

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

FIFTEENTH CONGRESS
First Regular Session
0000 309
House Bill No. _____

Introduced by Honorable Roilo Golez

EXPLANATORY NOTE

We should prevent the transformation of the Philippines from a democratic state, the beacon of democracy in Asia, into a narco-democracy of Asia with 1.7 million Filipino users.

We should halt the growth and influence of narco-politics to prevent the tragedy of destroying governmental institutions.

We should directly respond to the illegal drug crisis which has assumed a gargantuan proportion approximating a national security threat through a single, solid and strong blow: a Special Prosecutor for Dangerous Drugs.

We should put an end to bungled handling of illegal drugs cases such as the Lawrence Wang case more than ten years ago and other recent cases which seem to go nowhere because the defendants are high and mighty or they create a seemingly impenetrable wall of authority arising from their political position and economic clout.

This bill seeks to establish an Office of the Special Prosecutor on Dangerous Drugs to directly counter the drug menace that has wreaked havoc to young minds, institutions of government, and the pillars of the criminal justice system.

The Office of the Special Prosecutor for Dangerous Drugs will handle the prosecution of all drug lords and big-time traffickers in the likes of suspected drug lord Alfredo Tiongo, as well as top government and police and military officials linked to drug corruption.

We should arm the Special Prosecutor on Dangerous Drugs with all the support in law and funds to implement the intent of this measure. An initial budget of Php 200 Million is provided, a pittance as compared to the humongous war chest drug lords have - - a level 1 drug operator is said to earn Php 200 million a month or Php 2.4 billion a year.

Colombia resorted to this measure more than a decade ago and here is a chilling account of the situation in Colombia per a TIME Magazine article dated 18 September 1995:

SHOWING COURAGE AND INTEGRITY, PROSECUTOR ALFONSO VALDIVIESO PROBES DRUGLORDS AND CORRUPT POLITICOS

Alfonso Valdivieso moves about Bogota with all the security normally accorded a head of state: a caravan of armor-plated cars, a posse of 15 heavily armed bodyguards. The picture window in his fifth-floor office offers a view that is distorted by the 2-in.-thick armored glass. Supposedly, the window can withstand a direct hit by a bazooka rocket.

The precautions are not paranoid. As Colombia's Prosecutor-General, Valdivieso is one of the most powerful and feared men in his very violent country. It follows that he is perhaps its most endangered citizen. Since his appointment in 1994, Valdivieso has systematically exposed the criminal-political conspiracy that sheltered 80% of the world's cocaine trade and earned his nation infamy as a "narco-democracy." Willing to take risks no predecessor in law enforcement dared, he has built cases against six of Colombia's drug-trafficking kingpins in recent months.

The investigations have Colombians applauding Valdivieso's audacity, yet his biggest achievement may still be ahead of him. Last month he jailed the former Defense Minister, Fernando Botero, for allegedly soliciting drug money for the 1994 campaign of President Ernesto Samper. Many observers believe the gathering scandal may ultimately force the President's resignation.

With so many powerful enemies--he is also investigating more than a dozen Congressmen, including leaders of the ruling Liberal Party, on suspicion of drug corruption--Valdivieso not surprisingly receives a constant stream of death threats. Last month the Prosecutor-General's security detail defused a powerful car bomb found parked half a block from his office. The modest lawyer takes all the danger in his stride. "These kinds of threats," he shrugs, "they all come with the territory."

Valdivieso's courageous course of action has rendered the territory more hazardous. The post of Prosecutor-General was created in 1991 in reaction to the immense corruption and fear that suffused Colombia's existing criminal-justice system.

"Valdivieso has sent a signal against drug trafficking," says Juan Lozano, a columnist for El Tiempo, Colombia's leading daily. "He is unbribable, and he transmits that message. He's honest, fair and brave." And normally unflappable.

The Prosecutor-General recently turned over to a special congressional commission boxes of documents related to allegations that Samper approved receipt of the dirty campaign money. The lawmakers will decide whether he should be impeached and tried for corruption. "We are not investigating the President," says Valdivieso. "Congress is investigating him."

Should Samper ultimately be forced from office, Valdivieso says, it would give him no pleasure: "When judicial decisions are taken, especially when they involve friends and acquaintances, one cannot feel satisfaction. The only thing that feels good is the sense that you are doing your duty."

Immediate passage of this measure is requested.



ROILO GOLEZ

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AN ACT
ESTABLISHING THE OFFICE OF THE SPECIAL PROSECUTOR FOR DANGEROUS DRUGS
AND FOR OTHER PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Declaration of Policy.* – It is the declared policy of the State to maintain peace and order, protect the life, liberty and property and promote the general welfare of all its people. Pursuant thereto, the State shall provide government with a principal law agency which shall be its chief prosecution arm for dangerous drugs and dangerous drugs trade.

SECTION 2. *Creation of the Office of the Special Prosecutor for Dangerous Drugs.* – There is hereby created an independent and autonomous Office of the Special Prosecutor for Dangerous Drugs attached to the Office of the President.

SECTION 3. *Organizational Structure.* – The Office of the Special Prosecutor for Dangerous Drugs, hereinafter cited as OSPDD, shall be headed by the Special Prosecutor for Dangerous Drugs, who shall be the chief prosecutor of the Government for dangerous drugs. The Special Prosecutor for Dangerous Drugs shall have the authority and responsibility for the exercise of the office's mandate and for the discharge of its duties and functions, and shall have supervision and control over the Office.

