

INTER-AGENCY COMMITTEE
ON ANTI-ILLEGAL DRUGS

*Co-Chairperson's
Report*

6 to 24 November 2019

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LIST OF ACRONYMS

ADAC	Anti-Drug Abuse Council
ADAO	Anti-Drug Abuse Office
AIDIS	Anti-Illegal Drugs Information System
AM	Administrative Matter
AMLA	Anti-Money Laundering Act
AMLC	Anti-Money Laundering Council
APG	Asia/Pacific Group on Money Laundering
ASOG	Ateneo School of Government
ASSIST	Alcohol, Smoking and Substance Involvement Screening Test
BADAC	Barangay Anti-Drug Abuse Council
BI	Bureau of Immigration
BJMP	Bureau of Jail Management and Penology
BOC	Bureau of Customs
CADAC	City Anti-Drug Abuse Council
CBDR	Community-Based Drug Rehabilitation
CCTV	Closed-Circuit Television
CHED	Commission on Higher Education
CHR	Commission on Human Rights
CMC	Command Memorandum Circular
CoBRA	Community-Based Rehabilitation Alliance
CSC	Civil Service Commission
DATRC	Drug Abuse Treatment and Rehabilitation Center
DBM	Department of Budget and Management
DDB	Dangerous Drugs Board
DDE	Drug Dependency Examination
DEG	Drug Enforcement Group
DepEd	Department of Education
DILG	Department of the Interior and Local Government
DOH	Department of Health
DOJ	Department of Justice
DSWD	Department of Social Welfare and Development
DTI	Department of Trade and Industry
EJK	Extrajudicial Killings
EO	Executive Order
GAA	General Appropriations Act
GR	General Register
HB	House Bill
HVT	High Value Target
IAS	Internal Affairs Service
IBP	Integrated Bar of the Philippines
ICAD	Inter-Agency Committee on Anti-Illegal Drugs
IRR	Implementing Rules and Regulations
LEA	Law Enforcement Agency
LGU	Local Government Unit
MC	Memorandum Circular
MOLEO	Military and Other Law Enforcement Offices
NADPA	National Anti-Drug Plan of Action
NBI	National Bureau of Investigation
NEP	National Expenditure Program
NYC	National Youth Commission
OCA	Office of the Court Administrator
OSG	Office of the Solicitor General
PADS	Philippine Anti-Illegal Drugs Strategy
PAO	Public Attorney's Office
PAP	Psychological Association of the Philippines
PCG	Philippine Coast Guard
PDEA	Philippine Drug Enforcement Agency
PDL	Persons Deprived of Liberty
PESO	Public Employment Service Office
PNP	Philippine National Police
QCADAAC	Quezon City Anti-Drug Abuse Advisory Council
QCPD	Quezon City Police District
RA	Republic Act
SK	Sangguniang Kabataan
SG	Salary Grade
TESDA	Technical Education and Skills Development Authority
UNODC	United Nations Office on Drugs and Crime
USAID	United States Agency for International Development
WHO	World Health Organization

I. EXECUTIVE SUMMARY

The campaign against illegal drugs is the centerpiece program of the Duterte Administration. To achieve the President's vision of having drug-free communities by 2022, EO No. 15 was issued in 2017, creating the ICAD in line with "the policy of the State to pursue an effective campaign against the trafficking and use of dangerous drugs and other similar substances through an integrated system of planning, implementation and enforcement of anti-illegal drug abuse policies, programs, and projects."¹ The general function of the ICAD is to "ensure that each member agency shall implement and comply with all policies, laws, and issuances pertaining to the government's anti-illegal drug campaign, in an integrated and synchronized manner."²

Based on various meetings and consultations held from 06 to 24 November 2019 with government agencies, international organizations, civil society groups, local government officials, and community representatives in the Vice President's capacity as Co-Chairperson of the ICAD, substantial initiatives on the part of both public and private sector actors to contribute to the fight against illegal drugs became evident. However, the following significant gaps, which hamper the effectiveness of the efforts and need to be urgently addressed, were discovered:

A. The creation of the ICAD is a step in the right direction but its potential has not been maximized because of unequal participation by the member agencies and lack of strategic leadership.

