

REPUBLIC OF THE PHILIPPINES

Department of Justice

Department of the Interior
and Local Government



**SECOND REPORT OF THE
INCIDENT INVESTIGATION AND
REVIEW COMMITTEE (IIRC)
ON THE AUGUST 23, 2010 RIZAL
PARK HOSTAGE-TAKING INCIDENT**

Review of operational plans and procedures, training, and equipment of responsible agencies; Review of Philippine National Police (PNP) standards and procedures in administrative cases involving police officers and personnel; Recommendations on policies and programs for institutional reform.

*Recommendations
on Institutional
Reforms*

4 March 2011

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I. INTRODUCTION

The lessons learned, and the anguish suffered by the victims of the infamous August 23, 2010 Rizal Park Hostage-taking Incident, will be meaningless and true justice will not be given if institutional reforms are not made to prevent a similar occurrence in the future.

Hindsight is always a 20/20 vision. Its function is to unveil the lessons from past experiences so that future steps could be charted more clearly.

The task of the Incident Investigation and Review Committee (the "Committee" or "IIRC") created on August 30, 2010 by the Joint Administrative Order of the Secretaries of the Department of Justice (DOJ) and the Department of Interior and Local Government (DILG), consists of two parts which are:

1. To make a comprehensive account of the sequence of events leading to the killing of the hostages and the hostage-taker, evaluate police action and the response of offices and private entities to the incidents, and recommend the filing of appropriate actions against those found culpable as intermediate actions to focus on the hostage-taking incident, and
2. To review operational plans and procedures, conduct a detailed audit and inventory of the training and equipment of responsible agencies, review the Philippine National Police (PNP) standards and procedures in administrative cases involving police officers and personnel, and recommend comprehensive policies and programs as a final and complete report on institutional recommendations.

The Committee completed its "First Report of the Incident Investigation and Review Committee on the August 23, 2010 Rizal Park Hostage-taking Incident: Sequence of Events, Evaluation and Recommendations" last September 17, 2010 which report was submitted to the Office of the President on the same day. The First Report pertained to the first mandate of the Committee.

This Report covers the second mandate of the Committee which covers the Committee's recommendations on institutional reforms.

A. Scope and Limitations of Review and Recommendations

In the performance of its mandate, the Committee conducted its audit and review with emphasis on Hostage-taking, and the handling thereof, as a Crisis Situation.

In addition to testimonies already taken during the conduct of the Committee's investigation in connection with its first mandate, the Committee's audit and review involved the following:

1. Examination and evaluation of various manuals and standard operating procedures of the PNP and other government agencies on crisis management and hostage-taking;
2. Examination and evaluation of the administrative disciplinary system of the PNP and the NAPOLCOM;
3. Examination and evaluation of the PNP Training and Equipment System; and
4. Interview of, or dialogue with, resource persons from the PNP and NAPOLCOM.

This Report covers recommendations on reforms to be carried out principally in the Executive Branch and, to a limited extent, the Legislative Branch for needed legislation.

Focus is given to reforms in policies and procedures within the PNP being the organization at the forefront of resolving Hostage-taking incidents.

B. General Statement on Recommendations

Various government agencies play a role in the resolution of Crisis Situations, including hostage-taking incidents. For purposes of standardizing the approach to the management or handling of Crisis Situations, particularly hostage-taking incidents it is recommended that the Crisis Management Manual, which is currently a Manual of the PNP, be made a "Uniform Crisis Management Manual" that should be adopted and made applicable to all government agency stakeholders. To this end, the Committee recommends:

1. The formation of a Technical Working Group, possibly under the Peace and Order Council (POC) or the National Crisis Management Committee (NCMC), for the purpose of crafting a Uniform Crisis Management Manual for all stakeholders. The Technical Working Group should, as much as practicable, involve representatives from all government and non-government sectors who are stakeholders in Crisis Management.
2. That this Report and the recommendations of this Committee be made available to the Technical Working Group for reference in the crafting of the Uniform Crisis Management Manual.
3. A sub-output of each stakeholder should be internal policies and procedures consistent with the Uniform Crisis Management Manual.
4. That a specific government agency or office be designated (again possibly the POC or the NCMC for the purpose of ensuring that the recommended Uniform Crisis Management Manual and the internal policies and procedures are in fact in place and properly disseminated,

and that the prescribed crisis response organizations are created both on the National, Regional and Local levels.

5. The agency or office designated must also have a mechanism for the continuous monitoring of the state of preparedness of each crisis response organization.
6. In addition, said agency or office should conduct periodic reinforcement orientations/briefings, review and, if necessary, updating of the Uniform Crisis Management Manual

For purposes of this Report, the Committee reiterates that its review, findings and recommendations should be taken in the context of Hostage-taking incidents as a Crisis Situation even while the recommendations may find application in other types of crisis situations especially man-made crisis incidents.

II. MANUALS AND STANDARD OPERATING PROCEDURES ON CRISIS MANAGEMENT

A. Crisis Management Manual of 2000 (PNPM-DS-02-96, Vol. 1)

1. Statement of Limitation

While a review of the whole Manual on Crisis Management (hereafter "Manual") was undertaken, specific focus is made to the sections pertaining to Hostage Situations for purposes of comments and recommendations to the Manual.

2. General Statement on the Manual

The Manual presents a substantial guide document in the handling of various crisis situations that are either natural or man-made in cause. The Manual provides the policy and doctrinal guidelines that all parties involved in the handling of crisis situations should be aware of, especially if there are conflicting policy and doctrinal approaches among the various government agencies. Standard Operational Procedures are also established in the Manual. Specific responsibilities/tasks of units concerned are spelled out. A whole Chapter, Chapter 5, deals specifically on Hostage Negotiation. This even includes a "check list" of things to be done or taken into account.

In terms of operation, the Manual provides the guides for the two phases of crisis management, from the Pro-active to the Reactive Phases. Conceptual Operational Flow Charts and Organizational Charts are described. Organizational Flow Charts from the national government to the local government units are established (with emphasis on the AFP/PNP involvement).

If put into practice and actually implemented, the Manual would, conceptually, be an effective crisis management guide document in the handling of crisis situations, particularly for the AFP and PNP.

3. Hostage Situations

A Hostage-Taking Situation is categorized in the Manual as a "Man-Made Crisis/Emergency". The following are excerpts from the Manual that are pertinent to Hostage Situations:

a. General Tasking

When a crisis arises out of man-made emergencies as described above, the POC at the appropriate level shall be the operational body that shall primarily act on the crisis situation.

When a crisis results from aircraft hijacking, disturbances in civil aviation or terrorism that has national significance, the National Action

Committee on Anti-Hijacking and Anti-Terrorism (NACAHT) shall principally deal with the crisis situation.

This Manual applies to crisis situations resulting from peace and order problems such as terrorism and criminality (hostage-taking being potentially under either).

b. Initial Action

All Unit Commanders are required to understand and acquaint themselves on Crisis Management doctrine, as such, they will be held responsible for all their actions. Any military/police unit taking cognizance of a crisis incident shall immediately undertake appropriate actions to contain the crisis situation and report the matter to the cognizant agencies through channels, regardless of whether such crisis situation is within or beyond its capability to handle.

The initial action includes monitoring of the progress of the incident, securing the scene, protecting itself, establishing perimeter security, evacuation innocent civilians, if possible, preventing the escape of perpetrators, until the designated security and tactical elements augment the unit as they arrive. Other than the afore-cited tasks, the initial action unit shall not engage in any tactical action against the perpetrators except in its own defense.

c. Action

The action phase begins as soon as the On-Scene Command Post (OSCP) is established and the Tactical Intervention, service support units, Negotiations Teams and the Public Affairs personnel arrive and are deployed. The On-Scene Commander (OSC) gradually relieves the initial action unit commander and completes staffing the OSCP. The OSC discusses the incident with the commanders and staff of the units and agencies involved and plans what actions to take and establishes contact with the Crisis Management Committee (CMC) to ensure that all his actions are cleared. The action phase consists of two distinct activities, negotiations and tactical action/intervention which may take place independently, either simultaneously or in succession. In any case, however, both activities are under the complete control and supervision of the OSC.

d. Post Action

This stage begins as soon as the perpetrators surrender, or when they are captured or neutralized and the crisis situation is deemed cleared. The OSC ensures that necessary Post Action Activities are undertaken to ensure normalcy and bring responsible to court.

B. Standard Operating Procedure No. ODO-2008-03 – Critical Incident Management Committee (CIMC) and Critical Incident Management Task Group (CIMTG)

Standard Operating Procedure (SOP) ODO-2008-03, which prescribes the policies and general procedures for handling critical incidents, is a guide to the PNP units in handling different crisis situations, whether man-made or natural disaster crisis.

To establish the authority and define the functions of different PNP units in different crisis situations, SOP No. ODO- 2008-03 was formulated to create the composition and organizational structure of the Critical Incident Management Committee (CIMC) and the Critical Incident Management Task Groups (CIMTGs).

C. Standard Operating Procedure No. ODO-2010-003 – Critical Incident Management Committee (CIMC) and Critical Incident Management Task Group (CIMTG)

At the outset, it should be noted that PNP SOP No. ODO-2010-003 (SOP 2010) was issued on August 9, 2010 to take effect fifteen (15) days after a copy of which was filed at the University of the Philippines Law Center in consonance with Sections 3 and 4, Chapter 2, Book VII of Executive Order No. 292, otherwise known as “The Revised Administrative Code of 1987.” Granting that a copy thereof was filed on the day of its issuance or August 9, 2010, fifteen days thereafter is August 24, 2010. Therefore, this SOP 2010 was not yet effective on August 23, 2010, the date when the incident under review took place.

In fact, the IIRC Report mentions SOP No.ODO-2008-03 (SOP 2008) dated November 1, 2008 and not yet this SOP 2010. However, since this report covers review of operational plans and procedures of the PNP, we need to consider this new issuance in order to determine whether the issues in the SOP 2008 were already addressed by this recent one.

D. PNP Standard Operating Procedures (PNPM-DO-DS-3-1)

PNP SOP PNPM-DO-DS-3-1 lays down procedure on civil disturbance management, hostage negotiations, post-armed confrontation, maintenance of police blotter, patrol procedures, and custodial investigation.

E. Equipment and Uniform

The following Resolutions were reviewed on the use of PNP uniforms:

1. Resolution No. 2000-73 – Approving the Standard Specification for PNP Civil Disturbance Management and Disaster Relief and Rescue Operation Uniform (Blue Uniform) and Its Paraphernalia

2. Resolution No. 2000-179 – Amending NAPOLCOM Resolution No. 99-174 Entitled “Approving the Standard Specifications for Transparent Anti-Riot Shield for Use of PNP Uniformed Personnel”
3. Resolution No. 2005-385 – Prescribing the Standard Specifications for the Field Service Uniforms of the PNP
4. Resolution No. 2009-300 – Disapproving the Amendment to NAPOLCOM Resolution No. 2005-385 Entitled “Prescribing the Standard Specifications for Field Service Uniform”
5. Resolution No. 2009-409 – Disapproving the Proposed Phasing-Out of the Fatigue Blue Camouflage FSU – Type “D” Used by Police Personnel Prescribed Under Napolcom Resolution No. 2005-385.

F. Findings and Recommendations

Other government agencies are obviously involved in crisis management. However, being a document of the PNP, the Manuals emphasize the role of the PNP/Armed Forces of the Philippines (AFP) in crisis management. There is therefore a need for all government agencies or units that would potentially be involved in handling or resolving crisis situations to craft or develop their own crisis management manuals, if they don't have one. There should be a harmonization of all manuals on crisis management observed by other agencies in order to “close the loop” and ensure an efficient and multi-agency action during crisis situations. In the alternative, a Uniform Crisis Management Manual can be crafted to be adopted by all agencies concerned.

III. CRISIS MANAGEMENT ORGANIZATION

A. The Peace and Order Council (POC)

There are a number of instances when the POC, national and Local Government Units (LGU) levels, is mentioned in the Crisis Management Manual. The Organizational Charts provided show that the POC is above the CMC. In the description of the Lower Level CMCs, there is the statement that “the CMCs shall exercise decision-making coordination and prior planning at their respective levels in accordance with the guidelines of the higher level POCs and CMCs”. Clearly, the POC is involved, at least in providing guidelines, in the crisis management. The Manual, however, fails to state who comprise the POCs, whether on a national or local level.

The Manual is designed as the “Bible” for Crisis Management in providing for Standard Operating Procedures. Elements of the PNP/AFP reading the Manual should have a clear understanding of the lines of communication without need of reference to an external document.

At the same time, during the August 23, 2010 Crisis, it was revealed that the Vice-Mayor of Manila had only rudimentary knowledge of and orientation on the Crisis Management Manual, if not total lack of awareness of said document. Since it is always possible that the Mayor may be temporarily incapacitated, absent or otherwise unavailable during a crisis, it is only necessary that the Vice-Mayor who takes his place is well-versed and trained in handling crisis situations as a crisis manager and head of the CMC.

The following are recommended in so far as Organization is concerned:

1. Since the Manual calls for coordination between the CMCs and the POCs, there must be a clear statement on who comprises the POCs so as to leave no room for doubt as to which office the CMC should seek policy or operational guidelines from.
2. This statement should be disseminated and ingrained in the mindset of the responsible government officials such as the concerned heads of agencies, local government officials from mayor to councilors, especially the vice-mayor.

B. Crisis Management Organization/Committee

The Manual is clear as to who comprise the National CMC. The Secretary of the DILG is clearly designated as Chairperson with the other Cabinet Secretaries as members. However, in designating the members of the local level CMCs, the terms: “Political Leadership” and “Military/Police Leadership” are used. These are vague terms that should be avoided in a Manual of this type intended to provide clear guidelines and Standard Operating Procedures. There should, again, be no doubt in the mind of the person using the Manual, or undertaking activities in connection with the

Manual, as to who is being referred to. The Organizational Chart of the local level CMC does not also specify who act as Chairperson.