The Special Prosecutor for Dangerous Drugs shall be assisted by twelve (12) Deputy Prosecutors for Dangerous Drugs, twenty-four (24) Assistant State Prosecutors for Dangerous Drugs and such number of administrative personnel as may be necessary to operate the Office.

SECTION 4. *Coverage.* – The OSPDD shall be the chief prosecution arm of the Government for dangerous drugs, dangerous drugs trade, violations of Republic Act No. 9165 otherwise known as the Comprehensive Dangerous Drugs Act of 2002, and shall cover the following:

1. drug traffickers belonging to the category Level III and above as defined by the Philippine Drug Enforcement Agency (PDEA);
2. public officials charged with violations of Comprehensive Dangerous Drugs Act belonging to the rank of:
 - a) Police Superintendent and above;
 - b) Municipal and city chiefs of police, provincial director, district director, regional director, group directors and above irrespective of police rank;
 - c) Lieutenant Colonel or Navy Commander and above of the Armed Forces of the Philippines;
 - d) Prosecutors and judges and other members of the Judiciary of all levels;
 - e) Elected officials from the position of municipal councilors and above;
 - f) Civil service officials from salary grade level 24; and
 - g) All public officials irrespective of rank, whether in the Dangerous Drugs Board (DDB), PDEA, AFP, PNP, or other law enforcement and other government agencies, including local governments, whose principal duty is to enforce the Comprehensive Dangerous Drugs Act;

SECTION 5. Powers and Functions. – The OSPDD shall have the following powers:

1. To investigate, initiate court action, or in any manner proceed against any person, corporation or firm which may be or is involved in the dangerous drug trade;
2. To represent the Government in the Supreme Court and the Court of Appeals in all criminal cases on dangerous drugs and drug-related proceedings pursuant to Section 4 of this Act;
3. To coordinate and exchange information with the PDEA, Philippine National Police, Dangerous Drugs Board, the National Bureau of Investigation, and the Armed Forces of the Philippines on dangerous drugs trade;
4. To apply from a proper court for a temporary restraining order effective for sixty (60) days without notice or opportunity for a hearing before, during, or after the filing of the information directing the defendant or any person acting on his behalf to desist from disposing and to preserve the availability of the property for forfeiture upon due demonstration that there is probable cause to believe that the property will be subject to forfeiture and the provision of notice will jeopardize the availability of the property for forfeiture;
5. To seize, upon the judgment of conviction by the court, all properties so ordered forfeited; *Provided that*, the judgment of forfeiture in the original case shall be without prejudice to the right of the government to initiate further forfeiture proceedings on properties of the accused which may later be discovered as part of the proceeds of the commission of the crime;

6. To administer oaths, and issue subpoenas requiring the attendance and testimony of witnesses and / or the production of such books, papers, contracts, records, statement of accounts, and other documents as may be material to the investigation conducted by the OSPDD;
7. To hold any person in direct or indirect contempt and impose appropriate penalties following the same procedures and penalties provided in the Rules of Court;
8. To seek and secure the assistance of any office, agency, or instrumentality of the government;
9. To promulgate such rules and regulations as may be necessary to carry out the purposes of this Act;
10. To represent the Republic of the Philippines in international drug litigation, negotiations, or conferences where the legal position of the Republic must be defended or presented; and
11. Perform such other functions as may be provided by law.

SECTION 6. *Appointments.* – The Special Prosecutor for Dangerous Drugs shall be appointed by the President and shall have the qualification for appointment, rank, prerogatives, and privileges of a Department Undersecretary. The Special Prosecutor for Dangerous Drugs must have no political affiliation nor any involvement, direct or indirect, in partisan politics.

The Deputy Prosecutors for Dangerous Drugs and other prosecutors for Dangerous Drugs shall be appointed by the President upon recommendation of the Special Prosecutor for Dangerous Drugs. The Deputy Prosecutors for Dangerous Drugs and prosecutors for Dangerous Drugs shall have the qualification for appointment, rank, prerogatives and privileges of a Chief State Prosecutor and an Assistant Chief State Prosecutor.

The administrative personnel in the Office of the Special State Prosecutor for Dangerous Drugs shall be appointed by the Special Prosecutor for Dangerous Drugs.

SECTION 7. *Term of Office; Ban on Elective Office.* – The Special Prosecutor for Dangerous Drugs and the Deputy Prosecutors for Dangerous Drugs shall serve for a fixed term of six (6) years. The Special Prosecutor for Dangerous Drugs, Deputy Prosecutors for Dangerous Drugs, and Prosecutors for Dangerous Drugs are banned from running for any elective position for six (6) years after his / her terms of office, completed or otherwise.

SECTION 8. *Funding.* – The amount of Two Hundred Million Pesos (Php 200,000,000.00) shall be included in the General Appropriations Act of the year following its enactment into law and thereafter.

SECTION 9. *Separability Clause.* – If any part or provision of this Act is held invalid or unconstitutional, the other parts or provisions hereof shall remain valid and effective.

SECTION 10. *Repealing Clause.* – All laws, decrees, executive orders, rules and regulations, ordinances, and other issuances, or parts thereof, which are inconsistent with this Act are hereby repealed or modified accordingly.

SECTION 11. *Effectivity* – This Act shall take effect upon its publication in at least two (2) national newspapers of general circulation.

Approved,