

WIPING AWAY THE FOOTPRINTS OF CORRUPTION IN THE PHILIPPINES

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I. INTRODUCTION

For a predominantly Christian country wherein the moral fibre of the people is supposedly strengthened by basic Biblical doctrines about heavenly rewards for living upright and modest lives, the Philippines has to religiously carry a cross, so to speak, to redeem the bureaucratic flock from the sins of corruption. Indeed, even before the Philippines became a Republic, following its independence from the United States of America, graft and corruption already afflicted its system of government.

The network of corruption in the Philippines comprehends such a wide range of civic and legal necessities and requisites that Filipinos are left with little or no choice but to live with it. Observers tend to agree that corruption in our country flourishes because our socio-cultural environment causes it to thrive. While we may consider, albeit meekly, that the prevalence of corruption is more of an exception than the general rule in our public service, its magnitude is, nevertheless, a cause for serious concern. Truth to tell, it is widely perceived that corruption has footprints on the floors of every public office in the Philippines, including the Presidential Palace.

This paper, therefore, aims not only to provide a formal attestation of the prevalence or rampancy of graft and corruption in the Philippines but, likewise, to bring to fore the responsive measures and mechanisms the Philippine criminal justice authorities are adopting and applying with the objective of wiping the footprints of corruption in the government offices in this jurisdiction.

II. THE ANATOMY OF GRAFT AND CORRUPTION

A. Definition of Graft and Corruption

1. Practical Meaning

The Webster's New World Dictionary, College edition, defines *graft* (derived from the old French word *grafier* which means to join or unite closely), as the act of taking advantage of one's position to gain money, property, etc. dishonestly, while *corruption* is associated with dishonesty, lack of integrity and bribery. While both terms may appear to be synonymous, some academics insist that, for analytical purposes, *graft* is committed by an individual while *corruption* involves the collusion of at least two parties.

In its Source Book 2000, Transparency International (IT), a Berlin-based, non-governmental organization (NGO) for a global coalition against corruption, describes corruption as involving "behaviour on the part of officials in the public sector, whether politicians or civil servants, in which they improperly and unlawfully enrich themselves, or those close to them, by the misuse of the power entrusted to them".

2. Legal and Judicial Definition

Unfortunately, Philippine anti-corruption laws do not provide any definition of graft and corruption. However, the Anti-Graft and Corrupt Practices Act (Republic Act 3019) enumerates certain punishable corrupt practices of public officers while the Code of Conduct for Public Officials and Employees (Republic Act 6713) lists the prohibited acts and transactions of government employees.

Our courts of law do not generally prescribe clear-cut definitions of the terms "graft" and "corruption"

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since it may be extremely difficult, if not impossible, to contain all the elements of the different types of graft and corruption in one sweeping generalization.

B. Kinds of Corruption

Corruption takes many hues and forms. Undeniably, it is endemic in the public service. According to the Philippine Center on Transnational Crimes, corruption in the Philippines is usually committed or exists through:

1. Tax evasion;
2. Ghost projects and payrolls;
3. Evasion of public bidding in public contracts;
4. Sub-contracting;
5. Nepotism and favoritism;
6. Extortion or giving of protection money (*tong*, in Pilipino); and
7. Bribery (*lagay*, in Pilipino).

C. Perceived Causes of Corruption

Since corruption is generally considered prevalent in developing countries such as the Philippines, the underlying causes attributed thereto may include the following:

1. The quest for individual survival, brought about by poverty, lack of basic needs, low salaries, etc.;
2. Wide disparity between the rich and the poor;
3. The Filipino cultural values of personalism, familism, *pakikisama* (getting along), *utang-na-loob* (debt of gratitude) and *damayan* (sympathy) for another's misery or problem;
4. Greed or the insatiable desire to amass more wealth, assets or property;
5. Comfort. As corruption provides easy money, the corrupted enjoy the easy life;
6. Convenience and expediency. These causes are particularly applicable to the corruptor who usually desires to facilitate the approval, grant and/or release of request or proposal and avoid the rigors of red tape in the bureaucracy.

D. Prevalence of Graft in the Philippines

Quite ominously, the Philippines rank highly in global and regional lists of the worst graft-ridden countries. On the domestic front, the national administration consistently performs dismally in public opinion surveys, mainly because of corruption issues. Thus-

1. Based on the Corruption Perception Index for 2006 of Transparency International (TI), the Philippines ranks 121st out of 165 countries with a rating of 2.5 on a scale of 10 (highly clean) to 0 (highly corrupt). Of the Southeast Asian countries, only Indonesia (2.4), Cambodia (2.1.) and Myanmar (1.9) got lower scores.
2. Just recently, TI, through its Global Corruption Barometer 2007, placed the Philippines at number 10 in the list of countries worldwide with the highest level of petty bribery, garnering a rating of 32%. TI polled more than 63,000 people in 60 countries between June and September 2007. The countries ahead of the Philippines in the poll/study are Cameroon, Cambodia, Albania, Kosovo, FYR Macedonia, Pakistan, Nigeria, Senegal and Romania (Phil. Daily Inquirer, 7 Dec. 2007, pp. 1 and 4).
3. In a survey conducted in March 2007 by the Political and Economic Risk Consultancy (PERC), an organization of about 1,476 expatriate business executives in 13 countries and territories across Asia, the Philippines is seen as the most corrupt Asian economy, getting a score of 9.4.
4. The World Bank, in a report (no. 23687-Ph) entitled "Combating Corruption in the Philippines: An Update" (30 September 2001), emphasized that corruption in the Philippines is systemic and deep-rooted, and will take many years to overcome. The WB report cited the estimates of the Office of the Ombudsman of the loss of some \$48 billion to corrupt practices over the last 20 years (up to fiscal year 2001). It likewise cited the figures of the Commission on Audit that about ₱2 billion (Philippine pesos) are lost to government corruption every year.
5. The Social Weather Stations (SWS), a reputable and respected polling entity in the Philippines, disclosed in its 2007 Business Survey on Corruption that out of more than 700 Filipino managers of

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business enterprises in the Philippines, 60% see a lot of corruption in the public sector within a period of 7 years; 50% said that most/almost all the firms in their line of business gives bribes to win government contracts; and 50% see corruption as part of how government works. (Transparent Accountable Governance: The 2007 SWS Business Survey on Corruption).

6. In its First Quarter 2005 Social Weather Report nationwide public opinion survey, covering February 25 to March 10, 2005, the SWS revealed that public satisfaction with the national government's effort at eradicating graft and corruption received a Net Negative Rating of -30. It is in the issue of corruption where public dissatisfaction with the national administration's performance dominates.

III. PHILIPPINE SOLUTIONS AND THE CRIMINAL JUSTICE SYSTEM

Fully cognizant that corruption is inherent in the field of public service in any country in the world, regardless of the political regime that reigns therein, the Philippine government continuously and consistently endeavours to address this problem.

Among these measures is the incorporation of anti-corruption provisions in its fundamental law and the passage of anti-graft and corrupt practices legislation with stiffer penalties, thus amending and expanding the prohibited acts of public officers prescribed in the Revised Penal Code; streamlining the functions and strengthening the anti-graft institutions, such as the *Sandiganbayan* and the Office of the Ombudsman; and the official recognition and ratification of the United Nations Convention against Corruption (UNCAC).

A. Survey of Anti-Graft Laws

1. The 1987 Constitution of the Philippines

The present fundamental law of the Philippines was adopted by the Constitutional Commission, created by President Corazon C. Aquino on 23 April 1986. It is the third Constitution of the Philippines after the Second World War. Among its salient provisions dealing with public officers and measures to prevent corruption are the following:

- Section 4, Article IX.B:
"All public officers and employees shall take an oath or affirmation to defend the Constitution".
- Section 1, Article XI:
"Public office is a public trust. Public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency, act with patriotism and justice, and lead modest lives".
- Section 2, Article XI:
"The President, the Vice-President, the members of the Supreme Court, the members of the Constitutional Commission, and the Ombudsman may be removed from office, on impeachment for, and conviction of, culpable violation of the constitution, treason, bribery, graft and corruption and other high crimes, or betrayal of public trust".
- Section 15, Article XI:
"The right of the state to recover properties unlawfully acquired by public officials or employees from them or from their nominees or transferees shall not be barred by prescription, laches or estoppel".
- Section 17, Article XI:
"A public officer or employee shall, upon assumption of office and as often thereafter as may be required by law, submit a declaration under oath of his assets, liabilities and net worth. In the case of the President, the Vice-President, the Members of the Cabinet and Congress, the Supreme Court, the Constitutional Commissions and other constitutional offices, and officers of the armed forces with general or flag rank, the declaration shall be disclosed to the public in the manner provided by law".
- Section 4, Article XI:
"The present anti-graft court known as the *Sandiganbayan* shall continue to function and exercise its jurisdiction as now or hereafter may be provided by law"

- Sections 5 to 14, Article XI, refer to the independent Office of the Ombudsman.

2. The Revised Penal Code

Act No. 3815, otherwise known as the Revised Penal Code, took effect on 1 January 1932. As its title connotes, it is a codification or compilation of all penal or criminal laws that were existing and in effect when the Philippines was still under the colonial rule of the United States of America and before the Second World War. Although it was enacted during the American regime, it was, nevertheless, largely copied and mainly influenced by the *Codigo Penal* of Spain, which ruled the Philippines for about 300 years.

Title Seven of the Revised Penal Code refers to crimes committed by public officers.

