

THE ROLE AND FUNCTION OF THE PROSECUTION IN THE PHILIPPINE CRIMINAL JUSTICE SYSTEM

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INTRODUCTION

The criminal justice system, essentially, is the system or process in the community by which crimes are investigated, and the persons suspected thereof are taken into custody, prosecuted in court and punished, if found guilty, provisions being made for their correction and rehabilitation.

Prior to the advent of American sovereignty in the country, we had the Spanish law on criminal procedure. The Royal Decree of September 4, 1884, by virtue of which the Penal Code in force in the archipelago, as amended in accordance with the recommendations of the Code Committee, and its accompanying law—the Provisional Law on Criminal Procedure—were published and applied in the Philippines pursuant to the Royal Decree of December 17, 1884. It became effective four months after its publication in the *Gaceta de Manila*. In addition, the compilation of the Laws of Criminal Procedure of 1879 and the Law of Criminal Procedure of 1882 also formed part of our law on the subject.

During the American occupation, General Otis issued General Orders No. 58 on April 23, 1900, which was amended at various times. Some of the amendments were: Act No. 194, providing for preliminary investigations; Act No. 440, relating to counsels *de officio*; Act No. 590, providing for preliminary investigations by Justices of the Peace of provincial capitals; Act No. 2677, prescribing the procedure of appeals of cases originating in the Justice

of the Peace Courts to the Supreme Court; Act No. 2709, regarding the exclusion of an accused to be utilized as a government witness; and Act No. 2886, changing the name of the party who should prosecute the criminal action from that of “The United States” to “The People of the Philippines.”

The Philippine criminal justice system is composed of five parts or pillars, namely, law enforcement, prosecution, judiciary, penology, and the community.

I. LAW ENFORCEMENT PROCESS

The law enforcement consists of the officers and men of the Philippine National Police (PNP), the National Bureau of Investigation (NBI), and other agencies. When they learn of the commission of crimes or discover them, their duty is to:

a. Investigate the crime which may take the form of surveillance and observation of suspects, other persons and premises; interviewing persons with knowledge of facts directly or indirectly connected with the offense; taking photographs (surreptitiously or otherwise); arranging for entrapment; searching premises and persons subject to constitutional and statutory safeguards; and examining public and other available records pertaining to the persons involved and getting copies of pertinent entries.

The police officers, in other words, collect evidence for use in the prosecution of the suspects in the court. This may consist of the testimony of witnesses, including invited suspects, which are invariably taken down in question-and-answer form;

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writings and objects, e.g., gun, knife, other weapons used in the commission of the crime, clothing of the victim, etc.

b. Arrest suspects by virtue of a warrant of arrest issued by a judge on the basis of evidence submitted by them or under circumstances justifying a warrantees arrest.

The instances when an arrest without warrant may be lawfully effected by a peace officer or a private person are as follows:

- (1) When in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense;
- (2) When an offense has in fact just been committed, and he has personal knowledge of facts indicating that the person to be arrested has committed it; and
- (3) When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case in pending or has escaped while being transferred from one confinement to another.

Any person who—while in custody or otherwise deprived of liberty—is under investigation for the commission of an offense, has the following constitutional rights, among others:

- 1) He must be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel;
- 2) No torture, force, violence, threat, intimidation or any other means which vitiate the free will shall be used against him; secret detention

places, solitary, in comunicado or other similar forms of detention are prohibited; and

- 3) Any confession or admission obtained in violation of the foregoing shall be inadmissible in evidence against him.

c. Refer the case and the suspects to the Office of the Public Prosecutor or Municipal Trial Court for preliminary investigation or directly to the Municipal Trial Court for trial and judgment.

II. PROSECUTION PROCESS

The investigation and prosecution of all cases involving violations of penal laws are lodged with the Department of Justice (DOJ) through its National Prosecution Service (NAPROSS).

The DOJ is headed by the Secretary of Justice with three Undersecretaries assisting him.

Aside from being the prosecution arm of the government, the DOJ shall have the following powers and functions:

a. Act as principal law agency of the government and as legal counsel and representative thereof, whenever so required;

b. Administer the probation and correction system;

c. Extend free legal assistance/representation to indigents and poor litigants in criminal cases and non-commercial civil disputes;

d. Preserve the integrity of land titles through proper registration;

e. Investigate and arbitrate untitled land disputes involving small landowners and members of indigenous cultural communities;

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f. Provide immigration and naturalization regulatory services and implement the laws governing citizenship and the admission and stay of aliens;

g. Provide legal services to the national government and its functionaries, including government owned or controlled corporations and their subsidiaries; and

h. Perform such other function as may be provided by law. It consists of the following constituent units:

- (1) Department proper;
- (2) Office of the Government Counsel;
- (3) National Bureau of Investigation;
- (4) Public Attorney's Office;
- (5) Board of Pardons and Parole;
- (6) Parole and Probation Administration;
- (7) Bureau of Corrections;
- (8) Land Registration Authority;
- (9) Bureau of Immigration; and
- (10) Commission on the Settlement of Land Problems.

