

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



SENATE

COMMITTEE REPORT NO. 184

Submitted by the Committee on Public Services on Feb 16 2021

Re: **P. S. Res. Nos. 634, 638 and 641**

Recommending the adoption of the recommendations contained herein and their immediate implementation

Sponsor: **Senator Grace Poe**

MR. PRESIDENT:

The Committee on Public Services, to which were referred **P. S. Res. No. 634**, introduced by **Sen. Grace Poe**, entitled:

"RESOLUTION

DIRECTING THE SENATE COMMITTEE ON PUBLIC SERVICES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE IMPLEMENTATION OF DEPARTMENT OF TRANSPORTATION (DOTR) DEPARTMENT ORDER NO. 2018-019 AND LAND TRANSPORTATION OFFICE (LTO) MEMORANDUM CIRCULAR NO. 2018-2158, AND ALL RELATED ISSUANCES, WITH THE END IN VIEW OF ADDRESSING THE CONCERNS OF MOTORISTS REGARDING THE OPERATIONS OF PRIVATE MOTOR VEHICLE INSPECTION CENTERS (PMVICs) AND, ULTIMATELY, IMPROVING THE MOTOR VEHICLE INSPECTION SYSTEM (MVIS) IN THE COUNTRY"

P. S. Res. No. 638, introduced by **Sen. Ralph G. Recto**, entitled:

"RESOLUTION

URGING THE DEPARTMENT OF TRANSPORTATION (DOTr) AND THE LAND TRANSPORTATION OFFICE (LTO) TO SUSPEND THE OPERATION OF PRIVATE MOTOR VEHICLE INSPECTION CENTERS (PMVICs) UNTIL A COMPREHENSIVE PUBLIC CONSULTATION IS CONDUCTED, WITH THE END IN VIEW OF PROMOTING TRANSPARENCY TO STAKEHOLDERS AND THE PUBLIC, FORGING

PROGRAMS WITH SOCIAL ACCEPTABILITY, AND ENSURING PUBLIC SAFETY"

and **P. S. Res. No. 641**, introduced by **Sen. Leila M. De Lima**, entitled:

**"RESOLUTION
URGING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ALLEGED PRECIPITOUS AND HASTY IMPLEMENTATION OF THE PRIVATE MOTOR VEHICLE INSPECTION CENTER (PMVIC) PROJECT OF THE LAND TRANSPORTATION OFFICE (LTO) AND DEPARTMENT OF TRANSPORTATION (DOTR) FOLLOWING CRITICISMS AND ALLEGATIONS OF LACK OF TRANSPARENCY AND APPROPRIATE CONSULTATION OF ITS MAJOR STAKEHOLDERS IN ITS PLANNING AND IMPLEMENTATION LEADING TO FEARS OF OUR CITIZENS BEING DEPRIVED OF THEIR RIGHT TO USE THEIR VEHICLES WITHOUT DUE PROCESS"**

has considered the same and has the honor to report back to the Senate with the attached findings and recommendations.

Respectfully submitted,



GRACE POE

Chairperson

Vice-Chairpersons:



SEN. RAMON BONG REVILLA JR.

SEN. PANFILO M. LACSON



SEN. EMMANUEL "MANNY" D. PACQUIAO



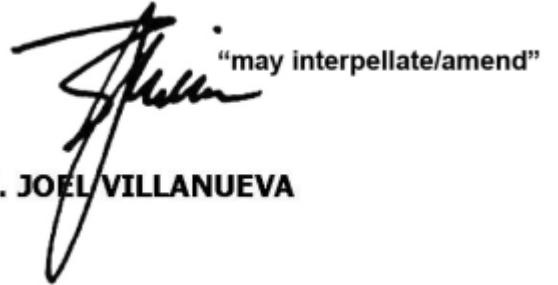
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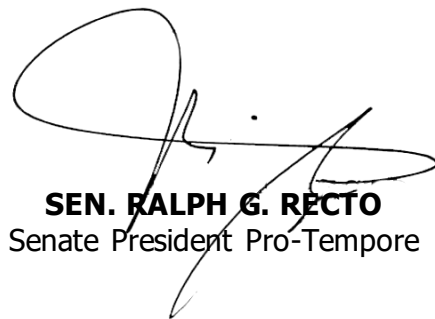


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SEN. RISA HONTIVEROS

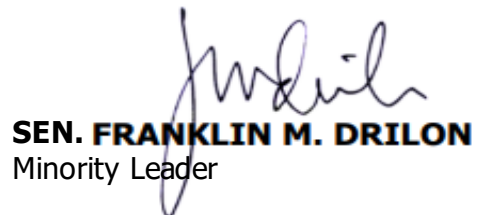
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SEN. JUAN MIGUEL F. ZUBIRI
Majority Leader



SEN. FRANKLIN M. DRILON
Minority Leader

HON. VICENTE C. SOTTO III
Senate President

I. OVERVIEW

Background

The abundance of problems that are currently casting dark clouds over the Motor Vehicle Inspection System (MVIS) started when the Department of Transportation (DOTr) decided to privatize it in 2018.¹ The DOTr decreed that the physical inspection of vehicles, which was previously conducted by the Land Transportation Office, along with an additional battery of tests (73 in total) shall now be conducted by Private Motor Vehicle Inspection Centers (PMVICs) which it will accredit outside the usual modes of procurement.

Not long after it went into effect, problems in the implementation of the new MVIS started to show almost immediately like how cracks would appear in a glass that has been unceremoniously dropped. Suddenly, motorists started raising their concerns about the system – from its exorbitant costs, to the lack of transparency in the accreditation of the private centers, to the many glitches the MVIS is experiencing overall.

