

OFFICE OF THE CHIEF, PNP
Camp Crame, Quezon City

JUL 11 2011

MS ELAINE PEARSON
Deputy Director, Asia Division
Human Rights Watch
350 Fifth Avenue, 34th Floor
New York, NY 10118-3299

Dear Ms Pearson:

This pertains to your letter dated May 31, 2011, requesting the PNP's view on extrajudicial killings and enforced disappearances in the Philippines especially those which occurred since June 30, 2010.

In this regard, attached are the PNP's responses to your questions in relation to the alleged extrajudicial killings and enforced disappearances in the Philippines, as well as available details on the cases, as requested.

Rest assured of our enduring commitment to advance and protect the basic liberties and human rights of our Filipino brethren and foreign nationals in our country.

Very truly yours,



[Handwritten Signature]
ATTY RAUL M. BACALZO, Ph.D.
Police Director General
Chief, PNP

CPNP Ltr 2011 S044161



S044161

Cc:

The Honorable
RAUL S HERNANDEZ
Acting Assistant Secretary
Office of American Affairs
Department of Foreign Affairs
Roxas Boulevard, Pasay City

[Handwritten initials]

LIST OF CASES

NO.	VICTIMS	SUSPECT/S	STATUS OF CASE	PROSECUTOR'S OFFICE/RTC/MTC	PROs	REMARKS
1	Benjamin Bayles y Estropa	Roger Bajon y Mareza and Ronnie Caurino y Lizasa Arrested on June 14, 2010	CC # 2474 on July 5, 2010	RTC Branch 55, Himamaylan City, Negros Occidental by Hon. Judge Nilo M. Sarsaba	PRO6	Under TF USIG
2	Fernando Baldomero y Inginiero @ Gene / Caloy / Ronaldo	Dindo Ancero y Lovon and John Does	IS # INV-10-H-01573 on August 2, 2010	Akian Provincial Prosecutor's Office by Associate Prosecutor Romeo I. Inventado	PRO6	Under TF USIG
3	Pascual Guevarra y Gabuyo	Unidentified suspects	Under investigation		PRO3	Not Under TF USIG
4	Julius Tamondez y Diana	Unidentified suspects	Under investigation		PRO11	Not Under TF USIG
5	Agustito Ladera & Renato Deliguer	Unidentified suspects	Under investigation		PRO13	Not Under TF USIG
6	Reynaldo Labrador y Lindongan	Roberto Repe (Killed in other incident) and One (1) John Doe	NPS XI-02-INV-10-J-02655 on October 22, 2010	Davao City Prosecutor's Office by Prosecutor Faizal A. Padate	PRO11	Not Under TF USIG
7	Vicente Feliselda y Guson @ Ka Boyet	Three (3) unidentified suspects	Under investigation		PRO11	Not Under TF USIG
8	Rene Quirante y Lara @ Toto	Junel Librando (known NPA member) and Dandy Quilanan (member of CAFGU under the supervision of the 12th Infantry Battalion, 3rd Infantry Division, Philippine Army) and six (6) John Does	CC # 11-005-G. With Warrant of Arrest (WOA) February 1, 2011	RTC Branch 64, Guihulngan, Negros Oriental by Hon. Judge Alejandro S Bahonsua Jr.	PRO7	Under TF USIG
9	Ireneo Rodriguez y Manalo @ Rene	Two (2) unidentified suspects	Under investigation		PRO4A	Not Under TF USIG
10	Carlo Rodriguez y Orido	Two (2) unidentified suspects	Under investigation		PRO4A	Not Under TF USIG
11	Alfredo Bucal	Unidentified suspects	Under investigation		PRO4A	Not Under TF USIG
12	Rudy and Ruddyric Dejos	Roberto Castillote @ Kumander Inoy/Marvin (Leader of New People's Army (NPA) Front Committee 51) and John Does	IS number XI-04-INV-11C-000156 on March 24, 2011	Davao del Sur Prosecutor's Office	PRO11	Not Under TF USIG

1. What challenges the Philippine National Police (PNP) face in investigating killings and abductions in which military personnel are implicated? How are these challenges being overcome?