With the creation of the ICAD, national government agencies were provided a platform to collaborate in order to holistically pursue the campaign against illegal drugs: from prevention, to enforcement, and to rehabilitation and reintegration. However, silos remain, as evidenced by the lack of common targets and unified procedures. Some agencies have taken proactive roles, while others have operated largely on the level of compliance. Strategic leadership of the ICAD demands nothing less than direct Presidential attention in order to ensure the active involvement of all member agencies. Additionally, EO No. 15, s. 2017, should be amended to make the DDB the Chairperson, instead of the PDEA, given its broader mandate of being "the policy-making and strategy-formulating body in the planning and formulation of policies and programs on drug prevention and control."³

B. There is no common and reliable baseline data on the number of drug dependents in the country. Moreover, a uniform process for tracking all subsequent actions and interventions regarding those who surrendered or were arrested is not in place.

¹ First Whereas Clause, EO No. 15, s. 2017, Creation of an Inter-Agency Committee on Anti-Illegal Drugs (ICAD) and Anti-Illegal Drug Task Force to Suppress the Drug Problem in the Country, 06 March 2017.

² Section 2, EO No. 15, s. 2017, op. cit.

³ Third Whereas Clause, EO No. 15, s. 2017, op. cit., citing Section 77, RA No. 9165, Comprehensive Dangerous Drugs Act of 2002, 07 June 2002.

Various figures have been floated to account for the number of drug users in the country, from 1.8 million⁴ in 2016 to as high as 7.0 to 8.0 million.⁵ Currently, the administration uses 4.0 million,⁶ which according to the PDEA itself is based on a mere extrapolation.⁷ A more accurate, evidence-based number has yet to be resolved. Using a credible baseline is an important first step because an evidence-based campaign against illegal drugs should assess whether or not the number of drug users is declining. If the government insists on using the 4.0 million figure, then the implication for government is that the number has increased since 2016 despite an aggressive and costly campaign against illegal drugs. Furthermore, if the PNP says that only 1.5 million have been accounted for,⁸ then where are the remaining 2.5 million? An evidence-based campaign should involve tracking not just the number of surrenders and arrests, but all subsequent actions and interventions for surrenderers and arrestees – whether they were successfully prosecuted, if such is warranted, and/or properly rehabilitated and reintegrated into society.

C. Attention and resources were disproportionately focused on street-level enforcement, at the cost of largely de-emphasizing prevention, detention, prosecution, rehabilitation, and reintegration.

The Duterte Administration did not waste any time in implementing an aggressive campaign against illegal drugs in communities. On its very first day, the PNP launched Project: “Double Barrel”⁹ which was followed by a surge in arrests, surrenders, and deaths. As an immediate result, courts were flooded with drug cases, the number of detainees in detention and jail facilities ballooned, and rehabilitation centers were deluged. Because such systems were not prepared and capacitated first to handle the surge, a host of issues and complications arose. The government had to issue successive regulations precisely to catch up with and address the concerns that surfaced as these severely undermined the effectiveness of all aspects of the campaign against illegal drugs.

D. *Tokhang*, which has become synonymous with drug-related killings, must be abandoned in favor of a reinvigorated policy on anti-illegal drug enforcement that strongly promotes and ensures accountability and transparency.

⁴ DDB, 2015 Nationwide Survey on the Nature and Extent of Drug Abuse in the Philippines.

⁵ Speech of President Rodrigo Roa Duterte during the Partido Demokratiko Pilipino-Lakas ng Bayan (PDP-Laban) Laguna Campaign Rally, delivered at Alonte Sports Arena, Biñan City, Laguna, 23 February 2019, <https://pcoo.gov.ph/wp-content/uploads/2019/02/20190224-Speech-of-President-Rodrigo-Roa-Duterte-during-the-Partido-Demokratiko-Pilipino-Lakas-ng-Bayan-PDP-Laban-Laguna-Campaign-Rally.pdf>.

⁶ Rehabilitation and Reintegration Cluster Presentation, ICAD Conference, 08 November 2019; as confirmed by DDB and PDEA.

⁷ Head, ICAD Secretariat, ICAD Conference, 08 November 2019.

⁸ PNP, Meeting with DILG, 19 November 2019. Also, “PNP records 1.5 million drug users in 3-year drug war,” 30 October 2019, <https://newsinfo.inquirer.net/1183440/pnp-records-1-5-million-drug-users-in-3-year-drug-war?fbclid=IwAR3J68mfCrkIx4j5Jq2yTDqWU4b6ZvMrZkBcBqddWksO-tHefun8KolnwwQ>.

