

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

6 AUG 2006

SENATE

PARLITARY: *[Signature]*

COMMITTEE REPORT NO. 88

Submitted by the Committee on Public Order and Illegal Drugs on **10 AUG 2006**

Re: P. S. Res. No. 159.

Recommending the adoption of the recommendations and their immediate implementation.

Sponsors: Senator Villar and the Members of the Committee on Public Order and Illegal Drugs.

MR. PRESIDENT:

The Committee on Public Order and Illegal Drugs to which was referred Proposed Senate Resolution No. 159, introduced by Senator Villar, entitled:

**“RESOLUTION
DIRECTING THE SENATE COMMITTEE ON PUBLIC ORDER
AND ILLEGAL DRUGS TO CONDUCT AN INVESTIGATION, IN
AID OF LEGISLATION, INTO THE SHOOTING RAMPAGE
COMMITTED BY POLICE OFFICER 1 JONATHAN MOREÑO
DURING THE ‘ATI-ATIHAN’ FESTIVAL IN KALIBO, AKLAN
THAT LEFT SEVEN (7) POLICEMEN AND CIVILIANS DEAD
AND THIRTY-THREE (33) OTHERS WOUNDED, WITH THE END
VIEW OF REVIEWING THE PHILIPPINE NATIONAL POLICE’S
GUIDELINES AND STANDARDS NOT ONLY WITH RESPECT
TO THE RECRUITMENT AND SELECTION OF NEW POLICE
OFFICERS BUT MOST ESPECIALLY TO THOSE WHO ARE IN
THE ACTIVE SERVICE”**

has considered the same and has the honor to submit the report on its investigation, in aid of legislation, back to the Senate recommending the adoption of the recommendations as contained in this report and their immediate implementation.

I. STATEMENT OF FACTS

On 16 January 2005, at around 8:45 a.m., while Superintendent Odelardo Magayanes, the Aklan provincial police chief, was leaving the cathedral after the

celebration of a mass on the occasion of the Kalibo Ati-atihan Festival, his bodyguard, Police Officer 1 Jonathan Moreño suddenly gunned him down with an M16 Armlite rifle.¹ Thereafter, Moreño went on a shooting rampage that left eight (8) persons – six (6) policemen and two (2) civilians dead and thirty-one (31) persons – six (6) policemen and twenty-five (25) civilians wounded.²

II. FINDINGS

During the hearing on 24 January 2005, a letter purportedly written by a friend of Moreño, was read out before the committees by Senator Villar, to wit:

“I am his classmate at Mt. Carmel College in Escalante City, Negros Occidental.

He also told me that he is not afraid of Cuadra, but for security reasons considering he has been receiving death threats through Fax No. 09167720306, so he asked to be reassigned to Aklan where he served as a close-in security of Supt. Nemesio Neron and later of Magayanes.

And then right there in the silence of his being a star witness against a suspected big-time drug lord Cuadra ...

xxx

... he felt something that he never be able to deny. However, there was one problem, he had no idea what it was until such time John was informed by one of the representatives of

¹ Wild cop kills 7 in Ati-Atihan (33 others hurt in rampage). The Freeman. Retrieved April 30, 2006. <http://www.thefreeman.com>

² TSN, 24 January 2005, 2:05 p.m., p. 18

Garganera regarding high-ranking police officers and influential politicians who are alleged 'protectors' of suspected drug lord Jose Kim Cuadra and some associates Wang Ya Shi, Henry Tan and Juanito Lee Ty.

Pareng John showed me a photo copy of a written death threats na uubusin ang kanyang lahi if he will not withdraw as a star witness. The letter was personally handed to him by a certain official of the Philippine Marines in Iloilo.

Also Pareng John mentioned that his relatives and family were under surveillance in Iloilo by unknown individuals. Actually, pareng John always said na hindi lahat nang mangyayari sa kanya ay pinapaalam niya sa kanyang kamag-anak o pamilya dahil ayaw niyang mag-alala ang mga ito.