A: In general, the Philippine National Police is confronted with the following challenges or constraints in the investigation of cases of extralegal killings and enforced disappearances: lack of witnesses or refusal of witnesses to testify against suspects; refusal of the family of the victim to cooperate with police investigators due to fear of reprisal; and certain geographical challenges that limit the mobility and reach of police investigators.

For example, in many cases, alleged extra-legal killings and enforced disappearances occur in far-flung areas where police presence is limited and the local population is widely scattered, which then results in few witnesses or none at all. In some situations, the incident occurs in a mountainous area, off-road, or in a distant island away from the mainland or city/provincial proper where police investigators are based. These geographical and mobility challenges also cause delays in the reporting of such incidents and hamper the ability of police investigators to respond quickly.

In the past, limitations in the use of forensic tools and technology had also affected the conduct of investigations into such cases. However, recently, the PNP had invested resources in the development of its forensic investigation capabilities with the help of local and foreign agencies. The conduct of investigation courses for police investigators had also boosted the capabilities of investigators in handling these highly sensitive cases. Moreover, the PNP maintains close coordination with the Armed Forces of the Philippines (AFP) especially in the investigation of crimes allegedly committed by military personnel. Specifically, the PNP Human Rights Affairs Office has a direct link with the AFP Human Rights Office which enables both offices to coordinate and share information regarding reports and on-going investigation of alleged human rights violations by both police and military personnel. The PNP is also now working with the Commission on Human Rights in establishing a National Monitoring Mechanism (NMM) for human rights violations for the purpose of speeding up the ability of government and other sectors to respond, verify, and act on alleged incidents of human rights violations in various parts of the country.

2. How many extrajudicial killings or enforced disappearances has Task Force Usig investigated since June 30, 2010? Please provide a list, including the status of the investigation.

*A: From June 30, 2010 to date, TF USIG monitored a total of **39** cases (**12 in media killings and 27 alleged activist killings**). However, of the 12 media cases, only the case of Gerardo ORTEGA which is now at RTC Branch 52, Puerto Princesa City, Palawan falls under the TF USIG mandate. The other nine (9) cases were filed before the office of the prosecutor/court and the cases still under investigation were due to various motives/reasons such as: accident; land dispute; highway robbery/hold-up; and jealousy.*

On the other hand, on the recorded 27 cases of militant/activist killings, only the cases of Rodel ESTRELLADO (filed before a prosecutor's office), Fernando BALDOMERO (filed before a prosecutor's office), Rene QUIRANTE (filed in court) and Casiano ABING (under investigation) fall under the TF USIG mandate. The other cases were due to other motives/reasons such as: land disputes; armed encounter; ambush; revenge; legitimate operations; summary execution of the NPA; accidental and tribal conflicts.

3. At what stage does the PNP consider a case "solved"?

A: Per the National Police Commission (NAPOLCOM) Memorandum Circular No. 94-017 and Letter of Instructions (LOI) 02-09 Unit Crime Periodic Report (UCPER) dated April 22, 2009, a case is deemed solved when:

- a. The offender has been identified; there is sufficient evidence to charge him; the offender has been taken into custody; and the offender has been charged before the Prosecutor's office or court of appropriate jurisdiction.*
- b. When some elements beyond police control prevent the arrest of the offender, such as when the victim refuses to prosecute after the offender is identified or the offender dies or absconds.*
- c. The arrest of one offender can solve several crimes or several offenders may be arrested in the process of solving one crime.*

In the past, some sectors have recommended the revision of the definition of "case solved" to include the conviction in court of the offenders. This proposal will be reviewed by the PNP but the matter remains subject to the authority of the

National Police Commission (NAPOLCOM) and the Congress should there be a need to amend or pass new laws pertinent to the definition of "solved case".

- 4. What steps are taken to provide witnesses with accurate, complete information about the witness protection program at the earliest possible stage? Are there any standards regarding what police officers should tell witnesses about witness protection and at what stage of the investigation should they provide this information?**

A: At present, the Department of Justice (DOJ) is the lead agency mandated by law to handle the government's Witness Protection, Security and Benefits Program (WPSBP) for qualified witnesses. Aside from the PNP, the DOJ also works with the Departments of Education, Social Welfare and Development, and Foreign Affairs in implementing the said program.