Upon closer inspection of the novel system, however, more cracks have begun to show. Now it becomes clearer that the glass is about to shatter.

Timeline

The MVIS traces its early roots from the government's efforts to curb air pollution by regulating emissions coming from automobiles. This was manifest in 1999 when the Philippine Clean Air Act (Republic Act No. 8749) was passed. The law mandated the DOTr (then Department of Transportation and Communication or DOTC) to implement the emission standards for motor vehicles. Section 22 thereof provides, *viz*:

X X X

No motor vehicle registration (MVR) shall be issued unless such motor vehicle passes the emission testing requirement promulgated in accordance with this Act. Such testing shall be conducted by the DOTC or its

¹ DOTr Department Order No. 2018-19 ("An Order Privatizing the Motor Vehicle Inspection System Through Authorization").

authorized inspection centers within sixty (60) days prior to date of registration.

X X X

The Clean Air Act also expressly authorized the operation of accredited private emission testing centers in accordance to the action plan developed by the DOTr, DTI and local government units, *viz*:

Sec. 21. Pollution from Motor Vehicles. -

X X X

b) The Department, in collaboration with the DOTC, DTI and LGUs, shall develop an action plan for the control and management of air pollution from motor vehicles consistent with the Integrated Air Quality Framework. The DOTC shall enforce compliance with the emission standards for motor vehicles set by the Department. The DOTC may deputize other law enforcement agencies and LGUs for this purpose. To this end, the DOTC shall have the power to:

X X X

(3) Authorize private testing emission testing centers duly accredited by the DTI.

The framework crafted by the law was largely adopted by its Implementing Rules and Regulations which, in turn, established the National Motor Vehicle Inspection and Maintenance Program.² The Program made the emission testing of a motor vehicle a prerequisite to its registration or renewal thereof.

On 10 August 2018, however, the prevailing setup was overhauled when the DOTr issued Department Order (DO) 2018-19, entitled "An Order Privatizing the Motor Vehicle Inspection System Through Authorization". It took its authority to engage the private

² Rule XXXIV, Department of Environment and Natural Resources Administrative Order No. 2000-81.

sector from the power of the Department (then Ministry of Transportation and Communications) under Section 5 (b) of Executive Order No. 125, *viz*:

“(b) Establish and administer comprehensive and integrated programs for transportation and communications, and for this purpose, may call on any agency, corporation, or organization, whether public or private, whose development programs include transportation and communications as an integral part thereof, to participate and assist in the preparation and implementation of such programs.”

X X X

It also cited the power of the Land Transportation Office (LTO) to “...examine and inspect any motor vehicle to determine whether such motor vehicle is registered, improperly marked or equipped, or otherwise unfit to be operated...” under R.A. No. 4136³.

Interestingly, it cited again as authority the Clean Air Act despite the intent of the Order to go beyond the goal of clean air. In one of its *Whereas*, it cited Section 21 (d) of the Clean Air Act, *viz*:

“In order to ensure the substantial reduction of emissions from motor vehicles, the Department of Trade and Industry (DTI), together with the DOTC and the Department shall formulate and implement a national motor vehicle inspection and maintenance program that will promote efficient and safe operation of all motor vehicles.”

X X X

In compliance with DO 2018-19, LTO issued Memorandum Circular (MC) No. 2018-2158 on 28 November 2018 which laid down the guidelines for the authorization of PMVICs.

³ Article III, Section 4 (d)(6), **Republic Act No. 4136**, “An Act to Compile the Laws Relative to Land Transportation and Traffic Rules, to Create a Land Transportation Commission and for Other Purposes,” June 20, 1964.

On 18 February 2019, DOTr issued DO 2019-002 which revises DO 2018-19. The new DO expanded the coverage of motor vehicles that will be subjected to the testing and inspection of PMVICs.

Subsequently, on 13 March 2019, DOTr issued MC 2019-009, entitled "Revised Guidelines for the Authorization of PMVICs" wherein 138 PMVIC sites were identified. Similarly, LTO issued MC 2020-2225 on 11 November 2020 announcing the opening of 209 identified additional sites. LTO later issued MC 2020-2230 on 03 December 2020 which declared the opening of 111 identified additional PMVIC sites that will cater to heavy duty motor vehicles.

On 24 January 2020, DOTr issued DO 2020-001 which announced the constitution of a Steering Committee for and establishment of the MVIS Project Management Office (MVIS-PMO).

LTO meanwhile issued two memorandum circulars on 29 December 2020: *first* was MC 2020-2240 which laid down the IRR of the or the Private Motor Vehicle Inspection System; and *second* was the MC 2020-2241 which listed the Operating Guidelines for PMVICs.

Finally, between October 2020 to January 2021, LTO issued a slew of memorandum circulars authorizing the operations of identified PMVICs in various regions. It bears stressing, however, that some PMVICs were already allowed to operate even before the aforementioned IRR and Operating Guidelines were issued by the same office.

The Privatized MVIS

The series of Orders and Memo Circulars from the DOTr and LTO introduced significant changes to the current system of motor vehicle inspection in the country.

As previously mentioned, it authorized PMVICs to conduct the inspection of motor vehicles, making the system totally controlled by the private sector. This testing is conducted with 73 inspection points divided into 3 stages.

Initially, LTO targeted a total of 458 PMVIC sites scattered across the country, 347 of which are for regular vehicles while 111 are for heavy-duty vehicles.⁹ In reality, however only 24 sites were operational according to documents submitted by the DOTr.

⁹ Section 1, LTO MC 2018-2158.

