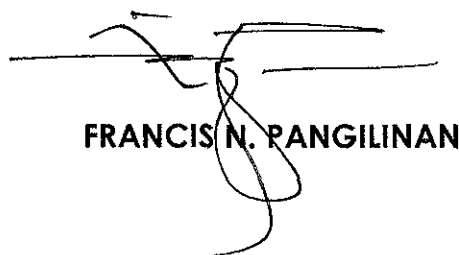
SEC. 13. *Appropriations.* — The sum of Three Million Pesos (P3,000,000.00) is hereby provided to the Commission, chargeable against the Contingent Fund. The said amount shall automatically be released to the Commission for disbursement in accordance with the auditing rules and regulations.

SEC. 14. *Repealing Clause.* — All laws, decrees, executive orders, rules and regulations or parts thereof, including the relevant provisions of Republic Act No. 1405, as amended, Republic Act No. 6426, as amended, Republic Act No. 8791, and other similar laws, as are inconsistent with this Act are hereby repealed, amended, or modified accordingly.

SEC. 15. *Separability Clause.* — If any provision of this Act is declared unconstitutional, the same shall not affect the validity and effectivity of the other provisions hereof.

SEC. 16. *Effectivity.* — This Act shall take effect two (2) days following its publication in at least two (2) national newspapers of general circulation.

Approved,



FRANCIS N. PANGILINAN