

SIXTEENTH CONGRESS OF THE REPUBLIC
OF THE PHILIPPINES
First Regular Session



Senate
Office of the Secretary

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SENATE

Senate Bill No. 783

RECEIVED BY: *ji*

INTRODUCED BY SEN. JINGGOY EJERCITO ESTRADA

EXPLANATORY NOTE

Transparency and accountability are the foundations of a genuine democracy. All branches of government must be able to account for their actions and for their use of public funds to the people whom they serve. None should be spared from the scrutiny of the public.

Understandably, because of its nature, intelligence activities must be kept confidential for valid national security concerns. Nonetheless, this does not mean that they should not be subject to checks and balances that are at the core of our democratic government. A balance must be struck to maintain confidentiality but at the same time uphold accountability.

It is necessary to monitor the compliance of intelligence activities with existing laws and with the Philippine Constitution. Moreover, intelligence agencies must be made responsible for these activities and held liable for their actions. Furthermore, there is a need to ensure that intelligence agencies are protecting, rather than undermining, civil liberties and that they are properly used to prepare for the threats to national security, rather than for partisan activities of any government official.

Also, certain government agencies receive an annual appropriation for intelligence and confidential activities amounting to millions of pesos. Because of the necessary secrecy in the use of intelligence and confidential funds, these amounts appear as lump sums in the annual General Appropriations Act and are not subject to the stringent regular auditing requirements of the Commission on Audit. Through the years, this secrecy that surrounds the disbursement and utilization of intelligence and confidential funds has been used not only to protect intelligence activities but also to hide abuses in the utilization of these funds,

Because it is essential, for valid national security concerns, that most intelligence activities remain secret, Congress, as the elected representatives of the Filipino people, must ensure that the intelligence agencies are held accountable for their actions.

Thus, for the purpose of upholding accountability in the conduct of intelligence activities while at the same time maintaining the necessary confidentiality, this bill calls for the creation of a Joint Congressional Intelligence Committee tasked to monitor and oversee intelligence activities, which include the administration, financial management, and expenditures, of the intelligence agencies.

In addition, the bill compels all entities of the Philippine government that conduct intelligence activities and receive intelligence funds to keep the Joint Congressional Intelligence Committee fully informed of all intelligence activities, including any significant anticipated intelligence activity and any significant intelligence failure, as soon as possible.

Furthermore, the bill requires that entities of the Philippine government first obtain a signed letter from the President, or from the respective head of the constitutional body in cases involving entities enjoying fiscal autonomy, specifically authorizing the proposed intelligence activity before any amount is disbursed and expended for the proposed intelligence activity. The President or the respective head of the constitutional body shall ensure that the Joint Congressional Intelligence Committee receives a copy of this authorization letter within seventy-two (72) hours.

Also, the bill mandates the President to submit to the Joint Congressional Intelligence Committee an annual report on the past activities and the future requirements of the Philippines for intelligence. The report shall specify matters in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified.

In view of the foregoing, the immediate enactment of this measure is earnestly sought.



JINGGOY EJERCITO ESTRADA
Senator

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Senate Bill No. 783

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AN ACT

ENSURING ACCOUNTABILITY IN INTELLIGENCE ACTIVITIES AND IN THE USE OF INTELLIGENCE AND CONFIDENTIAL FUNDS GRANTED TO ALL GOVERNMENT AGENCIES, ESTABLISHING FOR THE PURPOSE A JOINT CONGRESSIONAL INTELLIGENCE COMMITTEE TO STRENGTHEN THE OVERSIGHT POWERS OF CONGRESS TO MONITOR INTELLIGENCE ACTIVITIES OF ALL AGENCIES OF THE PHILIPPINE GOVERNMENT AND TO OVERSEE HOW INTELLIGENCE AND CONFIDENTIAL FUNDS ARE EXPENDED, AND FOR OTHER PURPOSES

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

SECTION 1. This Act shall be known as the "*Intelligence Oversight Act of 2013*".

SEC. 2. Definition of Terms.

- (a) Intelligence activities pertain to activities related to the process of gathering, evaluation, correlation and interpretation of security information, as performed by intelligence agencies of the Philippine government.
- (b) Intelligence agencies include the Office of the National Security Adviser, the National Intelligence Coordinating Agency, the intelligence units of the Armed Forces of the Philippines and the Philippine National Police, and all departments, agencies, and other entities of the Philippine government, which receive intelligence and confidential funds from the annual General Appropriations Act.

SEC. 3. Joint Congressional Intelligence Committee. - A Joint Congressional Intelligence Committee is hereby established, which shall, subject to the Constitution, perform the oversight functions set out in this act in relation to the intelligence activities, which include the administration, financial management, and expenditures, of the intelligence agencies. The Committee shall be composed of five (5) members each from the Senate and the House of Representatives, which shall meet quarterly, or as often as necessary, to oversee the intelligence activities of the Philippine government. The Committee shall be jointly chaired by the Chairperson of the Senate Committee on National

Defense and Security and the House Committee on National Defense and Security. The other four (4) members of the Senate delegation are the Chairpersons of the Committee on Peace, Unification, and Reconciliation, the Committee on Justice and Human Rights, the Committee on Public Order and Illegal Drugs, and the Committee on Finance. The other four (4) members of the House Delegation are the Chairpersons of the Committee on Peace, Reconciliation and Unity, the Committee on Human Rights, the Committee on Public Order and Safety, and the Committee on Appropriations. The President of the Senate, the Speaker of the House of Representatives, and the minority leaders of both Houses shall serve as *ex-officio* members of the Joint Congressional Intelligence Committee.