At the early stages of the investigation, the PNP automatically provides police protection to witnesses of crime who willingly come forward to provide information to the police that could help in the gathering of facts of the case, evidences, and identification and arrest of suspects. After a thorough evaluation, all qualified witnesses are referred to the DOJ for processing and admission into the program.

Witnesses in cases of alleged extralegal killings are provided protection by the Commission on Human Rights.

The PNP, and the Philippine Government as a whole, strongly believe that it is the duty of the State to protect witnesses. However, under the existing law (Republic Act 6981 or the Witness Protection, Security and Benefit Act), witnesses are only admitted when the case they are testifying in has been filed in court. There is no interim protection mechanism available for persons who are waiting for a decision by the DOJ which has the authority to screen witnesses for the program to determine if the person is qualified to act as a witness. Moreover, there is no time limitation for the DOJ to resolve applications for protection under the program. This denies potential witnesses protection at times when they may need it urgently. In view of this, the PNP will fully support any amendments to the law or the implementation of any mechanism that would ensure the safety and security of witnesses at the earliest possible time and opportunity.

In 2010, the PNP was among several government agencies that worked under the European Union – Philippines Justice Support (EPJUST) Program with the aim of addressing the gaps and enhancing the effectiveness of the country's witness protection program.

5. What is the routine process within the PNP for receiving and executing arrest warrants? What is the process when the subject of the arrest warrants is a member of the Armed Forces of the Philippines?

A: The PNP receives and executes arrest warrants according to the procedures provided for by law and official PNP standard operating procedures. In general, there is no difference between the procedure for serving warrants of arrest to a civilian offender and the procedure for arresting military personnel suspected of involvement in crimes.

6. What steps are being taken to ensure that police investigators continue their investigations until all suspects have been identified? In several cases that Human Rights Watch has investigated, the police investigators ceased their investigation after only one or two suspects had been identified, and were not working to identify people who ordered the killings. In one instance, a police officer suggested that continuing to investigate a killing after a case had been filed would violate the *sub judice* rule --- a rule that prevents people from commenting on the outcome of a case while it is before the court.

A: As a general rule, it is the investigator's duty to ensure that all suspects, to include the mastermind/s, are identified even if the case was already referred to the prosecutor's office or filed in court and/or decided. In case new evidences and witness/es are found, the investigator shall initiate the filing of a supplemental-complaint charging the new suspect/s. It is worthwhile to note that the identification of all the suspects including the mastermind primarily depends on the available witnesses and evidences at hand.

As of this date, the following are some of the PNP's initiatives to enhance the conduct of our investigation, particularly the investigative capabilities of our personnel:

- *Thru the European Union-Philippines Justice Support (EPJUST) Program, the PNP was able to conceptualize policies and procedures in advancing its investigative capability through the opening of various training programs which directly benefited police supervisors and investigators in handling investigations of major crimes;*
- *It is also thru EPJUST that the PNP was able to print and distribute copies of the Field Manual on Investigation of Crimes of Violence and other Crimes, Criminal Investigation Manual (revised) and the Pre-Charge Evaluation and Summary Hearing Guide. The manuals standardized and contained new procedures in the conduct of investigation and serve as guide/checklist for our investigators;*
- *To ensure continues and proper handling of investigation, the PNP institutionalized the establishment of Special Investigation Task Group (SITG) whenever a major crime occurs (Standard Operating Number 02/11 - Procedures in the Creation & Activation of Special Investigation Task Group (SITG) to Handle Heinous and Sensational Crimes dated January 26, 2011);*
- *Launching of Integrated Ballistics Identification System (IBIS) at the PNP Crime Laboratory to easily cross-match slugs, empty shells and firearms recovered at the crime scene;*
- *SOP on the Conduct of Crime Scene Investigation dated January 26,2011;*
- *Memo-directive to all PROs dated February 11, 2011 for the: Mandatory Examination of All Firearms, Shells and Slug Recovered During Police Operations; and*
- *LOI 02-2011 - Procedure for Collection of Tenprints of All Booked Suspects at Police Stations Nationwide dated March 23, 2011.*

7. Has the Inspector General, the Provost Marshal, or any other investigating body within the PNP investigated police officers for inadequately investigating an alleged military abuse? If so, please provide details of the investigation and findings.