As defined therein, a public officer is any person who, by direct provision of the law, popular election or appointment of competent authority, shall take part in the performance of public functions in the Government of the Philippine Islands, or shall perform in the said government or in any of its branches public duties as an employee, agent or subordinate official, of any rank or class (Article 203).

- Corruption-related crimes
Among the crimes therein defined which may be considered as related to corruption, directly or indirectly, are as follows:
 - (i) Bribery (Article 210)
 - (ii) Indirect Bribery (Article 211)
 - (iii) Corruption of Public Officials (Article 212)
 - (iv) Frauds against the public treasury and similar offences (Article 213)
 - (v) Prohibited Transactions (Article 215)
 - (vi) Possession of prohibited interest (Article 216)
 - (vii) Malversation of public funds or property (Article 217)
 - (viii) Failure of accountable officer to render accounts (Article 218)
 - (ix) Illegal use of public funds or property (Article 220)
 - (x) Failure to make delivery of public funds (Article 221)

3. Republic Act No. 3019

The Anti-Graft and Corrupt Practices Act

This special law was passed pursuant to the policy of the Philippine government to repress certain acts of public officers and private persons alike which constitute graft and corrupt practices or which may lead thereto, in line with the principle that a public office is a public trust (Section 1). It took effect on 18 June 1955.

Section 3 thereof enumerates the corrupt practices of public officers, to wit:

- 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.
- b. Directly or indirectly requesting or receiving any gift, present, share, percentage, or benefit, for himself or for any other person, in connection with any contract or transaction between the Government and any other party, wherein the public officer in his official capacity has to intervene under the law.
- c. Directly or indirectly requesting or receiving any gift, present or other pecuniary or material benefit, for himself or for another, from any person whom the public officer, in any manner or capacity, has secured or obtained, or will secure or obtain, any Government permit or license, in consideration for the help given or to be given, without prejudice to Section 13 of this Act.
- d. Accepting or having any member of his family accept employment in a private enterprise

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which has pending official business with him during the pendency thereof or within one year after its termination.

- e. Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.
- f. Neglecting or refusing, after due demand or request, without sufficient justification to act within a reasonable time on any matter pending before him for the purpose of obtaining directly or indirectly, from any person interested in the matter some pecuniary or material benefit or advantage, or for purpose of favoring his own interest or giving undue advantage in favor of or discriminating against any other interested party.
- g. Entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby.
- h. Directly or indirectly having financial or pecuniary interest in any business, contract or transaction in connection which he intervenes or takes part in his official capacity, or in which he is prohibited by the Constitution or by any law from having interest.
- i. Directly or indirectly becoming interested, for personal gain, or having a material interest in any transaction or act requiring the approval of the board, panel or group of which he is a member, and which exercises discretion in such approval, even if he votes against the same or does not participate in the action of the board, committee, panel or group.

Interest for personal gain shall be presumed against those public officers responsible for the approval of manifestly unlawful, inequitable, or irregular transactions or acts by the board, panel or group to which they belong.

- j. Knowingly approving or granting any license, permit, privilege or benefit in favor of any person not qualified for or not legally entitled to such license, permit, privilege or advantage, or of a mere representative or dummy of who is not so qualified or entitled.
- k. Divulging valuable information of a confidential character, acquired by his office or by him on account of his official to unauthorized persons, or releasing such information in advance of its authorized release date.

4. Republic Act No. 1379

An Act Declaring Forfeiture in Favour of the State Any Property Found to Have Been Unlawfully Acquired by Any Public Officer or Employee and Providing for the Procedure Therefore

This law, which took effect on 18 June 1955, *prima facie* presumes as having been unlawfully acquired any property acquired by any public officer or employee during his or her incumbency when the amount thereof is manifestly out of proportion to his or her salary as such public officer or employee and to his or her other lawful income and the income from the legitimately acquired property.

It provides the procedure for the forfeiture of the unlawfully acquired property.

5. Presidential Decree No. 749

Granting Immunity From Prosecution to Givers of Bribes and Other Gifts and to Their Accomplices in Bribery and Other Graft Cases against Public Officers

This is one of the edicts issued by the late President Ferdinand E. Marcos during the martial law regime. It immediately took effect, upon its issuance, on 18 July 1975.

The reason given therein for the grant of immunity from prosecution to bribe givers is that it is virtually

impossible to secure the conviction and removal of dishonest public servants owing to the lack of witnesses considering that the bribe givers are always reluctant to testify against corrupt public officials and employees concerned for fear of being indicted and convicted themselves for bribery and corruption.

Section 1 thereof, provides, to wit:

Any person who voluntarily gives information about any violation of Articles 210, 211 and 212 of the Revised Penal Code; Republic Act Numbered Three Thousand Nineteen, as amended; Section 34 of the International Revenue Code and Section 3604 of the Tariff and Customs Code and other provisions of the said codes penalizing abuse or dishonesty on the part of the public officials concerned; and other laws, rules and regulations punishing acts of graft, corruption and other forms of official abuse; and who willingly testifies against any public official or employee for such violation shall be exempt from prosecution or punishment for the offense with reference to which his information and testimony in bar of such prosecution: Provided, that this immunity may be enjoyed even in cases where the information and testimony are given against a person who is not a public official but who is a principal, or accomplice or accessory in the commission of any of the above-mentioned violations: Provided, further, that this immunity may be enjoyed by such informant or witness notwithstanding that he offered or gave the bribe or gift to the public official or is an accomplice for such gift or bribe-giving; and Provided, finally, that the following conditions concur:

1. The information must refer to consummated violations of any of the above-mentioned provisions of law, rules and regulations;
2. The information and testimony are necessary for the conviction of the accused public officer;
3. Such information and testimony are not yet in the possession of the State;
4. Such information and testimony can be corroborated on its material points; and
5. The informant or witness has not been previously convicted of a crime involving moral turpitude.

6. Presidential Decree No. 46

Making it Punishable for Public Officials and Employees to Receive, and for Private Persons to Give, Gifts on Any Occasion, including Christmas)

Another Marcos-era decree which was issued on 10 November 1972, this significant and currently binding and valid piece of “executive legislation” was issued to put more teeth to existing laws and regulations; to wipe out all conceivable forms of graft and corruption in the public service; and to stop the practice of gift-giving to government officials. Included within the prohibition therein is the throwing of parties or entertainments in honour of the government official or employee or of his or her immediate relatives.

7. Republic Act No. 7080

The Anti-Plunder Act

This law punishes any public officer who, by him or herself or in connivance with members of his or her family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1 (d) thereof, in the aggregate amount or total value of at least fifty million pesos (₱50,000,000.00) or more than US\$1,000,000.00.

This law, which was approved on 12 July 1991, became immensely popular in the Philippines when the equally popular President, and a former movie actor, Joseph Ejercito Estrada, otherwise known as “Erap”, was deposed from the Presidency, while only in his third year of a six-year term of office. After an aborted impeachment trial in 2001, he was subsequently indicted and charged before the *Sandiganbayan* with the offence of plunder, among other crimes. He was convicted of the said offence after trial but was recently given an absolute pardon by the present Philippine President Gloria Macapagal-Arroyo, who, ironically, is Estrada’s main political nemesis.

8. Republic Act No. 6713

The Code of Conduct for Public Officials and Employees

Among others, this law establishes the following *norms of conduct* in the public service: (i) Commitment to public interest; (ii) Professionalism; (iii) Justness and sincerity; (iv) Political Neutrality; (v) Responsiveness to the Public; (vi) Nationalism and Patriotism; (vii) Commitment to democracy; and (viii) Simple living.

It prohibits the following acts and transactions:

- (i) having a financial interest in a transaction requiring the approval of the public officer or of his or her office;
- (ii) outside employment and other activities related to his or her office, such as: engaging in private practice of a profession without authority; owning or being employed in a private enterprise regulated or licensed by his or her office; and recommending a person for employment in a private enterprise with pending transaction in his or her office;
- (iii) disclosure or misuse of confidential information; and
- (iv) solicitation or acceptance of gifts in the course of official duties.

9. Republic Act 6770

The Ombudsman Act of 1989

This law provides, among others, for the functional and structural organization of the Office of the Ombudsman, as well as its powers, functions and duties; qualifications, term of office, removal and prohibitions and disqualifications of the Ombudsman and his or her deputies.

10. Republic Act 8249 (as amended by Republic Act 8249 and Presidential Decree No. 1486)

The law created the *Sandiganbayan* as a special court with jurisdiction over: (i) violations of R.A. 3019 (The Anti-Graft and Corrupt Practices Act), and the Forfeiture Law, R.A. 1379; (ii) crimes committed by public officers under Title VII of the Revised Penal Code; and (iii) other crimes committed by public officers or employees, including those in the government-owned or controlled corporations, in relation to their office.

11. Republic Act 9160 (as amended by Republic Act 9194) The Anti-Money Laundering Act of 2001

The law defines "money laundering" as a crime whereby the proceeds of an unlawful activity (such as plunder, robbery and extortion, *jueteng* (an illegal type of lottery) and smuggling) are transacted, thereby making them to appear as originating from legitimate sources. It is committed by any person who, knowing that any monetary instrument or property are proceeds from an unlawful activity, transacts said monetary instrument or property; or who facilitates the offence of money laundering.

12. Republic Act 6981 (1991) The Witness Protection, Security and Benefit Act

The law provides the mechanisms and procedure for the grant of protection, security and benefit to any person who has witnessed or has knowledge or information on the commission of a crime and has testified or is testifying or about to testify in any judicial or quasi-judicial body or before any investigating authority.