One change which really caused uproar was the drastic increase of the cost of motor vehicle inspection. Vehicles weighing up to 4,500 kg will now be charged P1,500.00. Motorcycles and tricycles will be required to pay P600.00 while the inspection of jeepneys will cost P300.00.¹⁰ This is a dramatic increase from P450.00 to P600.00 which private emission testing centers were charging when the old system was still in place. The new rates appear to be even more prohibitive when juxtaposed against the LTO's inspection fee of P90 for PUVs and government vehicles.

In case of failure, the motor vehicle will be required to undergo another round of inspection and will be charged a "re-inspection fee" worth P150.00 to P750.00, depending on its type.¹¹

On 11 February, following the conduct of the Senate Committee on Public Services hearing where the PMVIS was scrutinized and its implementors thoroughly questioned, President Rodrigo Duterte announced that the PMVIS will no longer be mandatory – a gesture that signals that the issues and concerns raised by the stakeholders hold water.

On the same date, DOTr announced on its Facebook page that the PMVIC testing fees were lowered from following a widespread backlash against the original rate – from P1,500 to P600 for private vehicles, from 600 to 500 for motorcycles, but PUJs will remain at 300.¹²

Revenue Model

During the committee hearing, Vehicle Inspection Center Owners Association of the Philippines (VICOAP) President Iñigo D.S. Larrazabal said that the capitalization for each PMVIC reaches around P50 million.¹³ Meanwhile, mobility website Visor, on its Facebook page, projected that assuming that each test costs P1,800.00 for light vehicles and P600.00 for motorcycles, where the PMVIC has two lanes for each kind of vehicle, it will be able to conduct 180 tests per day can be done in a span of ten hours.¹⁴

¹⁰ LTO MC 2020-2241.

¹¹ *Id.*

¹²(2021 February 11). DOTr Facebook Page. Retrieved from <https://www.facebook.com/DOTrPH/photos/a.395811647224644/1948628998609560/>

¹³ TSN from February 9, 2021. Committee on Public Services Joint with the Committee on Women, Children, Family Relations and Gender Equality, prepared by Committee Secretariat, headed by Committee Secretary Mr. Horace R. Cruda. Page 76.

¹⁴ (2021 February 06). Visor Facebook Page. Retrieved from: <https://www.facebook.com/visor.ph/posts/2860980784223265>

Another automobile-based website CarGuide.ph crunched the numbers and found out that assuming the PMVICs will earn a monthly revenue of P5.3 million or P63.6 million annually (based on the data provided by DOTr), with an operating expense at 1.94 million a month or P23.280 million annually, this will result to an operating margin of 63%. In short, each PMVIC will be capable of recovering its investment in just a year and a month.¹⁵

The same report suggested that if PMVICs were required to drop the price of testing to P650.00, they will still manage to recover their entire investment in just a span of 3 years and 10 months which is still very well within the five-year period of validity of its authorization certificate.¹⁶

The revenue and profit margin of each PMVIC becomes even more staggering when compared to what they are required to pay to the government for their yearly operation. Sec. 13 of DOTr MC 2019-009 only requires each PMVIC to pay an annual fee of P30,000.00. It should be noted, however, that during the committee hearing¹⁷ DOTr Assistant Secretary Mark Steven Pastor claimed that such fee costs P100,000.

II. DISCUSSION OF ISSUES AND FINDINGS

Lack of official definition of “roadworthiness”

DOTr DO 2019-002 cites the Clean Air Act of 1999 as the basis of the inception of the PMVIS. Under the law, the DTI, together with the DOTr, and the DENR shall formulate and implement a national motor vehicle inspection and maintenance program that will promote efficient and safe operation of all motor vehicles.

The main purpose of implementing the MVIS is to ensure that all motor vehicles are roadworthy by requiring them to undergo inspection prior to registration. Also, through the MVIS, older vehicles will no longer be phased out so long as they pass the roadworthiness test. However, neither RA 8749, nor any of the issuances of DOTr and

¹⁵ CarGuide.ph. (2021 February 11). How Much Money Do PMVICs Make According to the DOTr? Retrieved from <https://www.carguide.ph/2021/02/how-much-money-do-pmvics-make-according.html?m=1>

¹⁶ Sec. 11, DOTr MC 2019-009.

¹⁷ TSN February 9, 2021, Page 84.

LTO on the matter provides for a clear definition of roadworthiness. Hence, the question: how do you test for something you did not clearly define?

Aside from the absence of a clear definition of roadworthiness, Engr. Ramon Publico of the University of the Philippines also identified the following serious flaws in the inspection standards to be employed by PMVICs under LTO MC 2020-2240 or the Private Motor Vehicle Inspection Standards and Implementing Rules and Regulations:¹⁸

- Absence of reference standards for each test or testing machine. These standards are supposed to be the basis for customers to check the validity of test results;
- Questionable guidelines and inspection procedures such as the overly strict speedometer test;
- Misused terms involving the concepts of force and light in the guidelines;
- Arbitrary provisions that deviate from accepted international standards such as the specification that fuel tanks should be made of steel when more than 80% of the global market already converted to plastic tanks;
- Use of vague terms such as easy maintenance, major corrosion, or unsafe modification without providing clear definition;
- Absence of the technical specifications for motor vehicle test equipment;
- Absence of the requirements designed to limit possible sources of uncontrolled variables that might lead to errors in measurement such as environmental conditions, vehicle-to-vehicle differences for a given model, brake system changes with age, test driver differences, test surface friction differences between test sites, among others; and,
- Inspection tasks that are beyond the training provided to a TESDA Automotive Servicing NC II Technician.

