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KAGAWARAN ng REPORMANG PANSAKAHAN

MEMORANDUM CIRCULAR
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SUBJECT: NATIONAL EMERGENCY MEMORANDUM
ORDER NO. 26

Attached is a copy of National Memorandum Order No. 26 of the Office of the President dated May 21, 1990 directing the immediate implementation of Presidential Decree No. 1713 entitled "Providing for Rewards and Incentives to Government Witnesses and Informants and Other Purposes".

In view of the relative importance of this order particularly to field officials and personnel, dissemination up to municipal level is imperatively necessary.

For information and compliance.


DOROTHY LL. TADEO
Undersecretary

MALACANANG
MANILA

NATIONAL EMERGENCY
MEMORANDUM ORDER NO. 26

DIRECTING THE IMMEDIATE IMPLEMENTATION OF PRESIDENTIAL
DECREE NO. 1731 ENTITLED, "PROVIDING FOR REWARDS
AND INCENTIVES TO GOVERNMENT WITNESSES AND INFORMANTS
AND OTHER PURPOSES"

WHEREAS, Presidential Decree No. 1731 provides for
rewards and incentives to government witnesses and
informants for crimes against national security or public
order and organized or syndicated crimes;

WHEREAS, the Secretary of Justice and Secretary of
National Defense have recommended the approval of a set of
rules and regulations implementing the protection and
incentives program for government witnesses and informants
under Presidential Decree No. 1731;

WHEREAS, the implementation of a witness protection and
incentives program is vital and imperative to neutralize the
commission of crimes against national security or public
order as well as of organized or syndicated crimes and other
criminal activities, which continue to proliferate to the
great prejudice of the economic development of the country
and the security and general welfare of the citizenry;

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NOW, THEREFORE, I, CORAZON C. AQUINO, President of the
Philippines, by virtue of the powers vested in me by
Republic Act No. 6826, do hereby order the immediate
implementation of Presidential Decree No. 1731 and do hereby
approve the following implementing rules and regulations
jointly promulgated by the Secretaries of Justice and
National Defense:

Section 1. - Statement of Objective. - The grant of
monetary reward and incentives to government witnesses and
informants who are willing to testify and/or give vital
information to build up the case for the prosecution and/or
secure the conviction of the criminal offenders is intended
to encourage the general public to assist the law
enforcement agencies in the fight to neutralize crimes
against national security and public order as well as
organized or syndicated crimes.

Section 2. Coverage. - The monetary rewards and incentives provided for in Presidential Decree No. 1731 as implemented by this Memorandum Order may be granted to witnesses/informants who will testify or furnish vital information regarding the existence or activity of a group involved in the commission of crimes against national security and public order or of an organized or syndicated crime group.

Section 3. Definition of Terms. - The following terms shall be construed to mean as follows:

(a) "Government" means the Republic of the Philippines, any of its political subdivisions (provinces, cities, municipalities and barangays), or any department, agency or instrumentality thereof.

(b) "Crimes against National Security" shall refer to Treason, Conspiracy and Proposal to Commit Treason, Misprision of Treason, and Espionage as defined and penalized in Articles 114, 115, 116 and 117 of the Revised Penal Code as well as the Anti-Espionage Law (Commonwealth Act No. 616).

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(c) "Crimes Against Public Order" shall refer to Rebellion or Insurrection, Conspiracy and Proposal to Commit Rebellion or Insurrection, Disloyalty of Public Officers or Employees, Inciting to Rebellion, Sedition, and all other crimes or offenses defined and penalized in Chapters One, Two, Three, Four, and Five, Title Three, Book Two of the Revised Penal Code, Subversion (as defined and penalized in Republic Act No. 1700, as amended), Economic Sabotage, as well as crimes committed in furtherance or on the occasion thereof, or incident thereto, or in connection therewith.

(d). "Organized/Syndicated Crime" means any crime committed by an organized/syndicated crime group, including but not limited to Arson, Robbery (Hold-up), Kidnapping for Ransom, Prostitution, Illegal Recruitment, Carnapping, Smuggling, Piracy, Cattle Rustling, Illicit Drug Trafficking, Labor Rackets, Land Title Rackets, Manufacture and/or circulation of Fake Documents, Licenses, Stamps, Currencies, and other government forms, Counterfeiting and Bank Frauds, Consumer Frauds, and other illegal activities of such groups like Tax Frauds and Illegal Gambling, among others.