13. Republic Act No. 9184 (2002) The Government Procurement Act of 2002

This law penalizes a public officer for committing any of the following acts: (i) opening sealed bids prior to appointed time for public opening; (ii) delaying screening for eligibility, bid opening and evaluation; (iii) unduly influencing a Bids and Awards Committee (BAC) member to favour a bidder; (iv) splitting of contracts to avoid bidding; and (v) abusing power to reject bids to prefer a particular bidder in the case of agency heads.

14. Republic Act 9435 The Anti-Red Tape Act of 2007

This law aims to improve the efficiency in the delivery of government service to the public by reducing

bureaucratic red tape and preventing graft and corruption. It is particularly addressed to all government agencies and offices, including local government units and government-owned or controlled corporations that provide frontline services as defined therein. There are penal sanctions for the violation of its pertinent provisions.

B. Selected Executive and Administrative Orders of the President

1. Executive Order No. 317 (2000)

This provides for a Code of Conduct for Relatives and Close Personal Relations of the President, Vice-President and Members of the Cabinet. It enumerates the prohibited acts and transactions by a relative or a close personal relation.

2. Memorandum Circular No. 95-B

It provides the guidelines on the filing of Statements of Assets, Liabilities and net worth by all government officials and employees pursuant to/in compliance with Republic Act 6713 (The Code of Conduct for Public Officials and Employees)

3. Administrative Order No. 129 (1994)

This directs the adoption and observance of standard processing time in the bidding and award process for infrastructure and other construction works and consulting services contracts of the national government.

4. Executive Order No. 442 (1991)

This issuance creates the Presidential Complaints and Action Office (PCAO) in the Office of the President and defines its powers and functions, which include the initiation of fact-finding efforts involving immoral practices, graft and corruption and others. The PCAO is also authorized to entertain complaints of graft and corruption and violation of R.A. 1379 and R.A. 3019, as amended, and to commence fact-finding investigation thereon prior to referral to the appropriate bodies for possible prosecution.

5. Executive Order No. 12 (2001)

This order creates the Presidential Anti-Graft Commission (PAGC) and delineates its powers, duties and functions.

C. Anti-Graft Institutions

1. The Sandiganbayan

The time-honoured principle that the public office is a public trust must have been the persuasive inspiration for the creation of the *Sandiganbayan*, a special tribunal for trying cases involving but not limited to graft and corruption and other offences committed by a public officers in relation to their office.

It came into being on July 11, 1978 with the issuance of Presidential Decree No. 1486. The law has since been amended, the latest of which was in 1997 when Republic Act No. 8429 was enacted. Under this amendatory law, all the five divisions (consisting of three justices each) are to be housed in one principal office, located in Metro Manila. The Sandiganbayan building is now located in Commonwealth Avenue, Quezon City.

The *Sandiganbayan* has original jurisdiction over criminal cases filed against public officers classified as Salary Grade 27 and higher under the Compensation and Position Classification Act of 1989.

In case none of the principal accused are occupying positions corresponding to Salary Grade 27 or higher or PNP officers occupying the rank of superintendent or higher or their equivalent, exclusive jurisdiction over the case is vested in the proper Regional Trial Court, Metropolitan Trial Court, and Municipal Trial Court, as the case may be. The decisions of the court in these cases shall be appealable to the *Sandiganbayan* which exercises exclusive appellate jurisdiction over them.

2. The Office of the Ombudsman

As a court of justice, the *Sandiganbayan* can exercise the judicial power conferred upon it by law after a case has been filed before it for adjudication. This is where the office of the Ombudsman comes in. This office is a constitutional body created by virtue of Section 5, Article XI of the 1987 Constitution.

The fundamental law of the land gives the Office of the Ombudsman the calling and badge of "Protector of the People". This constitutional appellation summarizes the nature of its various functions. It protects the people from abuse and misuse of governmental power for personal aggrandizement. The framers of the 1987 Constitution of the Philippines defined the role of the Office of the Ombudsman as a watchdog, to monitor the "general and specific performance of government officials and employees" and to "utilize the support of non-governmental organizations (NGO's), the Youth Sector and other major sectors of society" in the campaign against graft and corruption. With the passage of Republic Act No. 6770, otherwise known as the Ombudsman Act of 1989, the Office of the Ombudsman has been clothed with the corresponding authority to implement its constitutional mandate. The powers, functions and duties of the Office of the Ombudsman are provided in Section 15 of the said law.

In sum, the Office of the Ombudsman is charged with five major functions, namely: Public Assistance, Graft Prevention, Investigation, Prosecution, and Administrative Adjudication.

3. The National Prosecution Service of the Department of Justice

The National Prosecution Service consists of the Office of the Chief State Prosecutor, the Offices of the Regional State Prosecutor, and the Offices of the Provincial or City Prosecutor throughout the Philippines. It was created under Presidential Decree No. 1275.

Although the National Prosecution Service is the principal and largest prosecution agency in the Philippines, it is, nevertheless, merely deputized by the Office of the Ombudsman in the conduct of preliminary investigation and prosecution of cases against public officers involving offences committed in relation to their office whenever the appropriate criminal complaint against a public officer has been filed with any of the prosecution offices under it (the NPS).

The NPS is tasked with prosecuting all criminal cases filed against any public officers before the Regional Trial Courts or the Metropolitan/Municipal Trial Courts. Criminal cases filed with the *Sandiganbayan* are prosecuted by the Office of the Special Prosecutor of the Office of the Ombudsman.

4. The Regional Trial Courts, Metropolitan Trial Courts, Municipal Trial Courts, Municipal Circuit Trial Courts

Created under Batas Pambansa Blg. 129 (The Judiciary Reorganization Act of 1980), these courts try criminal cases involving public officers which are not under the exclusive original jurisdiction of the *Sandiganbayan*.

5. The Congress of the Philippines

Although a political body, the Congress of the Philippines, consisting of The Senate (Upper House) and the House of Representatives (Lower House) is certainly a vital government agency that combats graft and corruption by virtue of its power to:

(i) pass or enact anti-corruption legislation, (Section 1, Article VI, 1987 Constitution of the Philippines); (ii) conduct inquiries in aid of legislation (Section 21, *ibid*); (iii) summon any heads of departments of the executive branch of the government to appear before it and be heard on any matter pertaining to their departments, (Section 22, *ibid*); (iv) pass or enact appropriation, revenue or tariff laws (Section 24, *ibid*).

Furthermore, the House of Representatives has the exclusive power to initiate all impeachment cases, and the Senate has the sole power to try and decide all impeachment cases (Sections 3 to 6, Article XI, 1987 Philippine Constitution).

D. Adoption of the Provisions of the United Nations Convention against Corruption (UNCAC)

The UNCAC was ratified by the Philippine Senate on 6 November 2006 by a vote of 17-0.

Quite significantly, much of its provisions on criminalization measures are already in place or in existence in many of our anti-graft laws. Among them are as follows:

| | Corrupt Acts | Found in/Punished by |
|----|---|---|
| 1. | Bribery | Revised Penal Code, Title Seven; Sec. 3 (b) and 3 (c), R.A. 3019 |
| 2. | Embezzlement of public funds (misappropriation) | Title Seven, Revised Penal Code |
| 3. | Money laundering | Section 4, Anti-Money Laundering Law (RA 9160) |
| 4. | Trading in influence | Section 3 (a), R.A. 3019 |
| 5. | Abuse of functions | Section 3 (h), R.A. 3019 |
| 6. | Illicit enrichment | R.A. 1379 |

IV. RECOMMENDATIONS

Since graft and corruption are a menace that must be contained, several laudatory suggestions have already been generated to deal therewith.

A. Procedural/Penal Reforms

In an article entitled “Fighting Graft and Corruption”, which appeared in a fraternal publication, former Presiding Justice of the *Sandiganbayan* Manuel R. Pamaran, who is also a former public prosecutor and a trial judge, has proposed several solutions in the fight against graft and corruption. Thus-

“First. Any case of graft and corruption or crime involving betrayal of public office must be treated as a crime against public order like rebellion, subversion or sedition, hence, the Indeterminate Sentence Law shall not apply. The penalty shall always be a straight one. No minimum and maximum period. It must always be a straight penalty of ten years or twenty years. On Probation Law, persons convicted of government-related cases should likewise be not covered like those convicted of crimes against national security or public order who are disqualified from the benefits of the probation law.

Second. Revision of penalties of government-related crimes. In malversation, if the amount defalcated exceeds PHP22,000,200, the penalty is only reclusion temporal in its maximum period to reclusion perpetua. It is believed that the law should be amended in such a way that if the amount malversed exceeds PHP100,000.00, it should be punishable by a single penalty of reclusion perpetua. Also, in Republic Act No. 3019 as amended, the commission of any graft or corrupt practice as defined therein is uniformly penalized with imprisonment of not less than six years and one month nor more than 15 years regardless of the amount or value of the property involved. The uniformity of the imposable penalties is not in keeping with realities. As in malversation cases, the law should provide graduated penalties based upon the amount or damages sustained and in cases where the government is the injured party and the amount involved is PHP100,000,00 or more, the penalty should be the single penalty or reclusion perpetua.

Third. In preliminary investigation of government related cases, the proceedings must be terminated and resolved within a period of 30 days from filing thereof. The present rules are too long, affording the culprit to delay the proceedings to their advantage for as they still hold office during the proceedings, they can adapt ways and means to favor them to the disadvantage of the prosecution and the public dealing with them.