The Manual makes reference to Executive Order 320, as amended, mandating the creation of a CMC on lower levels. Specified are the Regional, Provincial and City/Municipal level CMC. While this does not pose a problem for the Military/Police Organizations, there being leadership in the said Municipal/City, Provincial and Regional levels, it is noted that there is no equivalent of a political leadership in a Regional level except possibly for the Cordillera Autonomous Region (CAR) and the Autonomous Region in Muslim Mindanao (ARMM). On the Regional level, the "Political Leadership" should be specified.

In the interest of clarity and to ensure proper organization, the following are recommended:

1. The Manual should be specific as to who or whose office is being referred to as Political Leadership or Military/Police Leadership. Thus, and considering the different levels of the CMCs, the terms: "Governor/Mayor" is recommended in lieu of "Political Leadership". The Terms: Regional Commander, Provincial Commander, District Commander etc. are recommended in lieu of "Military/Police Leadership". The "Political Leadership" for the Regional level should also be specified.
2. The Manual should be simplified and made more comprehensive with an identification of the functions and responsibilities of each person/office involved in the crisis management operations. It should also include a description of the specific tasking of the Municipal and City Level Crisis Management Organization.
3. Finally, and for purposes of establishing authority and responsibility, it is recommended that the Manual designate who is the Chairperson of the local level CMC so that there is no need to refer to an external document.

C. Scope of Authority of the CMC

While SOP No. ODO 2008-03 of the PNP states that the CMC will "take decisive action in emergency situations and [is] primarily concerned with the integration and orchestration of government military/police and public efforts towards the prevention and control of crisis incidents", it does not clearly define up to what extent it can enforce or interfere in the operations. Can it interfere at an identified critical point or merely give advice to the ground commander? Is the scope of the CMC advisory or does it have decision making authority based on the consensus of its members which decision is then implemented by the ground commander? As seen in Figures 5 and 6 of SOP ODO-2010-003, the CMC and CIMTG are on the same level, this establishes that the ground commander need not be under the control and/or supervision of the CMC Chairman.

Mayor Lim allowed SPO2 Gregorio Mendoza to be with Col. Yebra in delivering the Ombudsman letter to Capt. Mendoza. He also ordered the arrest of SPO2 Gregorio Mendoza. Further, he also instructed Gen. Magtibay to follow him at the Emerald Restaurant leaving the scene without an OSC. These were critical actions during the hostage crisis. Notwithstanding his actuations, Mayor Lim said that as Chairman of the CMC, he does not interfere in operational matters. His role is only advisory.

Because SOP No. ODO 2008-03 states that the CMC will “take decisive action in emergency situations and [is] primarily concerned with the integration and orchestration of government military/police and public efforts towards the prevention and control of crisis incidents”, and further because the Manual also states, “the CMCs shall exercise decision-making coordination and prior planning at their respective levels in accordance with the guidelines of the higher level POCs and CMCs”, there is clearly a confusion as to the scope or extent of authority of the CMC or its Chairman and/or Members vis-à-vis the CIMC and/or the CIMTG. SOP ODO-2-10-003 does not specify to what extent the Mayor, as Chairman of the CMC, can interfere in the operations of the CIMTG.

To eliminate confusion, establish responsibility and/or accountability of those involved in resolving a crisis situation, it is recommended:

1. That the scope of the authority of the CMC and/or its Chairman should be clearly defined and delineated from that of the CIMC, CIMTG and/or their respective Chairmen and Task Group Commander or OSC;
2. That the process and/or procedure for decision making by the CMC should be defined considering its nature as a “Committee”.

D. Appointment of the Different Sub-task Groups

Under the prescribed organizational structure, the CMC is co-equal with the CIMTG headed by the TDCA as the Chairman at the national level, District DRDA as the Task Group Commander at the regional level, DPDA as Task Group Commander at the provincial level, DDDA at the NCR District level, and the Dep. Chief of Police at the municipal or city level. The lower sub-task groups are directly under the Chairman or Task Group Commander depending on the level. It is not clear whether it is the CMC or its Chairman, the CIMC or its Chairman, the CIMTG or its Chairman, or even the Ground Commander who has the authority to convene and appoint the members of the sub-task groups.

Gen. Magtibay was the one who appointed Col. Yebra to be the negotiator. On the other hand, Mayor Lim only convened with his LGU department heads but not in so far as the negotiation, operations, and public relations sub-groups are concerned.

The appointing authority of the members of the sub-task groups in the prescribed organizational structure should be defined. It is also noted that some of the offices that are members in the sub-task groups are under the supervision/control of the mayor. In defining appointing authority, the following is recommended:

1. The CIMC through its Chairman shall be designated as the appointing authority of the heads and members of the sub-task groups with the CMC, through its Chairman, recommending the members of the civilian components in the sub-task groups;
2. The CIMC should also be the authority to appoint the OSC from among themselves, who should ideally be the head of the CIMTG, unless circumstances warrant otherwise; and
3. Direct supervision and control over the components of the sub-task groups, including the civilian components, should be vested on the CIMTG Chairperson.

E. Defining and Delineation of Functions

While there are many command groups/offices in the Sub-Task Groups that are supposedly assigned to provide support and coordinate with the CMC, their functions are not specifically and clearly defined as such. The scope of their functions are stated in a general manner and, in the case of the August 23, 2010 Hostage-taking Incident, this caused some confusion or inaction, resulting to the absence of intelligence gathering, media briefing, and crowd control.

Authorities claim to have convened different sub-task groups such as the negotiation team and the media team. However, they were not able to perform properly the tasks assigned to them. They were somehow at a loss on how to perform their tasks and coordinate with each other. The media, for example, was not properly contained and/or handled because it was not clear who was the person in charge of the media.

To give other instances in point: the negotiation team did not seek for the proper profiling of the hostage-taker notwithstanding that this is one of the items in the "Check List" in the Manual. No psychologist or psychiatrist was called to aid in the negotiation. The negotiating and even the tactical team did not also obtain information from the intelligence team regarding the latter's assessment on the bus, the number and relative position of the hostages, etc. In fact, based on the testimonies of the parties concerned, the apparent attitude was the negotiating or tactical teams did not consider it their responsibility to "ask" for intelligence information, but rather, it should be the responsibility of the intelligence team to "provide" them information even without being asked for it. On the other-hand, the intelligence team did not consider it their responsibility to provide intelligence information unless it was asked for. Functionally, the head or chairman of the CIMTG should have coordinated the tasks of the components of his sub-task groups.

It is not also clear whether the Chairman of the CIMTG is automatically the OSC. The Manual apparently allows for a situation where the OSC can be different from the CIMTG Chairman.

During the August 23 incident, it was the Mayor who ordered the arrest of the Hostage-Taker's brother. Gen. Magtibay was the District Director and yet he was also the ground and OSC. He should be a member of the CMC and a Deputy District Director should be the on-scene ground commander. The District Director, who appeared to be inexperienced in this kind of situation, took command of the crisis situation management instead of delegating the matter to a more experienced officer.

It is recommended that:

1. The functions and responsibilities of the respective command groups be set and defined clearly.
2. Since the CIMTG Chairperson is not necessarily the OSC, there should be a clear-cut delineation between the functions and responsibilities of the CIMTG Chairman from that of the OSC.
3. The prescribed "prior planning" of the CMC on the different potential crisis situations be made and placed in writing to enable crisis responders to formulate procedures applicable to specific situations such as a hostage-taking crisis.

F. The Role of the Philippine National Police

The current Policy on the management and/or handling of hostage-taking incidents is that hostage-taking is a criminal act and, therefore, under the law-enforcement function of the PNP.

The IIRC does not find any reason to disturb this policy. However, observation is made that this policy should be reflected in practical terms, specifically in the organization and the definition of the roles and responsibilities of components of the responding units.

In the August 23, 2010 Hostage-taking Incident, the actuations of the parties involved were not consistent with this Policy. The PNP OSC obviously yielded his decision-making authority when he allowed orders by authority outside of the PNP Chain-of-Command to be given and obeyed. If the OSC decides to yield authority for any reason, it should be in accordance with the PNP Chain-of-Command, local politics notwithstanding.

It is recommended that there should be strict sanctions and/or penalties for violation of this Policy.

G. Involvement of Other Agencies and NGOs

The statements/provisions on involvement of government agencies or NGOs at all levels except at the national level, is too general or vague.

Capt. Mendoza requested that his case folder be brought to the Department of Justice and for the Secretary of Justice to call Col. Yebra. Although there were attempts (twice actually) to bring the case folder to the Department of Justice, it never reached the intended office. For some reason, it never occurred to the Ground Commander (or CMC) how important it was for the Department of Justice to be involved in that crisis considering that the main reason for taking hostages was the "feeling of injustice on the part of Capt. Mendoza".

It is recommended that provisions on what government agencies should be present or involved in a particular crisis situations be elaborated and defined.

IV. NATIONAL OR LOCAL CRISIS

A. Overview

The creation of a National Disaster Coordinating Council (NDCC), National Peace and Order Council (NPOC) and NCMC recognizes that crisis/emergencies can be national or local in character or implication. The Policy is crisis/emergencies are first handled on a local level or lowest level.

It is observed, however, that there is no clear characterization of what should be considered as a National Crisis/Emergency. Stated otherwise, there seems to be no clear policy on what circumstances should exist to characterize a crisis/emergency situation as a "National Crisis/Emergency" so as to warrant the active intervention (take-over of command and supervision) of the NDCC/NPOC and NCMC.

There are also no clear policy guidelines on the procedure for escalation of a crisis from local (City/Municipality) to Provincial to Regional and finally to National. The "default" consideration appears to be the incapacity of the local/provincial/regional organizations to handle the crisis situation. In this connection, and assuming that there is a need to escalate the matter to a higher level POC/CMC, it is also not established as to "who" is responsible for making the decision to escalate. Should it be the On-Scene Commander (OSC), the Chairperson of the CMC or the Chairperson of the POC?

It is therefore recommended that:

1. Clear policy and/or parameters be established to be used as basis for determining whether a crisis/emergency is National in character;
2. Designation of the authority who will make the determination be made; and
3. The Standard Operating Procedure be prescribed for the take-over of command and supervision by the NDCC/NPOC and the NCMC from the local POC/CMC.

B. Escalation of a Local Crisis Situation

Even in situations where the crisis/emergency is local in character, there apparently are also no clear policies, guidelines, parameters and procedures for the escalation of a crisis from local (City/Municipality) to Provincial, then to Regional and finally, to National. The "default" consideration appears to be the incapacity of the local/provincial/regional organizations to handle the crisis situation.

Further, and assuming that there is a need to escalate the matter to a higher level POC/CMC, it is also not established as to "who" is authorized or responsible for making the decision to escalate. This situation exists in all

levels of the POC/CMC below the National level. Should it be the OSC, the Chairperson of the CMC or the Chairperson of the POC?

It is also noted that the elevation to a higher level POC/CMC can be the result of either, (1) the initiative of the lower level POC/CMC or, (2) by intervention or "take-over" of the higher POC/CMC. Current Policy appears to be that the higher level response units await the decision of the lower level POC/CMC.

Gen. Magtibay admitted during the IIRC clarificatory hearings that it is not indicated in the SOP as to when the crisis incident is elevated into a higher or national level and who will determine the elevation of the crisis. Higher ranking officers of the PNP also testified that they avoided being present at the scene of the crisis incident because of the "tradition" that the appearance of a higher ranking officer implies a "relief of command".

The circumstances created a "wait and see" situation and, as borne out by the events that transpired, the relief of Gen. Magtibay by Col. Medina upon orders of Gen. Santiago of the NCRPO occurred only when the assault on the bus was stalled, which was by then, too late.

To avoid the repeat of the August 23, 2010 hostage incident, the following are recommended:

1. Clearly prescribe the parameters, guidelines, thresholds, or circumstances, to serve as a "litmus test", that should trigger when a lower level POC/CMC should consider elevating the crisis incident to a higher level POC/CMC and/or, when a higher level POC/CMC should consider taking-over control and supervision over the handling of the crisis incident.
2. Threshold levels should be pre-determined and defined and should consider "timeliness".
3. Provide and/or identify the authority responsible for making the decision to escalate, or take-over, the handling of the crisis incident.
4. If such policies exist, they should be incorporated in the Crisis Management Manual for ready reference.

C. Crisis Situations Involving Foreign Nationals

In crisis situations involving foreign nationals or in crisis incidents inside embassies or foreign occupied facilities, the established Policy is the government will act in accordance with existing bilateral understanding or agreement with the foreign government involved. In the absence of such understanding or agreement, the government will act in accordance with its policies and maintain close contact and coordination with the foreign government whose personnel or property are involved.

Considering the previously stated Policy that a crisis incident is first handled on the lowest level, this means that a crisis incident involving foreign nationals or occurring inside foreign embassies or foreign occupied facilities is characterized, at least initially, as a local crisis incident.

In this situation, there is a clash between the Policy of handling the crisis incident at the lowest level and the stated Policy that the government will act in accordance with existing bilateral understanding or agreement, or in the absence thereof, the government will maintain close contact and coordination with the foreign government. In the first place, the LGUs are not necessarily privy to, or apprised of, bilateral understanding or agreements. Secondly, close contact and coordination with a foreign government requires handling "through diplomatic channels" which is normally outside the authority or capability of an LGU. Obviously, such incident requires the involvement of the National Government through the Department of Foreign Affairs (DFA).

The structure of the CIMC is organized in the national, regional, provincial, or municipal level. When a crisis occurs, the CIMC is normally activated depending on the jurisdiction of the crisis. In the case of the August 23, 2010 hostage-taking incident, it was considered by the authorities as a local crisis since it happened in Manila. However, the hostages involved on that fateful day were mostly foreign nationals. It was unclear whether it should be elevated to a national crisis.

Based on the organizational structure of the CIMC, it does not state that the involvement of foreigners as victims in the crisis would be tantamount to elevating it to a national level. The structure of the national CIMC provides that the TDCA is the Chairman of the CMC, TDCO as Vice-Chairman, and the different Critical Incident Task Coordinators with its command groups which are: (a) Task Coordinator on Criminality; (b) Task Coordinator on Special National Event; (c) Task Coordinator on Destabilization; and (d) Task Coordinator on Terrorism.

