

UPDATE ON THE IMPLEMENTATION OF THE WITNESS PROTECTION SECURITY AND BENEFIT PROGRAM (WPSBP)

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I. OVERVIEW OF PROGRAM'S OPERATIONS

At a time when government is under fire because of its perceived inability to stop unexplained killings as borne by the recommendations of the Melo Commission, the UN Special Rapporteur Philipp Alston, EU Needs Assessment Mission and the National Consultative Summit on Extra Judicial Killings and Enforced Disappearances organized by the Supreme Court, the need to improve protection of witnesses, victims, judges and prosecutors has been consistently articulated.

Although there has been a marked increase in the number of applications for coverage under the WPSB Program, due mainly to the increasing awareness of the importance of protecting witnesses in the prosecution of heinous crimes, the Program has remained under resourced. From the stand point of the prosecutors and law enforcers witness protection and care has become a vital tool in the effective prosecution of criminal cases. With the proactive stance taken by the Justice Department under Secretary Leila M. de Lima in the implementation of the Program's mandate even the courts have relied on the Program for security and other allied assistance to judges and court personnel particularly in high risk cases.

From only six admissions in its inception in 1991, the Program has expanded its operations through the years. For the period covering 1 January 2010 to 30 November 2010 a record of 162 applications were filed with the Program. Out of this number 113 applicant witnesses were admitted and added to the witnesses already being maintained by the Program. As of 30 November 2010, the Program had under its coverage a total of 463 witnesses nationwide. However, for the period 1 July-30 November 2010 alone, commencing from the assumption to office of the new administration under the 15th President of the Republic of the Philippines, His Excellency, Benigno C. Aquino, 109 applications were filed out of which 63 applicant witnesses were admitted.

As a general rule, dependents of covered witnesses extend up to the second civil degree. At an average family size of four, this translates to additional 2,000 warm bodies to feed, secure, transport, send to school and care for. We have obtained 61 convictions in 75 important cases with 42 convicted accused and utilizing 36 covered witnesses; thereby posting a conviction rate of 81.33% for the period under review.

The increase in the number of witnesses and the successful prosecution of cases are mainly attributed to the late Senior State Prosecutor Leo Dacera, the former Program Director of the WPP, who passed away last month. During his administration, awareness of the importance of protecting witnesses in the prosecution of heinous crimes has dramatically increased.

Pursuant to the directive of Secretary De Lima to strengthen the Witness Protection Program the following measures have been recommended for implementation:

A. Proactive Implementation

Program's implementers in the regions have been directed to adopt a proactive stance in seeking out witnesses in cases involving political killings, media murders and human rights violations. Although application for admission for witness protection coverage necessarily requires strict compliance with statutory requirements, stringent vetting procedures and the identification and evaluation of threats, program personnel have been directed to liberalize admission requirements particularly when threat level on bona fide witnesses

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in media and political killings is high.

B. Enhancement of Witness Benefits

Witnesses often decline proposal to testify for the prosecution not only because of fear of physical harm but more often because of economic dislocation. To allay witnesses' uncertainty because of a drastic change in their way of life upon admission into the Program economic benefits and social services should be enhanced.

Psychological counseling which are presently undertaken in coordination with the Department of Health and Department of Social Welfare and Development shall be extended ample logistical support.

Direct financial assistance shall likewise be increased to ameliorate witness clients' economic condition.

Increase in employees' benefits.

C. Witness-Client Skills Training & Education

To prepare witnesses in re-joining mainstream society after their discharge from the Program as protected witnesses and to lessen their dependence on the Program consistent with security requirements a wide-ranging vocational orientation-training program shall be undertaken in cooperation with TESDA and/or TLRC to prepare them for suitable employment here and abroad .

D. Institutionalization of Coordination with Judiciary & Other Pillars of Criminal Justice System

Speedy disposition of cases is a key feature in the maintenance of a reliable and credible witness protection program. Prolonged pendency of cases particularly before the high courts results to apathy and indifference of witnesses on the success of the case. Loss of opportunity, isolation and boredom associated with extended confinement in relocation sites and safe houses away from native community and relatives dampen witnesses' resolve to testify. A team of prosecutors shall be organized to monitor and coordinate, and if circumstances so warrant, take over cases involving covered witnesses.

E. Upgrade in Training and Equipment of Protective and Administrative Personnel

Acquisition of firearms suitable for close quarter battle, body armor and communication equipment for use of protective personnel are essential requirements for enhancement of the Program's protective capability.