Also, where the graft cases involve recovery of sum of money or property, the warrant of arrest issued, should always be accompanied by a writ of attachment of property of the accused to avoid concealment or disposition to satisfy the civil liability or fine.

Fourth. Government-related cases should be set for trial within a period of two months from filing to five for allowance to motion to quash, arraignment or other related matters. Trial should be finished within a period of ten months from first setting and decision rendered within a period of two months from termination thereof. We had tried this before with success when the *Sandiganbayan* first functioned. There can be no reason why we cannot have it now. Consequently, because of the

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number of cases pending before the Sandiganbayan the number of division of the Sandiganbayan should really be increased to 15 but they should always be based in Metro Manila to insulate the proceedings from external influence.

Fifth. In order that compliance with the aforesaid periods will be observed, there should be no issuance of temporary restraining orders or injunctions except those issued by the Supreme Court. This is similar to Section 14 of the Ombudsman Act of 1989. which provides, "no writ of injunction shall be issued by any court to delay an investigation; P.D. 605, which prohibits issuance of any restraining order, preliminary injunction or preliminary mandatory injunction in any case involving or growing out of the issuance, approval of disapproval, revocation or suspension of, or any action whatsoever by the proper administrative official or body on concessions, licenses, permits, patents, or public grants of any kind or in connection with the disposition, exploitation, utilization, exploration and/or development of the natural resources of the Philippines; P.D. No. 385, which prohibits injunction against financial institution regarding collection of debts from borrower and Articles 213 and 214 of the Labor Code which prohibits any court to issue "temporary or permanent injunction, or restraining order in any case involving or growing out of labor disputes".

B. Substantive Reforms

1. Enactment of an additional law, with whistle blower protection provisions, to strengthen the prevention, investigation and prosecution of graft;
2. Amendments of certain provisions of existing laws that provide opportunities for graft and updating of the archaic or vintage provisions to keep up with developments in governance; and
3. Codification of the fragmented anti-graft laws and the integration of the anti-graft provisions of the widely scattered special laws.

C. Manpower and Compensation Upgrade

To encourage more lawyers to join the Public Prosecution in the fight against graft and corruption, it is suggested that the number of the plantilla positions of government prosecutors, both in the Office of the Ombudsman and the National Prosecution Service, and their corresponding salaries be decently increased with urgency.

V. CONCLUSION

Undeniably, corruption co-exists with ideal governance. It is the 'dark side' of the public service. The Philippines has an impressive number of anti-graft laws imposing a wide range of administrative, civil and penal sanctions against all forms of improprieties, venalities and abuses of public officials and employees of all ranks in our government system, including some which prescribe ethical standards of conduct. Yet, despite our laws and structures that prohibit, prevent and punish engagement or involvement in corruption, it is consistently prevalent and appears to be frighteningly invincible, like the mythical hydra-headed monster.

Ironically, the strict application of the laws themselves sometimes hinders the effectiveness of the criminal justice response, as seen in the consecutive impeachment proceedings against the present President.

Hence, it is believed that aside from the battle on the legal front, a moral revolution is also imperative. This crusade adheres to only one law which is not complicated. This is quite significant and relevant especially when those involved in the fight against corruption are themselves accused of involvement in it.

The Bible says "Take heed and beware of covetousness for one's life does not consist in the abundance of the thing he possesses" (Luke 12:15).

Indeed, covetousness breeds corruption. The people who are involved in corruption may be morally bankrupt as they attempt to find security in more stuff that is temporary and fleeting.

In launching a moral revolution, of great import and significance are the sterling words of the late Philippine President Jose P. Laurel, a jurist, philosopher and patriot, to wit:

“To be poor and honorable is a thousand times better than amassing all the riches in the world at the cost of one’s good. We should strive, therefore, to keep our reputation unblemished to the end of our days and ever bear in mind that an honored name is the most precious legacy which we can leave to our children and our children’s children” (From Forces that Make a Nation Great, p. 36)

APPENDIX

I. REPUBLIC ACT NO. 7975

An act to strengthen the functional and structural organization of the *Sandiganbayan*, amending for that purpose Presidential Decree No. 1606, as amended.

Sec. 1. Section 3 of Presidential Decree No. 1606, as amended by Executive Order No. 184, is hereby further amended to read as follows:

“Sec. 3. *Division of Court; Quorum.* – The Sandiganbayan shall sit in five (5) divisions of three justices each. The five (5) may sit at the same time.

“The first three divisions shall be stationed in the Metro Manila area, the fourth division shall be in Cebu for cases coming from the Visayas region, and the fifth division shall be in Cagayan de Oro City for cases coming from the Mindanao region.

“Three Justices shall constitute a quorum for sessions in divisions: Provided, That when the required quorum for the particular division cannot be had due to the legal disqualification or temporary disability of a Justice or of a vacancy occurring therein, the Presiding Justice may designate an Associate Justice of the Court, to be determined by the strict rotation on the basis of the reverse order of precedence, to sit as a special member of said division with all the rights and prerogatives of a regular member of the said division in the trial and determination of a case or cases assigned thereto, unless the operation of the court will be prejudiced thereby, in which case, the President shall, upon the recommendation of the Presiding Justice, designate any Justice of Justices of the Court of Appeals to sit temporarily therein.”

Sec. 2. Section 4 of the same Decree is hereby further amended to read as follows:

“Sec. 4. *Jurisdiction.* The Sandiganbayan shall exercise original jurisdiction in all cases involving:

“a. Violations of Republic Act No. 3019, as amended, otherwise known as the Anti-Graft and Corrupt Practices Act, Republic Act No. 1379, and Chapter II, Section 2, Title VII of the Revised Penal Code, where one or more of the principal accused are officials occupying the following positions in the government, whether in a permanent, acting or interim capacity, at the time of the commission of the offense:

- “(1) officials of the executive branch occupying the positions of regional director and higher, otherwise classified as grade 27 and higher, of the Compensation and Position Classification Act of 1989 (RA 6758), specifically including:
- (a). Provincial governors, vice-governors, member of the sangguniang panlalawigan and provincial treasurers, assessors, engineers and other provincial department heads;
 - (b). City Mayors, vice-mayors, members of the sangguniang panlungsod, city treasurers, assessors, engineers and other city department heads;
 - (c). Officials of the diplomatic service occupying the position of consul and higher;
 - (d). Philippine Army and Air Force colonels, naval captains and all other officers of higher rank;
 - (e). PNP chief superintendent and PNP officers of higher rank;
 - (f). City and provincial prosecutors and their assistants, and officials and prosecutors in the Office of the Ombudsman and special prosecutor;
 - (g). Presidents, directors or trustees or managers of government-owned or controlled corporations, state universities or educational institutions of foundations.

- (2) Members of Congress and officials thereof classified as Salary Grade 27 and up under the Compensation and Position Classification Act of 1989;
- (3) Members of the Judiciary without prejudice to the provisions of the Constitution;
- (4) Chairman and members of Constitutional Commissions without prejudice to the provisions of the Constitution;
- (5) All other national and local officials classified as Salary Grade 27 and higher under the Compensation and Position Classification Act of 1989.

“b. Other offenses or felonies committed by the public officials and employees mentioned in subsection (a) of this section in relation to their office.

“c. Civil and criminal cases filed pursuant to and in connection with Executive Order Nos. 1, 2, 14 and 14-A.

“In cases where none of the principal accused are occupying positions corresponding to salary grade “27” or higher, as prescribed in the said Republic Act No. 6758, or PNP officers occupying the rank of superintendent or higher, or their equivalent, exclusive jurisdiction thereof shall be vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdictions as provided in Batas Pambansa Blg. 129.

“The Sandiganbayan shall exercise exclusive appellate jurisdiction on appeals from the final judgment, resolutions or order of regular courts where all the accused are occupying positions lower than salary grade “27”, or not otherwise covered by the preceding enumeration.

“The Sandiganbayan shall have exclusive original jurisdiction over petitions for the issuance of the writs of mandamus, prohibition, certiorari, habeas corpus, injunction, and other ancillary writs and processes in aid of its appellate jurisdiction: Provided, That the jurisdiction over these petitions shall not be exclusive of the Supreme Court.

“The procedure prescribed in Batas Pambansa Blg. 129, as well as the implementing rules that the Supreme Court has promulgated and may hereafter promulgate, relative to appeals/petitions for review to the Court of Appeals shall apply to appeals and petitions for review filed with the Sandiganbayan. In all cases elevated to the Sandiganbayan and from the Sandiganbayan to the Supreme Court, the Office of the Ombudsman, through its special prosecutor, shall represent the people of the Philippines except in cases filed pursuant to Executive Orders Nos. 1, 2, 14 and 14-A.

“Any provisions of law or Rules of Court to the contrary notwithstanding, the criminal action and the corresponding civil action recovery of civil liability arising from the offense charged shall at all times be simultaneously instituted with, and jointly determined in, the same proceeding by the Sandiganbayan or the appropriate courts, the filing of the criminal action, and no right to reserve the filing of such civil action separately from the criminal action shall be recognized:

Provided, however, That where the civil action had heretofore been filed separately but judgment therein has not yet been rendered, and the criminal case is hereafter filed with the Sandiganbayan or the appropriate court, said civil action shall be transferred to the Sandiganbayan or the appropriate court as the case may be, for consolidation and joint determination with the criminal action, otherwise the separate civil action shall be deemed abandoned.”