On the other hand, if the August 23, 2010 hostage-taking incident is considered as a local crisis, the applicable organizational structure should be the NCR District level considering that the incident happened in Manila. In its structure, government agencies are involved in different sub-task groups. However, and considering that the hostages were mostly foreign nationals, the local CMC did not actively coordinate or involve the DFA.

Given the resources needed in handling this type of crisis situation, and the necessary involvement of the DFA, it is recommended:

1. To establish the Policy that crisis incidents involving foreign nationals or occurring inside embassies or foreign occupied facilities should automatically be raised to the level of the NCMC;
2. Prescribe the Standard Operating Procedure to be observed by responding units for crisis incidents occurring inside embassies or

- foreign occupied facilities due to the principle of “extra-territoriality” particularly of embassies;
3. That the Policy and Standard Operating Procedures be explicitly stated in the Crisis Management Manual; and
 4. Orientation and/or briefings on Standard Operating Procedures should be conducted to PNP units in specific areas where embassies and/or foreign occupied facilities are located.

V. CMC ACTIVATION

A. Activation of CMC, CIMTG and Sub-task Groups

While SOP ODO-2010-003 provides for the composition of the CMC, the CIMTG and its sub-task groups at the different levels of response, the SOP does not provide for specific procedures on how to properly activate, convene, or constitute them.

In SOP No. ODO-2008-03, the organizational set-up under the NCR District level or Municipal or City level is clear. Sub-Task Groups are there to provide support and coordinate with each other during the crisis situation. However, coordination and support were not evident in the August 23, 2010 hostage-taking incident.

PNPM DO-DS-3-1 states that a CMTG shall be activated immediately.¹ There is a need to clarify at what point will it be considered that the CMTG is actually operational or in action. Stated otherwise, what are the parameters or benchmarks to be complied with before the CMTG is considered to be activated or functional?

In the incident under review, Mayor Lim claims that the CMC was activated when he convened and purportedly conferred with the department heads. However, there is no showing that its members properly performed the assigned tasks, such as reporting, assessing, and monitoring the situation while in progress and provide basic support in the peaceful resolution of the crisis or even during the post assault when victims were being evacuated or brought to hospitals. The CMC was not activated in accordance with the Manual on the Activation of a CMC. The Mayor is the person in authority charged with the duty of activating the CMC. The sub-task groups under the Manual were also not activated. While these procedures may already be provided in the Manual, the same need to be stated in the Standard Operating Procedures for easy reference. Otherwise, the SOP would defeat its purpose as a standard operating procedure if it contains organizational compositions only and not the specific procedures.

There should be specific procedures on how the Mayor may properly and officially organize and activate the CMC immediately after being informed of the existence of a crisis incident. The Mayor should ensure that the components of the CMC are actually in-place with, at the very least, the designation of the point persons for each critical position or sub-group. There should be a detailed procedure on the activation of the CMC and specific definition of the tasks of the different Sub-Task Groups. SOP No. ODO 2008-03 states their functions only in a general manner.

There should also be procedures on the convening of a formal meeting of all the members and to continue to deliberate as an official body all through-out the crisis. Procedures should also be in place on how an action or

¹ PNPM-DO-DS-3-1, Rule 23, Section 1(a), p. 53.

issue may be decided. Either that decision-making is by consensus or, simple majority of the members. It may also be left to the discretion of the Chairman of the CMC, CIMC or CIMTG only, but, if such is the case, this should be clearly defined.

In summary, for purposes of establishing the point of responsibility and proper communication lines, the following are recommended:

1. That the procedure for initially activating the CMC be clearly defined. It is noted that since a crisis implies an emergency, the activation need not necessarily require physical convening of the CMC but should at least require informing and tasking of the parties concerned;
2. Provide for the requirement that the CMC should formally convene at the soonest opportunity to discharge its functions and responsibilities in connection with the crisis incident;
3. Establish the parameters for the determination at what point the CMC, CIMC, CMCTG and sub-groups are deemed activated and functioning; and
4. Provide for sanctions for the failure to organize and activate in accordance with the prescribed manner.

B. On-Scene Command Post

In the incident under review, the absence of the heads of CMC and CIMTG in the Crisis Management Operation Center (CMOC) and in the Advance Command Post created a vacuum in command or decision makers such that those present were unable to handle the situation as they unfolded. They would have been in a position to react to events promptly had they been there. The Chairman and sub-task groups should not leave the CMOC or the Advance Command Post while the crisis incident is ongoing and should be severely sanctioned should they do so.

Chapter 4, Section 2, 4.12.1 of the Crisis Management Manual on the On-Scene Command Post (OSCP) should provide guidelines on relief and manning, to avoid incidents of the OSC abandoning the OSCP without any clear turn-over of the position of OSC to a second in command. The OSC shall be at the OSCP at all times, and may only leave upon proper relief by another who shall stand in as the replacement OSC and assume command over the crisis management organization. The OSC should not take his command over the crisis management organization with him when he leaves the immediate vicinity of the OSCP or the crisis incident.

It was also noted that the commanders concerned considered themselves "on site" because of the facility of communication. In a manner of speaking, "they were just a phone call away". In addition, they decided to proceed to Emerald Restaurant which they established as a "second command post" considering that it was just a "few blocks away". This attitude needs

correction because there is no substitute for physical presence at the actual scene of the incident in taking decisive action during a crisis situation given that seconds could count as borne out by the hostage incident under review.

Procedures should be in place stating that the chairman and members of the task groups should always be at the CMOC or at the Advance Command Post to take decisive actions promptly when necessary and to function until the critical incident is resolved. Administrative sanctions should be specified for officers abandoning their post while the critical incident is on-going. Advance command post of task groups/ sub-task groups should also be designated in an area near each other to accommodate immediate dissemination of information being gathered.

Given that there are circumstances that could warrant the respective heads leaving their post, the procedure for hand-over of command to a deputy must also be defined.

C. Appointment of On-Scene Commander

Based on the structure, the Task Group Commander or OSC is at par or co-equal with the CMC. It does not state how he is to be appointed as such or if there is any need for a formal designation as such. The procedure only states the rank or designation of the Task Group Commander or OSC.

Gen. Magtibay designated himself as the Ground Commander believing that as the Manila Police District (MPD) District Director or Chief of Police of Manila, it is within his area of responsibility as the hostage incident happened in Manila.

The procedure on the appointment of the Task Group Commander or OSC should be clearly provided for. Chapter 4, Section 2, 4.12.2 of the Crisis Management Manual and the other PNP SOPs should include qualifications for the designation of the OSC, other than a description by rank. The highest ranking may not always be the most qualified as OSC and therefore each local CMC should have a list of the most qualified OSCs for every particular type of crisis incident, depending on training, experience, and overall competence at field operational command.

The guidelines should also be clear on when the decisions of the OSC can be countermanded by the CMC Chairman or higher office, and qualify the statement "regardless of the presence of an officer more senior than him" in order to avoid confusion on the responsibility over command of the CMC Chairman, the OSC, and PNP higher authorities.

D. Relief of On-Scene Commander

The Crisis Management Manual and PNP SOPs do not define as to what critical incidents need a response from the City, NCR, Provincial, and Regional Levels. The doctrine being that crisis incidents are handled at the

lowest level (where the crisis incident is occurring). As stated earlier, this doctrine is sound but it is not clear when the next level CMC or CIMTG may interfere with, or take over, the operations of the crisis management.

Even if the level of response of all task groups is done as much as possible at the lowest level, the actions of the lower level CMC or CIMTG must be closely monitored by the next level CMC and CIMTG by way of oversight function and so that if a take-over of supervision, command and/or control is necessary, they can respond at the shortest possible time. As such, the criteria when a take-over of command and/or operations by a higher level CMC or CIMTG is warranted, or may be allowed, should be defined. Timeliness should be considered in defining the criteria.

In the incident under review, there was a direct command to use the SAF from the NCRPO as instructed by the President himself. However, it appears that Gen. Magtibay, the OSC, did not follow that order. It was only when the assault was stalled from 7:35 to 8:11 p.m. that Col. Medina went to Gen. Magtibay and informed him that he was taking over upon the orders of Gen. Santiago and even told Gen. Magtibay to move back from the line of fire.

The guidelines should also include provisions on the relief of the OSC by higher office, given that the experience of the August 23 incident would have provided higher office several indicators on the incompetence of the OSC if there was only proper monitoring of his strategic planning and intelligence gathering operations, which were virtually nil. These indicators should have immediately prompted an order of relief from higher office, considering that the incompetence not only showed at the tail end of the crisis but can be gleaned from the inaction of the OSC on certain aspects of ground command and operations, specifically on intelligence and crowd and media control, all through-out the day.

In this connection, the significance of the mandate: "regardless of the presence of an officer more senior than him" should be emphasized because of a military/police tradition that the appearance of a senior officer implies a take-over of command. During the investigation of the hostage incident, this was in fact one of the reasons given by PNP Officers who were of rank higher than Gen. Magtibay on why they were not physically present at the crisis incident scene, although monitoring events.

The Committee recognizes that there are practical, strategic and even tactical reasons why higher ranking police/military officers and civilian officials should avoid being at the crisis incident scene of a nature such as hostage-taking, terrorism and other incidents involving criminal elements, unless defined circumstances require them to be there. In the case of responding elements, the appearance of a higher ranking official will immediately create an issue of who is in command because of the concept of "implied take-over of command". An express directive from the higher ranking officer might be required to re-establish the position of command of the lower ranking officer and to erase the potential confusion brought about by his appearance. In the case of the criminal elements i.e., hostage-taker or terrorist, the presence of a higher ranking officer potentially "ups the ante". In

the hostage incident under review, and notwithstanding his good intentions, the appearance of the President at the crisis incident scene, while in progress, would have brought about unquantifiable negative ramifications especially given the tragic end of the incident.

To recap, on the matter of a higher level CMC and/or CIMTG taking-over the handling of a crisis incident, the following are recommended:

1. Policy or guidelines should be adopted establishing or defining the criteria or parameters when a take-over of command and/or operations by a higher level POC, CMC or CIMTG is warranted, or may be allowed. Timeliness should be considered in defining the criteria;
2. The Policy or guidelines should specify the authority who should make such determination;
3. With respect to responding Police and/or Military units, the import of the appearance of a higher ranking officer at the scene of a crisis incident must be clearly spelled out both on the part of the higher ranking officer and on responding or activated elements;
4. The Policy and/or guidelines should be incorporated in the Crisis Management Manual.

E. Inclusion of Psychologist

During the IIRC clarificatory hearings, it was established that there was no psychologist who is trained in the area of criminal profiling. Neither the on-scene commander nor the negotiator sought for the presence of a psychologist who could have greatly aided in assessing the situation, take the profile of the hostage-taker or determine the degree of his volatility. The negotiation team only assessed on their own, and on the basis of their previous experiences, the personality of the hostage-taker, thus arriving at a wrong assessment of the hostage-taker and the whole situation.

Under the Regional, Provincial, NCR District, and Municipal/City Level of the organizational structure of the CMCs, the medical team is under the Service Support Sub-Task Group. However, the medical team does not clearly specify if it includes a psychologist to provide support in the hostage negotiations. Based on the PNP SOPs, there is no sub-group for Psychologist(s) to aid the CMC or the Hostage Negotiator in evaluating the Hostage-Taker's behavior and/or actuations. What is included in the SOPs is the medical sub-group. On the other hand, Chapter 3, Section 2, 3.5.1.7 of the Crisis Management Manual also does not make the use of psychologists in crisis situations mandatory. The only possible reference to a psychologist is in the "check list" of the Hostage-Taking Manual where the "psychological profile" of the perpetrator is among the items in the check list.

The absence of a clear requirement may be the reason why there was no psychologist present during that crisis incident and instead, medical doctors

who are not psychologists were the ones sent to help. Clearly, factors that potentially affect the psychological make-up or condition of parties involved in the hostage-taking incident, including that of the negotiator, are inherent in this type of crisis incident. A trained psychologist is a person competent to evaluate the “psychological environment” for guidance in making decisions as matters progress or deteriorate. The psychologist plays a vital role in profiling the hostage-taker, assessing the behavior and personality and the degree of the volatility of the hostage-taker. In the hostage-taking incident under review, there were various instances where inputs from a psychologist would have been helpful and in fact critical, including the determination of whether or not a particular person or official is a proper intermediary in relation to the hostage-taker for the purpose of providing beneficial resolution of the crisis.

It is therefore recommended that:

1. The employment of psychologists especially in major hostage-taking incidents be made mandatory;
2. The PNP should come up with a list or pool of psychologists specializing in offender or criminal profiling who shall be deputized to respond in case of emergencies as soon as possible; and
3. Regular training of PNP negotiators by these experts in the field of criminal profiling should also be conducted in order to further professionalize the training of negotiators.

VI. HOSTAGE NEGOTIATIONS AND ACTION STAGE

A. Hostage-taker Profiling

Chapter 5 of the Crisis Management Manual specifically deals with Hostage Negotiation. In several sections of the Chapter, reference is made to the psychological make-up of the hostage-taker. The Manual states: "The most common disorders involved in hostage-taking are the psychotics and inadequate personality disorders". The Manual continues by enumerating and describing the different types of psychotics and inadequate personality disorders as well as gives quick recognition points.

The section describing the effect of time and its relation to stress on the part of the hostage-taker and negotiator also deals with psychological make-up of persons involved.

Finally, on the "checklist" pertaining to the hostage-taker, one item that is needed is the psychological and medical profile of the hostage-taker.

However, it is noted that notwithstanding the emphasis on the importance of knowing the psychological make-up of the hostage-taker, the Manual, in describing the composition of the Hostage Negotiating Team, states:

"The Negotiating Team shall be headed by a chief negotiator properly selected by the Chairman, CMC from among trained negotiators. It may include psychologist or an interpreter as required by the situation.xxx."