The absence of a clear definition of roadworthiness, coupled with the identified flaws in the inspection standards, almost guarantees that there will be errors in the test results. Not only that this might lead to corruption, some also believe that the roadworthiness test actually intends to facilitate the phase out of older vehicles without due process.

Cost

The biggest concern in the privatization of PMVICs is the corresponding increase in cost that it entails. LTO MC No. 2018-2158 initially pegged the inspection and re-inspection fee at P 1,800 and P 900.00, respectively, for motor vehicles with gross vehicle weight

¹⁸ Position Paper of Engr. Ramon Publico entitled Serious Flaws of MC 2020-2240 submitted to the Committee on Public Services on 2021 February 08.

up to 4,500 kilograms, and the inspection and re-inspection fee at P 600.00 and P 300.00, respectively, for motorcycles and tricycles. It was later announced, however, under DOTr MC 2019-09, that the inspection fees shall be determined after the public consultation to be conducted by the DOTr in coordination with LTO and LTFRB.

On 29 December 2020, LTO MC 2020-2241 reduced the inspection fee to P1,500.00 and the re-inspection fee to P750.00 for light motor vehicles and retained the inspection and re-inspection fee for motorcycles and tricycles. Stakeholders, however, complain that no thorough consultation was conducted regarding the cost of inspection. DOTr also admitted that the prescribed inspection fee came from the recommendation of the Public Private Partnership Center as it is the reasonable range of fees that will allow return of investment in three to five years.¹⁹

During the committee hearing, Senator Ralph Recto also repeatedly asked the DOTr and LTO whether their stakeholders comprising of motor vehicle owners agree to the P 1,500 inspection fee. To which, the DOTr and LTO failed to give a coherent answer.

The DOTr also tried to point out that the inspection fees in the country is relatively lower than that of other countries. However, the DOTR, as pointed out by Sen. Recto, failed to consider purchasing power parity or the relationship between the purchasing power of different currencies.

In the end, even if a proper consultation was conducted before the pandemic, and even if the inspection fee here is lower than other countries, the new P 1,500 inspection fee is still thrice the previous P 500-cost of emission tests. And implementing such an increase during a global pandemic still reeks of callousness and lack of consideration on the part of the policy implementers.

Even the DOTr and VICOAP seem to agree with this observation since a day after the February 9 hearing of this Committee, VICOAP President Larazabal expressed his group's readiness to waive re-inspection fees while DOTr Assistant Secretary and head of the Accreditation Committee (AC), Giovanni Lopez, committed that the DOTr will scrap the same.²⁰

¹⁹ (2021 February 04). DOTr Facebook Page. Retrieved from https://m.facebook.com/story.php?story_fbid=1943036702502123&id=130406490431829

²⁰ Ilagan, A. (2021 February 10). PMVIC owners agree to waive retesting fees. Retrieved from https://www.topbikes.ph/news/pmVIC-waive-retesting-fee-a959-20210210?utm_source=Facebook-TopGear&utm_medium=Siteshare&utm_campaign=20210210-pmVIC-testing-fee

It should also be noted that on 11 February, Secretary Tugade released a public appeal via the DOTr Facebook page to ask PMVICs to lower the inspection and re-inspection fees.²¹ However, such appeal appears to be mere lip service when it is the DOTr and LTO's own issuances which set the rates collected by the PMVICs.

As the DOTr has not yet come out with the latest issuance formalizing the lowering of fees, it is yet unclear if the PMVIC fee will remain at the lowered rate of P600. It is notable that there is no proportionate lowering of rates for the inspection of motorcycles and PUJs. While it seemingly panders to public opinion, we would be hard-pressed to find any definitive relief from these pronouncements.

The subsequent lowering of the fees further proves that the inspection fees set by DOTr and LTO have no clear basis. Similarly, the waiver of re-inspection fees for a year brings no comfort as it means that its imposition is still discretionary.

Absence of consultation

Stakeholders allege that proper consultation was not conducted by the DOTr and LTO prior to the issuance of the order privatizing the MVIS. According to LTO Assistant Secretary Edgar C. Galvante, he directed his regional directors to conduct a consultation and invite the public, especially the group of motorists. However, it was not clear how many consultations were conducted and what the outcome of these consultations were.

It is worth noting that the Committee directed the LTO to submit the minutes and details of these consultations. As of this writing, the LTO is yet to comply.

In addition, local executives lament that they were not consulted prior to the operation of PMVICs in their area. Hence, the LGUs failed to conduct their inspection first. This is the experience of the city of San Fernando, La Union and the province of Calapan, Oriental Mindoro.²²

Lack of transparency in the accreditation of PMVICs

Sec. 10 of DOTr MC 2019-009 states that for transparency, proceedings of the Authorization Committee (AC), including its evaluation of the corrective action taken on

²¹ (2021 February 11). DOTr Facebook Page. Retrieved from https://m.facebook.com/story.php?story_fbid=1948430688629391&id=130406490431829

²² TSN February 9, 2021, Pages 46-47 and 52-53.

noted deficiencies, shall be livestreamed through the DOTr Facebook, Twitter, and YouTube accounts. However, an examination of the uploaded videos submitted by the DOTr to this Committee reveals that it is hardly the transparency envisioned in the said MC.

First of all, it is hard to believe that the AC was able to evaluate and review all applications; authorize the Inspection Team to conduct final inspection; formulate guidelines and procedures relative to PMVICs; and issue the Authorization Certificates in just three proceedings – 03 June 2019, 11 July 2019, and 30 July 2019.