SEC. 4. General Provisions on Congressional Intelligence Oversight.

- (a) The President shall ensure that the Joint Congressional Intelligence Committee are kept fully informed of the intelligence activities of the Philippines, including any significant anticipated intelligence activity, as soon as possible. Provided, however, that this shall not be construed as requiring the approval of the Joint Congressional Intelligence Committee as a condition precedent to the initiation of any significant anticipated intelligence activity.
- (b) The President shall ensure that any illegal intelligence activity is reported promptly to the Joint Congressional Intelligence Committee, as well as any corrective action that has been taken or is planned to be taken in connection with such illegal activity.
- (c) If the President determines that it is essential to limit access to information regarding any intelligence activity to meet extraordinary circumstances affecting vital interests of the Philippines, the information may be reported to the chairpersons of the Joint Congressional Intelligence Committee, the President of the Senate, the Speaker of the House of Representatives and the minority leaders of both Houses, and such other member or members of the Congress as may be included by the President. When access to information is limited as such, a statement of the reasons for limiting such access shall also be provided in writing to the Joint Congressional Intelligence Committee.
- (d) Nothing in this act shall be construed as authority to withhold information from the Joint Congressional Intelligence Committee on the grounds that providing the information would constitute the unauthorized disclosure of classified information or information relating to intelligence sources and methods.

SEC. 5. Protecting the Confidentiality of Intelligence Activities and other Classified Information. - The Joint Congressional Intelligence Committee shall establish procedures, subject to the approval of the Senate and the House of Representatives, to-

- (a) protect from unauthorized disclosure all classified information, and all information relating to intelligence sources and methods, that is furnished to the Joint Congressional Intelligence Committee under this act; and,

- (b) penalize members that violate the confidentiality of the Committee's proceedings.

Only upon the approval of these procedures, by both the Senate and the House of Representatives through a joint resolution, can the Committee perform its oversight functions.

SEC. 6. Reporting of Intelligence Activities. - To the extent consistent with due regard for the protection from unauthorized disclosure of classified information relating to sensitive intelligence sources and methods or other exceptionally sensitive matters, the National Security Adviser, the Director of the National Intelligence Coordinating Agency, and the heads of all departments, agencies, and other entities of the Philippine government who receive intelligence and confidential funds from the annual General Appropriations Act shall -

- (a) keep the Joint Congressional Intelligence Committee fully informed of all intelligence activities, including any significant anticipated intelligence activity and any significant intelligence failure, as soon as possible; and,
- (b) furnish the Joint Congressional Intelligence Committee any information or material concerning intelligence activities, which is requested by the Joint Congressional Intelligence Committee in order to carry out its authorized responsibilities.

SEC. 7. Finding of the Joint Congressional Intelligence Committee. - In accordance with the procedures adopted by the Joint Congressional Intelligence Committee, the Chairperson of both Houses shall promptly call to the attention of the Senate or the House of Representatives, or to any appropriate committee or committees of each chamber, any matter relating to intelligence activities requiring the attention of such chamber or such committee or committees.

SEC. 8. Funding of Intelligence Activities.

- (a) Appropriated intelligence and confidential funds available to any agency of the Philippine government may be obligated or expended for intelligence or intelligence-related activities only if those funds were specifically authorized by the Congress for use for such activities as stated in the annual General Appropriations Act.
- (b) No funds appropriated for, or otherwise available to, any department, agency, or entity of the Philippine Government may be expended, or may be directed to be expended, for any intelligence activity, unless and until a signed authorization letter from the President is obtained. For constitutional bodies which enjoy fiscal autonomy, the authorization letter must be signed by their respective head. The President, or the respective head of the constitutional body, shall ensure that the Joint Congressional Intelligence Committee receives a copy of this authorization letter within seventy-two (72) hours.

SEC. 9. *Annual Report on Intelligence Activities.* - Not later than January 31 of each year, the President shall submit to the Joint Congressional Intelligence Committee a report on the requirements of the Philippines for intelligence for the calendar year in which the report is submitted, and the activities of the intelligence agencies during the preceding calendar year. The purpose of the report is to facilitate an assessment of the activities of the intelligence agencies during the preceding calendar year and to assist in the development of a mission and a budget for the intelligence agencies for the calendar year in which the report is submitted. The report shall specify matters in sufficient detail to assist Congress in making decisions with respect to the allocation of resources for the matters specified. The report shall also include a financial statement covering all the funds expended by any department, agency, or entity of the Philippine Government for intelligence or intelligence-related activities, as well as a detailed account of the use of these funds. The report shall be submitted in unclassified form, but may include a classified annex.

SEC. 10. *Separability Clause.* - If, for any reason, any section or provision of this Act shall be held unconstitutional or invalid, the other section or provision not otherwise affected shall remain in full force and effect.

SEC. 11. *Repealing Clause.* - All laws, presidential decrees, executive orders, proclamations, rules and regulations which are inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

SEC. 12. *Effectivity.* - This Act shall take effect fifteen (15) days from its publication in the Official Gazette or in at least two (2) newspapers of general circulation.

Approved,