Upgraded training of administrative personnel should likewise be undertaken to keep them posted on trends in record keeping and confidentiality.

Purchase of utility vehicles to augment the Program's aging fleet to transport witnesses from regional relocation sites to trial venues across the country is an operational necessity for the security and well being of witnesses.

F. Construction of a Secure WPP Building

At present the Program's administrative operations are carried out in three separate locations within the DOJ compound for lack of space. This exposes program documents, personnel and witnesses to risk because accused, their relatives, representatives, lawyers, their agents and the general public all converge in DOJ to follow up their various concerns. Operation is hampered and confidentiality and security is unavoidably compromised under this set-up as regulations and procedures designed to protect and secure covered witnesses cannot be fully implemented as it would interfere with activities of other DOJ agencies also holding office in the compound.

It must be noted that two media organizations (Jucra and Juror) doing the justice beat have free access

to all parts of the DOJ compound. For a credible witness protection organization to function there is a need for the construction of a secure building devoted to witness protection purposes only to ensure the effective discharge of the Program's mandate.

II. PROGRAM SPECIAL CONCERNS

A. Media Murders, Extra Judicial Killings, Ampatuan Maguindanao Massacre & Rebellion Cases

Because of the rise in media murder cases and extrajudicial killings the Philippines was labelled by the international media organizations as the most murderous country for journalists.

To dispel the impression that in our country many killers and masterminds of journalists who expose corruption in government get off the hook owing to the weakness of our criminal justice system, Secretary Leila De Lima directed the Program implementers to be involved in case buildup, identification of potential witnesses under threat, filing of charges, securing of warrants and relocation of witnesses in a number of cases.

On 23 November, 2009 the infamous Maguindanao massacre, which claimed 57 innocent lives, including a significant number of media practitioners, took place in Ampatuan, Maguindanao.

Suspects, including members of the powerful Ampatuan political clan, have been charged with 57 counts of murder while others have been detained for rebellion charges using Program resources. The prosecution is also directly supported by WPP including litigation costs of prosecutors, expert witness and other technical personnel. The cases are pending trial before the Quezon City Regional Trial Court. All in all close to 900 persons have been named in the indictment in said cases while many more remain as John Does.

The speedy convictions of the accused in the murders of Edgar Damalerio (Pagadian), Allan Dizon (Cebu) and Marlene Esperat (Sultan Kudarat), Armando Pace (Digos City), Judge Orlando Velasco (Dumaguete) have been secured through the testimony of witnesses under the Program.

Consequently, Program resources have to be applied above the customary level to these national interest cases, most especially in the recent Maguindanao massacre, in support of law enforcement, intelligence and investigation agencies' drive to help speedily resolve the case.

B. US Rewards For Justice Program

In the past the US government has paid substantial amounts to informants who proved crucial to the capture of extremist leaders in Mindanao. Recently 4 individuals who provided information for the neutralization of Khadaffy Janjalani and Jainal Antel Sali (Abu Solaiman) were admitted into the Program at the behest of the US State Department after payment to them of substantial amount of money. The rationale for the huge payments in cash to informants with extensive media coverage, is to encourage potential informants to come forward with information against remaining ASG and Jemaa Islamia personalities such as Isnilon Hapilon, Dulmatin Omar Patek and other religious extremist leaders still at large. This would enhance government's anti-terrorism campaign. Thereafter, the informants-witnesses and their families were turned over to the Witness Protection Program (WPP). This required refurbishing of existing DOJ facilities for use as secure temporary relocation sites, purchase of additional vehicles to supplement the Program's aging fleet, and payment of incentive pay to personnel directly involved in this operation for increased work load.

C. Support for Anti Terrorism Cases

Support for President Aquino's action program against anti-terrorism efforts continue to take up a large part of the Program's funds. Although the number and intensity of actual combat operations against the Abu Sayaff Group, Jemaa Islamia and MILF may have declined the extremist groups appear to have taken a different tack by leaving their mountain lairs in Mindanao and shifting operations to the country's urban

centers. Thus, the spate of terror bombing attacks in Regions 9 and 12 in recent months have required extensive Program intervention in identifying and securing material witnesses and their relocation to safe locations.

Considering the mobility of suspected terrorists and their involvement in numerous cases pending across the country it has been essential to deploy and re-deploy material witnesses for them to testify in various courts in Metro Manila and Mindanao and relocate them elsewhere to ensure confidentiality and security. Emergency relocation of WCs and families to different harbouring sites in the country has increased cost of operation.