Sometime last year, he called me and talked to me about his frustrations in the case against drug lord Jose 'Kim' Cuadra. Also John told me that he was being protected by the institution he served considering dahil naikwento ni John sa akin na masama ang kanyang loob matapos bawiin ng pamunuan ng PNP Aklan ang kanyang pistola and his lawyer had withdrawn from representing him and advised him to withdraw his charges as the person he was after was influential and dangerous because of its international connections.

John also said that he was informed by a reliable source, a dignified PNP intelligence officer, that a co-witness in the case had already withdrawn and the PNP Provincial and Regional Director of

his area and some big-time politicians, Governor Carlito and Mayor, were benefiting from the drug money, in terms of millions, of Cuadra.

Our last communication, John told me that I will see an ordinary PNP like him armed with courage and integrity, stand-fast by democracy against narco politics and corruption. John said that he cannot tolerate the evil of his superiors and John was told by his superior to withdraw from the case and just accept the money being offered, otherwise, John will be jeopardized.

John also said, and I quote, 'I am ready to give my life in the service even without the support of the government. I hope my death will resurrect a new and young law enforcer with a clear vision, guided by sense of values in the PNP, someone whose achievements and accomplishments could be worthy of emulations by the citizenry, a PNP who could offer his/her best to standby by two-thirds of our people below the poverty line.

xxx xxx xxx

I was shocked when I heard from the news that Police Officer Jonathan Moreño, a bodyguard of Magayanes, was killed by responding police officers. I just don't know what went wrong with John. Maybe, too much paranoia, lack of peace of mind. I did not expect that it will end up like this considering John's ideals and accomplishment in life, the rest is history."³

³ TSN, 24 January 2005, 1:55 p.m., pp. 12-14

The Chief of the Philippine National Police (PNP) created a task force headed by Director Arturo Lomibao of the PNP and composed of other senior members of the PNP. The task force includes investigators, personnel officers and a member of the health service.⁴

The first angle being looked into by the PNP as a result of its initial investigation was the probability that Moreño was acting under extreme pressure by persons close to Jose "Kim" Cuadra. Thus:

"1. PO1 Moreño acted alone out of extreme pressure exerted by persons close to Jose 'Kim' Cuadra, a well-known drug lord now facing criminal charges for violation of Rep. Act 9165;

2. That PO3 James Emmanuel Rafols Laguna and SPO3 Fidel Velasco indeed offered bribe money to PO1 Moreño and PO1 Diaz, in relation to that above-mentioned incident or charges;

3. That the chief of police responded immediately that resulted in his untimely death, Chief of Police of Kalibo Aklan xxx. And this incident, as found by the investigating team, is an isolated case."⁵

During the hearing on 24 January 2005, General Lomibao and Police Chief Supt. George L. Aliño, the Regional Director of PNP Regional Office VI, said that the PNP had testimonial evidence from witness PO1 Gilbert Diaz, that PO1 Moreño was under extreme pressure from drug lord Jose 'Kim' Cuadra. Mr.

⁴ Id.

⁵ Ibid, p. 19

Aliño testified that prior to the Moreño's shooting rampage, Diaz and Moreño were the ones who arrested Cuadra at the airport. Dias was offered bribe money by PO3 James Laguna and SPO3 Fidel Velasco. PO3 Laguna was once associated with Cuadra when the former was assigned as a member of the security group of Cuadra from July to September 2003, after the latter attempted to bolt out of jail at the Aklan Provincial Jail. Alino further testified that according to the investigator's interview with Diaz, he and PO1 Moreño were offered bribe money of Php500,000.00 each by Laguna and Velasco to withdraw as principal witnesses in the case against Cuadra because they were the arresting officers.⁶ They were first offered the amount of P150,000.00 sometime in July 2003 and the last offer was made sometime in December 2004.⁷ Diaz disclosed these statements during an interview conducted by the PNP after PO1 Moreño's death.⁸

According to Supt. Geroge Corpuz, greater pressure was felt by PO1 Moreño because he and Laguna were both assigned in Aklan. In the case of Diaz, since he was transferred from Caticlan Airport to Bacolod Airport he no longer had contact with Laguna.⁹ PO1 Moreño allegedly revealed to several persons, including his parents and colleagues, that Laguna kept on asking him when he would he come home. PO1 Moreño sensed that his every move was being closely watched and that he did not like Laguna because he felt that Laguna would kill him.¹⁰