The inclusion of a psychologist is merely permissive and is not mandatory and will depend on the situation. The Committee reiterates its recommendations:

1. To make it mandatory for the inclusion of a trained psychologist as part of the Negotiating Team and,
2. That the appointment of the Chief Negotiator be a function of the CIMC, rather than the Chairman of the CMC considering that the Chief Negotiator is, as a rule, a member of the PNP and it would therefore be the CIMC that would be more competent to know the qualifications of its elements;
3. It is also recommended that the PNP consider training a central pool of negotiators whose members could be activated or called upon to respond to hostage-taking incidents, regardless of location.

B. Elaboration of Threat Groups/ Individuals Categories

Chapter 3, Section 1, 3.1.4.1 on categories of Threat Groups should be further elaborated insofar as the description and characterization of mentally deranged individuals is concerned.

Chapter 5, Section 1, 5.3 and 5.4 on categories and personality types of hostage-takers should also be elaborated further to actually serve as a practical field guide to the OSC and the hostage negotiator.

The earliest but most easily remedied blunder in the hostage crisis was the failure of the hostage negotiator and the OSC to properly categorize what kind of hostage-taker Captain Rolando Mendoza was. During the investigation, Colonel Yebra characterized him as a criminal hostage-taker, contrary to other descriptions in the manuals which more appropriately categorize him as a mentally deranged or psychologically disturbed and unstable individual. This failure to properly categorize Captain Mendoza in accordance with the manuals resulted in the consequent series of misreading and misappreciation of the actions of the hostage-taker and the potential threat of immediate physical violence that he posed to the hostages.

A further elaboration of the descriptions can further aid the crisis responder in the proper categorization of the terrorist or hostage-taker and how he will accordingly plan out his strategic approach in the negotiations as well as the OSC's tactical options.

Considering the rising incidence of hostage-taking, it is also recommended that training on proper initial handling be made a mandatory course for elements of the PNP as first responders.

C. Crowd Control

During the crisis incident under review, the area of the incident was not safely cordoned off in violation of Standard Operating Procedures. There was no visible police line. This allowed anybody to rush to the crime scene after the assault. Other persons, including reporters, who are not part of the negotiating and responding teams were not effectively contained. There is also a lack of criteria on establishing the distance which is considered the secured perimeter or the "police line". This should be applicable also to defining the boundary beyond which media is prohibited.

Inadequate crowd control could also hinder the deployment of responding units and the existence of "innocent civilians" within the area of conflict could constrain tactical options. Crowds could also impede the efficient evacuation of victims.

The PNP personnel clearly failed to secure the site of confrontation. Strict security should be implemented at the police line established by the police operatives as to make sure that unauthorized persons are excluded from the crime scene. "Restricted" zones or areas, such as the Advance Command Post, should also be identified. Sufficient number of personnel should be deployed just to secure the conflict area and restricted zones. Even if more than enough personnel were deployed during the hostage-taking incident, they failed to perform the tasks assigned to them. There was no crowd control that resulted in by-standers rushing to the vicinity of the bus and which

hampered evacuation of hostages. Media personnel were found inside the ambulances.

No one appeared to have been specifically tasked with monitoring and maintaining the police line. The lack of a person in-charge of monitoring and maintaining the cordoned area and the lack of procedure on how to do it resulted in a big problem in crowd control. There should be a certain person assigned with the task of just monitoring and maintaining the perimeter police line so that anyone such as on-lookers, ambulant vendors, media personnel, even police officers who are not part of the operations and/or assault, may not be able to penetrate the police line and may be safe from a distance considering the effective range of the rifle or firearm that the hostage-taker or the police have. Specific responsibility for the absence of crowd control could not also be pinpointed because of the failure to designate the person in charge.

The PNP SOPs are not clear as to whether crowd control is included in the sub-task groups. A crowd control sub-task group to cordon-off the area and secure the safety of the public, including containing the media is very important not only during the incident but also in the preservation of evidence particularly after the incident is contained,

The following are, therefore, recommended:

1. A sub-group on Crowd Control should be included in the Operations Sub-Task Groups;
2. The Manuals and SOPs should specify the designation of an officer whose main duty is to monitor and secure the police line and keep all persons such as on-lookers, ambulant vendors, media personnel, even police officers who are not part of the operations of the crisis management, away from the police line while the crisis is ongoing up to the completion of post action operations, especially evidence gathering;
3. Criteria in determining the distance of the police line should be set taking into consideration the weapon(s) of the perpetrator and the tactical equipment to be used (ex. kind of rifle or firearm used by the hostage-taker or the responding police officers, kind of equipment or materials to be used in securing, barricading or isolating the area, etc.).

D. Documentation

Chapter 3, Section 2, 3.5 provides that at the start and during the action stage, the OSC shall discuss the incident with his commanders and staff and decides on the plans and actions to take.

The manual should provide for a documentation of this stage of the crisis where the OSC sets up its initial strategy and plans with his commanders in order to assure that the planning is complete, comprehensive and systematic and to serve as a basis for review and reports in post-incident

assessments activities. The documentation can also serve as basis for lessons to be learned for future crisis incidents.

Rule 1 of PNPM-DO-DS-3-1 provides that each PNP operating unit shall maintain an official police blotter where all types of operational and undercover dispatches shall be recorded containing the five "Ws" (who, what, where, when and why) and one "H" (how) of an information.²

A survey of the photocopies of the logbooks provided by the District Tactical Operations Center (Dragon Base) and Rapid Deployment Platoon (SWAT/MRT) of the MPD, NCRPO to the Committee shows that this very basic procedure was not followed by the concerned officials. A reading of the entries shows how incomplete and in some pages, incomprehensible, they are made. As a matter of fact, and as admitted in the hearing and in his sworn affidavit, there were errors in time in the entries made by SPO2 Erwin Concepcion on the day of the hostage-taking. This admission just shows how unreliable the police blotters can be sometimes.

Rule 12, Section 4. a. of PNPM-DO-DS-3-1 provides that policemen should gather and note down in their patrol logbook all available data as to the nature of the calls, date, time and name of the caller. It may be regular, urgent or emergency in nature.³

When Discovery Travel and Tour manager Lourdes Amansec sought assistance from the Luneta PCP, two (2) policemen responded and accompanied her to the scene. However, there was no indication whether a logbook was filled-up by the responding policemen with regard to the nature of the call. As stated earlier, the logbooks presented before the Committee are the logbooks of the Dragon Base and SWAT/MRT, and both do not provide all the available data about the incident. PO2 Denison Rivera failed to take note of the person who relayed to him, while he was having the case folder of Mendoza photocopied, the message instructing him to return to Luneta PCP.

Such lapses in simple operational procedures should not be tolerated by the PNP, and the leadership should continuously ensure and maintain discipline in documentation procedures as these are sufficient enough for the PNP's operational and reportorial requirements, if only they are followed and complied with diligently and with care.

E. Intermediaries

Chapter 3, Section 2, 3.5.1.5 of the Crisis Management Manual provides for the intervention of intermediaries in the negotiations, such as politicians, clergy, relatives, etc. The decision of the OSC on the participation of intermediaries is final unless countermanded by the Chairman of the CMC.

² PNPM-DO-DS-3-1, Rule 1. Police Blotter, p.1.

³ Id, Rule 12, Patrol Procedures, Section 4. Guidelines and Procedures when Responding to Calls for Police Assistance, p. 7.

This provision should be further clarified in light of the experience in the August 23 hostage-taking where the participation of several intermediaries has resulted into several negotiators, including the Vice-Mayor and members of the media. It should also be clarified in order to respond to the disorder in the system and breach of procedure in how the brother of the hostage-taker was allowed to communicate and act as an intermediary to his brother despite earlier indications that he was most probably involved in the planning of the hostage-taking. As such, the use of intermediaries, especially in hostage-taking incidents, should be further elaborated to avoid repeating the mistake of the OSC and the CMC Chairman when they decided to include the brother of the hostage-taker in the negotiations.

In Section 3 of PNPM-DO-DS-3-1, it is stated that no one shall be allowed to talk to the hostage-taker without clearance from the negotiator or Ground Commander.⁴ Take note that the manual uses the conjunction “or” between the negotiator and the Ground Commander which implies that either of the two can decide on who will be allowed to talk to the hostage-taker. It is not clear, however, whose decision will prevail in case of difference in opinion.

Under Section 9.b, it states that outsiders (non-law enforcement officers) should not be introduced into the negotiation process, unless their presence is extremely necessary in the solution of the crisis.⁵ It is suggested that parameters should be set in the determining what is extremely necessary under certain circumstances and who should be allowed to make the determination thereof. One of the main factors why the negotiation failed during the Rizal Park hostage-taking is that several persons were allowed to talk to the hostage-taker without any clear parameters why they were allowed to do so and for what specific purpose as to aid in the resolution of the crisis.

The input of the psychologist/ criminal profiler in the use of intermediaries should also be consulted for purposes of determining the intermediary’s beneficial contribution to the whole negotiation and crisis resolution process.

F. Strategizing

Lack of foresight and planning by the OSC and all other authorities charged with the function of ensuring the proper and efficient handling of the crisis situation from its inception to the post assault events resulted to the bloody resolution of the Rizal Park hostage-taking incident.

There was a total lack of a genuinely serious and well-planned out negotiation strategy. The strategizing was very layman in approach, without benefit of professional clinical analysis. The strategy of Mayor Lim to just “tire-out” Mendoza proved to be wrong. There should be guidelines on how to effectively strategize crisis situations.

⁴ Id., p. 54.

⁵ Id.

G. Intelligence

Intelligence gathering during the incident in question was sorely lacking and was characterized by incompetence. No one interviewed or debriefed any of the hostages released for any information about the conditions inside the bus and the condition of the hostages and of the hostage-taker.

The Intelligence Gathering sub-task group plays a vital role and their presence should be made mandatory in every critical incident. Relevant intelligence information could aid in the decision-making process of the sub-groups, the formulation and execution of a proper assault plan, including the choice of equipment needed to efficiently carry out the same.

The CIMTG is supposed to have an Intelligence sub-task group, but it turned-out that there was none present during the 23 August 2010 crisis incident. As such, it should be made sure that the presence of Intelligence sub-group is mandatory in the crisis situation. Officers meeting eligibility requirements should be manning intelligence units.

H. Coordination and Communication

There was lack of coordination and communication between the different groups under the CMC and the OSC and even the OSC and the different groups under him. This caused failure in the flow of crucial information and intelligence from the designated official to the proper recipient, crowd control, media control and relations and legal support. There was total failure of proper coordination among the various teams that are supposedly tasked to be part of a crisis management task group.

Procedures should be provided on how to effectively coordinate and communicate among the different groups under the CMC and the OSC and even the OSC and the different groups under him. There should be periodic reporting and assessment of the situation among the sub-group commanders, the OSC, and the negotiator.

In this connection, reliance on cell-phone technology as a means of communication appears to be the current norm for voice communication among operating units. In fact, even SMS (or "texting") is widely practiced. It is recommended that cellular phone technology as the preferred means of communication during crisis incidents vis-à-vis a PNP/AFP managed trunk radio system should be reviewed or assessed. The following should be noted:

1. The use of cellular phones is dependent on the reliability of the third party service provider, if the network is congested or collapses, there would potentially be no communication among operating groups. (This happened during typhoon "Ondoy" where cell sites went down).
2. If one of the parties "runs out of load", communication is cut-off, even if temporarily.

It is also recommended that an audit be conducted on the availability of critical communication equipment needed during hostage-taking incidents. During the investigation, it was learned that even the "throw-phones" were not properly functioning. This situation could impede the resolution of crisis incidents of this nature.

I. Tactical Action

Chapter 3, Section 2, 3.5.2 of the Crisis Management Manual provides for guidelines on tactical action.

The Committee realizes that in hostage-taking incidents, the basic doctrine is to save/protect lives of the hostages including that of the perpetrator(s). Serious consideration is given to the decision to undertake tactical options. Determining at what point negotiations is considered to have failed so as to warrant the decision to take tactical options is a judgment call that imposes a heavy burden upon the decision maker(s) also considering that when the tactical operation is undertaken there is an inherent possibility of harm to the hostages caused by friendly fire. The usual trigger to activate tactical options is when the perpetrator(s) takes direct action that harm the hostages or when the danger to the lives of the hostages is clear or apparent.

In the hostage-taking incident under review, several factors affected the decision to take tactical options at an earlier stage. Mendoza was a very recent member of the police force. Because of the absence of a competent psychologist, Mendoza was erroneously profiled to be just a criminal perpetrator rather than one who was, at the very least, psychologically disturbed and his psychological disposition was not regularly assessed at the various stages of the incident. The release of hostages by Mendoza in various instances made the Chief Negotiator and others involved in decision making believe that there was no clear danger to the hostages and that negotiations was still a viable option. When the opportunity to neutralize Mendoza presented itself to the negotiating team, it was not taken because of the basic doctrine that the negotiator or negotiating team should not make a tactical move as this will affect the credibility or position of a negotiator during the incident and in future incidents he would be involved in as a negotiator. Even when the order was given to the snipers to take out the Mendoza when a clear opportunity presented itself, this was rendered practically impossible because the perpetrator, being a former policeman, was familiar with the tactical options and positioned himself away from the snipers' line of fire.

Fully aware of the seriousness and/or gravity of the matter, the Committee recommends that the PNP and other concerned agencies, including the possible involvement of the Commission on Human Rights (CHR), conduct a thorough, serious and well considered reevaluation of the policies and guidelines specific to hostage-taking, governing the taking of tactical options with focus on when it is justified to order the same even while negotiations are still taking place especially if the given psychological profile of the perpetrator indicates a high tendency or predictable capacity for

violence. (note: “predictable” is more appropriate vis “unpredictable”. The latter creates a benefit of doubt while predictability for violence justifies action). The review should also cover a re-evaluation of the role of the negotiator and/or negotiating team in taking a tactical move when a clear opportunity presents itself without significant risk to the hostage(s).

