

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

9 APR 21 P2 50

SENATE
S. B. No. **3175**

RECEIVED BY

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

The Constitution, Article 2, Section 5 provides:

The maintenance of peace and order, the protection of life, liberty and property, and the promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy.

Crime investigation is essential in the administration of justice. The conviction or acquittal of an accused will depend on the quality of investigative work conducted by our law enforcement personnel. The problem is that some of the techniques employed by the PNP in crime investigation are outdated. These procedures have long been replaced by their counterparts in first world countries.

An example is paraffin testing to determine if a person in interest has handled a gun in connection with the investigation of a possible crime. This is largely considered unreliable in countries with advanced crime investigation techniques. When a firearm is discharged, an assortment of vapors and particulate material are expelled in the area around the firearm. These products of firearm discharge are collectively referred to as gunshot residues (GSR). Gunshot residues have been used in criminalistics to estimate firing distances, identify bullet holes, and to determine whether or not a person has discharged a firearm. Studies in the United States have shown however that it is not essential for a person to discharge a firearm to have gunshot residue since it can be transferred by means other than firing a gun.

Another problem is the absence of an “evidence library” or room in most police stations. The police investigator who gathers physical evidence from a crime scene is responsible for the custody of such evidence until it is turned over to the courts. The concerned police officer, if he is negligent, can even lose the physical evidence. Tampering with the evidence also becomes possible, because the chain of custody over the evidence is not strictly monitored.

This bill seeks to solve the problems faced by the PNP and other state investigation agencies by laying the groundwork for the modernization of its crime investigation techniques. Its aim is to phase out obsolete investigation techniques that prejudice the rights of the accused and diminish the people’s confidence in the criminal justice system.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO

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1 AN ACT
2 MODERNIZING THE CRIME INVESTIGATION
3 TECHNIQUES OF LAW ENFORCEMENT AGENCIES

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

6 SECTION 1. *Short Title.* – This Act shall be known as the “Crime Investigation
7 Modernization Act of 2009.”

8 SECTION 2. *Declaration of Policy.* – It is hereby declared the policy of the government
9 to actively promote, induce and accelerate a sound and modern procedure in crime investigation.

10 SECTION 3. *Standards in Crime Investigation.* – All law enforcement agencies shall be
11 guided by the following standards in conducting their investigations:

12 (A) The Constitutional rights of all parties shall be respected at all times. Towards this
13 end, obsolete and unreliable crime investigation methods, such as paraffin testing, shall be
14 phased out;

15 (B) One of the most important aspects of securing the crime scene is to preserve the scene
16 with minimal contamination and disturbance of physical evidence. The initial response to an
17 incident shall be expeditious and methodical. Upon arrival, the officer shall assess the scene and
18 treat the incident as a crime scene;

19 (C) The safety and physical well-being of officers and other individuals, in and around
20 the crime scene, are the initial responding officers’ first priority;

21 (D) The initial responding officers shall ensure that medical attention is provided with
22 minimal contamination of the scene;

1 (E) Controlling, identifying, and removing persons at the crime scene and limiting the
2 number of persons who enter the crime scene and the movement of such persons is an important
3 function of the initial responding officers in protecting the crime scene;

4 (F) Defining and controlling boundaries provide a means for protecting and securing the
5 crime scene;

6 (G) The initial responding officers at the scene shall provide a detailed crime scene
7 briefing to the investigators in charge of the scene;

8 (H) All activities conducted and observations made at the crime scene must be
9 documented as soon as possible after the event to preserve information;

10 (I) The investigators in charge shall identify specific responsibilities, share preliminary
11 information, and develop investigative plans in accordance with departmental policy, local, and
12 national laws;

13 (J) The scene "walk-through" provides an overview of the entire scene, identifies any
14 threats to scene integrity, and ensures protection of physical evidence. Written and photographic
15 documentation provides a permanent record;

16 (K) Based on the type of incident and complexity of the scene, the investigators in charge
17 shall determine team composition. Trained personnel shall perform scene processing;

18 (L) Contamination control and preventing cross-contamination at single or multiple
19 scenes is essential to maintaining the safety of personnel and the integrity of evidence;

20 (M) The investigators in charge shall ensure documentation of the scene using photos,
21 videos, sketches, measurements and notes, among others;

22 (N) The investigators must prioritize the collection of evidence to prevent loss,
23 destruction, or contamination;

24 (O) Evidence at crime scenes that is in the process of documentation, collection,
25 preservation, or packaging should be handled with attention to scene integrity and protection
26 from contamination or deleterious change. During the processing of the scene, and following
27 documentation, evidence should be appropriately packaged, labeled, and maintained in a secure,
28 temporary manner until final packaging and submission to a secured evidence storage facility or
29 the crime laboratory;

1 (P) Law enforcement personnel and other responders shall participate in or initiate a
2 crime scene debriefing to ensure the crime scene investigation is complete and to verify post-
3 scene responsibilities;

4 (Q) The investigators in charge shall direct another walk-through at the conclusion of the
5 scene investigation and ensure that the scene investigation is complete;

6 (R) Reports and other documentation pertaining to the crime scene investigation shall be
7 compiled into a "case file" by the investigators in charge of the crime scene. This file shall be a
8 record of the actions taken and evidence collected at the scene. This documentation shall allow
9 for independent review of the work conducted;

10 SECTION 4. *Creation of the Crime Investigation Modernization Committee (CIMC).* –
11 The Crime Investigation Modernization Committee (CIMC) is hereby created and shall be
12 composed of the following:

13 (A) The Secretary of the Department of Interior and Local Government as Chairperson;

14 (B) The Chief of the Philippine National Police;

15 (C) The Director of the National Bureau of Investigation;

16 (D) Two (2) experts in forensic science to be appointed by the President.

17 SECTION 5. *Duties of the CIMC.* – The CIMC shall have the following responsibilities:

18 (A) Conduct a study on the modern methods of criminal investigation and their
19 applicability to the Philippines;

20 (B) Send scholars abroad for training in forensic science; they shall be required to render
21 government service for at least five years after completion of their study;

22 (C) Create a manual for law enforcement officers according to the standards enumerated
23 in Section 3 of this law. This manual shall serve as the basic requirement in all subsequent
24 criminal investigations. It shall be the responsibility of the CIMC to train the members of all law
25 enforcement agencies according to the procedures outlined by the manual;

26 (D) Complete a study on the feasibility of creating a course on Forensic Science in State
27 universities to be submitted to Congress within two (2) years after the creation of the Committee;

28 (E) Engage in dialogues with foreign police agencies on possible sharing and transfer of
29 technology in forensic investigation;

1 (F) Within three (3) years after the creation of the CIMC, it shall submit a report to
2 Congress on the costs and ways of implementing a comprehensive program of modernization of
3 crime investigation.

4 SECTION 6 *Separability Clause*. – If any provision or part hereof, is held invalid or
5 unconstitutional, the remainder of the law or the provision not otherwise affected shall remain
6 valid and subsisting.

7 SECTION 7. *Repealing Clause*. – Any law, presidential decree or issuance, executive
8 order, letter of instruction, administrative order, rule or regulation contrary to or is inconsistent
9 with the provision of this Act is hereby repealed, modified, or amended accordingly.

10 SECTION 8. *Effectivity Clause*. – This Act shall take effect fifteen (15) days after its
11 publication in at least two (2) newspapers of general circulation.

12 Approved,