Sec. 3. Section 7 of the same decree is hereby amended to read as follows:

“Sec. 7. *Form, Finality and Enforcement of Decisions.* – All decisions and final orders determining the merits of a case or finally disposing of the action or proceedings of the Sandiganbayan shall contain complete findings of the facts and the law on which they are based, on all issues properly raised before it and necessary in deciding the case.

“A petition for reconsideration of any final order or decision may be filed within fifteen (15) days

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from promulgation or notice of the final order or judgment, and such motion for reconsideration shall be decided within thirty (3) days from submission thereon.

“Decisions and final orders of the Sandiganbayan shall be appealable to the Supreme Court by petition for review on certiorari raising pure questions of law in accordance with Rule 45 of the Rules of Court. Whenever, in any case decided by the Sandiganbayan, the penalty of *reclusion perpetua* or higher is imposed, the decision shall be appealable to the Supreme Court in the manner prescribed in the Rules of Court. In case the penalty imposed is death, review by the Supreme Court shall be automatic, whether or not the accused filed an appeal.

“Judgments and orders of the Sandiganbayan shall be executed and enforced in the manner provided by law.

“Decisions and final orders of other courts, in cases cognizable by said courts under this Act shall be appealable to the Sandiganbayan within fifteen (15) days from promulgation or notice to the parties.”

Sec. 4. Section 9 of the same Decree is hereby amended to read as follows:

“Sec. 9. *Rules of Procedure.*— The Rules of Court promulgated by the Supreme Court shall apply to all cases and proceedings filed with the Sandiganbayan. The Sandiganbayan shall have no power to promulgate its own rules of procedure, except to adopt internal rules governing the allotment of cases among the divisions, the rotation of justices among them, and other matters relating to the internal operations of the court which shall be enforced until repealed or modified by the Supreme Court.”

Sec. 5. Section 10 of the same Decree is hereby repealed.

Sec. 6. Presidential Decree Nos. 1486, 1606 and 1861, Executive Orders Nos. 101 and 184 and all other laws, decrees, orders and rules of which are inconsistent therewith are hereby repealed or modified accordingly.

Sec. 7. Upon the effectivity of this Act, all criminal cases in which trial has not begun in the Sandiganbayan shall be referred to the proper courts.

Sec. This Act shall take effect fifteen (15) days following its publication in the Official Gazette or in two (2) national newspapers of general circulation.

Approved: 30 March 1995

II. REPUBLIC ACT NO. 7080

[As Amended by Republic Act No. 7659 (The Death Penalty Law)]

AN ACT DEFINING AND PENALIZING THE CRIME OF PLUNDER

Section 1. Definition of terms. – As used in this Act, the term:

- a. “Public Officer” means any person holding any public office in the Government of the Republic of the Philippines by virtue of an appointment, election or contract.
- b. “Government” includes the National Government, and any of its subdivisions, agencies or instrumentalities, including government-owned or controlled corporations and their subsidiaries.
- c. “Person” includes any natural or juridical person, unless the context indicates otherwise.

- d. "Ill-gotten wealth" means any asset, property, business enterprise or material possession of any person within the purview of Section two (2) hereof, acquired by him directly or indirectly through dummies, nominees, agents, subordinates and/or business associates by any combination or series of the following means or similar schemes:
1. Through misappropriation, conversion, misuse, or malversation of public funds or raids on the public treasury;
 2. By receiving, directly or indirectly, any commission, gift, share, percentage, kickbacks or any/or entity in connection with any government contract or project or by reason of the office or position of the public officer concerned;
 3. By the illegal or fraudulent conveyance or disposition of assets belonging to the National government or any of its subdivisions, agencies or instrumentalities or government-owned or controlled corporations and their subsidiaries;
 4. By obtaining, receiving or accepting directly or indirectly any shares of stock, equity or any other form of interest or participation including the promise of future employment in any business enterprise or undertaking;
 5. By establishing agricultural, industrial or commercial monopolies or other combinations and/or implementation of decrees and orders intended to benefit particular persons or special interests; or
 6. By taking undue advantage of official position, authority, relationship, connection or influence to unjustly enrich himself or themselves at the expense and to the damage and prejudice of the Filipino people and the Republic of the Philippines.

Sec. 2. Definition of the Crime of Plunder, Penalties. – Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt criminal acts as described in Section 1 (d) hereof in the aggregate amount or total value of at least Fifty million pesos (P50,000,000.00) shall be guilty of the crime of plunder and shall be punished by reclusion perpetua to death.

Any person who participated with the said public officer in the commission of an offense contributing to the crime of plunder shall likewise be punished for such offense. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances, as provided by the Revised Penal Code, shall be considered by the Court. The court shall declare any and all ill-gotten wealth and their interests and other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State. [As Amended by Section 12, Republic Act. No. 7659 The Death Penalty Law]

Sec. 3. Competent Court. – Until otherwise provided by law, all prosecutions under this Act shall be within the original jurisdiction of the Sandiganbayan.

Sec. 4. Rule of Evidence. – For purposes of establishing the crime of plunder, it shall not be necessary to prove each and every criminal act done by the accused in furtherance of the scheme or conspiracy to amass, accumulate or acquire ill-gotten wealth, it being sufficient to establish beyond reasonable doubt a pattern of overt or criminal acts indicative of the overall unlawful scheme or conspiracy.

Sec. 5. Suspension and Loss of Benefits. – Any public officer against whom any criminal prosecution under a valid information under this Act in whatever stage of execution and mode of participation, is pending in court, shall be suspended from office. Should he be convicted by final judgment, he shall lose all retirement or gratuity benefits under any law, but if he is acquitted he shall be entitled to reinstated and to the salaries and other benefits which he failed to receive during suspension, unless in the meantime, administrative proceedings have been filed against him.

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Sec. 6. Prescription of Crime. – The crime punishable under this Act shall prescribe in twenty (20) years. However, the right of the State to recover properties unlawfully acquired by public offices from them or from their nominees or transferees shall not be barred by prescription, laches, or estoppel.

Sec. 7. Separability of Provisions. – If any provisions of this act or the application thereof to any person or circumstance are held invalid, the remaining provisions of this Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

Sec. 8. Scope. – This Act shall not apply to or affect pending prosecutions or proceedings, or those which may be instituted under Executive Order no. 1 issued and promulgated on February 28, 1986.

Sec. 9. Effectivity. – This Act shall take effect after fifteen (15) days from its publication in the Official Gazette and in a newspaper of general circulation.

Approved: July 12, 1991

Old provision of Section 2, Republic Act no. 7080 prior to its amendment by Section 12, Republic Act no. 7659, otherwise known as the Death Penalty Law:

Sec. 2. Definition of the Crime of Plunder, Penalties. – Any public officer who, by himself or in connivance with members of his family, relatives by affinity or consanguinity, business associates, subordinates or other persons, amasses, accumulates or acquires ill-gotten wealth through a combination or series of overt or criminal acts as described in Section 1 (d) hereof, in the aggregate amount of total value of at least Seventy five million pesos (P75,000,000.00), shall be guilty of the crime of plunder and shall be punished by life imprisonment with perpetual absolute disqualification from holding any public office.

Any person who participated with the said public officer in the commission of plunder shall likewise be punished. In the imposition of penalties, the degree of participation and the attendance of mitigating and extenuating circumstances shall be considered by the court. The court shall declare any and all ill-gotten wealth and their interest other incomes and assets including the properties and shares of stocks derived from the deposit or investment thereof forfeited in favor of the State.

III. PRESIDENTIAL DECREE NO. 46

MAKING IT PUNISHABLE FOR PUBLIC OFFICIALS AND EMPLOYEES TO RECEIVE, AND FOR PRIVATE PERSONS TO GIVE GIFTS ON ANY OCCASION, INCLUDING CHRISTMAS

Whereas, under existing laws the civil service rules, it is prohibited to receive, directly or indirectly, any gift, present or any other form of benefit in the course of official duties.

Whereas, it is believed necessary to put more teeth to existing laws and regulations to wipe out all conceivable forms of graft and corruption in the public service, the members of which should not only be honest but above suspicion and reproach; and

Whereas, the stoppage of the practice of gift-giving to government men is a concrete step in the administration's program of reforms for the development of new moral values in the social structure of the country, one of the main objectives of the New Society.

Now, therefore, I Ferdinand E. Marcos, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081, dated September 21, 1972, and General Order No. 1, dated September 22, 1972, do hereby make it punishable for any public official and employee, whether of the national or local governments, to receive, directly or indirectly, and for private persons to give, or offer to give, any gift, present or other valuable things on any occasion, including Christmas, when such gift, present or other valuable thing is given by reason of his official position, regardless of whether or not the same is for past favor or favors or the giver hopes or expects to receive a favor or treatment in the future from the public official and employees concerned in the discharge of his official functions. Included within the prohibition is the

throwing of parties or entertainments in honor of the official and employee or his immediate relatives.

For violation of this Decree, the penalty of imprisonment, for not less than one (1) year nor more than five (5) years and perpetual disqualification from public office shall be imposed. The official and employee concerned shall likewise be subject to administrative disciplinary action and, if found guilty, shall be meted out the penalty of suspension or removal, depending on the seriousness of the offense.

Any provision of law, executive order, rule or regulation or circular inconsistent with this Decree is hereby repealed or modified accordingly.

This Decree shall take effect immediately after its publication.

Done in the City of Manila, this 10th day of November, in the year of Our Lord, nineteen hundred and seventy-two.