A modification of the guidelines which highlight the distinction between the negotiation and tactical stages should be made in order to remind the OSC that even during the negotiation stage where the perpetrator does not yet exhibit any potential for violence, the tactical option of ending the crisis by neutralizing the threat should be entertained when a clear opportunity presents itself which does not put the lives of the hostages at any significant risk.

However, the policies and/or guidelines on this matter should be considerably deliberated upon before they are formulated into actual operational instructions as they would always involve the risk of putting the hostages at harm's way.

J. Special Action Force (SAF) Intervention

According to PNPM-DO-DS-3-1, commitment of the SAF Contingent to support other law enforcement agencies must be considered as a **serious condition**, and their involvement must be limited to that degree justified by necessity. The use of force must be restricted to the minimum degree consistent with mission accomplishment.

In Item 4.15.1 (a) Application of Force - General, operation by SAF personnel will not be utilized until the Chief, PNP is advised by the requesting unit that the situation cannot be controlled with the unit's available personnel resources.

The principle of the “use of minimum force” is somehow an abused principle because more often than not this causes the laxity of police officers in responding to the situation. The employment of SAF is considered as a serious condition already and so the SAF personnel are left waiting doing nothing at all until the ground commander admits that his police force is insufficient and/or incapable in resolving the situation.

The use of “minimum force” should be changed to “reasonable force” so that when a civil disturbance happens, the ground commander may assess what is “reasonable” under the circumstances and may have the opportunity to employ the services of the SAF even before the situation turns out to be serious.

The guideline that the determination as to when the intervention of the SAF is needed is left to the unit requesting the same or to the OSC needs re-evaluation. Human nature makes it difficult for an OSC to admit that he, or his unit, is incapable to address a situation. Consequently, the guidelines should provide parameters when higher authorities should consider ordering

intervention notwithstanding the absence of a request from the responding unit or ground commander. The monitoring of events by higher authorities loses its significance if higher authorities are not required to take countermanding decisions when circumstances warrant. This is part of the essence of "command responsibility".

As a pro-active measure, it is recommended that the PNP undertake regular assessments of the capabilities of local units to respond to situations. If there are pre-determined areas where capability is considered low or non-existent, the active intervention of higher authorities with capable units should be a "default" policy.

K. Special Tactical Assault Unit in Crisis Situations

An alternative to undermanned and undertrained territorial Special Weapons and Tactics (SWAT) units is to relieve these units from assault operations to accomplish a first responder role while awaiting the rapid deployment of special national units, such as the SAF, to the crisis scene. As such, there should be a special separate unit dedicated to undertake or to be in-charge of assault operations in crisis situations like hostage-taking incidents or operations, which is the Special Action Force – Crisis Response Group (SAF-CRG) of the PNP.

At present, the SAF is the most highly trained PNP unit capable of responding to grave crisis situations involving terrorists or hostage-takers. They are sufficiently equipped and thoroughly capable of handling assault operations and are comparable to their counterpart special forces in the AFP. However, it appears that their only handicap is the capability to rapidly deploy to any point of the Philippines at a moment's notice.

Thus, rather than spread out precious and limited resources in training and supplying numerous geographical and territorial SWAT units, the better alternative is to pour resources into a fully dedicated quick response special unit well-versed in assault tactics and operations controlled by the national PNP. Because of the existence of this unit in the PNP, i.e., the SAF, the only thing that needs to be improved is the capability in rapid deployment. This means giving this unit swift carrier capability such as helicopters, planes and fast boats at their ready disposal in times of crisis situations. Rather than have a fully trained and equipped special force in the PNP wait in the barracks as a weapon of last resort, resulting into a situation where they are rarely used, the SAF should be designated by the PNP as its primary and automatic unit of preference in grave crisis situations that necessitate their deployment.

In the first place, this is why it is called the Crisis Response Group of the PNP. Presently, in compliance with the instruction of the President and the Secretary of the Interior and Local Government, the PNP is proposing the creation of the Crisis Action Force, a special and distinct unit specifically mandated and designed to address crisis situations in the country. The composition of this group, whether it comprises of the present SAF, is not

clear in the report submitted to the Committee by the PNP Acting Director for Operations.

L. Review of the “Hostage Negotiating Manual” Prepared by Col. Orlando Yebra

The author of the “Hostage Negotiating Manual” should be commended for attempting to put in a manual the aspects of Hostage Negotiation. It is interesting reading material. However, caution is made before the said material is circulated or adopted as “the” manual on hostage negotiation. Again, as an aside, the material also shows what mistakes were committed in the Hostage-Taking Incident under review.

Without dealing on the authority and expertise of the writer, as it is suggested that the material be co-written with an authority on the subject, the following are observed:

1. The material is not properly structured and, therefore, does not have the element of cohesiveness.
2. There are some statements/treatments that could lead to confusion in SOP. Examples are:
 - a. The item on “Untrained Personnel” seems to imply that the initial responding unit’s first task is to try to resolve the situation when it states: “However, once the line officers or first line supervisors realize that an incident appears to be heading for something other than a prompt resolution, they should immediately terminate negotiations and call in trained negotiators”.

SOP is that the first task is to inform the Commanding Officer, thru channels, of the situation. Also, in no case shall the initial response team engage the hostage-taker in a negotiation.

- b. On the item on “Time”, it opens with the line: “A negotiator’s most important ally in all situations is time”. This is not consistent with the treatment in Hostage Negotiation in Chapter 5 of the Manual on Crisis Management that presents the element of “time” as double edged. That is, “time” is either a favorable or unfavorable element as time can bear stress, impatience, irritation, hunger, etc., that may not be favorable to a peaceful negotiation of the hostage impasse.

M. General Administrative Recommendations

The manuals and SOPs, *per se*, appear to be satisfactory in their main provisions. However, most of the time, the procedures are not strictly implemented by the officers tasked to enforce them.

Policemen should be adequately oriented on the provisions of the manuals and SOP and also trained on their practical implementation. There should be a policy requiring orientation and the failure to observe such policy should warrant the filing of administrative charges against those failing to organize an orientation and/or those who do not undergo said orientation. The adoption of said policy and administrative sanctions will prompt officials to be always mindful of their duties and responsibilities. In fact, the Manual on Crisis Management must be made compulsory reading material reinforced by an evaluation examination.

As part of the plan for proper implementation, it is recommended that a committee within the PNP be created which will assess whether the police units complied with the basic procedures whenever they operate. After-Operations/Investigation Reports should be submitted to the aforesaid committee to enable the latter to assess whether there was compliance of the relevant procedure. The nature of law enforcers' job requires utmost vigilance as lives and safety of people are at stake, thus, the highest degree of conformity should be expected from them.

VII. POST ACTION OPERATIONS

A. Overview of Post Action

Chapter 3, Section 2, 3.6 of the Crisis Management Manual provides that the post action phase begins as soon as the perpetrators surrender, or when they are captured or neutralized. The OSC ensures that the following are accomplished:

1. Processing and debriefing of hostages, perpetrators, witnesses, and key participants;
2. Protection of crime scene;
3. Investigation of the incident;
4. Documentation consisting of sworn statements, recovery of evidence, collection of photo and video documentation and written records;
5. Prosecution of cases;
6. Training and retraining of units; and
7. Damage compensation and rehabilitation.

This section on post action should further be elaborated to come up with detailed guidelines on post action procedures and to highlight its importance in the Crisis Management Manual.

PNPM-DO-DS-3-1 provides for procedures on post armed confrontation. Rule 10 provides that immediately after an armed confrontation, the Officer-in-Charge shall secure the site of confrontation; take photographs; evacuate the wounded to the nearest hospital; ensure that all persons who died on the spot are not moved from their original position; arrested suspects, on the other hand, should be kept in isolation; and conduct the debriefing on all involved PNP operatives.⁶ These SOPs should be incorporated in the Crisis Management Manual so that there is no need to refer to an external document.

B. Securing the Crime Scene

PNPM-DO-DS-3-1, Rule 12, Section 5 on protecting and preserving the crime scene provides that the concerned PNP official should respond as soon as possible, record the time of arrival, weather condition and situation at the crime scene, and if possible, take photographs of the scene and its immediate vicinity. He should also establish the police lines and exclude unauthorized persons from the scene. He should make sure that everybody does not touch or step on anything that may represent evidence. He should check and protect adjacent areas from the scene where firearms, footprints, dropped articles and bloodstains could be found and look for the presence of blood stains and other body fluids. He shall then turn over all initial information and pieces of evidence gathered to the responding investigation unit/elements.⁷

⁶ Id, Rule 10. Things to be Done After an Armed Confrontation, p. 4.

⁷ Id, Rule 12. Patrol Procedures, Section 5. Protecting and Preserving the Crime Scene, p. 8.

Rule 18 on Crime Scene Response Procedures, Section 1 provides that the first responder in the post-action stage shall protect and secure the crime scene by physically cordoning off the scene preferably with a police line and prevent entry of persons within.

Most of these procedural rules were violated in the post-action scenario of the August 23, 2010 hostage-taking incident.

Spectators were able to break through the police line inappropriately set, news reporters and cameramen had access to the crime scene. There were no immediate personnel from the SOCO to manage and supervise the preservation of evidence. Furthermore, the police officials involved also failed to determine who died on the spot since it was clear that they moved all the victims, whether alive or not, from their original position. The bodies of the victims were moved from the scene even prior to documentation which made it difficult to determine their last positions inside the bus.

Three factors would have prevented all these mistakes: first, a secure police line set up by competent police officers in sufficient numbers; second, the arrest of intruders crossing the police line, including the media; and third, the presence of the SOCO at the scene of the crime from the beginning of the hostage-taking incident.

By its nature, a hostage-taking incident is volatile and has no definitive time-line. It can be resolved immediately or can take place over a lengthy period. The hostage-taking incident under review practically took the whole day. The SOCO teams from the NCR had all the time in the world to set up shop at the scene of the incident, instead of waiting inside their offices until the eleventh hour, and until they were called, to respond to what was obviously becoming a brewing fatal confrontation between the police and the hostage-takers. By the time the SOCO arrived, the scene of the incident was already contaminated for evidence purposes.

It is noted that existing SOP on protecting and preserving the crime scene merely provides that the concerned PNP official should respond "as soon as possible" which requirement allows for various interpretation. Strictly speaking, as soon as a hostage incident occurs, the area is a crime scene. To leave no room for doubt as to when the presence of concerned PNP units is required, it is recommended that specific and clear policy be issued requiring that units responsible for securing the crime scene for purposes of documentation, evidence gathering etc. should be at the scene immediately upon the incident being reported. For this purpose, the SOCO should be made part of the sub-task group already in operation from the beginning of the crisis management. Strict administrative penalties should be imposed for failure to follow the SOP.

Finally, unless the proper attitude towards responsibilities is achieved, no amount of procedural amendment or modification will correct mistakes. Procedures at this stage are elementary and common sense. Mistakes were made not because the rules were vague or were insufficient, but because of the

chaos that continued after the assault, a direct result of the incompetence, indecisiveness and ultimate dissolution of the leadership that came to characterize the situation all through-out the hostage-taking incident, and which affected the general morale and disposition of the troops. Simply put, incompetent leadership produces incompetent following.

C. Rescue of Injured Victims

PNPM-DO-DS-3-1, Rule 10, Section 4 provides that the territorial police unit shall provide assistance in the evacuation of the injured persons to the hospitals and control the crowd at the crime scene.⁸

In the incident under review, responding medical crews of ambulances did not have the proper training on how to approach and evacuate victims of the incident thereby destroying and contaminating evidence. There was a lack of police personnel to accompany the victims who survived the incident to the hospital for proper coordination with hospital personnel to preserve evidence.⁹

The Committee is mindful that rescue operations would necessarily impact on the integrity of forensic evidence. The requirement for swift evacuation to save lives aggravates the contamination of forensic evidence. In a "balancing of interest test", saving lives outweigh the imperative to preserve evidence. Under certain circumstances, even the evacuation of victims who appear to be dead becomes excusable on the possibility they could still be alive and/or saved. The conditions prevailing during rescue operations underscores the need for proper training of all personnel involved in rescue not only in the area of saving lives but also in preserving and/or minimizing the contamination of forensic evidence.

There was also an apparent lack of coordination with hospitals for the purpose of providing medical attention to wounded victims. The victims were rejected by Manila Doctors' Hospital because they could no longer accommodate emergency cases which prompted them to transfer the victims to the Ospital ng Maynila, which took them more time in transporting the victims.¹⁰

There should be an immediate and continuous coordination with hospitals in preparation for transporting injured victims for medical attention. Personnel should be assigned to coordinate with or identify which hospital/s could accommodate emergency cases and information as well as instructions relative to this should be given to evacuating personnel at the scene or the incident.

⁸ Id, Rule 10. Things to be Done After an Armed Confrontation, p. 4.

⁹ First Report of the Incident Investigation and Review Committee on the August 23, 2010, Rizal Park Hostage-Taking Incident, pp. 50-51.

¹⁰ Ibid, p.32.

Also observed during the incident under review (and in other incidents requiring the possibility of evacuating victims) is that the route for evacuating victims to medical facilities are not cleared for ease or facility of transport. The SOPs and logistics involved in securing evacuation routes should be part of the strategy developed in addressing or managing a crisis incident.

D. Debriefing and Evidence Gathering

Section 5 of Rule 10 of PNPM DO-DS-3-1 follows with the instruction that the OSC shall ensure the debriefing of the key persons and prepare documentation of sworn statements.

In the incident under review, there was no showing in the reports submitted that a debriefing was conducted on all involved PNP operatives or key participants of the incident such as the hostages and witnesses.