It was found out during the PNP initial investigation that Laguna was assigned with the Provincial Mobile Group and that he was part of the security

⁶ TSN, 24 January 2005, 2:15 p.m., pp. 20-25

⁷ TSN, 24 January 2005, 2:35 p.m., p. 38

⁸ TSN, 24 January 2005, 2:25 p.m., pp. 31-32

⁹ TSN, 24 January 2005, 2:25 p.m., p. 37

¹⁰ TSN, 24 January 2005, 2:35 p.m., p. 39

team of Provincial Director Magayanes.¹¹ It turned out that Laguna was pressuring PO1 Moreño on behalf of Magayanes.¹² Cuadra admitted that he knows Laguna.¹³

PNP interview with PO1 Moreño's father revealed that when PO1 Moreño went home in Negros during the Christmas break, he told his brother that he felt threatened and that he wanted to be transferred to Negros to avoid Laguna.¹⁴

The second angle being looked into by the PNP, according to Mr. Aliño, is the personal angle which deals on PO1 Moreño's personal life. The problems with his family, recruitment, promotion which could have aggravated his mental state.¹⁵ Mr. Aliño said that PO1 Moreño passed the neuro-psychiatric examination when he was recruited to the PNP.¹⁶

Supt. Corpuz testified that based on the PNP's initial investigation, there are no senior officers in the PNP involved in the bribery.¹⁷

Supt. Corpuz further denied the statements contained in the letter read earlier by Senator Villar during the hearing. He explained that PNP Aklan did not retrieve PO1 Moreño's pistol but the latter had to return the same to the PNP as part of the process of his transfer from Aklan to Negros Occidental per his request.¹⁸ Moreover, no lawyer purportedly representing PO1 Moreño cropped up during the PNP investigation.¹⁹

¹¹ Id.

¹² TSN, 24 January 2005, 2:35 p.m., p. 40

¹³ Id.

¹⁴ Ibid, p. 42

¹⁵ TSN, 24 January 2005, 2:15 p.m., p. 30

¹⁶ Id.

¹⁷ TSN, 24 January 2005, 2:25 p.m., p. 34

¹⁸ Ibid, p. 35

¹⁹ Ibid, p. 36

Napolcom Assistant Regional Director Joseph Celis revealed to Senator Villar that at least 20 police recruits, who either flanked or failed to take the neuropsychiatric test of the PNP, are now active members of the PNP and assigned in the Western Visayas.²⁰ However, Commissioner Imelda Crisol-Roces, Vice-Chairperson and Executive Officer of the Napolcom, denied that Celis categorically stated the same, saying that Celis must have been misquoted. But the same could be a possibility.²¹

III. RECOMMENDATIONS

The subsequent findings of the initial investigation of Task Force Kalibo headed by chief PNP Director Arturo Lomibao revealed that PO1 Moreño was suffering from an "acute psychotic breakdown". Police psychiatrists have diagnosed PO1 Moreño of the said mental illness based on interviews with witnesses and his behavioral patterns before he went on a shooting rampage.²²

The focus on the mental illness of PO1 Moreño as the sole reason on why he went on a shooting rampage on 16 January 2005 in Kalibo, Aklan is misplaced. The circumstances surrounding the desultory shooting committed by PO1 Moreño, as established by the initial findings of the PNP investigation and presenting during the 24 January 2005 hearing, reveal that his unstable mental condition prior to and during the incident was the result of his perceived threat coming from his fellow police officers PO3 Laguna and SPO3 Velasco. PNP investigations further established that PO3 Laguna and SPO3 Velasco are acting on behalf of Jose Kim Cuadra, a suspected drug lord. It was established that PO3 Laguna was offering bribe money to PO1 Moreño and PO1 Diaz for them to

²⁰ TSN, 24 January 2005, 2:45 p.m., pp. 44-45

²¹ Ibid, p. 45

²² Mendez, C. Cop in Kalibo Shooting Rampage had Psychotic Breakdown. Retrieved 29 April 2006. <http://www.newsflash.org/2004/02/hl/hl101744.htm>

retract their testimonies against Cuadra. But PO1 Moreño and PO1 Diaz refused to accept the bribe money.