IV. EXECUTIVE ORDER NO. 12

CREATING THE PRESIDENTIAL ANTI-GRAFT COMMISSION AND PROVIDING FOR ITS POWERS, DUTIES AND FUNCTIONS AND FOR OTHER PURPOSES

Whereas, Article VII, Section 17 of the Constitution provides that the President shall have control of all executive departments, bureaus, and offices;

Whereas, in terms of personnel and funding, the Executive Department is the largest of the three branches of government;

Whereas, there is a need for commission under the Office of the President, to conduct the task of investigating and hearing administrative cases and complaints against personnel in the Executive Department;

Whereas, by virtue of the Executive Order No. 268 dated July 18, 2000, the Presidential Commission Against Graft and Corruption was abolished and replaced with the National Anti-Corruption Commission;

Whereas, the National Anti-Corruption Commission was never activated;

Whereas, there is a need to create a new commission to assist the President in the campaign against graft and corruption, whose jurisdiction and authority are clearly defined;

Now, therefore, I, Gloria Macapagal-Arroyo, President of the Philippines, by virtue of the powers vested in me by the Constitution and the laws, do hereby order:

Sec. 1. Creation – The Presidential Anti-Graft Commission hereinafter to as the “Commission”, is hereby created under the Office of the President, pursuant to Article VII, Section 17 of the Constitution.

Sec. 2. Composition – The Commission shall be composed of a Chairman and two (2) Commissioners to be appointed by the President. All the members of the Commission shall serve on a full-time basis and a majority shall be members of the Philippine Bar. The Chairman shall have the rank, emoluments and privileges of a Presidential Assistant I. The Chairman shall preside over the meetings of the Commission and shall direct and supervise the implementation and execution of policies, standards, rules and regulations.

Sec. 3. Secretariat – The Commission shall have a Secretariat which shall provide technical and administrative support to the Commission and which shall be headed by an Executive Director. The Executive Director, under the control and supervision of the chairman, shall execute and administer the policies and decisions of the Commission and manage the day-to-day operations thereof.

The Executive Director shall be appointed by the President upon the recommendation of the Chairman. The Chairman shall have the authority to appoint, promote, and discipline the personnel of the Secretariat.

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The Commission, subject to pertinent laws, rules and regulations, may create, organize and set in operation such organizational units necessary for the performance of its powers, functions, and duties and for the enforcement of this Executive Order. Such units shall be staffed duly qualified personnel appointed by the Chairman and those detailed to the Commission by other government entities

The Commission shall be exempt from the prohibition against hiring of new personnel prescribed in Administrative Order No. 100 dated December 1, 1999 with regard to its initial appointments provided that the organizational structure and staffing pattern of the Secretariat shall be prepared in coordination with the Department of Budget and Management and submitted to the President for approval.

Sec. 4. Jurisdiction, Powers and Functions.

- (a) The Commission, acting as a collegial body, shall, on its own or on complaint, have the power to investigate or hear administrative cases or complainants involving the possible violation of any of the following:
 - (1) Republic Act. No. 3019 as amended, otherwise known as the "Anti-Graft and Corrupt Practices Act;"
 - (2) Republic Act no. 1379 on the lawful acquisition of property by a public officer or employee;
 - (3) Republic Act. No. 6713, otherwise known as the "Code of Conduct and Ethical Standards for Public Officials and Employees;"
 - (4) Presidential Decree No. 46, making it punishable for public officials and employees to receive gifts on any occasion, including Christmas;
 - (5) Any provision under Title Seven, Book Two of the Revised Penal Code; and
 - (6) Rules and regulations duly promulgated by competent authority to implement any of the foregoing laws or issuances.
- (b) The Commission, acting as a collegial body, shall have the authority to investigate or hear administrative cases or complaints against all presidential appointees in the government and any of its agencies or instrumentalities (including members of the governing board of any instrumentality, regulatory agency, chartered institution and directors or officers appointed or nominated by the President to government-owned or controlled corporations or corporations where the government has a minority interest or who otherwise represent the interest of the government), occupying the positions of assistant regional director, or an equivalent rank, and higher, otherwise classified as Salary Grade "26" and higher of the Compensation and Position Classification act of 1989 (Republic Act No. 6758). In the same manner, the Commission shall have jurisdiction to investigate a non-presidential appointee who may have acted in conspiracy or may have been involved with a presidential appointee or ranking officer mentioned in this subsection. The Commission shall have no jurisdiction over members of the Armed Forces of the Philippines and the Philippine National Police.
- (c) Anonymous complaints against a presidential appointee shall not be given due course unless there appears on its faced or the supporting documents attached to the anonymous complaint a probable cause to engender a belief that the allegations may be true.
- (d) The Commission shall use every and all reasonable means to ascertain the facts in each case or complaint speedily and objectively and without regard to technicalities of law or procedure, in all instances observing the due process.
- (e) The investigation of hearing involving a presidential appointee with the position of Undersecretary or higher shall be conducted by the Commission sitting en banc. The investigation or hearing involving a presidential appointee occupying a lower position may be entrusted to a Commissioner or panel of hearing officers duly designated by the Chairman; Provided, however, that the report or recommendations of the Commissioner or panel of hearing officers who investigated or heard the administrative case or complaint shall be deliberated upon a reviewed by the Commission en banc

before submitting its report and recommendations to the President.

Sec. 5. Powers Incidental to Investigation. – The Commission shall have the power to administer oaths and issue subpoena ad testificandum and duces tecum. The Commission shall likewise have the power to call upon and secure the assistance of any office, committee, commission, bureau, agency, department or instrumentality in the Executive Branch, including government-owned or controlled corporations.

During the pendency of its investigation or hearing, the Commission may recommend to the President the preventive suspension of the respondent for such periods as may be allowed by law.

Sec. 6. Enforcement of Subpoena. – Upon failure to comply with a subpoena issued by the Commission or by its authority without adequate cause, the Commission en banc, on motion or motu proprio, may recommend to the President, after formal charge and hearing, the suspension or dismissal from the service of the non-complying government personnel.

Sec. 7. Resignation/Retirement of Respondent. – The resignation or retirement of the public officer under investigation shall not divest the Commission of jurisdiction to continue the investigation or hearing and submit its recommendations to the President as to the imposition of accessory penalties or such other action to be taken.

Sec. 8. Submission of Report and Recommendations. – After completing its investigation or hearing, the Commission en banc shall submit its report and recommendations to the President. The report and recommendations shall state, among others, the factual findings and legal conclusions, as well as the penalty recommend to be imposed or such other action that may be taken.

Sec. 9. Referral to Other Government Units. – Whenever the Commission deems it warranted and necessary, it may refer for appropriate action any case to the Office of the Ombudsman, or any other office, committee, commission, bureau, agency, department, instrumentality or branch of the government, including government-owned or controlled corporations.

Sec. 10. Measures to Prevent and Minimize Graft and Corruption. – The Commission may conduct studies, on its own or in cooperation with other government agencies or non-governmental organizations, on new measures to prevent and minimize the opportunities for graft and corruption at all levels of bureaucracy.

Sec. 11. Consultants and Deputies. – The Chairman may engage the services of qualified consultants and/or deputies, from the public or private sector, subject to pertinent laws, rules and regulations.

Sec. 12. Reports. - At least thirty (30) days before the opening of each session of Congress, the Commission shall submit to the President:

- (a) A list of respondents whom it has investigated, together with its recommendations, and other data or information it may deem necessary to be included;
- (b) A list of respondents whom it is investigating, the status of the investigation, as well as other data or information it may deem necessary to be included; and
- (c) Such other report or recommendation which is germane to any provision or purpose of this Executive Order or as may be required by the President.

Sec. 13. Disclosures. – The Commission shall not disclose or make public any record or information in connection with any investigation or hearing when such disclosure would deprive the respondent of his right to a fair and impartial adjudication. All disclosure of the Commission relating to an administrative case or complaint shall be balanced, fair, and accurate.

Sec. 14. Continued Performance of PCAGC. – Until the members of the Commission have been duly appointed, the Presidential Commission Against Graft and Corruption (PCAGC) shall continue to perform its powers, duties and functions under Executive Orders Nos. 151 and 151-A, both series of 1994, with

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respect only to cases already pending before it.

Sec. 15. Transfer of PCAGC Officers and Personnel. – The officers and personnel of the PCAGC may be transferred and appointed to such positions in the Commission for which they are deemed qualified.

Sec. 16. Transfer of PCAGC Funds, etc. – The funds, records, equipment, furnitures and other properties of the PCAGC shall be transferred to the Commission.

Sec. 17. Rules and Regulations. – The Commission shall promulgate or adopt its rules and regulations for the effective implementation of this Executive Order.

Sec. 18. Funding. – The Commission shall have a budget of EIGHTEEN MILLION TWO HUNDRED SIXTY THREE THOUSAND PESOS (P18,263,000.00) drawn against the budget appropriated for the National Anti-Corruption Commission. Any additional funding requirement shall be determined in coordination with the Department of Budget and Management and shall be submitted to the Office of the President for approval.

Sec. 19. Repeal. – Executive Order Nos. 151 and 151-A, dated January 11, 1994 and January 24, 1994 respectively, which created the PCAGC, are hereby repealed. Executive Order No. 268, dated July 18, 2000, which created the National Anti-Corruption Commission, is also hereby repealed. All other issuances, orders, rules and regulations, or parts thereof, inconsistent with this Executive Order are hereby repealed or modified accordingly.