There was confusion as to what agency the pieces of evidence gathered should be turned over. As mentioned in the First IIRC Report, "While Lieutenant Ursua and SPO2 Pineda were investigating Lubang, Major Reyes and Lt. Col. Nelson Yabut came carrying the objects recovered from the hostage-taker and asked them to receive the same. They initially refused to receive the same because these should be taken into custody by the homicide investigator. They relented only because no one was there to take the recovered objects into custody. The objects were taken to Police Station 5 for safekeeping after which they notified Lt. Col. Bernal of the same. On August 24, 2010 at 6:34 a.m., the recovered objects were brought by SPO2 Pineda and PO3 Anthony Leonard Navarro to the SOCO-MPD which refused to receive all the objects. SOCO operative PO2 Ryan Gaytano received only the following: xxx xxx The objects which the SOCO refused to receive were turned over and received by the Homicide Section of the MPD."¹¹

Ideally, of course, the police line should have secured the crime scene and all the evidence should have been gathered by, and under the custody of, the SOCO. This underscores the necessity of requiring the SOCO to be at the scene of the incident from the beginning so that there is no a vacuum on who will take custody of evidence that is gathered and more important, that evidence gathering is properly supervised and/or undertaken.

In this respect, the following are recommended:

1. The Manual and/or SOP should require a specific deadline for conducting a debriefing and the submission of reports, e.g. within 24 hours of the incident;
2. Strict administrative sanctions should be imposed upon the On-Scene-Commander for failure to conduct a debriefing and/or submit a report within the required period;

¹¹ First Report of the Incident Investigation and Review Committee on the August 23, 2010, Rizal Park Hostage-Taking Incident, p.33.

3. Strict administrative sanctions should likewise be imposed upon any police officer who fails to submit a report if he is required to do so; and
4. The earlier recommendation to require the presence of the SOCO from the beginning of the incident is reiterated.

E. Scene-of-the-Crime Operatives (SOCO)

The relevant literature insofar as Scene of the Crime Operations is concerned is SOCO PNP Circular No. 01-08 CLC-ADO-01.

A report of the debriefing conducted on the SOCO Team submitted to the Committee is still incomplete and lacks an in depth presentation and critical analysis of the factual incidents, deployment, men and material, response action, and problems encountered by the SOCO in the immediate aftermath of the hostage-taking incident.

The Scene-of-the-Crime Operatives (SOCO) Manual is sufficient in scope and substance. Had its provisions been followed, the adulteration, mishandling, deterioration, and loss of evidence, which occurred during the aftermath of the incident, would have been avoided. In furtherance of the objective of the SOCO Manual, the SOCO Manual should be made available to and studied not only by SOCO operatives but by the whole police force and other emergency and rescue units. This would enable First Responders to know their duty in post action scenarios.

Hospitals, through legislation, must also be directed to preserve evidence such as the victims' clothes, for turnover to the SOCO, aside from other rules that should be followed in coordination with the PNP with regard to the handling of evidence by Hospitals where injured or dead victims or criminals are taken. At the same time, it should be made a part of the SOCO SOP to make sure that the SOCO, or at least a PNP officer, accompany ambulances carrying injured victims or dead bodies for purposes of collecting the evidence at the hospital immediately as the situation would allow it.

F. After-Encounter Report

Rule 8, Section 4 of PNPM DO-DS-3-1 provides that any police officer who used his firearm against a suspect must submit an after-encounter report outlining the circumstances necessitating the use of weapon against the suspect.

On the issue of determining the weapons or firearms used during the incident, it would have been easier for the investigating team to identify the source of the fired cartridges if there was an after-encounter report submitted by the members of the SWAT team who fired their firearm.

The SOP should provide for a specific period within which an after-encounter report should be submitted by the police officers involved in the armed confrontation, e.g. within 24 hours, and the Officer-in-Charge should make sure that the required after-encounter report is submitted. Strict administrative sanctions should be provided for failure to submit an after-encounter report within the required period.

G. Presence of Inquest Prosecutor

Rule 11 of PNPM DO-DS-3-1 provides that in cases of armed confrontation wherein a suspect dies, the TL (Team Leader) of the operating unit shall submit the incident for inquest before the duty Inquest Prosecutor prior to the removal of the body from the scene except in areas where there are no Inquest Prosecutors. In which case, the territorial police unit can proceed with the investigation.¹²

After Mendoza was neutralized, his body was immediately removed from the scene. Inquest Prosecutors are on duty in the Office of the City Prosecutor (OCP) of Manila until 12 midnight. The policemen could have easily asked for assistance from the OCP of Manila if they only asked for it. At the same time, the City Prosecutor of Manila should have been on stand by, even be present at the scene, considering the possibility of an armed encounter at the scene of the incident from the time the hostage-taking incident was reported.

The inclusion of a representative of the Prosecutors' Office in the sub-task groups should be provided and that the designated prosecutor should be required to be at a hostage-taking incident up to the conclusion of post action operations and evidence gathering. Strict administrative sanctions for failure of the City Prosecutor to assign an "on-scene" prosecutor and the failure of the assigned prosecutor to be at the scene should also be provided.

H. Conduct of Examinations on SOPs

Effective implementation of the standard operational procedures is not specified in the SOP. Unfortunately, many policemen do not know the basic operational procedures, which naturally place the entire organization in a bad light. More importantly, the lapses put lives and property at risk.

The PNP should formulate a policy on the conduct of qualifying examinations on police operational procedures as a requirement for permanent positions or promotions.

¹² Id, Rule 11. Investigation by the Territorial Unit Concerned, p. 4.

VIII. TRAINING

A. In General

It is stated in the Coordinating Instructions of the SOP that all PNP units/offices complementing the CIMTG shall train their men on man-made critical incident management using their available resources. Training of the members of the task group is not mandatory and dependent on available resources only of the concerned PNP unit/office. If there are no available resources, training of police personnel is not a priority resulting in the lack of adequate training of the members of the task groups.

According to SPO3 Alfonso Gameng, the team leader for SWAT Team 3, all of the SWAT members deployed during the Incident have undergone at least one (1) SWAT training. Most of them have also attended a host of other trainings in various fields, such as Urban Crisis Tactical Intervention Course, Counter Terrorist Warfare Course, First Responders Course, Emergency Response Course, Tactical Rifle and Pistol Course, etc. Aside from formal trainings and seminars, most of them also participate in SWAT competitions that enhance their proficiency. He, however, admitted that they could use more training and that it would be ideal if they could practice firing at least once a month. He revealed that most of the time, he and his men are left to pool their own money just so they could practice their shots.¹³

Hostage Negotiations and Crisis Management trainings are available to the PNP. One (1) class of Hostage Negotiation Training is being conducted by the Police Anti-Crime Emergency Response (PACER) annually. Two (2) classes of Crisis Response Seminar and a 45-day SWAT Training are being implemented annually by all Police Regional Offices (PROs) nationwide. A module on Hostage Negotiation and Crisis Management is also incorporated in all mandatory career courses offered by the Philippine Public Safety College (PPSC). The Special Action Force (SAF) also conducts, in collaboration with the PROs, a 90-day Urban Counter Revolutionary Warfare Course (UCRW) for personnel assigned to police mobile striking units in the regions conducted annually by the SAF School.

In response to the Incident, the PPSC, through Training Directive No. 2010-001 has also recently provided for a CIMC and CIMTG Training and Simulation Exercises. This particular training is offered not only to police officers but also to the members of the CMC of the LGU. For lack of funds, this is only being offered in Cebu City, Legaspi City, Taguig City and Silang, Cavite.

These formal courses and seminars, however, need to be supplemented by continuous training and exercise. This is precisely the problem identified by SPO3 Gameng and his fellow police officers. While they can say that they have attended various courses and seminars, it does not mean that they are proficient in them. What they need is a monthly exercise where they can

¹³ TSN of SPO3 Alfonso Gomez Gameng, et. al. dated 4 September 2010, pp. 45-57.

simulate crisis situations, practice their shots, increase their skills and refresh the knowledge they gained while attending those courses and seminars. Unfortunately, no such program is institutionalized. As narrated by the police officers, they are left to fend for their training.

When foreign governments invite law enforcers for free trainings abroad, the PNP Head Office, particularly the DHRDD, sometimes sends personnel who will not eventually be part of the unit to which that particular training should have been given. They could be transferred or assigned to another office. And since they are not mandated to be part of the PNP Training Service, what the trainees learned abroad is not conveyed to the concerned units. There is an evident lack of mechanism on how to disseminate the knowledge that they acquired.

As such, there should be a meticulous selection process so that the appropriate personnel will be sent for trainings abroad. After the training, the trained personnel should serve in the PNP Training Service for minimum of six (6) months.

B. PNP Training Agencies

Institutions responsible for training in the PNP include the PPSC which was created under Section 66 of RA 6975. The PPSC is an umbrella organization that provides direction, supervision, administration and control of the various education and training programs offered by its component training units, namely: National Police College (NPC), Philippine National Police Academy (PNPA), Police National Training Institute (PNTI), Regional Training Schools (RTS), and the National Crime Research and Training Institute.

On the other hand, the PNP Training Service was created by Napolcom Resolution No. 2005-388 as amended by Napolcom Resolution No. 2009-254. It was commissioned to conduct, organize, plan, deliver, provide, facilitate and coordinate activities related to the development of skills and competencies of every PNP Personnel. It is tasked to conduct special courses for individual or unit proficiency such as the Special Counter-Insurgency Orientation Course (SCOUT); Police Responders Course; Community Oriented Policing System (COPS), Seminar on Police Intervention Technique Seminar; Criminal Investigation Courses; Intelligence Courses; SWAT Course, Crisis Response Seminar; Instructor Development Course and other courses which are not being given by the PPSC.

The DHRDD was created pursuant to CPNP Letter Directive dated 28 October 1993. It is an organic unit of the PNP, tasked to supervise the PNP Training Service; formulate training programs and directives that are required to attain professionalism of PNP uniformed and non-uniformed personnel and operational readiness of the PNP; determine training requirements and allocate training spaces for foreign and local service schools and in civilian universities as authorized; and formulate plans and policies on the acquisition and allocation of training aids and facilities.

C. Post-August 23 Actions

There should be two (2) aspects of the training in connection with the response to man-made incidents, to wit: 1) training on crisis management, and 2) training on hostage negotiations. The PNP is currently revising programs of Instructions (POI) based on lessons learned in different recently-faced crisis and adopting best practices such as:

1. City Municipality Police Station Unit Training
2. Training of Trainer's (TOT) Specialized Unit Training
3. SWAT Refresher Training
4. Specialized Unit Inter-Operability Training
5. Specialized Unit Proficiency Training
6. Revised Crisis Management Manual

Trainings conducted by the PNP after the August 23, 2010 Hostage-taking incident include the following:

1. PNP Unit trainings
2. SWAT Refresher Courses
3. Critical Incident Management Seminars
4. Critical Incident Management Exercises
5. City and Municipal Police Stations Unit Trainings
6. PNP Foreign Training Courses
7. Incountry Trainings

PNP Training must be coordinated with that of the PPSC. There should also be an exhaustive post-incident critique on SOCO after the hostage-taking incident.

The PNP sends its personnel for training abroad and there is a process of selection by the PNP Human Resource as to who will be sent for training. However, it seems that the trainings are wasted because those trained are sometimes assigned to other assignment which is not related to their training. What is worst, the personnel trained only use the training as an additional qualification/achievement for promotion purposes.

The PNP has started its crisis management trainings already, including the training on hostage negotiation. The participants include Mayors, Governors and Sectoral Groups.

There is also a proposal for a private-public partnership between the Gun Club of each city and the LGU, to have a Memorandum of Understanding (MOU) to adopt/sponsor the police station of their locality for training purposes, particularly on practical shooting.

D. PNPA Curriculum

The PNPA was established under Section 19, Presidential Decree 1184 and became a primary component of the Philippine Public Safety College (PPSC), pursuant to Section 67 of Republic Act No. 6975 which was created to

provide preparatory education and training of the three uniformed bureaus of the Department of the Interior and Local Government (DILG), namely, Philippine National Police (PNP), Bureau of Fire Protection (BFP) and Bureau of Jail Management and Penology (BJMP).

The PNPA Manual is based on the provisions of Section 6, Presidential Decree No. 1780 (Philippine National Police Academy Charter of 1981) and Section 67, Republic Act 6975 (Department of the Interior and Local Government Act of 1990), and the Philippine Public Safety College Operations Manual.

The Philippine National Police Academy is tasked to administer the Bachelor of Science in Public Safety (BSPS) Cadetship Program and Conduct research studies on public safety education and training.

The revised curriculum for the four-year BSPS cadetship program composed of academic and non-academic instructions was implemented effective Academic Year 2006-2007 to Class 2010 and future classes. Cadets undergoing the program should earn 221 total academic units which is more than the CHED requirement to obtain a bachelors degree.

Subjects and activities under the academic instructions relates to a particular discipline or branch of knowledge that involves cognitive learning such as those under the branches of Law, Language, Forensic Sciences, Humanities and Social Sciences, and Public Safety Services.

The first and second years of the program are anchored on the basic public safety knowledge, skills, competence and qualities of officership. Third year is focused on the specialization/integration subjects depending on the service the cadets would opt to join after graduation. Fourth year is for thesis writing and integrated review of public safety subjects.

Criminology subjects are incorporated in the course to qualify the graduates for Criminology Licensure/Board Examination as may be certified by appropriate Special Orders from the Commission on Higher Education (CHED). The Non-Academic subjects deal within the technical, practical and affective domain of learning which include but not limited to Aptitude, Conduct, Tactics and Physical Fitness Test (PFT).

E. Proposal for a PNPA Graduate School and Continuing Officers' Education

Crisis Management is not a subject that is included in the curriculum of the PNPA. It is only a three-day course program, the same with Special Action Force Operation Orientation Course (SAFOOC), Jungle Environment Survival Training (JEST), Air to Ground Operations Support (AGOS), Disaster Preparedness & Management, Rescue Training, Close Quarter Battle Training, Art of Negotiation, Firearms Proficiency, Driving, Road Safety & Trouble Shooting, and Martial Arts/ Disarming Techniques.

These short courses should be expanded to full-fledged programs extending to at least two weeks in the PNPA. Specialization in these fields can be further achieved after graduation depending on the chosen field of the police officer. For this purpose, it might be necessary to establish a graduate school for the PNPA, where the present police officers who have undergone field deployment after a certain period of time can be selected based on proficiency and aptitude and given scholarships for graduate studies in the above-mentioned fields.