A. *Protection Mechanism for Law Enforcement Officers in Drug Cases*

In drug-related cases, the arresting officers of the arrested suspect are usually taken as witnesses in courts against the accused (suspect). The testimony of these arresting officers is very vital to the prosecution case as the guilt of the accused may be established thereby as well as whether or not the law enforcement agency complied with the law in the arrest of the accused. The importance of the testimony of the arresting officers in drug-related cases explains the vulnerability of the witnesses to pressure, harassment, intimidation, and corruption, from the accused and their cohorts in the society. This vulnerability is magnified three-fold if the accused has the resources and commands a certain degree of political influence in the society. Hence, there is a need to address this concern not only for the welfare of the safety and well-being of the concerned law enforcement officers but also to their loved ones.

A careful review of our existing laws reveals that there is a lack of mechanism in our prosecution system protecting the law enforcement officers who are taken as witnesses in cases against the arrested drug traffickers. As established by PNP's investigation, Moreño perceived the threat to his life as well as to his loved ones as coming not only from the alleged drug trafficker, Cuadra, but from his fellow law enforcement officers, Laguna and Velasco. The purported paranoia exhibited by Moreno may have been exacerbated by his knowledge that no mechanism for his protection is available for him in the system.

Section 3, paragraph (d) of Republic Act 6981 otherwise known as the Witness Protection, Security and Benefit Act specifically disqualifies from the

Witness Protection, Security and Benefit Program any law enforcement officer, even if he would be testifying against other law enforcement officers. However, the law allows the immediate members of the family of the said law enforcement officer to avail of the benefits provided thereunder.

Likewise, Republic Act 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002 provides no provision which deals with the protection and security of law enforcement officers who are taken as prosecution witnesses against the alleged offenders.

Therefore, notwithstanding the provision of RA 6981 on the disqualification of law enforcement officers from availing the benefits provided therein, there is a need to enact a law to be integrated to RA 9165 providing for a protection mechanism to law enforcement officers who are used as prosecution witnesses in drug cases against the alleged offenders. The protection mechanism will be akin to the one provided under Section 8 of RA 6981 but only to the extent that may be necessary and provided that compelling reasons exist to warrant the giving of such rights and benefits.

B. Periodic Psychiatric Examination of PNP members

To constantly monitor and safeguard the mental well-being of the law enforcement officers, particularly those who are involved in the prosecution of court cases against the arrested suspects, it is important that a neuropsychiatric examination be regularly conducted to these officers.

Section 14 of Republic Act 8551 otherwise known as the Philippine National Police Reform and Reorganization Act of 1998, provides that *“xxx for the purpose of determining compliance with the requirements on physical and*

mental health, as well as the non-use of prohibited drugs, the PNP by itself or through a NAPOLCOM accredited government hospital shall conduct regular psychiatric, psychological drug and physical tests randomly and without notice.”

However, this provision has been rendered inutile by the fact that the PNP or NAPOLCOM has not formulated any rule or guideline for the conduct of this periodic psychiatric test. PNP should formulate the necessary guidelines for the conduct of the periodic neuropsychiatric test to its members and safeguards must be established against possible tampering with the results.

C. The Need for Further Investigation

Moreover, further investigation must be conducted to determine the veracity of the alleged irregularity in the entry of certain PNP members who are alleged to have failed the psychiatric exam or who did not take the exam at all. Under Section 14 of RA 8551, no person shall be appointed as officer or member of the PNP unless he or she has passed the psychiatric/psychological, drug and physical tests to determine his/her physical and mental health. During the hearing on 24 January 2005, Commissioner Imelda Crisol-Roces of the NAPOLCOM was quick to deny the veracity of the statement made by Napolcom Assistant Regional Director Joseph Celis that at least 20 police recruits who either flunked or failed to take the neuropsychiatric test administered by the PNP, are now active members of the PNP and assigned in the Western Visayas.²³

RA 8551 provides for two investigating bodies tasked to conduct investigation on certain police anomalies and irregularities. Under Section 10 of RA 8551, the Napolcom, through the Inspection, Monitoring and Investigation Service, is empowered to monitor and investigate police anomalies and irregularities. Likewise, under Section 39 of RA 8551, the PNP, through the

²³ TSN, 24 January 2005, 2:45 p.m., pp. 44-45

Internal Affairs Service, is empowered to investigate complaints and gather evidence in support of an open investigation. Therefore, under RA 8551, either the Napolcom or the PNP may conduct the proper investigation on the alleged irregularity in the entry of certain PNP personnel who either failed or flunked the psychiatric/psychological exam.