A: The Internal Affairs Service (IAS) of the PNP, headed by the Inspector General, is the lead agency which deals and refines the internal discipline of the PNP organization in its campaign against all forms of nonfeasance, misfeasance, or malfeasance in the police service.

As such, IAS administratively investigates and prosecutes uniformed personnel of the PNP for neglect of duty, irregularities in the performance of duty, misconduct or incompetence under NAPOLCOM Memorandum Circular 2007-001.

However, based on their records, there are no reports of complaints against uniformed personnel of the PNP for negligence or omission to perform police duty of amply investigating an alleged abuse of military personnel implicated for violation of human rights. This is so due to the following evident observations:

- a. IAS has the power to investigate complaints and gather evidence in support thereof, and conduct summary hearings on PNP members facing administrative charges. However, there must be a complainant who shall initiate complaint for alleged non-performance, omission or neglect of duty against a uniformed member of the PNP for inadequately investigating alleged military abuses. As of this time, no complainant has ever appeared before the IAS and initiated such complaint.*

It could have been another matter if the person complained of is directly a uniformed personnel of the PNP such that the IAS shall prosecute and penalize after due process, law erring PNP personnel who is found to have violated human rights in any conduct of police operation. Further, as provided in NAPOLCOM Memorandum Circular No. 2007-001 (Rule 21, Section 1, par A.1, subpar. m & n), it is empowered to punish PNP personnel for neglect of duty for failure to conduct within a reasonable period, proper, thorough and complete investigation of reported crime assigned to him, or for failure to amply search for, collect, preserve and identify evidence in any arrest or investigation conducted by him. If that is the case, then the IAS has records of erring PNP uniformed personnel administratively disciplined for non-performance, omission or neglect of police duty.

- b. The motu proprio or automatic investigation power of IAS as provided under Section 39 of Title V of Republic Act No. 8551 is limited only to the following, to wit: a) incidents where a police personnel discharges a firearm; b) incidents where death, serious physical injury, or any violation of human rights occurred in the conduct of a police operation; c) incidents where evidence was compromised, tampered with, obliterated, or lost while in the custody of police personnel; d) incidents where a suspect in the custody of the police was seriously injured; and e) incidents where the established rules of engagement have been violated. Based on the foregoing, the IAS cannot take automatic*

investigation for neglect of duty against a uniformed member of the PNP who allegedly inadequately investigated an alleged military abuse because such situation is not one of the incidents where motu proprio investigation can be conducted by the said Service.

Nevertheless, the above observations do not mean that IAS are ruling out possible reports of complaint against uniformed personnel of the PNP for negligence or omission to perform police duty of amply investigating an alleged abuse of which military elements are involved. This is true in far-flung areas of northern/southern part of the region, where police visibility is low and civilian-public agency is mostly fragmented by reason of topographical boundaries.

- 8. How many members of the PNP in the last five years have been disciplined or prosecuted for failing to adequately investigate alleged military involvement in the killing, abduction, or other serious crimes? Please provide information on specific cases.**

A: IAS also has the power to prosecute and conduct summary hearing proceedings on uniformed personnel of the PNP facing administrative charges. In fact, the Service has recommended the imposition of penalties against erring PNP uniformed personnel as provided under Section 1, Rule 22 of NAPOLCOM Memorandum Circular No. 2007-001, to wit: a) withholding of privileges; b) restriction to specified limits; c) restrictive custody; d) forfeiture of salary; e) suspension; f) any combination of penalties under Section 1, subparagraphs (a) to (e); g) one (1) rank demotion; and h) dismissal from the service.

However, as earlier discussed, since no complaint has been investigated by IAS involving uniformed personnel of the PNP for alleged non-performance, omission or neglect of duty in inadequately investigating an alleged military abuse, there is none to be penalized or disciplined.