This will, of course, necessitate the development of the corresponding faculty which in turn can come from the present crop of senior officers of the PNP with the rank of Superintendent and higher and retired officials selected based on their area of specialization. At present, however, assignments in the PPSC, PNTI and PNPA are not attractive. Teaching should be made a requirement for promotion or there should be additional incentives to attract instructors to both the PNPA and the proposed graduate school. In the meantime, continuing education for PNP personnel should be made mandatory, similar to that of lawyers and doctors.

F. Foreign Training

Short Courses or Program trainings offered by foreign law enforcement and military institutions are always the cream in the pudding in both the PNP and the AFP, as in any other government agency. They are always seen as opportunities for travel and instructional advancement, especially if offered by the US, European and other first world countries with A1 accommodations. The inevitable and immutable rule in selection is this, seniority and power precedes rationalization in training opportunities. This means that those up high in the government hierarchy get the best choices in trainings abroad, and in the case of the PNP, this would mean the deployment to choice training grounds of senior officials.

A survey of trainings provided by foreign trainers, both here and abroad, from 2001 to 2009 shows that PNP officials of Superintendent (Lt. Col.) and above rank get the best choice of trainings held in First World countries, while the lower rank are left to settle with trainings conducted locally by foreign trainers.

From 2001 to 2009, 237 PNP personnel trained in Crisis Management and Hostage Negotiation Courses sponsored and conducted by foreign trainers, both abroad and held locally. The following is a tabular presentation of trainings held abroad and the number and ranks of the PNP officials attending the training:

COUNTRY	RANK OF PARTICIPATING PNP PERSONNEL
Washington DC, USA	2 Police Directors, 1 Chief Superintendent, 2 Senior Superintendents
Baton Rouge, Louisiana,	6 Senior Superintendents, 6 Superintendents, 8

USA	Chief Inspectors
Baton Rouge, Louisiana, USA	3 Senior Superintendents, 9 Superintendents, 2 Chief Inspectors
Baton Rouge, Louisiana, USA	3 Senior Superintendents, 9 Superintendents, 5 Chief Inspectors, 1 Senior Inspector, 1 SPO3
Baton Rouge, Louisiana, USA	1 Police Director, 1 Chief Superintendent, 5 Senior Superintendent, 3 Superintendents
New Mexico, USA	1 Police Director, 1 Chief Superintendent, 7 Senior Superintendents, 3 Superintendents
London, England	2 Senior Superintendents
Israel	1 Chief Inspector
Singapore	1 Senior Superintendent
Indonesia	1 Superintendent, 1 Chief Inspector

The selection of senior officials below the rank of Chief Superintendent for foreign trainings is only logical since these officials have still a number of years left in the PNP within which to maximize the benefits of foreign training, especially if these colonels and lieutenant colonels perform operational and critical incident functions, and not merely administrative jobs in the PNP. However, their training can be more maximized if they are required to give instructional courses to lower rank police personnel who operate in units specifically tasked to perform crisis management and hostage-taking situations. These officials should be given incentives, even as they are required to echo their training down the line of police personnel, as teaching needs a lot of preparation and time off even as the police officer is still expected to perform his regular duties.

For this purpose, a serious review and study on the selection process of trainees for foreign training should be made by the PNP for purposes of crafting clear guidelines on selection. At the same time, a program for instructional re-echoing should be drawn up where participants and beneficiaries of foreign training are catalogued and grouped into a trainers' or instructors' pool for purposes of rationalizing their assignments for teaching and training lower rank officers.

There is an existing policy now in the PNP that after the training, the personnel trained have to be assigned in the Training Service for about 6 months but this is not yet strictly implemented. PNP personnel trained abroad should be strictly assigned in the Training Service for at least 6 months right after their return so that they will have the opportunity to echo to the other personnel, the matters that they learned in the training, or at least, they should be required to submit a comprehensive written report of what they learned in their training.

Another option for the PNP is to invite foreign experts to come to the Philippines to train more PNP officers here at a lesser cost to the government. This would address the problem of limited funds that go into financing participation in trainings abroad by PNP personnel.

IX. EQUIPMENT AND UNIFORM

A. Equipment

Initial observation reveals that there is a marked discrepancy between the number of equipment available and the number of recipients or PNP personnel. While this may be due to limited or inadequate resources or even non-allocation of funds for the purpose, the fact remains that the ideal ratio of PNP equipment to personnel has not been met. This seriously hampers efficiency and effectiveness of troops, not to mention possible adverse effects on collective morale.

As per record, there are 109 active members of the MPD PNP Rapid Deployment Platoon (RDP) of which 18 members have no issued equipment whatsoever.

For those fortunate enough to be given a few gear, it is not clear how the distribution of individual equipment was made. No member has exactly the same items as the other. While uniformity of allocation has not been observed, the basis for distribution has also not been made clear.

While it may be argued that distribution may have been made on the basis of individual duty or peculiar capability or even training, it has been observed that of the three snipers who participated in the botched hostage incident, namely: PO3 Cesario Agustin Martin, PO2 Leo Sabete and PO2 Alfredo Ventura Terrado, Jr., none of them have been issued any sniper rifle. In fact, none of them have been officially given a rifle at all.

This does not look good for the service, to say the least. A sniper must have sufficient familiarity of training and use of his rifle. One cannot help but deduce that MPD snipers merely borrow their principal gear from the others. If so, this reflects the sorry state of affairs at the police district.

It is likewise observed that some RDP members have been issued more than one particular item while others have not been given said item at all. For example, PO3 Martin was given two (2) bullet proof vests, while his sniper teammate PO2 Terrado, Jr. was never issued one.

Apart from distribution/allocation issues, the matter of quality of equipment has to be addressed. For this, the assistance of resource persons will have to be utilized.

It also appears on record that several units of hand-held radio were issued to RDP members. However, during the hostage drama, particularly during the assault, these communication gadgets were not utilized. As per gathered testimony (IIRC transcripts of stenographic notes), the operatives merely communicated verbally by signals and by shouting at and with each other. This matter must be properly addressed to prevent disastrous consequences. So much so that in the event, for example, that there is a "stand-down" order from the commanding officer, the assaulting units would

have no means of complying since there is a failure to communicate. The assaulting units would then continue with their operation despite an order to abort or cease the assault. Proper use and provision of communication devices would tackle this issue.

Communication equipment plays a big role in the resolution of the crisis incident and should therefore be provided at the CMOC and the Advance Command Post. Vital means of communication between the members of the task groups and the public, or the hostage-taker and the task-groups must be provided at the CMOC or at the Advance Command Post, i.e., mobile phones, telephone lines, TVs, radios, 2-way radios, and megaphones.

B. Uniform

Under consideration are the Resolutions of the Philippine National Police pertaining to their prescribed uniform, to wit:

1. Resolution No. 2000-73 – Approving the Standard Specification for PNP Civil Disturbance Management and Disaster Relief and Rescue Operation Uniform (Blue Uniform) and Its Paraphernalia;
2. Resolution No. 2000-179 – Amending NAPOLCOM Resolution No. 99-174 Entitled “Approving the Standard Specifications for Transparent Anti-Riot Shield for Use of PNP Uniformed Personnel”;
3. Resolution No. 2005-385 – Prescribing the Standard Specifications for the Field Service Uniforms of the PNP;
4. Resolution No. 2009-300 – Disapproving the Amendment to NAPOLCOM Resolution No. 2005-385 Entitled “Prescribing the Standard Specifications for Field Service Uniform”; and
5. Resolution No. 2009-409 – Disapproving the Proposed Phasing-Out of the Fatigue Blue Camouflage FSU – Type “D” Used by Police Personnel Prescribed Under Napolcom Resolution No. 2005-385.

The above-mentioned resolutions give detailed specifications on the type of standard materials and the measurements of the official uniforms for the PNP personnel for easy identification and visibility during rescue operations. However, they do not mention any scenario which pertains to the protocols on the use of these uniforms. These resolutions do not tackle when and where these prescribed uniforms are to be used, who should use them, and what to do in cases of suspension or dismissal of their personnel.

It is not lost in the observation of many, including the IIRC, that on that fateful day of the hostage-taking, Captain Rolando Mendoza wore his officially issued police camouflage uniform¹⁴ and he also brought with him his

¹⁴ *Ibid.*, page 8.

Permit to Carry Firearm, Firearm License and Mission Order¹⁵. Not only is he no longer allowed to use any of these but the same should have been turned-over to the proper authorities when the order of dismissal dated May 21, 2009 was handed to him. If it was not possible at that time, he should have been given a reasonable deadline to turn over his uniform.

At that time, August 23, 2010, Captain Mendoza is already considered a dismissed officer of the PNP, he should no longer be in the possession of that uniform. But due to the laxity in the PNP, he was able to use that same uniform when he took the passengers of the Hong Thai tour bus as his hostages. The same thing is true with his firearms, Permit to Carry Firearm, Firearm License and his Mission Order. These documents should have been cancelled or revoked and the firearms returned long before the hostage-taking incident happened. In hindsight, we could now say that these helped Captain Mendoza carry out his plan to hostage innocent individuals.

Any Manual of the PNP pertaining to this matter should include the proper procedure to follow when one is dealing with a suspended or a dismissed PNP officer. The same should also be strictly implemented so as to avoid the same incident from happening in the future.

C. Recommendations

1. Uniformity and rationalization of distribution of equipment must be addressed to maximize capability of forces.
2. Actual physical inventory and accounting of equipment must be made to confirm the contents of the documents submitted by MPD.
3. Evaluation of government procurement procedures must be made to facilitate requisition of needed equipment as soon as practicable.

¹⁵ *Ibid.*, page 33.

X. ADMINISTRATIVE AND DISCIPLINARY PROCEDURES

A. Overview – The Web-Maze of Disciplinary and Investigative Authorities Exercising Jurisdiction over PNP Personnel

The Rizal Park hostage-taking incident is a typical illustration of the dysfunction in the government's disciplinary mechanism insofar as it applies to police officers. It is a glaring example of forum-shopping, overlapping of jurisdictions, and denial of due process, all of which are anathema to the dispensation of justice under the judicial system. PSInsp. Rolando D. Mendoza complained of the injustice done to him after the Ombudsman ordered his dismissal from the PNP, an order that was implemented by the PNP even pending his motion for reconsideration.

In the case of Mendoza, the Internal Affairs Service of the Manila Police District (IAS-MPD) investigated the complaint of a private individual while the Pre-Charge Evaluation Division (PCED) of the same MPD was also conducting proceedings on the said case. Mendoza religiously attended proceedings in the IAS-MPD without knowing that a similar case was being conducted by the PCED. He only came to know of the case initiated by PCED-MPD after he was placed under preventive suspension by the NCRPO. Likewise, IAS-MPD did not know that there was a similar proceeding with the PCED-MPD. This illustrates the failure of coordination between two separate investigating bodies within the same unit, and the proliferation of investigating bodies not only within the PNP in general, but within one and the same unit of the PNP, which are more often than not oblivious to the investigations and proceedings of each other.

The experience of Mendoza illustrates the effect of a complicated and confusing disciplinary mechanism and superstructure created by years of unmindful knee-jerk legislation all seeking to solve the problem of rogue PNP officers through the making of more and more laws, resulting in a web-maze of overlapping jurisdictions and turf-defending disciplinary offices, from the NAPOLCOM all the way to the Ombudsman, not to mention the People's Law Enforcement Board (PLEB), the IAS, and the PNP itself. In the end, police officers find themselves stuck to the web, and trapped inside the maze, with no end to the legal entanglements in sight.

B. Disciplinary and Investigative Proceedings Involving PNP Officers and Members

Data submitted by the PNP Legal Service shows that as of October 28, 2010, there are 5,974 investigative, disciplinary, administrative, and criminal cases involving 5,736 PNP personnel. This means that around 238 PNP personnel have more than one case pending with the various government disciplinary and investigative bodies with jurisdiction over PNP personnel. The table below shows the number of PNP personnel cases pending with the corresponding disciplinary or investigative body, nationwide:

BODY/ TRIBUNAL	NO. OF CASES
Ombudsman	840
NAPOLCOM	620
PLEB	141
PNP	3406
IAS	208
CSC	9
CHR	78
Courts	363
Not Specified	71

C. Proposal for a Unified Disciplinary Authority for the PNP

The following recommendations are mainly sourced from proposals advanced by the PNP Director for Legal Service, and are herein adopted with some modifications by the Committee. The proposals are hoped to simplify procedures in administrative cases involving PNP personnel; avoid forum-shopping; put an end to overlapping jurisdictions; eliminate political intervention in police discipline; unclog Ombudsman dockets; avoid corruption and harassment of policemen; unburden line officers performing summary hearing officers (SHO) functions; clarify the function of the IAS; expedite the resolution of cases, and generate accurate statistics on PNP personnel cases.

1. Establishment of a Unified Disciplinary Authority and System for the PNP

Consistent with the pronouncement of the Supreme Court in the case of *National Appellate Board vs. Mamauag (466 SCRA 624)*, a more focused administrative and disciplinary prosecuting arm to address all cases involving policemen should be established for the PNP. This system should include all cases, including citizens' complaint, breach of internal discipline, and service connected offenses. It should be placed under the control and supervision of the PNP Disciplinary Authority with the main function of determining probable cause.

2. IAS as Sole Hearing Body for all PNP Disciplinary Cases

The IAS should be considered as the only body in the whole PNP disciplinary set-up that can conduct hearing on all administrative complaints and cases involving police officers. With this set up, there will be full-time Summary Hearing Officers instead of assigning said duty of conducting hearings to line officers performing other primary police functions. Presently, these line officers cannot give full attention to these cases and are not given the appropriate support, thus, contributing to the delay in resolution of cases. This set-up will promote impartiality and resolve the lingering issue on the functions of the IAS. Likewise, it will clarify and strengthen the power of the Disciplinary Authority.