Sec. 20. Effectivity. – This Executive Order shall take effect immediately upon approval.

Manila, April 16, 2001.

**V. JOINT CIRCULAR OF THE OFFICE OF THE OMBUDSMAN AND THE DEPARTMENT
OF JUSTICE**

OMB-DOJ JOINT CIRCULAR NO. 95-001
Series of 1995

TO : ALL GRAFT INVESTIGATION/SPECIAL PROSECUTION OFFICERS OF THE OFFICE
OF THE OMBUDSMAN

ALL REGIONAL STATE PROSECUTORS AND THEIR ASSISTANTS, PROVINCIAL/CITY
PROSECUTORS AND THEIR ASSISTANTS, STATE PROSECUTORS AND PROSECUTING
ATTORNEYS OF THE DEPARTMENT OF JUSTICE.

SUBJECT: HANDLING COMPLAINTS FILED AGAINST PUBLIC OFFICERS AND EMPLOYEES,
THE CONDUCT OF PRELIMINARY INVESTIGATION, PREPARATION OF RESOLUTIONS
AND INFORMATIONS AND PROSECUTION OF CASES BY PROVINCIAL AND CITY
PROSECUTORS AND THEIR ASSISTANTS.

In a recent dialogue between the OFFICE OF THE OMBUDSMAN and the DEPARTMENT OF JUSTICE, discussion centered around the latest pronouncement of the SUPREME COURT on the extent to which the OMBUDSMAN may call upon the government prosecutors for assistance in the investigation and prosecution of criminal cases cognizable by his office and the conditions under which he may do so. Also discussed was REPUBLIC ACT. NO. 7975, otherwise known as "AN ACT TO STRENGTHEN THE FUNCTIONAL AND STRUCTURAL ORGANIZATION OF THE SANDIGANBAYAN, AMENDING FOR THE PURPOSE PRESIDENTIAL DECREE NO. 1606, AS AMENDED" and its implications on the jurisdiction of the OFFICE OF THE OMBUDSMAN on criminal offenses committed by public officers and employees.

Concerns were expressed on unnecessary delays that could be caused by discussions on jurisdiction between the OFFICE OF THE OMBUDSMAN and the DEPARTMENT OF JUSTICE, and by procedural conflicts in the filing of complaints against public officers and employees, the conduct of preliminary

investigations, the preparation of resolutions and informations, and the prosecution of cases by provincial and city prosecutors and their assistants as DEPUTIZED PROSECUTORS OF THE OMBUDSMAN.

Recognizing the concerns, the OFFICE OF THE OMBUDSMAN and the DEPARTMENT OF JUSTICE, in a series of consultations, have agreed on the following guidelines to be observed in the investigation and prosecution of cases against public officers and employees:

1. Preliminary investigation and prosecution of offenses committed by public officers and employees IN RELATION TO OFFICE whether cognizable by the SANDIGANBAYAN or the REGULAR COURTS, and whether filed with the OFFICE OF THE OMBUDSMAN or with the OFFICE OF THE PROVINCIAL/CITY PROSECUTOR shall be under the control and supervision of the OFFICE OF THE OMBUDSMAN.
2. Unless the OMBUDSMAN under its Constitutional mandate finds reason to believe otherwise, offenses NOT IN RELATION TO OFFICE and cognizable by the REGULAR COURTS shall be investigated and prosecuted by the OFFICE OF THE PROVINCIAL/CITY PROSECUTORS, which shall rule thereon with finality.
3. Preparation of criminal information shall be the responsibility of the investigating officer who conducted the preliminary investigation. Resolutions recommending prosecution together with the duly accomplished criminal informations shall be forwarded to the appropriate approving authority.
4. Considering that the OFFICE OF THE OMBUDSMAN has jurisdiction over public officers and employees and for effective monitoring of all investigations and prosecutions of cases involving public officers and employees, the OFFICE OF THE PROVINCIAL/CITY PROSECUTORS shall submit to the OFFICE OF THE OMBUDSMAN a monthly list of complaints filed with their respective offices against public officers and employees.

Manila, Philippines, October 5, 1995

(SGD) TEOFISTO T. GUINGONA, JR.
Secretary
Department of Justice

(SGD) ANIANO A. DESIERTO
Ombudsman
Office of the Ombudsman

VI. JOINT CIRCULAR OF THE OFFICE OF THE OMBUDSMAN AND THE DEPARTMENT OF JUSTICE NO. 95-001

TO : ALL GRAFT INVESTIGATION/SPECIAL PROSECUTION OFFICERS OF THE OFFICE OF THE OMBUDSMAN

ALL PROVINCIAL/CITY PROSECUTORS AND THEIR ASSISTANTS, STATE PROSECUTORS AND PROSECUTING ATTORNEYS OF THE DEPARTMENT OF JUSTICE

SUBJECT: CLARIFICATION OF DEPARTMENT OF JUSTICE CIRCULAR NO. 10 DATED AUGUST 19, 1991 ON INVESTIGATION/PROSECUTION OF CRIMES COMMITTED BY MEMBERS OF THE PHILIPPINE NATIONAL POLICE.

In DOJ Memorandum Circular No. 10 dated August 19, 1991, the view was expressed that “crimes committed by members of the PNP fall within the exclusive jurisdiction of the regular courts” pursuant to Section 46 of RA No. 6975, and that cases falling within the exclusive original jurisdiction of the *Sandiganbayan* involving members of the PNP are no longer cognizable by the said court but are now within the exclusive jurisdiction of the regular courts.

The view thus expressed has arisen from an interpretation of the term “regular courts” as used in Section 46 of RA No. 6975 to mean courts other than the *Sandiganbayan*. This construction of the law is perceived to give rise to confusion and conflict of opinions on the real import of the law involved. For one, it is not in consonance with the statutes governing the jurisdiction of the Office of the Ombudsman and the *Sandiganbayan*. Moreover, the law does not clearly nor categorically define the term “regular court” which,

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considering the underlying purpose of RA No. 3775 could refer to "civilian courts", as distinguished from military courts. Needless to state, such a divergence of views would inevitably result in unnecessary discussions and unwanted delays in the prosecution of cases filed against the member of the PNP.

Recognizing the necessity of avoiding such an undesirable situation, the Department of Justice and the Office of the Ombudsman, after a series of consultations, have agreed on the following guidelines to be observed in the investigation and prosecution of cases involving the member of PNP.

1. The investigators and the prosecutors of the Department of Justice and the Office of the Ombudsman have concurrent jurisdiction to investigate any criminal complaint filed against members of the PNP, irrespective of its nature or the penalty prescribed for the offense charge.
2. If the offense involved falls within the exclusive jurisdiction of the *Sandiganbayan* pursuant to Section of PD 1606, as amended by PD 1861, the Office of the Ombudsman may take over the investigation being conducted by a DOJ prosecutor at any stage of the proceeding.
3. The filing of informations and the prosecution of cases in the *Sandiganbayan* shall be responsibility of the Office of the Ombudsman, thru its Office of the Special Prosecutor or any prosecutor designated by the Ombudsman.

The statements contained in DOJ Circular No. 10 dated August 19, 1991 to the effect that the Ombudsman may not take over the investigation of cases not cognizable by the *Sandiganbayan* shall be deemed subject to future clarification or determination by competent authorities.

DOJ Memorandum Circular No. 10, shall be deemed amended insofar as it is inconsistent herewith.

Manila, Philippines, October 14, 1991.

(SGD) SILVESTRE H. BELLO III
Acting Secretary
Department of Justice

(SGD) CONRADO M. VASQUEZ
Ombudsman
Office of the Ombudsman

VII. MEMORANDUM CIRCULAR NO. 11 SERIES of 1995

TO: ALL HEADS OF DEPARTMENTS, OFFICES, BUREAUS AND AGENCIES OF THE NATIONAL AND LOCAL GOVERNMENTS, INCLUDING GOVERNMENT-OWNED AND CONTROLLED CORPORATION

RE: ANONYMOUS OR FICTITIOUS COMPLAINT IN RELATION TO SECTION 12 OF RA NO. 3019, OTHERWISE KNOWN AS THE ANTI-GRAFT AND CORRUPT PRACTICES ACT.

Memorandum Circulars nos. 1,3,4,6 and 10 of this Office are modified.

As of May 22, 1995, this Office has ceased the docketing of unsigned (anonymous) or signed (fictitious) complaint as an Ombudsman case (OMB-0-00-000). It is recorded and given a complaint number (CPL-000) and the same is subject to evaluation, verification or investigation. It will be docketed as an Ombudsman Case should it be verified to be substantially true and well-founded.

A certificate issued by the Clearance Section of this Office prior to the issuance of this Memorandum Circular certifying to the pendency of a criminal or administrative case with an anonymous or fictitious accuser as the complaint shall not be made a basis for the suspension or withholding of gratuity, terminal leave pay and other benefits of retiring and resigning public officials and employees in relation to Section 12 of RA No. 3019, otherwise known as the "Anti-Graft and Corrupt Practices Act".

Relevant to this Memorandum Circular is Section 35 of RA No. 6770, otherwise known as the "Ombudsman act of 1989" which provides that "Malicious Prosecution. – Any person who, actuated by malice or gross bad faith, files a completely unwarranted or false complaint against any government official or employee shall be

subject to a penalty of One (1) month and one (1) day to six (6) months imprisonment and a fine not exceeding five thousand pesos (P5,000.00).”

Manila, May 29, 1995.