The NAPROSS is with the "Department Proper" which is under the control and supervision of the Secretary of Justice. It is composed of the Prosecution Staff in the Office of the Secretary of Justice headed by the Chief State Prosecutor, the Regional State Prosecution Offices headed by Regional State Prosecutors, and the Provincial and City Prosecution Offices headed by the Provincial Prosecutor and City Prosecutor, respectively.

The Prosecution Staff or State Prosecutors perform the following functions:

a. Investigate administrative charges against prosecutors and other prosecution officers;

b. Conduct the investigation and prosecution of all crimes;

c. Prepare legal opinions on queries involving violations of the Revised Penal Code and special penal laws; and

d. Review appeals from the resolutions of prosecutors and other prosecuting officers in connection with criminal cases handled by them.

Regional State Prosecutors have the following functions:

- (1) Implement policies, plans, programs, memoranda, orders, circulars and rules and regulations of the DOJ relative to the investigation and prosecution of criminal cases in his region;
- (2) Exercise immediate administrative supervision over all Provincial and City Prosecutors and other prosecuting officers of provinces and cities comprised within his region;
- (3) Prosecute any case arising within the region.

Provincial and City Prosecutors have the following functions:

a. Be the law officer of the province or city, as the case may be. He shall have charge of the prosecution of all crimes, misdemeanors and violations of city or municipal ordinances in the courts of such province or city and shall therein discharge all the duties incident to the institution of criminal prosecutions;

b. Investigate and/or cause to be investigated all charges of crimes, misdemeanors and violations of all penal laws and ordinances within their respective jurisdictions and have the necessary information or complaint prepared or made against the persons accused. In the conduct of such investigations, he or his assistants shall receive the sworn statements or take oral evidence of witnesses summoned by subpoena for the purpose;

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c. Investigate commissions of criminal acts and take an active part in the gathering of relevant evidence. For this purpose, the National Bureau of Investigation, Philippine National Police and other offices and agencies of the government shall extend to him the necessary assistance;

d. Act as legal adviser of the municipality, and municipal district of the provinces or the provincial or city government and its officers or of the city. As such, he shall, when so requested, submit his opinion in writing upon any legal question submitted to him by any such officer or body pertinent to the duties thereof; and

e. Assist the Solicitor General, when so deputized in the public interest, in the performance of any function or in the discharge of any duty incumbent upon the latter, within the territorial jurisdiction of the former, in which cases, he shall be under the control and supervision of the Solicitor General with regard to the conduct of the proceedings assigned to him and render reports thereon.

The members of the NAPROSS are selected from among qualified and professional trained members of the legal profession who are of proven integrity and competence and have been in the actual practice of the legal profession for at least five years prior to their appointment or have held during like period, any position requiring the qualifications of a lawyer.

They shall be appointed by the President of the Philippines upon recommendation of the Secretary of Justice.

Once appointed, prosecutors are required to attend seminars, lectures, convention and continuing legal education to enhance their skills in investigation and trial works.

They enjoy a security of tenure because they can be removed from office only for a cause. Their appointments are not coterminous with the appointing authority, which means that even if the President who appointed them is no longer in power, they shall still remain in office.

In the discharge of their duties, prosecutors are guided by their "Credo" and the constitutional mandate that "a public office is a public trust and public officers and employees must at all times accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice and lead modest lives."

The prosecution process starts the moment the law enforcer, the complainant or public officer in charge of the enforcement of the law alleged to have been violated files a case against a suspected criminal. With such filing, preliminary investigation will set in and the second stage in the life of a criminal action is now in progress. The first stage is the police investigation.

Preliminary investigation is the stage at which the public prosecutor evaluates the finding of the police or the evidence submitted directly by a complainant or public officer in charge of the enforcement of the law alleged to have been violated, to determine if prosecution of the suspect in court is warranted. The Rules of Court define preliminary investigation as an inquiry on proceeding for the purpose of determining whether there is sufficient ground to engender a well founded belief that a crime cognizable by the Regional Trial Court has been committed and that respondent is probably guilty thereof, and should be held for trial.

A preliminary investigation is an important substantive right of persons suspected of crimes, the deprivation of which is tantamount to a deprivation of due process of law. It is designed against hasty and malicious prosecutions.

Preliminary investigations may be conducted by the public prosecutors or judges of the Municipal Circuit Trial Courts.

