



Republic of the Philippines  
Department of the Interior and Local Government  
National Police Commission  
**NATIONAL HEADQUARTERS, PHILIPPINE NATIONAL POLICE**  
**DIRECTORATE FOR INVESTIGATION AND DETECTIVE MANAGEMENT**  
Camp Crame, Quezon City

**MEMORANDUM**

**TO :** See Distribution

**FROM :** TADIDM/TF USIG Commander

**SUBJECT :** **Factors to be Considered in Determining Enforced or Involuntary Disappearance (EID) Cases**

**DATE :** JAN 18 2012

1. References:

- a. LOI TF USIG; and
- b. Memorandum dated July 14, 2008 re inclusion of labor related killings and enforced disappearances as TF USIG special concerns.

2. Situation:

TF USIG was created on May 13, 2006 to strengthen the coordination of concerned PNP offices/units in the investigation, prosecution and monitoring of cases relating to the series of killings against political activists and media practitioners. TF USIG aims to spearhead the investigative and prosecutorial efforts of the PNP to facilitate the early resolution, successful prosecution and eventual conviction of the perpetrators.

On July 14, 2008, series of events led to the issuance of a memorandum re inclusion of labor related killings and enforced or involuntary disappearances (EID) as TF USIG special concerns. In said memorandum, however, no definition of EID was laid down since there was still no law which defines EID. It must be noted that up to this date the 15<sup>th</sup> Congress has not yet enacted the anti-enforced disappearance law which will penalize and define EID.

Also, unlike in cases of political activists and media practitioners killing where parameters and factors to be considered were laid down under Administrative Order No. 181 series of 2007 and Supreme Court Administrative Order No. 25-2007, there were neither laws nor issuances which provides for the parameters to be considered in determining whether or not the case is an EID.

Hence, the need for establishing parameters in determining EID cases is imperative to guide the PNP investigators accordingly.

Under RA 9851 or the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and other Crimes Against Humanity, Sec 3 (g) thereof provides:

*“Enforced or Involuntary Disappearance of Persons” means the arrest, detention, or abduction of persons by, or with the authorization support or acquiescence of, a State or a political organization followed by a refusal to acknowledge that deprivation of freedom or to give information on*

*the fate or whereabouts of those persons, with the intention of removing from the protection of the law for a prolonged period of time.”*

Just recently, the Supreme Court En Banc described enforced disappearance in the consolidated cases of Balao, et al. vs Macapagal-Arroyo, et al. (GR no. 186050) and Macapagal-Arroyo et al. vs Balao, et al. (GR no. 186059), both dated December 13, 2011, to wit:

*“xxx On the other hand, “enforced disappearances” are attended by the following characteristics: an arrest, detention, or abduction of a person by a government official or organized groups or private individuals acting with the direct or indirect acquiescence of the government; the refusal of the State to disclose the fate or whereabouts of the person concerned or a refusal to acknowledge the deprivation of liberty which places such person outside the protection of the law.”*

3. Based on the foregoing, the following are the elements of enforced disappearance:

- A person was arrested, detained or abducted;
- The arrest, detention and abduction of said person was caused by any of the following:
  - a. Government official;
  - b. Organized groups; or
  - c. Private individuals acting with the direct or indirect acquiescence, authorization or support of the government or political organization.
- There was refusal to acknowledge the deprivation of freedom or liberty or to give information on the fate or whereabouts of the person arrested, detained or abducted; and
- The intention was to place the person arrested, detained or abducted outside the protection of the law.

4. Pursuant to the above premises, please consider the following factors, pending the passage of the anti enforced disappearance law, in determining EID cases:

- Political affiliation of the victim;
- Reports that government officials, organized groups or private individuals acting with the direct or indirect acquiescence, authorization or support of the government or political organization caused the arrest, detention or abduction of the victim; and
- Refusal to acknowledge the deprivation of freedom or liberty or to give information on the fate or whereabouts of the person arrested, detained or abducted.

5. For your guidance and appropriate action.

  
**SAMUEL B DICIANO**  
Police Chief Superintendent

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