(e). "Organized/Syndicated crime group" means a group of two (2) or more persons collaborating, confederating or

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

(f). "Witness" shall refer to any person who, having organs of sense, can perceive and, perceiving, can make known his perception to others.

(g). "Informant" shall refer to any person, not a witness, but who provides vital information regarding the existence or activities of a group involved in the commission of crimes or offenses against national security and public order or the members of an organized/syndicated crime group.

(h). "Vital information" shall mean any information, document, book, writing, (tape, recording, computer/electric entry) or any other evidence necessary to build up the (people's) case for the prosecution and/or secure the conviction of criminals.

bl (i). "Real or Direct Evidence" is that which proves the act in dispute without the need of any inference/presumption.

(j). "Immediate Members of His Family" means the spouse, children and parents of the witness/informant.

(k). "Members of His Family or Household" means the spouse, children and parents of the witness/informant and all those who dwell with him under the same roof and constitute his family.

Section 4. Government Witness/Informant Who May Be Entitled to the Benefits Under Presidential Decree No. 1731.
Any person who meets the following conditions/requirements may qualify as witness/informant entitled to the benefits provided for under Presidential Decree No. 1731 and this Memorandum Order:

a. For a Government Witness - Any person who shall testify and substantially contribute to the build up of the case for the prosecution and/or secure the conviction of persons who commit crimes/offenses against national security and public order, or of the members of an organized/syndicated crime group; and

b. For a Government Informant - Any person, not a witness, who provides vital information regarding the existence or activities of a group involved in the

commission of crimes or offenses against national security and public order, or of the members of an organized/syndicated crime group.

Section 5. Monetary Assistance/Incentives for Government Witness/Informant. Any government witness or informant may be awarded any or all of the following rewards and incentives:

a. Monetary. - A cash reward categorized according to the gravity of the offense as to which the vital testimony/information was given to wit:

- (1) P50,000.00 - Where the penalty imposable for the offense is not less than life imprisonment;
- (2) P40,000.00 - Where the penalty imposable for the offense is 12 years and 1 day to 20 years;
- (3) P30,000.00 - Where the penalty imposable for the offense is 6 years and 1 day to 12 years;
- (4) P25,000.00 - Where the penalty imposable for the offense is below 6 years and 1 day.

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In instances where there are two or more witnesses or informants in a particular case, the reward shall be divided equally among them and /or prorated depending on the value or importance contributed by the information/testimony to the success of the government operation in the apprehension/prosecution of the accused, as determined by the Secretary of National Defense or Secretary of Justice.

b. Incentives. - These are security measures provided whenever in the judgment of the Secretary of National Defense the testimony from, or a willingness to testify by, a witness would place in danger the witness' life or person, or the life or person of any member of his family or household.

(1) Security of persons:

- (a) The security to be provided a government witness/informant may be in the form of security personnel, technical equipment and/or a registered firearm with a corresponding authority to carry said firearm outside residence.

- (b) Any form of security shall be provided only with the consent of the witness/informant.
- (c) As a rule, the maximum number of security personnel to be provided shall be limited to two (2) for the witness/informant and one (1) each for every member of his family or household. Nevertheless, depending on the actual and potential threat on the life or person of a witness and the members of his family or household, this number may be increased or decreased.
- (d) The security provisions shall be provided as long as the threat is present as determined by the Chief of Constabulary, Director General, INP, and approved by the Secretary of National Defense. Any reduction or augmentation thereon shall be determined by the same authorities.
- (e) Security personnel may be uniformed or covert.
- (f) Technical equipment shall be provided, installed and maintained by the PC/INP or any other law enforcement agency as determined by the Secretary of National Defense.

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(2) Protected Housing Facilities. - This may be provided only with the consent of the witness/informant. It may include other measures for the health, safety and welfare of the witness/informant and his family. The use of such facilities may continue as long as the Secretary of National Defense determines that there is a danger to the life or person of the informant/witness.

(3) New domiciles and new identities:

- (a) New identities may be provided a vital government witness and the immediate members of his family only upon application of the witness.
- (b) A new domicile is a condition precedent for a new identity. The new domicile should be consistent with the new identity provided.

(c) The new identity should be at par with or better than the present social status of the family of the witness.

(d) The new identity shall be bestowed only after the witness has completed his testimony to minimize the possibility of compromise.

