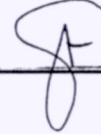


SENATE

'19 JUL 11 P2:43

S. No. 377

RECEIVED



Introduced by **SENATOR LEILA M. DE LIMA**

AN ACT
ENSURING ACCOUNTABILITY IN INTELLIGENCE ACTIVITIES AND
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

EXPLANATORY NOTE

The Constitution declares that the State shall adopt and implement a policy of full public disclosure of all its transactions involving public interest¹ and that public officers and employees must at all times be accountable to the people.² All branches of government must be able to account for their actions and for their use of public funds, which shall be spent solely for public purposes.³ None should be spared from the scrutiny of the public and the mechanism of checks and balances of our governmental system.

However, because of its nature, intelligence activities must be kept confidential for valid national security concerns. Throughout 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. A balance must be struck between the need to maintain confidentiality and, at the same time, uphold accountability. Furthermore, there is a need to ensure that intelligence agencies are protecting civil liberties

¹ Article II, Section 28, 1987 Constitution.

² Article XI, Section 1, 1987 Constitution.

³ Section 4(2), Presidential Decree No. 1445.

instead of undermining them and that they are properly utilized to prepare for the threats to national security rather than for partisan or dubious activities of any government official.

In 2015, the COA, along with the Department of Budget and Management (DBM), the Department of the Interior and Local Government (DILG), the Governance Commission for Government-Owned or -Controlled Corporations (GCG), and the Department of National Defense (DND) issued Joint Circular No. 2015-01, which provides for the guidelines on the entitlement to, release, use, reporting and audit of Confidential Funds (CF) and Intelligence Funds (IF).

Under the Duterte administration, billions of pesos have been appropriated to various agencies for intelligence and confidential activities. For instance, in 2017 – the first full year of the Duterte regime – the Office of the President (OP), under the General Appropriations Act (GAA)⁴, was issued a ₱2.5 billion blank check for its intelligence and confidential activities in the conduct of its war on drugs and criminality. In succeeding years, the trend has continued as another ₱2.5 billion in intelligence and confidential funds were approved by Congress for the OP in both the 2018⁵ and 2019⁶ GAAs as well. Because of the necessary secrecy in the use of funds, these amounts appear as lump sums in the annual GAA and are not subject to the stringent regular auditing requirements of the Commission on Audit (COA).

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 (JCIC) 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 which conduct intelligence activities and receive intelligence funds to keep the JCIC fully informed of all intelligence activities, including any significant anticipated intelligence activity and any significant intelligence failure, as soon as possible.

⁴ Volume 1-A, Republic Act No. 10924

⁵ Volume 1-A, Republic Act No. 10964

⁶ Volume 1-A, Republic Act No. 11260

The bill also 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 JCIC receives a copy of this authorization letter within seventy-two (72) hours.

Early approval of this measure is earnestly sought.


LEILA M. DE LIMA

SENATE

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AN ACT
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GOVERNMENT AND TO OVERSEE HOW INTELLIGENCE AND
CONFIDENTIAL FUNDS ARE EXPENDED, AND FOR OTHER PURPOSES

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

1 Section 1. *Short Title.* – This Act shall be known as the “Intelligence Oversight
2 Act of 2019.”

3 Sec. 2. *Definition of Terms.* – As used in this Act, the following terms shall be
4 defined as follows:

5 (a) *Intelligence activities* - pertain to activities related to the process of
6 gathering, evaluation, correlation and interpretation of security
7 information, as performed by intelligence agencies of the Philippine
8 government.

9 (b) *Intelligence agencies* - include the Office of the National Security Adviser
10 (NSA), the National Intelligence Coordinating Agency (NICA), the
11 Intelligence Service of the Armed Forces of the Philippines (ISAFP), the
12 Intelligence Group of the Philippine National Police (PNP-IG), the
13 National Bureau of Investigation (NBI), the Office of the President (OP),
14 and all departments, agencies, and other entities of the Philippine

1 government, which receive intelligence and confidential funds from the
2 General Appropriations Act.

3 Sec. 3. *Joint Congressional Intelligence Committee.* – A Joint Congressional
4 Intelligence Committee (JCIC) is hereby established which shall, subject to the
5 Constitution, perform the oversight functions set out in this Act in relation to the
6 intelligence activities, which include the administration, financial management, and
7 expenditures of the intelligence agencies. The JCIC shall be composed of five (5)
8 members each from the Senate and House of Representatives, which shall meet
9 quarterly, or as often as necessary, to oversee the intelligence activities of the
10 Philippine government. The JCIC shall be jointly chaired by the Chairperson of the
11 Senate Committee on National Defense and Security and the House Committee on
12 National Defense and Security. The other four (4) members of the Senate delegation
13 are the Chairpersons of the Committee on Peace, Unification, and Reconciliation and
14 Unity, the Committee on Justice and Human Rights, the Committee on Public Order
15 and Dangerous Drugs, and the Committee on Finance. The other four (4) members
16 of the House delegation are the Chairpersons of the Committee on Peace,
17 Reconciliation and Unity, the Committee on Human Rights, the Committee on Public
18 Order and Safety, and the Committee on Appropriations. The President of the Senate,
19 the Speaker of the House of Representatives, and the minority leaders of both
20 Houses shall serve as *ex-officio* members of the JCIC.