Moreover, under Section 15 of RA 6770 otherwise known as The Ombudsman Act of 1989, the Office of the Ombudsman is also vested with the following powers and functions, the pertinent portions of which read:

“SEC. 15. Powers, Functions and Duties. – The Office of the Ombudsman shall have the following powers, functions and duties:

(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. xxx;

xxx xxx xxx

(3) Direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglects to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act: Provided, that the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is

at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer;

xxx xxx xxx.”

Hence, the Office of the Ombudsman, *motu proprio* or upon complaint filed by any person, may conduct an investigation against the concerned PNP personnel and the private individuals involved in the alleged irregularity. It may also direct the responsible officer of the PNP to take appropriate action against a public officer or employee at fault and make the necessary recommendations against the same.

D. Administrative and Criminal Cases against PO3 Laguna and SPO3 Velasco

Finally, it is recommended that appropriate administrative and criminal cases be filed against PO3 Laguna and SPO3 Velasco with the Office of the Ombudsman. The Napolcom or the PNP, as the case may be and after conducting the necessary investigation, may file the proper administrative and criminal cases against the said officers.

With regard to administrative case, PO3 Laguna and SPO3 Velasco may be charged under Article IX, Section 36 of Presidential Decree 807 otherwise known as the Civil Service Decree of the Philippines. They may be charged with the offenses of misconduct; receiving for personal use of a fee, gift, or other valuable thing in the course of official duties or in connection therewith when such fee, gift or other valuable thing is given by any person in the hope or expectation of receiving a favor or better treatment than that accorded other


persons, or committing acts punishable under the anti-graft laws; and/ or conduct prejudicial to the best interest of the service.

With regard to the criminal case, PO3 Laguna and SPO3 Velasco may be charged with the Office of the Ombudsman for violation of Section 3 of Republic Act 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act. Section 3 reads:

“SEC. 3. Corrupt practices of public officers. – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

(a) Persuading, inducing or influencing another public officer to perform an act constituting a violation of rules and regulations duly promulgated by competent authority or an offense in connection with the official duties of the latter, or allowing himself to be persuaded, induced, or influenced to commit such violation or offense.”

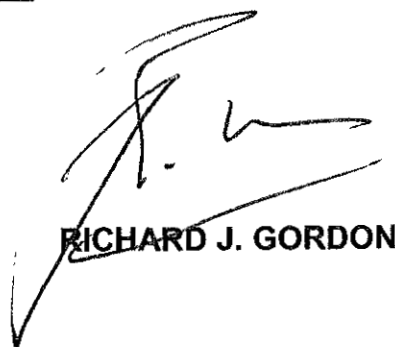
Respectfully submitted:


MANNY VILLAR
Chairman

Members:



RALPH G. RECTO



RICHARD J. GORDON



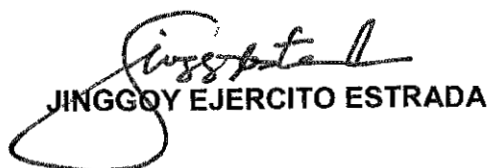
RAMON BONG REVILLA JR.