(c) Immunity from Criminal Prosecution. - This applies to the witness participation or involvement in the criminal case in which his testimony is necessary and may be availed of only upon his actually testifying in court in accordance with his undertaking, and provided that:

[1] There is absolute necessity for the testimony of the witness and/or information given by him regarding the existence or activity of a group involved in the crimes against national security or public order or of an organized/syndicated crime group and/or the culpability of individual members thereof;

[2] There is no other real or direct evidence available for the proper prosecution of the offense committed except such testimony and/or information to be given by him;

[3] Such testimony or information can be substantially corroborated in its material points; and

[4] The witness, if he is a suspect, respondent or defendant in a case either under investigation or filed in court, does not appear to be the most guilty.

Section 6. Secretariat on Rewards and Incentives. - There is hereby created a Secretariat on Rewards and Incentives within the Office of the Secretary of National Defense to be composed of one (1) representative each from the Department of Justice; the Judge Advocate General's Office; the PC/INP; the Office of the Deputy Chief of Staff for Intelligence, J-2, AFP; the Chief, Secretariat, Joint Legal Action Committee (JOLAC) created pursuant to the DND-DOJ Joint Circular dated 22 June 1988; and the Assistant Secretary for Legal Affairs (ASLA), Department of National Defense, as Chairman.

The Secretariat shall perform the following functions, duties and responsibilities:

[1] Receive, evaluate and process the documentation submitted by the Chief of Staff, AFP; Chief of Constabulary /Director General, INP; or the head of any law enforcement agency concerned;

[2] Determine if the potential government witness/informant is qualified under PD 1731;

[3] Recommend the appropriate amount of monetary reward to be given to the witness/informant;

[4] Recommend the nature of security that will be provided the witness/informant as well as the members of his family or household, as may be necessary or appropriate;

[5] Recommend whether or not the witness/informant should be provided with a new domicile, and if so, the nature of such new domicile and whether a housing facility should be purchased, rented or remodelled;

[6] Recommend whether or not the witness/informant and the immediate members of his family should be provided with new identities;

[7] Maintain case files and records of its proceedings;

[8] Monitor all activities being undertaken pursuant to Presidential Decree No. 1731, and this Memorandum Order;

[9] Coordinate the annual review of the program;

[10] Perform such other duties as may be required by competent authorities.

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Section 7. Recommendation to Qualify a Person as Government Witness/Informant. Whenever the testimony of a person is necessary to build up the case for the prosecution and/or secure conviction, the corresponding recommendation shall be made by the Chief of Staff, or the head of any law enforcement agency concerned to the Secretary of National Defense, through the Secretariat, that such person be qualified and declared as a government witness/informant entitled to any or all of the rewards and incentives provided under Presidential Decree No. 1731 and this Memorandum Order.

Section 8. Declaration of Immunity of Witness. -

[a] By the Secretary of National Defense. - The

Secretary of National Defense, upon recommendation of the military prosecutor, may declare a government witness as immune from criminal prosecution subject to the conditions/requirements prescribed in this Memorandum Order.

[b] By the Secretary of Justice. - The Secretary of Justice, upon recommendation of the state prosecutor/fiscal, may declare a government witness as immune from criminal prosecution subject to the conditions/requirements prescribed in this Memorandum Order.

Section 9. Witness Court Appearance. - Whenever in the judgment of the prosecutor or fiscal the testimony of any witness, who is provided with security by the Secretary of National Defense pursuant to Presidential Decree No. 1731 and this Memorandum Order, is necessary, proper application for his production and appearance shall be filed with the Secretary of National Defense through the Secretariat.

Section 10. Documentary Security. - All documents and papers and all information in the documents or papers concerning a witness/informant who is provided with rewards and/or incentives under Presidential Decree No. 1731 and this Memorandum Order shall carry a classification not lower than SECRET and shall be handled in accordance with existing government regulations for classified documents.

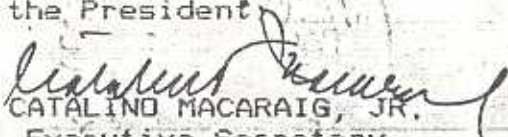
Section 11. Funding. - Funds necessary to carry out the provisions of this National Emergency Memorandum Order shall be taken from applicable funds in the Departments of Justice and National Defense and such other applicable appropriations as may be determined by the Department of Budget and Management.

Section 12. Annual Review. - The Secretary of National Defense and the Secretary of Justice shall conduct a review of all the operations and activities of the Secretariat at least once a year.

Section 13. Effectivity. - This urgent Memorandum Order shall take effect two (2) days after its publication in at least two (2) national newspapers of general circulation.

Done in the City of Manila, this 21st day of May in the year of Our Lord, nineteen ninety.

By the President


CATALINO MACARAIG, JR.
Executive Secretary