⁹ PNP CMC No. 16-2016, PNP Anti-Illegal Drugs Campaign Plan - Project: “Double Barrel”, 01 July 2016.

The introduction of *Tokhang*, where the police conducts house-to-house visits as part of the institution's anti-drug operations, is unprecedented. There were no clear guidelines and protocols on how this was going to be implemented. Such lack of guidelines, together with the wide discretion that was given to the police, provided an opening for a number of unscrupulous individuals to commit abuses, tainting the integrity of the whole institution in the process. It is paramount to restore the public's confidence in the police by revoking Project: "Double Barrel," first of all, and entrusting instead the conduct of house-to-house visits to local institutions, with clear specifications on how the police will be involved, how their performance will be measured, and what safeguards will be in place to prevent abuses. Furthermore, abuses should be investigated, and both administrative and criminal accountability should be exacted when necessary.

E. Supply constriction, as an aspect of the overall strategy against illegal drugs, has been a massive failure.

Despite a relentless and costly campaign against illegal drugs in the past three and a half years, official government figures on seized drugs glaringly pale in comparison to the total estimated consumption. A massive percentage of illegal drugs is still in circulation in communities, as only about 1% of total consumption has been seized.¹⁰ Making a substantial dent on supply entails shifting the focus to arresting HVTs and dismantling drug networks both domestically and internationally, through measuring performance against total consumption, capacity enhancement and internal cleansing of LEAs to prevent the flow of drugs into the country and its distribution, strengthened cooperation with foreign counterparts, and effective fund interdiction.

Through the presentation of the findings and recommendations contained in this Report, the hope is for our focus to be directed to the true and common enemy: the continued proliferation of illegal drugs that destroys the lives and futures of many Filipino families.

¹⁰ Refer to Figure 1: Seizures vs. Estimated Volume of Consumption of Shabu in this Report.

II. STATEMENT OF PURPOSE

The scourge of illegal drugs in the Philippines is a matter of serious and urgent concern. It has destroyed the lives and futures of many Filipinos, and therefore demands strong policies and synchronized programs. Strategic leadership is needed to undertake these and inspire the active participation of all members of society to contribute to this effort.

The sole intention of this Report is to provide an honest insight on the state of the campaign against illegal drugs and present recommendations to improve its implementation. Winning the fight against drugs in a way that uplifts lives instead of endangers them is the goal and responsibility not just of leaders who are willing to transcend differences, but of a nation that is ready to come together with their constructive ideas and earnest efforts.

III. FINDINGS AND RECOMMENDATIONS

A. The creation of the ICAD is a step in the right direction but its potential has not been maximized because of unequal participation by the member agencies and lack of strategic leadership.

The creation of the ICAD emphasizes the need for government agencies to break silos and instead adopt an integrated approach that covers the full spectrum of the campaign against illegal drugs, from prevention, to enforcement, to rehabilitation, and to reintegration. The holistic nature of the campaign is reflected in the establishment of four clusters under the ICAD: Enforcement, Justice, Advocacy, and Rehabilitation and Reintegration.¹¹

However, the designation of the PDEA as Chairperson of the ICAD sends a different signal. As stated in EO No. 15, which created the ICAD, the PDEA is “responsible for the efficient and effective law enforcement of all the provisions on any dangerous drugs and/or controlled precursors and essential chemicals.”¹² This is the same reason why the PDEA is concurrently the lead for the Enforcement Cluster. In comparison, the DDB, as cited in the same EO, has the broader mandate of being “the policy-making and strategy-formulating body in the planning and formulation of policies and programs on drug prevention and control.”¹³ Furthermore, the DDB was designated as the lead agency for the implementation of the PADS upon its institutionalization in 2018 with the issuance of EO No. 66. The PADS is intended to be the document that “outlines the balanced efforts of the government to strengthen its campaign against illegal drugs.”¹⁴

The proactive participation of agencies, such as the DDB, the PDEA, the DILG, and the DOH, is evident. But without equal initiative and commitment on the part of other critical agencies for important aspects like prevention and reintegration, silos remain to the detriment of the entire program. This is manifested in the lack of common targets and metrics for the accomplishments of the ICAD as a whole and of each of the clusters, with lead agencies largely reporting accomplishments on their own.