The procedures in the conduct of a preliminary investigation are as follows:

- (1) Filing of complaint and affidavits of witnesses by the police, complainant or public officer in charge of the enforcement of the law alleged to have been violated;
 - (2) Personal examination of affiants by the investigating prosecutor;
 - (3) Preliminary action by investigating prosecutor:
 - Dismiss the complaint if he finds no cause to continue with the inquiry.
 - Issue subpoena to respondent requiring him to submit a counter-affidavit. However, if no such counter-affidavit is submitted, the investigating prosecutor shall resolve the case on the basis of the evidence submitted by the police, public officer or complainant.
- If a counter-affidavit is submitted but there are matters which need clarification, the investigating prosecutor may set a hearing to propound clarificatory questions.
- (4) Preparation of resolution. Based on the evidence presented, the investigating prosecutor may:
 - Prepare information if he finds cause to hold the respondent for trial. An information is an accusation in writing charging a person with an offense subscribed by the fiscal and filed with the court.
 - Otherwise, recommend the dismissal of the complaint.

However, in both cases, the approval of the Provincial or City Prosecutor or the Chief State Prosecutor of such recommendation is necessary.

As regards offenses within the jurisdiction of Municipal Trial Courts, no preliminary investigation is required by law. All that the public prosecutor is required to do is 1) to examine the complaint and supporting affidavit and 2) to personally satisfy himself that the affiants voluntarily executed and understood their affidavits and that the suspect has probably committed the offense charged. This examination and determination he does *ex parte*, i.e., without notice to and in the absence of the suspect. He then files the information directly with the court.

At the preliminary investigation of a crime cognizable by a Regional Trial Court, the respondent has the following rights:

- (1) To have notice of the investigation and to have a copy of the complaint, affidavits and other supporting documents;
- (2) To submit a counter-affidavit and other supporting documents within ten days from notice;
- (3) To examine all other evidence submitted by the complainant;
- (4) To be afforded an opportunity to be present at any hearing at which clarification of certain matters is to be made and submit questions to the investigating officer for the purpose.

It bears emphasis that aside from a preliminary investigation, there is another type of investigation which a prosecutor may conduct, and this is what we call inquest investigation, which is an informal and summary investigation conducted by a public prosecutor in criminal cases involving persons arrested and detained without the benefit of a warrant of arrest for the purpose of determining whether or not said persons should remain under custody and correspondingly be charged in court.

A respondent against whom an adverse resolution was issued by the investigating

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prosecutor is not without any remedy. He may file an appeal to the Secretary of Justice within fifteen days from receipt of the questioned resolution.

III. THE JUDICIAL PROCESS

If the preliminary investigation results in the finding that a crime has been committed and the suspect is probably guilty thereof, the public prosecutor will file the corresponding information in the proper court; thus, activating the judicial process.

The case shall then be set for arraignment which is the first stage of a criminal action. It consists of the reading of the information or criminal complaint in court to the accused in open court. The accused is then asked how he pleads. The accused may plead guilty or not guilty to the offense charged. If he refuses to plead, a plea of not guilty will be entered for him. If the accused pleads guilty, the court shall sentence him to the corresponding penalty if it is satisfied of the voluntariness of the plea, and otherwise, of the guilt of the accused. If the accused pleads not guilty, the case is set for pre-trial and/or trial.

The pre-trial shall consider the following matters:

- (1) Plea bargaining;
- (2) Stipulation of facts;
- (3) Marking for identification of evidence of the parties;
- (4) Waiver of objections to admissibility of evidence; and
- (5) Such other matters as will promote a fair and expeditious trial.

No agreement or admission during the pre-trial shall be used in evidence against the accused unless reduced in writing and signed by him and his counsel.

After the pre-trial stage, trial follows. The prosecution commences the presentation of evidence, followed by the accused. Prosecution may present rebuttal evidence. The parties may also present

written arguments or memoranda after which the case is deemed submitted for decision.

The law secures to every accused the following rights during trial:

a. To be presumed innocent until the contrary is proved beyond reasonable doubt;

b. To be informed of the nature and cause of the accusation against him;

c. To be present and defend in person and by counsel at every stage of the proceedings, from the arraignment to the promulgation of judgment. The accused may, however, waive his presence at the trial pursuant to the stipulations set forth in his bail bond, unless his presence is specifically ordered by the court for purposes of identification. The absence of the accused without any justifiable cause at the trial or a particular date of which he had notice shall be considered a waiver of his right to be present during that trial. When an accused under custody had been notified of the date of the trial and escapes, he shall be deemed to have waived his right to be present on said date and on all subsequent trial dates until custody is regained. Upon motion, the accused may be allowed to defend himself in person when it sufficiently appears to the court that he can properly protect his rights without the assistance of counsel;

d. To testify as a witness in his own behalf but subject to cross-examination on matters covered by direct examination. His silence shall not in any manner prejudice him;

e. To be exempted from being compelled to be a witness against himself;

f. To confront and cross-examine the witnesses against him at the trial. Either

party may utilize as part of its evidence the testimony of a witness who is deceased, out of or cannot with due diligence be found in the Philippines, unavailable or otherwise unable to testify, given in another case or proceeding (judicial or administrative) involving the same parties and subject matter, the adverse party having had the opportunity to cross-examine him;

g. To have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf;

h. To have a speedy, impartial and public trial; and

i. To have the right of appeal in all cases allowed and in the manner prescribed by law.