Second, most PMVICs which have Authorization Certificates were not mentioned these livestreamed proceedings of the AC submitted by the DOTr to the Committee. Out of the twenty-four (24) PMVICs, sixteen (16) corporations were not mentioned or shown in the livestreamed proceedings.

Perhaps a more damning example of the absence of transparency in the process is the fact that three companies (i.e., Road Ready, Rocket Cargo and Pink Gorilla) which were now authorized to operate in their respective localities were not mentioned in any of the livestreamed videos. This only points to one conclusion – that the Authorization Committee and its technical working group (TWG) allowed the aforementioned companies to bypass the evaluation process required under the law.

It is also noteworthy that up until February 4 or mere days before the hearing of this Committee, there was no official list of authorized PMVICs published in the official websites of the DOTr and LTO, as well as their social media platforms – leaving the public wondering who the operators behind these authorized PMVICs are and whether they really have the required qualifications or not. The hasty issuance of authorizations during the pandemic seemed fishy to some groups such as the Volunteers Against Crime and Corruption (VACC) who lamented “ *Pag walang konsultasyon, baka may korpasyon.*”²⁴

Non-compliance with documentary and legal requirements

Apart from the usual documentary requirements like a SEC or DTI Certificate of Registration, DOTr MC 2019-009 also required applicants to submit Proof of Orders of the required inspection equipment, Bank Certificate of Deposit of Letter of Credit worth not

²⁴ (2021 February 02). 'Pag walang consultation, baka may corruption': VACC blasts PMVIC operations during pandemic. Retrieved from <https://news.abs-cbn.com/news/02/02/21/pag-walang-consultation-baka-may-corruption-vacc-blasts-pmvic-operations-during-pandemic>

less than P10 Million to ensure sufficient financial capacity to establish a PMVIC, and no derogatory record in government transactions.

It is unfortunate that the submissions of DOTr failed to show how the applicants were able to comply with above documentary and legal requirements. It would've dispelled the allegations that only those PMVICs which purchased equipment from preferred suppliers were able to get Authorization Certificates.

It is also notable that DOTr Assistant Secretaries Pastor and Lopez were present on all three proceedings of TWG dates where PMVIC applicants, and their equipment and suppliers were evaluated. It is thus unfortunate that the latter denied knowledge when the Committee asked the DOTr to submit a list of suppliers and equipment to determine compliance with the CE and ISO certifications required under the issuances.

Further, a review of their SEC papers showed that twelve (12) out of the twenty-four (24) PMVICs do not have enough capitalization to finance an expensive inspection center costing P50 Million above, while eight (8) others were registered as sole proprietorships with the DTI which contained no information as to their financial standing. The lack of information on capitalization left this Committee wondering how solo proprietorships which were only created between 2018 and 2019 were able to get massive funding for the 2019 application process.

Worse, the Department's submissions were bereft of any record that the current PMVICs have secured accreditation from the DTI Philippine Accreditation Bureau as required by DO 2018-019. The requirement to submit accreditation belatedly after operations and collections have already started is a flawed policy considering that DTI accreditation is integral to the operations of a motor vehicle inspection system under the Clean Air Act.

Limited Number of PMVICs in Operation

There is a total of 458 target PMVIC sites, 347 of which are for regular vehicles while 111 are for heavy-duty vehicles. Of the target 458, only 24 PMVICs are in operation and all of those are for light vehicles and motorcycles/tricycles only. To date, there is no PMVIC servicing heavy-duty vehicles – the ones more prone to mechanical issues that cause road accidents – yet.

The limited number of PMVICs in operation led to long queues, crowding, and violation of health protocols in the few operational PMVICs. During the committee hearing, Oriental Mindoro Governor Humerlito Dolor reiterated his request that the LTO suspend the

operation of PMVICs after a PMVIC in Calapan was crowded by private vehicle owners seeking to have their vehicles inspected.²⁵ He added that one PMVIC in the province is simply not enough to cater to thousands of motor vehicles seeking registration as evidenced by the experience of some motorists who travelled 175 kilometers just to get to the lone PMVIC in the Calapan.

The Chairperson also pointed out that to accommodate around four (4) million private vehicles in the country, the 23 PMVICs (number of PMVICs based on the series of MCs issued by LTO) must be able to inspect 476 cars per day – which is impossible if each test takes thirty minutes each. Projections peg each center to only have a capacity of 180 vehicles at most for 10 hours of operations per day.

Violation of the Equal Protection Clause

Closely related to the discussion of the immediately preceding issue, the implementation of the PMVIS has also violated the equal protection clause enshrined in the 1987 Constitution which provides, *viz*:

SECTION 1. No person shall be deprived of life, liberty, or property without due process of law, **nor shall any person be denied the equal protection of the laws** (*emphasis supplied*).

In a landmark case, the Philippine Supreme Court explained that equal protection requires that all persons or things similarly situated should be treated alike, both as to rights conferred and responsibilities imposed. It does not demand absolute equality among residents; it merely requires that all persons shall be treated alike, under like circumstances and conditions both as to privileges conferred and liabilities enforced. The guarantee means that no person or class of persons shall be denied the same protection of laws which is enjoyed by other persons or other classes in like circumstances.²⁶

Sec. 6 of DOTr DO 2019-002 provides, *viz*:

“For regions and districts where there is no established PMVIC, the government MVIC shall continue to conduct

²⁵ TSN February 9, 2021, Page 46.

²⁶ *Ichong v. Hernandez*, 101 Phil. 115.

inspection as a requirement to renewal and registration. For mountainous areas or districts with limited vehicle registrations, a scheduled test by the mobile Motor Vehicle Inspection Facility (MVIF) shall continue annually.”