3. Redefining IAS Function

The IAS should only be considered as a fact-finding body and the imposition of appropriate penalty should be determined by the Disciplinary Authority. The Disciplinary Authority may refer the matter to the Legal Service for

review to determine the appropriateness of the offense and the imposed penalty. The IAS should also be designated as the main repository of case records.

The Legal Service encountered difficulty in monitoring cases which includes locating records of cases. A central office should be created for case monitoring, which could also be the IAS, and assign a personnel whose assignment should be permanent in nature so as to prevent instances wherein inaccurate data are given as a result of unfamiliarity with the records. A database should also be established for easy reference.

4. Abolition of the PLEB

By abolishing the PLEB, the number of disciplinary authorities with jurisdiction over the men of the PNP should be effectively cut by a quarter. There is a sense that the PLEB creates more problems and is a source of harassment and leverage. The functions of the PLEB also overlap with other disciplinary authorities.

5. Removal of National Police Commission (NAPOLCOM) summary proceedings and Regional Appellate Boards

The conduct of summary dismissal proceedings by the NAPOLCOM should be removed. The NAPOLCOM should only act as an appellate body over appeals from the decisions of the Chief, PNP. The Regional Appellate Boards should also be abolished so that decisions of the Regional Directors will be directly appealed to the Chief, PNP.

6. Limiting Functions of other investigative agencies

Other investigative agencies should not decide administrative cases involving PNP personnel. However, they may endorse/ refer their investigation reports to the proper PNP Disciplinary Authority.

7. Limiting Ombudsman jurisdiction

The Ombudsman should only attend to cases involving policemen who are subject to Sandiganbayan jurisdiction, i.e., those with SG 27 or PCSupt. and above. For all other PNP members, including non-uniformed personnel, the PNP should be vested with exclusive jurisdiction to investigate and decide their cases. This set up will help unclog the dockets of the Ombudsman and spare most PNP members from unnecessary harassment cases.

8. Redefining the roles of the Directorate for Investigation and Detective Management (DIDM) and the Directorate for Personnel and Records Management (DPRM).

The DIDM should cease to conduct pre-charge evaluation of administrative cases. It should focus on monitoring and supervising criminal cases filed by the PNP. On the other hand, DPRM should be designated as the sole directorate concerned with all administrative matters in the PNP including proper implementation of the PNP disciplinary mechanism. It should cease to review

administrative cases and such function shall be given to the Legal Service as the legal arm of the PNP.

D. Pre-Charge Evaluation vs. Pre-Charge Investigation

Under MC 2007-001 of the NAPOLCOM (Uniform Rules of Procedure before the Administrative Disciplinary Authorities and the Internal Affairs Service of the Philippine National Police), pre-charge evaluation is used wherein a complaint is needed to initiate the evaluation of a case against a PNP member. There is no need to invite the complainant to render evaluation based on the documents presented. It also does not require the submission of counter-affidavits before determining probable cause. In effect, a respondent policeman is not aware of any pending complaint against him during pre-charge evaluation and is only notified of the same when a decision is already made.

Prior to the issuance of MC 2007-001, what is used is the pre-charge investigation wherein both parties are invited to submit affidavits or their respective positions, and could be subjected to clarificatory questioning. Pre-charge investigation should be revived since the investigator is given the chance to ask clarificatory questions and expedite the process.

A review on the provisions pertaining to the rule on non-forum shopping under MC 2007-001 should also be made.

E. Legal Assistance and Counseling

The Manila hostage-taking incident is an opportunity for the PNP to redirect its attention towards providing responsive programs for its personnel. The recent hostage-taking incident involving a dismissed policeman could have been avoided had such person been afforded timely legal assistance.

The legal assistance program is mandated by Sec. 56 of R.A. No. 8551 which amended Sec. 49 of R.A. No. 6975. The statute provides that "The Secretary of Justice, the Chairman of the Commission or the Chief of the PNP may authorize lawyers of their respective agencies to provide legal assistance to any member of the PNP who is facing before the prosecutor's office, the court or any competent body, a charge or charges arising from any incident which is related to the performance of his official duty."

The PNP Legal Service (LS) renders responsive legal assistance to operational and administrative concerns of the organization. The primary duty of an LS Legal Officer is to render timely and pro-active legal assistance to PNP personnel beset with legal problems.

Aside from providing legal support to police operations, the LS also recognizes the need for adequate legal assistance to policemen, especially those with pending cases for service connected charges. The fear of being charged with harassment suits is among the barriers that hinder an otherwise top rate cop from zealously performing his duties.

Project "Gabay"

Lawyers are recruited into the PNP, through the lateral entry program, primarily to provide legal assistance to a policeman once he is charged with service related cases. It is better not to wait for service related charges to be filed, before performing the duty of providing legal assistance to policemen. The initial action of rendering counseling is, in itself, a form of extending legal assistance. Drawing lessons from the recent Manila hostage-taking incident, the LS conceptualized Project: "Gabay", which endeavored to provide legal counseling to PNP uniformed personnel.

There is a need to make an inventory of all pending criminal, administrative or civil cases against all police personnel in various judicial bodies and administrative disciplinary jurisdictions. The goal is for an equal distribution of all cases among LS Legal Officers (LO's) with the mandate to render immediate legal assistance to all PNP personnel facing suits. The distribution of cases to be assigned to legal counselors should be determined after the survey from various police regional offices, and national operational and administrative units are completed.

Department of Justice (DOJ) and Public Attorneys Office (PAO) Guidelines on Legal Assistance

DOJ Memorandum Circular No. 78 dated October 26, 2009 provides for the procedure in extending legal assistance to policemen while PAO Memorandum Circular No. 3 dated January 27, 2010 states the policies to be observed by public attorneys in providing legal assistance to police officers with the rank of PO1 to SPO4. The Circular applies to all cases where said police non-commissioned officers (PNOCs) are sued in connection with the performance of their respective police duties and official functions. The usual indigency test being applied by PAO in determining eligibility of litigants to free legal assistance no longer applies to PNOCs.

IBP MoA

Although the Memorandum of Agreement (MOA) with Integrated Bar of the Philippines (IBP) is still subsisting, the problem boils down to lack of funds. PNP shoulders all the expenses of IBP lawyers in assisting PNP personnel. It was only this year that an appropriation of P10M for legal assistance was approved.

Guidance Counseling Office

A Guidance Counseling Office should be created to prevent negative approach on erring PNP personnel. The said office may refer problematic police officers for rehabilitation and change or if not to take appropriate action to remove the erring personnel to prevent further damage or problem to the PNP. It is best to solicit participation or involvement of the community, like priests and psychologists, for intervention. It may be voluntary or by referral to prevent damage to the reputation of the police officers involved.

HIGHLIGHTS AND SUMMARY OF RECOMMENDATIONS

I. General Recommendations

1. Formation of a Technical Working Group, under the Peace and Order Council (POC) or the National Crisis Management Committee (NCMC), for the purpose of crafting a Uniform Crisis Management Manual for all stakeholders.
2. Designation of a specific government agency which will ensure that the recommended Uniform Crisis Management Manual and the internal policies and procedures are in place, properly disseminated and monitored, and that the prescribed crisis response organizations are created at the National, Regional and Local levels.

II. Crisis Management Organization

1. Definitive identification of the composition of the POC and familiarization of all concerned heads of agencies and LGU officials of the organizational structure of officials involved in crisis management.
2. Definitive identification of "Political" and "Military/Police" leadership including functions, responsibilities, and specific tasking at Municipal, City, Provincial, Regional, and National Level Crisis Management Organization.
3. Definitive identification of Chairman of local Crisis Management Committee (CMC) and agencies involved in the CMC.
4. Definitive enumeration and delineation of the authority, functions and responsibilities of the CMC Chairman vis-à-vis the Critical Incident Management Task Group (CIMTG) Chairman and the On-Scene Commander (OSC), as well as between the CIMTG Chairman and the OSC.
5. Definitive identification of designating authority of sub-task groups, as follows:
 - a. Critical Incident Management Committee (CIMC) Chairman as designating authority of heads of sub-task groups, with the CMC Chairman recommending members of civilian components of sub-task groups.
 - b. CIMC as designating authority of OSC, chosen among themselves, ideally the head of the CIMTG.
 - c. Control and Supervision of sub-task groups, including civilian components, should be vested on the CIMTG Chairperson.
6. Definitive identification and enumeration of functions and responsibilities of command groups.
7. Prior planning of CMCs on different crisis situations to formulate and facilitate Standard Operating Procedures (SOPs).

III. National or Local Crisis

1. Formulation of policy establishing parameters in determining whether a crisis is a national or local crisis.
2. Designation of authority who determines whether a crisis is national or local.
3. Formulation of SOP for the take over of command and supervision by higher CMC over local CMC, or the elevation of a crisis situation by the local CMC to higher CMC.
4. Formulation of policy of automatic elevation to, and assumption of authority by the NCMC, specific to involvement of foreign nationals in crisis situations, including crisis occurring within embassy premises.
5. Formulation of SOP specific to crisis situations involving foreign nationals or occurring inside embassies or foreign-occupied facilities.

IV. CMC Activation

1. Formulation of specific and clear SOP on official convening of the CMC and corresponding sanctions for failure to follow SOP.
2. Formulation of SOP on manning of CMOC and Advance Command Post in relation to physical presence of CMC Chairman and OSC, and relative to deployment of task groups, as well as on designation and transfer of Advance Command Post.
3. Formulation of SOP on relief of OSC by higher authority.
4. Inclusion of psychologists specializing in criminal and offender profiling and training of PNP negotiators by these specialists for hostage-taking and other similar incidents.

V. Hostage Negotiations and Action Stage

1. Identification of CIMC as designating authority of Chief Negotiator from a pool of PNP negotiators not necessarily coming from the local PNP command.
2. Further elaboration of categorization of threat groups and hostage-takers.
3. Mandatory training on initial handling of hostage-taking incidents by elements of the PNP as first responders.
4. Inclusion of crowd control sub-task group in the CIMC and CIMTG and elaboration of SOP on the setting up of a police line and arrest procedures in case of breach by the public or media.
5. Documentation of strategy, planning and operational actions all throughout the action stage for purposes of post-incident assessment, review and critique.
6. Formulation of detailed and specific SOP on the use of intermediaries.
7. Formulation of specific SOP on use of official communication equipment instead of ordinary private cellular phones by PNP and CIMC officials.

8. Re-evaluation of SOP on tactical options or actions during negotiation stage. Such re-evaluation may involve the Commission on Human Rights (CHR).
9. Re-evaluation of the policy on the use of the PNP-SAF, including its designation as a first option rapid deployment special assault unit in hostage-taking incidents.
10. Creation of a Committee within PNP to assess compliance by police units with basic relevant procedures during operations.

VI. Post-Action Operations

1. Formulation of SOP requiring presence of SOCO at the start of the crisis incident, and during the crime incident, including its inclusion in the CIMTG as a sub-task group, in preparation for post action securing and processing of the crime scene.
2. Formulation of SOP on planning for rescue of injured victims, including the securing of victims by PNP officers at the hospital, prior coordination and planning with hospitals and rescuers, and preparation of emergency medical routes, such as closing of routes to traffic until the resolution of the crisis incident and safe passage of emergency vehicles to and from hospitals.
3. Formulation of SOP on debriefing and submission of after-encounter reports and providing for sanctions in case of failure to comply with the SOP.
4. Inclusion of a representative of the Prosecutors' office in the sub-task groups and providing sanctions for failure of the head Prosecutor concerned to assign such representative.

VII. Training and Equipment

1. Coordination of PNP training with the Philippine Public Safety College (PPSC).
2. Exploration of public-private partnership schemes in PNP training.
3. Deployment of participants in foreign trainings to training schools for a certain period for purposes of re-echoing benefits of foreign training.
4. Serious review and study on the selection process of trainees for foreign training.
5. Study of proposals for a PNPA Graduate School and implementation of Continuing PNP Officer's Education.
6. Formulation of sustainable program on foreign law enforcement agency-sponsored trainings conducted domestically.
7. Rationalization of distribution of equipment.
8. Evaluation and review of government procurement procedures to facilitate PNP requisition needs.

VIII. Administrative and Disciplinary Procedure

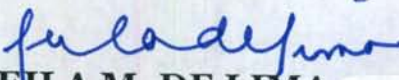
1. Establishment of a Unified Disciplinary Authority for the PNP.
2. Establishment of Internal Affairs Service (IAS) as sole hearing body for all PNP disciplinary cases and redefining its existing functions.
3. Abolition of the PLEB.
4. Removal of NAPOLCOM summary proceedings and of Regional Appellate Boards.
5. Limiting functions of other investigative agencies in disciplinary and administrative cases of PNP personnel.
6. Rationalization of guidelines on legal assistance and counseling to PNP personnel.
7. Inventory of all pending criminal, administrative or civil cases against police personnel in various judicial and administrative bodies.

IX. Recommended Legislative Initiatives

1. Passage of a law penalizing breaching of an established police line, restricted zone, or crime scene without authority.
2. Passage of a law penalizing contact and/or communication with a hostage-taker during the hostage-taking incident and/or interference with the crisis management operations, without authority from the ground commander or appropriate authority as obstruction of justice.
3. Passage of a law requiring health service providers, clinics or hospitals to whom victims of crime, including hostage-taking are brought, to preserve evidence such as clothing and other personal effects for proper turn-over to police authorities within a specified period and also making it unlawful for police authorities to refuse acceptance of turned-over evidence.
4. Passage of a law penalizing unauthorized persons to board evacuation vehicles such as ambulances used in the evacuation of victims or casualties during a hostage-taking or similar incidents, making it also unlawful to allow such boarding of unauthorized persons.
5. Passage of a law providing for a uniform and simplified procedure in the handling of cases against police and enlisted personnel, providing legal assistance and for other related purposes.

Respectfully submitted.

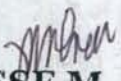
4 March 2011, City of Manila.


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Chairman




Department of Justice
SLML-11-0011184




JESSE M. ROBREDO
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