

HUMAN RIGHTS ADVISORY
CHR (V) 2015-001

ON WHETHER OR NOT THE HUMAN RIGHTS OF A PERSON IS VIOLATED BY POSTING HIM/HER AS “PERSON OF INTEREST”

This advisory is issued in order to address the query of the Secretary, Department of Interior and Local Government (DILG), on whether or not the human rights of a person is violated by posting him/her as a “Person of Interest”. The query was referred to the Commission by Police Senior Superintendent, *Dennis A. Siervo*, Acting Chief, Human Rights Affairs Office (HRAO), Philippine National Police (PNP).

Foremost, it is necessary to establish the definition or meaning of the following words used in the query.

“Suspect” – means to have a slight or even vague idea concerning; not necessarily involving knowledge or belief or likelihood. Suspect with reference to probable cause as grounds for arrest without warrant is commonly used in place of the word believe. A person reputed or suspected to be involve in a crime. (*Black’s Law Dictionary*)

“Suspicion”- refers to the imagination of the existence of something without proof, or upon very slight evidence or upon no evidence at all. (*Pp vs. Batuampo, 62OG 6270; 7C.C.R. 383*).

“Post”- (v) means to bring to the notice or attention of the public by affixing to a post or wall, or putting up in some public place; to announce publish or advertise by use of placard. To place in mails. (*Black’s Law Dictionary*).

On the basis of the aforementioned definition of the words in the query, the Commission believes that the definition of the suspect is of the same plane as the **“person/s of interest”** referred to by law enforcement/security forces.

The individual’s right to privacy and human dignity are enshrined, protected, and guaranteed not only by the 1987 Constitution of the Philippines but likewise by the International Covenants, viz:

"The state values the dignity of every person and guarantees full respect for human rights." (Art. II., Sec. 2, 1987 Phil. Constitution)

"No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence nor to unlawful attacks on his honor and reputation." (Art. 17, Sec. 1, ICCPR)

"Everyone has the right to the protection of the law against such interference or attacks." (Art. 17, sec. 2, ICCPR).

"In the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons."
(Sec. 2, UN Code of Conduct for Law Enforcement Officials)

The publication of a suspect's (person of interest) name, address, and the fact of his arrest on the basis of suspicion for having committed a crime, will likely tarnish his/her honor and reputation not only before the public but before his family and self. A person's honor and reputation would likely be placed in doubt due to the unanswered questions around a person's arrest/suspicion in the minds of individual who saw/read the publication.

The publication/posting of the arrested suspect/person of interest likewise violates his/her constitutional rights to remain silent and to be presumed innocent until the contrary is proven, among others.

"In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusations against him x x x" (Art. III, Sec. 14 (2), 1987 Constitution)

"Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice xxx" (Art. III, Sec. 12 (1), 1987 Constitution)

"No person shall be held to answer for a criminal offense without due process of law." (Art. III, sec. 14 (1), 1987 Constitution)

These Constitutional rights find support in the doctrine laid down by the Supreme Court, thus, every time these rights are challenged, the Supreme Court in a long list of cases, ruled as follows:

"Presumption of the regularity in the performance of official functions cannot by its lonesome overcome the constitutional presumption of innocence." (Zafra vs. People, 671 SCRA 396)

“The constitution guarantees the accused’s presumption of innocence until proven guilty.” (People vs. Climaco, 672 SCRA 631)

“Where the proof adduced against the accused has not even overcome the presumption of innocence, the presumption of regularity in the performance of duty could not be a factor to adjudge the accused guilty of the crime charged.” (People vs. Catalan, 686 SCRA 631)

“Art. III, Sec. 14 of the 1987 Constitution, mandates that no person shall be held liable for a criminal offense without due process of law.” Artiollero vs. Casimiro, 671 SCRA 357)

“The essence of due process is simply an opportunity to be heard. What the law prohibits is not the absence of previous notice but the absolute absence thereof and lack of opportunity to be heard.”(Ibid.)

The posting of the picture, name and other circumstances of the suspect (person/s of interest) or use of such repressive measures or policies will not only curtail civil liberties but would also trample on basic human rights, particularly on the right to privacy.

Otherwise stated, safeguards have to be put in place to prevent authorities from abusing or misusing the practice of posting the name and other circumstances of the suspect/person of interest.

Issued this 19th day of August 2015, Quezon City Philippines.

JOSE LUIS MARTIN C. GASCON
Chairperson *Sept 1, 2015*

KAREN S. GOMEZ DUMPIT
Commissioner *24 August 2015*

GWENDOLYN LL. PIMENTEL-GANA
Commissioner

LEAH C. TANODRA-ARMAMENTO
Commissioner

ROBERTO EUGENIO T. CADIZ
Commissioner