Be that as it may, IAS highly encourages complainants to file their administrative complaints before them on alleged non-performance, omission or neglect of duty of PNP uniformed personnel in inadequately investigating alleged military abuse or military involvement in killing, abduction, or other serious crime.

- 9. What steps have police investigators taken in relation to the June 14, 2010 killing of Benjamin Bayles in Himamaylan City, Negros Occidental, to establish whether the accused are members of the AFP? What steps have police investigators taken to identify who ordered the killing?**

A: As a normal procedure, in any case where the military was allegedly involved, the PNP conduct verification or formally send letter request to the local AFP unit informing them of the allegation and inquiring/validating if the involved suspects are their personnel.

In the case of Benjamin Bayles, aside from the verification conducted by the local police unit, the PNP thru Police Director ARTURO G CACDAC JR, Director, Directorate for Investigation and Detective Management / Task Force USIG Commander, requested the Office of the Adjutant General, Headquarters Philippine Army for clarification regarding the possible involvement of PFC Rafael C CORDOVA and PFC Reygine G LAUS of the 61st Infantry Battalion, 3^d Infantry Division, Philippine Army. In the letter reply of the Commanding General of the Philippine Army thru Colonel EDILBERTO L SURATOS, Adjutant General, they certified that PFC CORDOVA and PFC LAUS are bonafide members of the Philippine Army and presently assigned with 61st Infantry Battalion, 3^d Infantry Division, Philippine Army.

10. Why did the PNP withdraw police protection from the family of Fernando Baldomero who was killed on July 5, 2010 in Barangay Estancia, Kalibo, Aklan in April 2011? What has the PNP done to protect the Baldomero family --- including key witnesses --- since this withdrawal of police protection?

A: The detailed police escorts/security provided to the family of the late Sanguniang Bayan Member Fernando BALDOMERO was withdrawn because per verification conducted by Aklan PNP, there is no more threat on the family of the victim. However, despite the withdrawal of the police escorts/security, continuous police visibility and intelligence monitoring is being conducted to ensure the safety of the family and the key witnesses.

11. Please provide information regarding the status of PNP investigations into the following cases of alleged extrajudicial killing and enforced disappearances. For each case, please advise what the investigation has involved, the status of the investigation, and any challenges faced. Please provide any investigation reports or other relevant documents. In cases in which arrest warrants have been issued, please advise the status of the arrest warrant and any challenges faced in executing the arrest warrants.

For investigations that have been suspended or discontinued, kindly provide the reasons for the suspension or discontinuation.

A: (Please see attach matrix)

List of Cases

1. The killing of Benjamin Bayles on June 14, 2010 in Himamaylan City, Negros Occidental
2. The killing of Fernando "Nanding" Baldomero on July 5, 2010 in Barangay Estancia, Kalibo, Aklan.
3. The killing of Pascual Guevarra on July 9, 2010 in Barangay San Isidro, Laur, Nueva Ecija.
4. The killing of Julius Tamondez on August 12, 2010 in Paquibato District, Davao City
5. The abduction and "disappearance" of Agustito Ladera and Renato Deliguer in late August or early September 2010 in Barangay Mahaba, Marihatag, Surigao Del Sur
6. The killing of Reynaldo "Naldo" Labrador on September 3, 2010 in Paquibato Proper, Paquibato District, Davao City
7. The killing of Vicente Felisilda on September 9, 2010 in Mawab, Compostela Valley
8. The killing of Rene "Toto" Quirante on September 30, 2010 in Barangay Trinidad, Guihulngan, Negros Occidental
9. The killing of Ireneo "Rene" Rodriguez on November 7, 2010 in Balayan town, Batangas
10. The killing of Carlo "Caloy" Rodriguez on November 12, 2010 in Calamba City, Laguna
11. The abduction and "disappearance" of Alfredo Bukal on November 10, 2010 in Barangay Lokal, Tuy, Batangas
12. The killing of Rudy and Rudyric Dejos on February 27, 2011 in Santa Cruz, Davao Del Sur