(SGD) FRANCISCO A. VILLA
Acting Ombudsman

VIII. HIGH PROFILE CASES

In its website (www.ombudsman.gov.ph), the Office of the Ombudsman lists several high profile cases filed against high ranking officials of the government with the *Sandiganbayan*. These are:

1. The plunder cases against the former President Joseph Estrada.
2. Multiple suits against former First Lady Imelda Marcos and her kin.
3. Cases relating to the so-called “tax credit scam”. In this campaign, it filed a total of 175 criminal cases for violation of Section 3 (e), R.A. 3019; and for estafa through falsification of public documents.
4. The complaint against former Vice-President Salvador “Doy’ Laurel (now deceased) when he was the Chairman of the National Centennial Commission under the administration of the then President Fidel V. Ramos.
5. People of the Philippines vs. Amadeo S. Lagdameo, Jr. former Gen. Manager; Wainright Rivera, former Chairman; Arturo Trinidad, former Director; Gregorio Fider, Director; Marylou Ventura, Director; Justiniano Montano IV, former Deputy General Director; Theron Lacson, Deputy General Manager, all of Public Estate Authority; and Oscar Garcia, former Chief of the Government Corporate Counsel [for violation of RA 3019, Sec. 3 (e) in relation to Sec. 3 (g)].

While in the performance of their respective official functions and acting with evident bad faith, conspiring and confederating, the above-named accused gave Amari Coastal Bay Development Corporation (AMARI) undue advantage, benefits and preference by entering into and confirming the Joint Venture Agreement with said corporation dated April 25, 1995 and its supplement, dated August 9, 1995, a contract which is grossly disadvantageous to the government.

6. People of the Philippines vs. Gen. Cesar P. Nazareno, Director General of the PNP; Dir. Guillermo T. Domondon of the Directorate for Comptrollership; C/Supt. Roger Deinla, Director of Recom 7; Supt. Van D. Luspo, Chief of Fiscal Division, Budget and Fiscal Service Director for Comptrollership; Supt. Corleto Lopez, Comptroller of Recom 7; C/Insp. Elpidio Ybanez, Chief Finance of Recom 7; C/Insp. Jose Beltran, Deputy ARD Comptrollership of Recom 7; C/Insp. Benhur Aguinaldo, Sr. Insp. Florante Leano, Disbursing Officers of Recom 7; and Mila G. Gabrinez, Chief Accountant of Recom 7 [for violation of Section (3) of RA 3019, as amended].

While in the performance of official functions, the above-named accused, with bad faith, took, received and encashed 407 checks in the aggregate amount of PHP20 million issued to them as cash advances intended as payment for Combat, Clothing and Individual Equipment (CCIE) for the use of the personnel of the Philippine National Police (PNP). Said funds were misappropriated thereby, causing injury to the government.

7. People of the Philippines vs. Rodolfo C. Farinas, Provincial Governor of Ilocos Norte [for violation of Sec. 3 (e) of RA 3019].

In December 1995, Rodolfo Farinas, in his capacity as Governor of the Province of Ilocos Norte, received the reimbursement to himself of PHP263,000.00 representing the purchase price of a speedboat acquired from the US by the Ilocano Association of Southern California. Said amount was taken from the Calamity Fund without a Sangguniang Panlalawigan Resolution authorizing said disposition.

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8. People of the Philippines vs. Panfilo Domingo, VP for Philippine National Bank-International; Domingo Ingco, PNB Board Member; Constantino Bautista, Sr. VP, PNB; Leticia Teodoro, Marfina Singian, Tomas T. Teodoro, Gregorio Singian, all of Integrated Shoes, Inc. [for violation of Sec. 3 (e) of RA 3019, as amended].

In January 1972, the above-named accused officials of PNB conspired with private individuals who are officers of the Integrated Shoes, Inc. in relation to the approval and grant of a five-year loan in favor of the latter, in the sum of PHP16,287,500.00, despite the knowledge that ISI lacked sufficient capitalization and adequate additional collaterals to serve the interest of the Government in case it failed to pay said loan, as in fact failed to pay, to the detriment of the government in the aforesaid amount of more than 16 million pesos.

9. People of the Philippines vs. Ronaldo Puno, former Secretary of the DILG [for violation of Sec. 3 (e), RA 3019, as amended]

In September 1998, Mr. Ronaldo Puno, the Undersecretary of DILG, cancelled the forfeited and already duly funded contracts between Motorola, Inc. and the Philippine National Police, covering the negotiated purchase and delivery to the PNP of the Multi-Trunked Radio System, including installation for Phase IV (NCR and Regions III and IV) and Phase V (Regions I and II). This caused lost sales for Motorola in the amount of \$3,569,034.40; PHP6M for the Thesys, Inc., US\$104,000.00 for the PNP; and US\$55M for the government.

10. People of the Philippines vs. Benjamin “Kokoy” Romualdez, former Governor of the Province of Leyte [for violation of Sec. 3 (e) of RA 3019, as amended]

During the period from 1976 to February 1986, accused Benjamin “Kokoy” Romualdez who was then Provincial Governor of Leyte used his influence with his brother-in-law, then President Ferdinand Marcos and had himself appointed as Ambassador to foreign countries, particularly the People’s Republic of China (Peking), Kingdom of Saudi Arabia (Jeddah), and the United States of America (Washington, D.C.).

Benjamin Romualdez knew fully well that such appointment is in violation of the existing laws as the Office of the Ambassador or Chief of Mission is incompatible with his position as Governor of the Province of Leyte. This enable himself to collect dual compensation from both the Department of Foreign Affairs and the Provincial Government of Leyte in the total amount of PHP5,806,709.50, to the damage and prejudice of the government.

11. People of the Philippines vs. Carmelo FLazatin, former Congressman; Marino P. Morales, former Mayor; Teodoro R. David, Municipal Accountant and Angelito A. Pelayo, Municipal Treasurer, all of Mabalacat, Pampanga [for Malversation of Public Funds]

In June 1996, Treasurer Pelayo, of Mabalacat, Pampanga, conspired with former Congressman Carmelo Lazatin and Marino Morales and Teodoro David, the Mayor and Municipal Accountant of Mabalacat, Pampanga, respectively, to malverse the amount of PHP596,683.00, representing the proceeds of check no. 3102, intended for Peace and Order Campaign Expenses and Relief Assistant for Mt. Pinatubo victims, to the damage and prejudice of the government in the aforesaid amount.

12. People of the Philippines vs. Manuel Lapid, Governor of Pampanga; Clayton A. Olalia, Vice-Governor; Jovito S. Sabado, Provincial Treasurer; Marino P. Morales, Mayor; Nestor D. Tadeo, Senior Police Officer IV; Conrado Pangilinan, Jr., and Rodrigo Fernandez, all of the Province of Pampanga [for violation of Sec. 3 (e), RA 3019]

From the period 1996 to August 1998, the above-named accused conspired, imposed upon and collected from quarry operators in the province of Pampanga, padded, illegal and unauthorized quarry fees, charges, taxes and/or contributions per truckload of quarry materials, the proceeds of which, the accused failed to refund or return to the concerned quarry operators, or to account for their personal benefits, causing undue injury to quarry operators and the Province of Pampanga, an act defined and penalized under Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act.

The Office of the Ombudsman has also conducted lifestyle checks on and dismissed a number of officials in several government departments and agencies.

The following officials have been dismissed and the Ombudsman has already rendered Resolutions finding probable cause and directing the filing of cases with the *Sandiganbayan* against the following personalities for perjury, violation of Republic Act (RA) No. 3019 or the Anti-Graft and Corrupt Practices Act and the Tariff and Customs Code, and forfeiture of ill-gotten wealth under RA 1379:

From the Department of Public Works and Highways:

- a. 1 Undersecretary
- b. 1 Regional Director

From the Bureau of Customs:

- a. Deputy Commissioner
- b. Chief of Customs Operations Office
- c. Chief of the Miscellaneous Division
- d. Customs Operating Officer
- e. Customs Collector

From the Bureau of Internal Revenue:

- a. 1 Assistant Commissioner
- b. 1 Regional Director
- c. 1 Legal Officer (Attorney V)
- d. 1 Revenue Regional Head Executive Assistant
- e. 1 Assistant Regional Director

Similarly, on 28 September 2004, the Office of the Ombudsman ordered the preventive suspension of Major General Carlos Garcia of the Armed Forces of the Philippines. A petition for forfeiture of ill-gotten assets amounting to more than PHP143 million has been filed against said general. On 5 November 2004, four criminal cases involving (4) counts of perjury were filed against the same general. Further, an investigation for the possible filing of plunder charges is on-going. This is the first time that criminal charges were filed against a two-star general.

In November 2004, the Office of the Ombudsman preventively suspended Lt. Col. George A. Rabusa, Maj. Gen. Garcia's former aide, for unexplained wealth amounting to about PHP50 million. Three criminal cases for perjury and a petition for forfeiture of unexplained wealth under RA No. 1379 were filed against Lt. Col. Rabusa.

In late November 2004, the Office of the Ombudsman approved the filing of forfeiture of unexplained wealth and perjury against former AFP Chief of Staff, Gen. Lisandro C. Abadia.

On 8 February 2005, the Office of the Ombudsman preventively suspended Bureau of Customs Deputy Commissioner Reynaldo Nicolas for apparent acquisition of wealth amounting to more than PHP40 million, which is beyond his lawful means. The case is proceeding preliminary investigation and administrative adjudication for determination of his probable criminal and administrative liabilities.