21 Sec. 4. *General Provisions on Congressional Intelligence Oversight.*

22 (a) The President shall ensure that the JCIC are kept fully informed of the
23 intelligence activities of the Philippines, including any significant
24 anticipated intelligence activity, as soon as possible. Provided, however,
25 that this shall not be construed as requiring the approval of the JCIC as a
26 condition precedent to the initiation of any significant anticipated
27 intelligence activity.

28 (b) The President shall ensure that any illegal intelligence activity is reported
29 promptly to the JCIC, as well as any corrective action that has been taken
30 or is planned to be taken in connection with such illegal activity.

31 (c) If the President determines that it is essential to limit access to information
32 regarding any intelligence activity to meet extraordinary circumstances
33 affecting vital interests of the Philippines, the information may be reported

1 to the chairpersons of the JCIC, the President of the Senate, the Speaker of
2 the House of Representatives and the minority leaders of both Houses, and
3 such other member or members of Congress as may be included by the
4 President. When access to information is limited as such, a statement of
5 the reasons for limiting such access shall also be provided in writing to the
6 JCIC.

7 (d) Nothing in this Act shall be construed as authority to withhold information
8 from the JCIC on the grounds that providing the information would
9 constitute the unauthorized disclosure of classified information or
10 information relating to intelligence sources and methods.

11 *Sec. 5. Protecting the Confidentiality of Intelligence Activities and other*
12 *Classified Information.* – The JCIC shall establish procedures, subject to the
13 approval of the Senate and the House of Representatives, in order to:

14 (a) Protect from unauthorized disclosure all classified information, and all
15 information relating to intelligence sources and methods, that is furnished to the
16 JCIC under this Act; and

17 (b) Penalize members that violate the confidentiality of the JCIC's proceedings.

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

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

28 (a) Keep the JCIC fully informed of all intelligence activities, including any
29 significant anticipated intelligence activity and any significant intelligence
30 failure, as soon as possible; and

1 (b) Furnish the JCIC any information or material concerning intelligence
2 activities, which is requested by the JCIC in order to carry out its
3 authorized responsibilities.

4 *Sec. 7. Convening of the JCIC.* – In accordance with the procedures adopted
5 by the JCIC, the Chairperson of both Houses shall promptly call to the attention of
6 the Senate or the House of Representatives, or to any appropriate committee or
7 committees of each chamber, any matter relating to intelligence activities requiring
8 the attention of such chamber or such committee or committees.

9 *Sec. 8. Funding of Intelligence Activities.* –

10 (a) Appropriated intelligence and confidential funds available to any agency of
11 the Philippine government may be obligated or expended for intelligence
12 or intelligence-related activities only if those funds were specifically
13 authorized by the Congress for use for such activities as stated in the
14 annual General Appropriations Act.

15 (b) No funds appropriated for, or otherwise available to, any department,
16 agency, or entity of the Philippine Government may be expended, or may
17 be directed to be expended, for any intelligence activity, unless and until a
18 signed authorization letter from the President is obtained. For
19 constitutional bodies which enjoy fiscal autonomy, the authorization letter
20 must be signed by their respective head. The President, or the respective
21 head of the constitutional body, shall ensure that the JCIC receives a copy
22 of this authorization letter within seventy-two (72) hours.

23 *Sec. 9. Annual Report on Intelligence Activities.* – Not later than January 31
24 of each year, the President shall submit to the JCIC a report on the requirements of
25 the Philippines for intelligence for the calendar year in which the report is submitted,
26 and the activities of the intelligence agencies during the preceding calendar year. The
27 purpose of the report is to facilitate an assessment of the activities of the intelligence
28 agencies during the preceding calendar year and to assist in the development of a
29 mission and a budget for the intelligence agencies for the calendar year in which the
30 report is submitted. The report shall specify matters in sufficient detail to assist
31 Congress in making decisions with respect to the allocation of resources for the
32 matters specified. The report shall also include a financial statement covering all the
33 funds expended by any department, agency, or entity of the Philippine Government

1 for intelligence or intelligence-related activities, as well as a detailed account of the
2 use of these funds. The report shall be submitted in unclassified form, but may
3 include a classified annex.

4 Sec. 10. *Separability Clause.* – If any provision of this Act is declared
5 unconstitutional or invalid, other parts or provisions hereof not affected shall
6 continue to be in full force and effect.

7 Sec. 11. *Repealing Clause.* – All laws, executive orders, presidential decrees,
8 presidential proclamations, letters of instruction, rules and regulations or parts
9 thereof which are inconsistent with the provisions of this Act are hereby repealed or
10 modified accordingly.

11 Sec. 12. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
12 following its publication in the Official Gazette or in two (2) newspapers of general
13 circulation in the Philippines.

Approved,