MANUEL "LITO" M. LAPID



JUAN PONCE ENRILE



JINGGOY EJERCITO ESTRADA

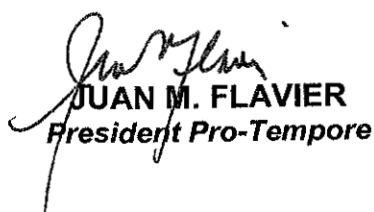


PANFILO M. LACSON

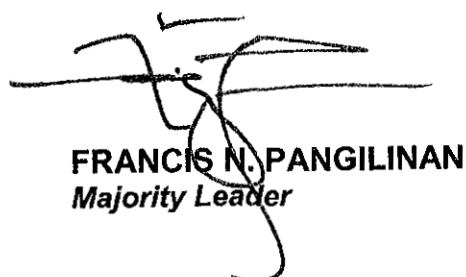


ALFREDO S. LIM

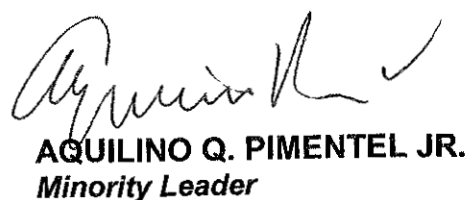
Ex - Officio Members :



JUAN M. FLAVIER
President Pro-Tempore



FRANCIS N. PANGILINAN
Majority Leader




AQUILINO Q. PIMENTEL JR.
Minority Leader

Hon. FRANKLIN M. DRILON
President
Senate of the Philippines
Pasay City

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

5 JAN 18 P4:14

RECEIVED BY: 

SENATE

P.S. Res. No. 159

Introduced by Senator Manny Villar

RESOLUTION

DIRECTING THE SENATE COMMITTEE ON PUBLIC ORDER AND ILLEGAL DRUGS TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, INTO THE SHOOTING RAMPAGE COMMITTED BY POLICE OFFICER 1 JONATHAN MOREÑO DURING THE "ATI-ATIHAN" FESTIVAL IN KALIBO, AKLAN THAT LEFT SEVEN (7) POLICEMEN AND CIVILIANS DEAD AND THIRTY-THREE (33) OTHERS WOUNDED, WITH THE END VIEW OF REVIEWING THE PHILIPPINE NATIONAL POLICE' GUIDELINES AND STANDARDS NOT ONLY WITH RESPECT TO THE RECRUITMENT AND SELECTION OF NEW POLICE OFFICERS BUT MOST ESPECIALLY TO THOSE WHO ARE IN THE ACTIVE SERVICE

WHEREAS, Police Officer 1 Jonathan Moreño went on a shooting rampage at the "Ati-atihan" religious festival in Kalibo, Aklan on the morning of January 16, 2005 killing six (6) people including Aklan Police Provincial Director Senior Superintendent Odelardo Magayanes, Kalibo Chief of Police Chief Inspector Manuel Ilejay, Jr. and a ten-year old girl identified as Judelyn Cuales, and wounding thirty three (33) other people before he himself was shot dead by responding policemen;

WHEREAS, the shooting took place outside the cathedral in Kalibo, sending thousands of people gathered there to celebrate the feast of the Sto. Nino scampering for safety;

WHEREAS, citing initial investigation reports, PNP Director General Edgar Aglipay said PO1 Moreño was a primary witness against a drug lord and was apparently disturbed due to pressures and threats against his family. His colleagues likewise observed that he seemed troubled and had spoken little in the days leading to the shooting;

WHEREAS, Police Director General Aglipay told reporters in Camp Crame police general headquarters that PO1 Moreño has a psychological problem;

WHEREAS, considering that policemen are charged with the maintenance of peace and order in the community and in the performance of their duties are issued service firearms, their mental fitness to bear and withstand the rigors of their chosen profession should be assured;

WHEREAS, if the shooting incident was indeed a result of mental instability on the part of PO1 Moreño as reported, a review and enforcement of strict guidelines and standards should be undertaken not only in the recruitment of new police officers but also to those policemen in the active service, to prevent another similar incident from taking place;

NOW, THEREFORE, BE IT RESOLVED, to direct the Senate Committee on Public Order and Illegal Drugs to conduct an investigation, in aid of legislation, into the shooting rampage committed by PO1 Jonathan Moreño during the "Ati-atihan" festival in Kalibo, Aklan that left seven (7) policemen and civilians dead and thirty-three (33) others wounded, with the end view of reviewing the Philippine National Police' guidelines and standards not only with respect to the recruitment and selection of new police officers but most especially to those who are in the active service.

Adopted,


MANUEL B. VILLAR, JR.
Senator