After the reception of the contending parties pieces of evidence, the case is now submitted for decision which the court must render within ninety days after trial.

If the court acquits the accused because in its view he is innocent or his guilt is not proven beyond reasonable doubt, the case is definitely ended. Appeal by the prosecution is barred by the principle of double jeopardy.

On the other hand, if it convicts the accused because in its view his guilt of the crime charged has been established beyond reasonable doubt, the latter may move for a new trial or reconsideration which may be based on either of the following grounds:

a. That errors of law or irregularities have been committed during the trial prejudicial to the substantial rights of the accused; or

b. That new and material evidence has been discovered and produced at the trial, and which, if introduced and admitted, would probably change the judgement.

The motion for reconsideration may be based on the errors of law or fact in judgment.

In lieu of moving for new trial or reconsideration or after denial of such motion, the convicted accused may appeal to the Court of Appeals or the Supreme Court within the time fixed by law. If the appeal of the convicted accused is unsuccessful and his conviction is affirmed, the case will be remanded to the court of origin for the execution of the judgement. The latter court will set a date for the accused to present himself for the enforcement of the judgement. At the time thus appointed, the court will issue an order of commitment and the accused is passed on the next component.

IV. PENAL OR CORRECTIONAL PROCESS

Punishment is the isolation of the convicts by imprisonment for the periods laid down by the courts or in extreme cases, their execution by the method prescribed by law—and correction and rehabilitation are functions undertaken by the institutions set up by law, e.g., the Bureau of Prisons, Parole and Probation Administration.

V. THE COMMUNITY

After the convicts have passed through the correction component—either unconditionally (as by full service of the term of imprisonment imposed on them), or by parole or pardon—they go back to the community and either lead normal lives as law-abiding citizens in their barangays, or, regrettably, commit other crimes and thus, go back through the same processes and stages of the criminal justice system.

The community at large—through the appropriate legislative agencies, public and private educational institutions, parents and guardians, churches, religious organizations, civic associations, etc.—

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develops and exacts conformity with acceptable moral and ethical values, creates the environment for the development of civic-spirited citizens, and fosters respect for and observance of the Rule of Law.

In particular, members of the community having knowledge of facts relevant to the investigation or prosecution of crimes, are expected to cooperate with law enforcers and investigators, by reporting crimes and giving evidence against the offenders. Attorneys in legal practice, or pertaining to associations committed to giving legal aid to indigent or otherwise deserving individuals, should be reckoned as part of the fifth component of the criminal justice system, the community. They participate directly or indirectly in the criminal justice system by giving advice to, or representing, persons involved in criminal actions before the proper authorities.

The community component should also include government institutions that play a role in the criminal justice system, such as the Bureau of Posts—which delivers court notices; the Commission of Immigration and Deportation—which may prevent the departure of suspects from the country; the Bureau of Telecommunications—which transmits communications by telephone, telegram or radio; and the government hospitals and medical centers (like the National Psychopathic Hospital)—which furnish experts who may enlighten the courts on issues involving medical or other sciences, etc. Private institutions and civic organizations should also be deemed part thereof, since they may also have roles to play in the criminal justice system.

CONCLUSION

The criminal justice system is not just the agencies and persons charged with law enforcement; not just the public prosecution, nor the courts, nor just the penal and correctional system, nor just the

community. The criminal justice system is all of these institutions or pillars collectively. For it to work efficaciously and speedily, it is essential for all these pillars to work efficiently and with dispatch, and in cooperation and in coordination with one another.

REFERENCES

1. The Court and the Criminal Justice System by Honorable Chief Justice Andres Narvasa, Supreme Court of the Philippines.
2. Rules of Court (Rules 110 to 127).
3. Presidential Decree No. 1275 (Reorganizing the Prosecution Staff of the Department of Justice and the Offices of the Provincial and City Prosecutors, Regionalizing the Prosecution service and Creating the National Prosecution Service).
4. The Philippine Constitution.
5. Republic Act 296, as amended by Batas Pambansa 129, otherwise known as the Judiciary Act.
6. Executive Order No. 292 dated July 25, 1987, otherwise known as the Administrative Code of 1987.
7. DOJ Order No. 223 dated June 30, 1993C (Revised Rules on Appeal from Resolutions in Preliminary Investigation/Reinvestigation).