CRIME SCENE ATTORNEYS

Read online (full-text search, related cases, audio case brief): https://batas.org/library/ef565b32d152/

1. REFERENCES

- SOP No. 2012 - 003 dated November 12, 2012 re Procedures in the Investigation of Heinous and Sensational Crimes;

- SOP No. ODIDM - 2011-008 dated April 7, 2011 re Conduct of Crime Scene Investigation;

- Memorandum from TADIDM dated October 15, 2012 with subject “Redefinition of Election Related Violent Incidents (ERVIs) to Election Related Incidents (ERIs) - approved by C, PNP”;

- PNP Criminal Investigation Manual (Revised) 2010; and

- PNP Operational Procedures (Revised) 2010.

2. PURPOSE

This Memorandum Circular shall institutionalize the inclusion of PNP Legal Service lawyers as Crime Scene Attorneys (CSA) in the Crime Response Team (CRT), in the conduct of actual Crime Scene Investigation (CSI).

3. SITUATION

Data gathered from the Supreme Court Office of the Court Administrator reveal that procedural lapses particularly in the investigation stage largely account for the dismissal of the cases filed by the PNP. Those filed at the prosecution level have the following dismissal rate: CY 2011 - 36%; CY 2010 - 60%; and, CY 2009 - 49%. Statistics also show that even the cases that reach the courts have dishearteningly low conviction rates due also to the same causes.

Reasons for the dismissal of said cases include lack of evidence, violation of constitutional rights of the accused, inadmissibility of evidence, procedural lapses in the chain of custody rule, and some other technical infirmities.

Currently, under SOP No. ODIDM - 2011-008, the only players involved in the conduct of CSI are the First Responders (FR), Investigator-on-Case (IOC)/Duty Investigator and the SOCO Team.

Considering that CSI is the most critical stage of any criminal investigation as it dictates the outcome not only of the investigation but also the success or failure of the case filed given the above observations, it is deemed appropriate that another key player who is knowledgeable in the field of law be added or be present during the conduct of CSI, particularly the Legal Service lawyers of the PNP to be known as the CSA.

4. SCOPE OF APPLICATION

Due to the limitation of the number of PNP Legal Service lawyers, the participation of the CSAs shall be limited only to cases such as those involving sensational crimes, serious Election Related Incidents (ERIs) and specific cases when directed by the Chief, PNP, Regional Directors or Provincial Directors where they are

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assigned/detailed.

5. OBJECTIVES

a. Short Term

1) Inclusion of the CSA in the Crime Scene Response Team in specific cases;

2) Well handled investigation, legally compliant investigation report, judicial affidavits and complaints; and

3) Procedurally unassailable cases filed in Court.

b. Long Term

1) Higher conviction rate;

2) Improved crime solution efficiency;

3) Improved relationship with the DOJ and the private complainants; and

4) Improved public perception on the image of PNP.

6. DEFINITION OF TERMS

a.

Crime Scene Attorney (CSA) - a PNP Legal Service lawyer who shall respond to the crime scene to join the FR, IOC and the SOCO Team in conducting the actual CSI.

b.

Crime Scene Response Team (CRT) - the team composed of the CSA, FR, IOC and the SOCO Team who conducts the CSI.

c.

Sensational Crime - refers to crime directed against elected government officials, officials appointed by the President, judges, prosecutors, IBP lawyers, media practitioners, militant party list members/leftist activists, labor leaders, foreign nationals, and other persons through shooting, bombing, strafing, assault, enforced disappearance and other violent overt acts resulting in their death or incapacitation that attract national/international public and/or media attention/scrutiny.

d.

Serious Election Related Incident (ERI) - refers to an incident of: murder/homicide; serious physical injuries; kidnapping/hostage taking; bombing/grenade throwing; snatching of ballot and other election paraphernalia with threats on the life of the victims; grave threats, intimidation and coercion with the use of firearms and/or explosives; destructive arson of structure and/or equipment; or other incidents which are life threatening to victims - which could affect/disrupt the electoral proceedings in the area or create a form of political tension that could eventually upset the electoral process, not only in the site of the incident but also in the surrounding areas. These incidents are those that occur within the electoral period.