Evidently, the PMVIS creates an undue requirement on motorists residing in locations where a PMVIC is established while such obligation is absent on those living in sites where a PMVIC is not yet set up.

The subject requirement is more onerous not only because the services of PMVICs are drastically more expensive than those rendered by private emission testing centers which they replaced, but also due to the fact that the regions and districts that do not have an authorized PMVIC will only be subjected to a single test, as opposed to the 73 tests which the PMVIS strictly requires.

As a result, DO 2019-002 creates an unequal classification and treatment between the localities where authorized PMVICs are established and those that do not have them yet.

This issue has been raised by Governor Dolor during the committee hearing where he cited the experience of Occidental Mindoro.²⁷

“In MIMAROPA alone, for example, there were five provinces, but there are only two PMVIC facilities, one in Puerto Princesa and one in Calapan City. In our case sa Oriental Mindoro, ma’am, dapat sa accredited PMVIC facility. Pero, ma’am, iyong Occidental Mindoro, Marinduque, Romblon, they can just go to an ordinary private emission center, testing center, and they can register. Where is the equal protection sa mga tao na doon sa isang probinsya, dapat dito sa facility na ito; doon sa isang probinsya, puwedeng hindi? Doon ba sa isang probinsya, hindi na nila kailangan na ma-test ang kanila ng private testing facility na bago?” Gov. Dolor said.

Incompatibility of the system used by PMVICs with Philippine motor vehicles

Another conflict that was raised during the committee hearing was the incompatibility of the equipment being used by the PMVICs with the vehicles normally used in the Philippines.

²⁷ TSN February 9, 2021, Page 46.

VACC President Arsenio Evangelista decried the arbitrary standards being set by the equipment used by PMVICs for testing and inspection.²⁸

“Isang walang maayos na basehan kung ano ang sinasabing roadworthiness ng isang sasakyan. Dito po pumapasok iyong integrity ng machines. Saan bang country of origin nanggaling itong mga machines na ito? Compatible ba ito sa present na mga motor vehicles natin ditto na ginagamit sa Pilipinas? Masyadong mahigpit, masyadong mataas ang standard ng inspection centers kaya kung saan majority ng mga sasakyan natin dito ay nagfi-fail,” Evangelista said.

When asked about the subject matter, VICOAP President Larrazabal answered that all PMVICs are given similar standards by the LTO with respect to the inspection and testing of motor vehicles.

“When you say compatible, meaning, sir, that if we have similar standards—Yes, we do. Our equipment has to have similar standards or results that will determine whether you pass or fail a certain test,” he said.²⁹

However, later in the hearing, VICOAP President Larrazabal, also admitted that each PMVIC imports their equipment and machineries from different countries such as Italy, South Korea and France.³⁰

The impression that there is intent to adopt different minimum standards for different classes of vehicles in the country is clear in the exchange between DOTr Asec. Lopez and the Chairperson where the former admitted to rolling out the PMVIC for private vehicles first in order to adjust these standards for PUJs to pass³¹:

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THE CHAIRPERSON (SEN. POE). Sir, ano, you are trying to assess the safety for private vehicles para makapasa ang public vehicle? Ulitin mo nga iyon.

MR. LOPEZ. Yes, Madam Chair, kasi ngayon po mayroon tayong mga sinabing standards po for the private motor vehicles, and these are iyong sinasabi nating ilang tests po ito, 68 tests, 60-70 points test. Sa amin po kailangan naming kasing pag-aralan at i-adjust

²⁸ TSN February 9, 2021, Pages 54-55.

²⁹ TSN February 9, 2021, Page 33.

³⁰ TSN February 9, 2021, Page 76.

³¹ TSN February 9, 2021, Pages 26-27.

po na kailangan naming kuntian ng kaunti iyong minimum standards pagdating po sa PUJs para po talagang ma-assess namin at talaga po namang iyong PUJs natin po pumasa sa ating standards without, iyon nga po, sina-sacrifice na...

THE CHAIRPERSON (SEN. POE). Okay. Okay. So, sinasabi mo ngayon nagpapakadakila na unahin natin ang private vehicles para makahanap tayo ng paraan na maging mas madali para sa public vehicles. It seems very flawed to me.

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These admissions seemingly gives credence to the fears of the senators expressed during the committee hearing that this incompatibility could lead to the adoption of different systems per PMVIC and hence, an arbitrary standard of roadworthiness.³²

Incompatibility of the PMVICs with the IT system of LTO

The General Guidelines for PMVICs under LTO Memorandum Circular No. 2020-2241 states that the PMVIC shall be capable of being interconnected with the existing LTO IT System. However, despite it being a requirement, the IT system used by the first PMVICs authorized to operate are allegedly not compatible with the Land Transportation Management System (LTMS) of LTO.

For motor vehicle owners, this means that they have to pay for another testing in another PMVIC. This is one of the reasons a PMVIC in San Fernando, La Union was suspended by the city council.³³

VICOAP President Larrazabal, however, asserted that all of their systems are compatible with the LTMS as they are required to upload inspection results to the latter.

Another PMVIC operator, however, has been reported to appeal to the LTO “to allow other operators (to) send motor vehicle data despite their system being not the same with the LTMS”.³⁴

³² TSN February 9, 2021, Page 32.

