

PROVIDING IMMUNITY FROM CRIMINAL PROSECUTION TO GOVERNMENT WITNESSES AND FOR OTHER PURPOSES

PRESIDENTIAL DECREE NO. 1732, October 08, 1980

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WHEREAS, reports of law enforcement agencies reveal that activities of criminal elements in the country have become sophisticated, diversified and widespread;

WHEREAS, these activities have resulted not only in the wanton destruction of lives and property, but have likewise weakened the Nation's economic stability, threatened its security and undermined the general welfare of its citizens;

WHEREAS, crime continues to grow due to, among other reasons, the limited and inadequate system of evidence-gathering and the seeming apathy and reluctance of the citizenry in testifying against criminal elements for fear or reprisal;

WHEREAS, it is imperative to provoke the total involvement of the citizenry in the campaign against these criminal elements by providing immunity from criminal prosecution to any witnesses who shall give vital information to the government concerning the existence, operation and activity of such criminal elements, and to provide for a compulsory process against uncooperative and recalcitrant witnesses;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the power in me vested by the constitution do hereby order and decree the following:

SECTION 1. As used in this Act, the following terms shall mean or be interpreted and construed as hereunder defined:

- 'Witnesses' shall refer to any person who, having organs of sense, can perceive, and perceiving, can make known his perceptions to others.
- 'Court' shall refer to any military or civil court, quasi-judicial body or special court/tribunal.
- 'Agency' shall refer to any government agency, instrumentality or body and/or officer of said agency, instrumentality or body, which/who is legally authorized to perform investigation or law enforcement functions, and to gather or receive information and/ or evidence in connection with such functions.
- 'Vital information' shall mean any information, document, record, book, writing, or any other evidence, necessary to build up the people's case and/or secure the conviction of criminals.
- Organized/syndicated crime – means any crime committed by an organized/syndicated crime group including, but not limited to arson, robbery (hold-up), kidnapping for ransom, prostitution, illegal recruitment, carjacking, smuggling and piracy, cattle rustling, illicit drug trafficking, labor rackets, land title rackets, manufacture and/or circulation of fake documents, license, stamps, currencies and other government forms, counterfeiting and bank frauds, consumer frauds and other illegal activities of such groups.
- Organized/syndicated crime group – means a group of two (2) or more persons collaborating, confederating or

mutually helping one another in the commission of any organized/syndicated crime.

SEC. 2. There is hereby created a Special Committee to be composed of the Minister of National Defense, the Minister of Justice, the Tanodbayan or their duly authorized representatives, which shall exercise the function as hereinafter provided for. The members of the Committee shall choose from among themselves, the chairman who shall preside over its deliberations. The unanimous vote of all the members of the Committee shall be required for the issuance of an order under Section 3 hereof compelling a witness to testify or to produce other evidence mentioned in said Section, or to recommend to the President under Section 6 hereof the arrest and confinement of a person refusing to comply with the Committee's order for him to testify. All other decisions of the Committee shall be by a majority vote.

SEC. 3. Whenever in the judgment of the state prosecutor, fiscal, special counsel, investigator, or military lawyer, the testimony of any witnesses, or the production of documents papers, books, records, writings or other evidence by such witnesses in any case or proceedings before any court or investigate agency involving a crime against national security or public order, as defined in the Revised Penal Code, or a syndicated/ organized crime as herein defined, or any other crime punishable with a penalty of at least prision mayor, is absolutely necessary, and such witnesses has refused to testify or produce the other evidence by invoking his constitutional privilege against self-incrimination, such state prosecutor, fiscal, special counsel, investigator or military lawyer shall apply in writing to the Committee for the issuance of an order enjoining such witness to testify or produce such evidence, stating therein the reasons for the application. The Committee, upon receipt of such application, taking into consideration the following:

- The absolute necessity of the testimony of the witness and/or the production of documents, papers, books, records, writings, or other evidence so requested;
- That there is no other direct evidence available for the proper prosecution of the offense committed, except the testimony of said witnesses and/ or the production of the documents, papers, books, records, writings, or other evidence so requested;
- That the testimony of said witnesses or the other evidence requested can be substantially corroborated in its material points; and
- The witnesses, if he is a suspect, respondent or defendant in a case under investigation or filed in court, does not appear to be the most guilty.

The Committee may summon the state prosecutor, fiscal, special counsel, investigator or military lawyer making the application to clarify any matter relative to the application or to further substantiate the same. A resolution of the Committee denying the application shall be final and unappealable. If the Committee resolved to grant the application, it shall forthwith issue an order directing and compelling the witness to testify and/or produce the other evidence so requested: Provided, however, that no person shall be compelled to testify on matters considered privileged under Sections 20 and 21, Rule 130 of the Revised Rules of Court.

SEC. 4. A witness who, by virtue of an order issued under the preceding Section, is compelled to testify or produce documents, papers, books, records, writings, or other evidence, shall enjoy immunity from criminal prosecution and cannot be subjected to any penalty of forfeiture for any transaction, matter or thing concerning that which he is compelled to do and/or testify in any proceedings, except in the cases provided in Section 5 hereof.

SEC. 5. No witness shall be exempt from prosecution for perjury or contempt committed while giving testimony or producing evidence under compulsion pursuant to this Decree.

SEC. 6. Whenever a witness in any case or proceeding before any court, quasi-judicial body, special court/tribunal, or agency refuses to comply with an order issued by the Committee requiring him to testify or to produce documents papers, books, records, writings and other evidence, the President, upon recommendation of the Committee, may order his arrest and confinement in any jail contiguous to the place of trial or investigation until such time that the witness is willing to give such testimony or produce such evidence. The witness so detained may request a reconsideration of the President's order of arrest and confinement: Provided, however, that the execution of the order shall not be stayed by such request. The President may, before acting thereon, refer the request to the Committee or to any of his staff before resolving the same. A person ordered confined by the President shall not be allowed temporarily liberty on bail, provided, however, that the President may, in his discretion, and under such terms and conditions as he may impose, order his temporary release.

SEC.7. The Committee formed pursuant to this Decree shall promulgate rules and regulations for the effective implementation hereof.

SEC.8. The provision of any law, decree, order, rule and regulation inconsistent with the provisions of this Act are hereby or modified.

SEC.9. Separability Clause. – The provisions of this Decree are hereby declared to be separable, and in the event one or more of such provisions are held unconstitutional, the validity of other provisions shall not be affected thereby.

SEC. 10. This Act shall take effect upon approval.

Done in the City of Manila, this 8th day of October, in the year of Our Lord, nineteen hundred and eighty.

(Sgd.) FERDINAND E. MARCOS
President of the Philippines

By the President:

(Sgd.) JOAQUIN T. VENUS, JR.
Presidential Assistant

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