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e.

Heinous/Violent Crime – refers to a crime directed against politicians, elected government officials, government officials appointed by the President, judges, prosecutors, IBP lawyers, media practitioners, militant party list members/leftist activists, foreign nationals, and other persons through shooting, bombing, strafing, assault, and other violent overt acts resulting in their death or incapacitation.

7. PROCEDURE

SOP No. 2012-003 and SOP No. ODIDM 2011-008 are hereby amended insofar as it concerns procedures to be followed by the FR, IOC and SOCO Team as members of the CRT in cases covered by this Circular.

a. Crime Incident Occurrences

The Chief of Police, upon initial determination that a sensational crime or serious ERI has occurred shall call the CSA.

The CSA, upon receipt of the call, through searching questions, shall make a determination as to whether or not the crime reported falls within the definition of sensational crime or serious ERI.

To determine whether or not the incident is sensational crime or serious ERI, the CSA shall be guided by the following parameters:

1.

Sensational Crime

a.

The incident involves a high-profile personality victim/s such as political figures, media practitioners, movie personalities among others;

b.

The nature of the crime is shocking to the senses as to being extraordinarily brutal and perverse; and

c.

The incident might attract national/international public and/or media attention/scrutiny.

2)

Serious ERI

a.

The victim is a candidate for any elective post, a COMELEC officer or a supporter of a political party;

b.

The incident could affect or disrupt the electoral proceeding or create a form of political tension that could possibly upset the electoral process in the incident site and surrounding areas and

c.

The incident involves:

c.1

Murder/Homicide;

c.2

Serious Physical Injuries;

c.3

Kidnapping/Hostage Taking;

c.4

Bombing/Grenade Throwing;

c.5

Snatching of ballot and other election paraphernalia with threats on the life of the victims;

c.6

Grave threats, intimidation and coercion with the use of firearms and/or explosives;

c.7

Destructive arson of structure and/or equipment; or

c.8

Other incidents which are life-threatening to victims.

If the incident reported is determined to be a sensational crime or serious ERI, the CSA shall immediately respond to the crime scene. Otherwise, the CSA shall render relevant legal advice/assistance.

b. Actual Crime Scene Investigation

Upon arrival at the crime scene, the CSA shall ensure the observance of applicable laws, legal procedures and doctrines during the CSI.

In case of effecting arrest, the CSA shall ensure that the suspect will be accorded all the rights of an arrested person as prescribed by existing laws and jurisprudence.

The CSA shall ensure the observance of other legal doctrines such as the chain of custody rule and Miranda Doctrine, etc.

After evaluating the crime scene and all other circumstances, the CSA shall ascertain the proper offense to be charged in order to determine all the relevant pieces of evidence to be collected and gathered by the SOCO Team.

c. Preparation of the Case

The CSA shall be responsible for the preparation of the appropriate complaint to be filed, who shall be assisted by the other members of the CRT.

d. Preparation of CIPLAN

The CSA shall assist in the preparation of the Case Investigation Plan (CIPLAN).

8. PENAL CLAUSE

Any violation of this SOP shall constitute an administrative offense that may include Unit Commanders under the principle of Command Responsibility.

The administrative sanctions shall be without prejudice to any criminal liability if so warranted under the circumstances.

9. REPEALING CLAUSE

Any issuances, memoranda, rules and regulations issued by the PNP inconsistent herewith are deemed repealed or amended accordingly.

10. EFFECTIVITY

This Memorandum Circular shall take effect 15 days from the filing of a copy hereof at the University of the Philippines Law Center in consonance with Sections 3 and 4 of Chapter 2, Book VII of Executive Order No. 292, otherwise known as the “Revised Administrative Code of 1987,” as amended.

(SGD.) ALAN LA MADRID PURISIMA
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