Again, through the cooperation and testimony of witnesses under the Program the prosecution succeeded in securing convictions in cases against ASG members and MILF Commander Tahir Alonto and other accused.

Thus, like in other Program special concerns, in anti-terrorism cases material and human resources above the customary level for regional cases have to be provided directly to witnesses in support of government's goal to decisively stomp out terrorism and criminality.

D. Trafficking In Persons Cases

The deportation of Filipinos from Malaysia and other Asean neighbors brought in its wake the filing in our courts of human trafficking cases mostly at the behest of international organizations. Considering that criminal cases against organized criminal syndicates have to be filed nationwide in the victims' port of departure/re-entry Program resources were devoted to secure, house and transport witnesses in support of said cases. Because of the successful prosecution of human trafficking cases Zamboanga City Prosecutor Ricardo Cabaron who is a Program implementer in Region 9 was recognized by the United States Government as the 2007 Sen. Benigno Aquino, Jr. Fellowship for Professional Development awardee and awarded a training course in the US.

E. Regionalization of Temporary Shelters and Safehouses

To highlight the significance of the Program's role in securing our witnesses, it is important to note that because of close family ties and extended family system ingrained in our culture the Program is oftentimes compelled to grant witnesses' requests to keep all family members in the safehouse for their security and peace of mind. This accounts for a high number of occupancy in temporary shelters. This is however more economical compared to the need to transport and secure the witnesses whenever they would want to visit their family outside of the safehouse.

To enhance operational efficiency, cut down on transport cost and reduce stress on witness clients and their families a number of regional temporary shelters with full security complement have been established in areas of witness preference where crime incidence on national interest cases appear to be on the rise. This is an area that we would have to closely look into to make the Program's operations in the countryside better felt. By doing so we would be able to make the government particularly the Department of Justice more relevant to the people's needs particularly the underprivileged and marginalized in our aim to strengthen the rule of law in our country.

III. CONCLUSION

I conclude my presentation by proposing the following amendments to the Witness Protection Act:

(a) Inclusion of provisions for evidentiary rules to permit witnesses to testify in a manner that ensures their safety such as video links, close circuit screens and other adequate means. Under the present set up, witnesses covered are treated and required to testify like ordinary witnesses. There are no rules as of yet on the manner of their testifying.

- (b) Organic Protection Force for the Program should be established by law. The Program relies mostly on the other law enforcement agencies for protection and security of the witnesses. The downside of this is that we are left at the mercy of the other law enforcement agencies. In some regions, the Program practically has to plead to get security personnel from other agencies.
- (c) The law should allow law enforcers to be covered under the Program. As earlier pointed out by Deputy Prosecutor General Gaña, law enforcers who are witnesses or have information regarding the commission of a crime cannot avail of the benefits under the program. This inhibition does not take into account the fact that in the prosecution of most crimes, law enforcers who responded to and investigated their commission, are indispensable witnesses. Needless to say that even law enforcers in this jurisdiction are also susceptible to corruption, threat and intimidation, causing them to avoid testifying or to testify falsely or evasively.
- (d) Heavier penalty should be imposed for harassment of witnesses. Under existing law, the penalty for harassment is fine of not more than 3,000 pesos or imprisonment of not more than one year or both. The law is too lenient on this.
- (e) Expanding the confidentiality provisions of the law to include all aspects of the coverage
- (f) Increase penalty for recanting witnesses. Citation for contempt or perjury are the only penalty for recanting witnesses. The penalty should be increased including the reparation of all government expenses relative to his coverage
- (g) Provisions on cross border relocation should be included in the law. There is no law at the moment requiring for the procedure and the manner of relocation of covered witnesses to other countries. No bilateral agreement with other countries on the matter.
- (h) Change of identity implementation provisions must be had. The law or the rules of court do not have provisions on how to secure a change of witness identity.
- (i) Fund augmentation for the Program. The present fund allocation of the Program is insufficient to feed, secure, care and protect the more than 2,000 witnesses and member of their respective families.

In parting, I quote the late Program Director Dacera,

“The witnesses must realize that they have only one country which they have the duty to serve, love and protect. In a more direct way, we must let them realize that every citizen has the duty to fight crime and respect the law, testify and convict criminals unmotivated by economic benefits alone for our nation to prosper and develop. It is only after we have achieved this that we may state that we have amply responded to today’s challenge.”