³³ (2021 January 2021). Operasyon ng PMVIC ipinatupad kahit walang public consultation? CLTV36 News. Retrieved from <https://www.youtube.com/watch?v=HFNvhCK9x5U&feature=youtu.be>

³⁴ Lalu, Gabriel Pabico. (27 November 2020). “Motor quality inspectors urge LTO to make systems compatible to other providers”. Retrieved from <https://newsinfo.inquirer.net/1365407/motor-quality-inspectors-urge-lto-to-make-systems-compatible-to-other-providers>

It is baffling to this Committee why the Authorization Committee allowed the procurement of equipment that is not compatible with the current IT system. The excuse that an application programming interface (API) can fix this incompatibility only begs the question since such a solution will entail substantial extra costs that makes incompatible systems expensive.

Depending on who's looking at it, the insistence on incompatible equipment reeks of either gross oversight or suspicious policy-making on the part of the Authorization Committee.

On the issue of lack of funding

While it is understandable that we need the roadworthiness test to prevent road crashes caused by mechanical issues on poorly-maintained vehicles, privatizing MVICs and letting the public shoulder the cost is another issue – especially if there were previous allocations for the DOTr and LTO to construct public motor vehicle inspection facilities.

LTO had access to the Motor Vehicle User's Charge (MVUC) funds long before the disposition of MVUC collections was amended in 2019. Per the Ted Failon report, from 2001 to 2017, there should've been P22.2B earmarked for the MVIS. LTO Assistant Secretary Galvante, however, clarified that per the original law, Republic Act No. 8794, only 7.5% of this amount was allotted to, and placed in, the Special Vehicle Pollution Control Fund and it will be under the DOTr and not the LTO.

According to LTO's own data submitted to this Committee, there is a total of **14.7 Billion** deposited MVUC collection between 2001 to January 2020 that should have been earmarked for the Special Vehicle Pollution Control Fund.

DOTr data shows that, in 2015, of the total release of 337 Million, only the amount of **27.6 Million** was obligated for the MVIC. This is drastically lower than the MVUC collections available to DOTr and LTO.

DOTr data again shows that in 2017, it earmarked **709 Million** for the procurement of 25 Containerized Mobile Vehicle Inspection Facilities. This was only parked in the PITC (Philippine International Trading Corp) and reverted back to the Treasury. It was DOTr itself which wrote to PITC to terminate their MOA because of a failure of bidding when all the bidders were found to be non-compliant with the requirements of the project. On

May 2019, the PITC informed the DOTr that it already remitted to the Bureau of Treasury the amount of P 705.8 million net of PITC's 0.5% cancellation fee.³⁵

Upon the passage of Republic Act No. 11239 (An Act Abolishing the Road Board and Providing for the Disposition of the MVUC Collections), the DPWH took over all the rights and assume all the obligations and liabilities of the Road Board. The funds of the Road Board, including unexpended appropriations or allocations, was also transferred to the DPWH. However, under the new section 7 of RA 11239, MVUC collections shall now be solely used for the construction, upgrading, repair, and rehabilitation of roads, bridges, and road drainage.

However, according to DOTr's own data, there is still a total of **11.1 Billion** unreleased MVUC Fund due to the DOTr as of June 2019.

DOTr then decided to push through with the Phase 2 of MVIS by engaging private centers and letting private motorists shoulder the inspection fees.

The DOTr missed its chance to utilize the MVUC funds for the construction of public MVICs and caused grave loss to the public. That is a gross negligence on the part of the DOTr and the officers responsible must be administratively charged.

On road safety and glitches in the system

Objectors to the PMVIS claim that the system does not really ensure the roadworthiness of the motor vehicles inspected. On the contrary, motor vehicles fail the testing and inspection because of human error and intervention on the process.

During the committee hearing,³⁶ Pampanga Chamber of Commerce and Industry, Inc. President Rene Romero recounted his experience in one of the PMVICs where he had his automobile tested. He recounted that his 2011 BMW Z4, which recently underwent preventive maintenance service, failed the roadworthiness test on January 11 at QWIK Private Motor Vehicle Inspection Center in Angeles, Pampanga. He then immediately took his car back to a BMW dealership but BMW mechanics did not find anything wrong with the vehicle. Without undergoing any repairs, the car was brought back for re-inspection

³⁵ DOTr's explanation regarding the failure of bidding in the procurement of mobile motor vehicle inspection facility. Submitted to the Committee on Public Services on 2021 February 11.

³⁶ TSN February 9, 2021, Pages 39-40.

and it passed. Mr. Romero also observed that there was no one to approach in case vehicle owners have reservations or objections with the results.

Based on his experience, he surmised that PMVICs can give vehicles a pass or fail mark based on their discretion – “Kung gusto kang ibagsak, pwede; kung gusto ka ipasa, pwede.”

Absent transparency in the technical specifications of the equipment allowed by the Authorization Committee, we would be hard-pressed to resolve complaints of glitches of aggrieved motorists who fail the tests. Convincing the public of the value of the new MVIS and encouraging them to trust the results paid for with good money would need more than empty assurances that the system is good.

Conflicts in the Issuances

Another point of discussion during the committee hearing were the inconsistencies present in the issuances of LTO.³⁷

Section 3.8 of LTO MC 2020-2240 provides, *viz*:

3.8. Motor Vehicle Modification – shall refer to the allowable alteration/changes that can be done in the motor vehicle’s body design and configuration which shall be subject to the inspection by the LTO. Only stock and/or OEM vehicles shall be allowed inspection at the PMVIC.

Motorcycle Rights Organization of the Philippines President Jobert Bolanos pointed out during the committee hearing that the first and second parts of the aforementioned provision are incompatible with each other. The first part of the provision presupposes that there are allowable modifications on motor vehicles while the second provides that PMVICs may only inspect motor vehicles that have the official, genuine parts produced directly by the vehicle's maker.

Further, Section 6.5 of the same memorandum circular provides, *viz*:

6.5. MOTORCYCLES (MC)

³⁷ TSN February 9, 2021, Page 192.

All motorcycles shall be "inspected in accordance with MC AHS 2008-01 (*Re: Revised Rules and Regulations for the Use of Motorcycles on Highways*) (sic)

Mr. Bolanos pointed out that the implementation of the relevant portion of MC AHS 2008-01 which pertains to the allowable modification in the original standard design of a motorcycle is currently suspended.³⁸ This situation, hence, generates confusion among motorcycle owners and PMVIC operators precisely because a common standard in the testing and inspection of such vehicles is clearly lacking.

III. CONCLUSION

The main objective of the committee hearing was to shed light on the issues currently hounding the implementation of the PMVIS in the country and come up with ideas to address them. But during the course of the proceedings, it was revealed that the novel system is plagued by more serious problems which could only lead to one conclusion – that the PMVIS is extraordinarily flawed and its implementation must be halted at once.

It is not lost to the Committee that the PMVIS was probably done with pure intentions, that is, towards the goal of ensuring that vehicles in the Philippines are roadworthy and the roads are free from irresponsible motorists. These evils, however, will not be solved through the establishment of a system that adds the burden solely on the public under suspicious circumstances.

Such is evident in the non-compliance with legal and documentary requirements which the PMVIS Authorization Committee has apparently disregarded just so it can accommodate certain PMVICs. Equally suspect is the fact that the PMVIS was implemented without a proper stakeholder consultation which makes it seem that the project was railroaded by the powers that be.

The PMVIS also suffers from numerous logistical concerns that further illustrate its sloppy conception. For one, there are only a limited number of PMVICs that are currently operational within the country. For another, the IT system, machinery and equipment being used by such PMVICs appear to be incompatible with that being used by the LTO and the motor vehicles normally used in the Philippines. Not to mention that these facilities are also prone to glitches.

³⁸ TSN February 9, 2021, Pages 192-193.

For the public to believe in government programs that puts the burden and inconvenience on them, we must proceed only with solidly-written policy and the highest level of transparency. To not do so is an act that seemingly tolerates, if not willingly facilitates corruption.

These issues make it unacceptable for the public to accept a new system which shifted a considerable economic burden when it imposed a testing fee that is more than triple its previous cost, in addition to other mandatory payments.

Lastly, for reasons already discussed at length above, the reason cited by the DOTr for resorting to the privatization of the motor vehicle inspection system is unacceptable. Not only did the DOTr have access to sufficient funding to finance a national MVIS that can cater to motorists for free, it was also not precluded from tapping other government agencies that have sufficient resources to undertake this endeavor.

Due to the foregoing reasons, the Committee is of the firm belief that the growing calls to abolish the PMVIS is completely justified. The noble intent behind the implementation of the PMVIS cannot justify its continued existence. It is a deeply-flawed policy that does not address but instead, even exacerbates, the problems already tormenting Filipino motorists.

IV. RECOMMENDATIONS

The policy of ensuring only roadworthy vehicles ply our roads is commendable. However, a half-baked policy is a bad policy and this Committee won't stand for it.

The implementation of a system as comprehensive as a Privatized MVIS which is expected to have far-reaching effects to all motorists in the country is best left to the jurisdiction of the legislature the same way that the Clean Air Act had to make the delegation to Private Emission Testing Centers clear and express in the language of the law.

By going through the scrutiny of the normal legislative process, lawmakers and experts could settle once and for all the underlying principles of the PMVIS which the stakeholders have found to be objectionable, particularly whether or not the government should have its own MVIS that will cater exclusively to public utility and government-owned vehicles, how much should the required capitalization be for PMVICs, and what tests should be included in the testing and inspection process.

In the meantime, the official repeal of the DOTr DO 2018-019 and all related issuances is recommended. While the fees have been lowered for now and testing seems to have been made optional, the implementation of this flawed program must be stopped definitively pending the resolution of issues hounding it.

While VICOAP, the association of PMVICs, seems to have agreed to lower the fees and waive the re-testing fees for a year, such commitment must not be left to the discretion or magnanimity of private enterprises. The re-testing fee is a creation of the relevant DO and MCs and must be repealed by the same agencies which ordered it. Ultimately, the payment of fees for a public service contentiously delegated to a private concessionaire without public bidding must never be discretionary.

The issues on legality of the privatization of MVIS, lack of consultation and transparency in the accreditation of inspection centers, inadequate number of inspection centers in operation, glitches in the system, and the overall incompatibility of PMVICs with LTO's own IT system and the landscape of motor vehicles in the country, all remain unresolved without decisive action from the Department.

Finally, it is strongly recommended for the Senate Committee on Accountability of Public Officers and Investigations to conduct an investigation on the highly anomalous transactions surrounding the accreditation of PMVICs and the officials complicit and involved therein.

The questionable issuances seem to have created a very favorable environment for an oligopoly where only very few players can enter and succeed. The inexplicable dark moments during the evaluation process and lack of transparency in the eventual accreditation of winning service providers bear badges of fraud which should be investigated further by the appropriate Committee.

There is no doubt that we all want safer roads for everyone. The sudden roll-out of a new vehicle registration system that is undisputedly burdensome to our motorists is hardly the way to do it.

This Committee sincerely hopes that regulators understand that while we want the problems in land transport fixed, we should never go about it experimentally. Not during the pandemic, not ever. When it comes to new far-reaching policies, those who conceive them must obey the oldest rule on the road: Stop. Look. Listen.