EO No. 15 furthermore states that the “ICAD Chairperson shall then consolidate all the reports for submission to the Office of the President.”¹⁵ Without support from the Office of the President, fulfilling the basic organizational requirements of the ICAD, much more its ability to deliver its stated functions, are severely hampered. For example, EO No. 15 was supposed to establish and activate a National Anti-Illegal Drug Task Force, “which shall undertake sustained anti-illegal drug operations.”¹⁶ The Task Force is intended to be the inter-agency implementation arm of the ICAD, which is of urgency because there is currently

¹¹ Section 3, EO No. 15, s. 2017, op. cit.

¹² Fourth Whereas Clause, EO No. 15, s. 2017, op. cit., citing Section 82, RA No. 9165, op. cit.

¹³ Third Whereas Clause, EO No. 15, s. 2017, op. cit., citing Section 77, RA No. 9165, op. cit.

¹⁴ EO No. 66, s. 2018, Institutionalizing the Philippine Anti-Illegal Drugs Strategy, 29 October 2018.

¹⁵ Section 5, EO No. 15, s. 2017, op. cit.

¹⁶ Section 4, EO No. 15, s. 2017, citing Section 77, RA No. 9165, op. cit.

no uniform manual of operations governing the conduct of all anti-illegal drug operations.¹⁷ More than two years since the creation of the ICAD, the Task Force is still not operational pending the appointment of a commander.¹⁸ The recommendation for the appointment of a commander was only submitted to the Office of the President in August 2019, and it has not been acted upon to date.¹⁹

Relatedly, Section 6 of EO No. 15 directed the DBM “to coordinate with the ICAD to facilitate and expedite the release of the necessary funding needed for the implementation of this Order.”²⁰ Despite its all-encompassing functions, only Php 15 million was given to the ICAD for 2019.²¹

To further maximize the role of the ICAD, the following are recommended:

1. Amend EO No. 15 to make the DDB the Chairperson of the ICAD, under the close and direct supervision of the President, dispensing with the need for the designation of any Co-Chairperson.

The broader mandate of the DDB makes it better suited to be the Chairperson of the ICAD, while the PDEA can continue to lead the Enforcement Cluster. Installing the DDB as Chairperson will ensure that all lenses, not just law enforcement, are taken into consideration in leading the effort against illegal drugs, as anchored in the PADS.

More than a Co-Chairperson, what the ICAD Chairperson truly needs is the direct backing of the President so that it is empowered to command the agencies to work in a synchronized manner and bring balance to the various aspects of the campaign: prevention, advocacy, enforcement, supply constriction, rehabilitation, and reintegration, among others. The ICAD, being the designated platform for leading the fight against illegal drugs – the professed flagship initiative of this administration – requires nothing less than close Presidential attention and action.

2. Appoint at the soonest possible time a commander to the National Anti-Illegal Drug Task Force and set up its structure, so that its operations will finally be activated. The accomplishments of the ICAD and the Task Force should be regularly reported on their own.

The activation of the Task Force is critical in streamlining the conduct and harmonizing the guidelines of the anti-illegal drug operations of various LEAs, as well as ensuring that they get the support from relevant institutions to be successful (e.g., the BOC, the AMLC). With the designation of a “senior law enforcement officer... (who) shall report directly to the PDEA Director

¹⁷ ICAD Conference, 08 November 2019. DOJ noted in the same meeting that it is attempting to include this in the unified manual for investigation and prosecution of drug cases.

¹⁸ Meeting with the Enforcement Cluster of the ICAD, 14 November 2019.

¹⁹ Ibid.

²⁰ Section 5, EO No. 15, s. 2017, op. cit.

²¹ DDB, ICAD Conference, 08 November 2019.

General”²² as Task Force head, centralized command and accountability for all drug operations will be clarified.

The Task Force in particular and the ICAD in general should report accomplishments to the public at least on a quarterly basis so that the ICAD has accountability on its own, separate from the individual reports of the member agencies. By mandating regular reporting at the level of the ICAD, member agencies will be forced to resolve cross-cutting issues that require multi-agency collaboration as well as discuss accomplishments that are borne out of collective effort.

3. Amend EO No. 15 to make relevant private sector and local government representatives members of the ICAD as a whole and of each of its clusters.

Policy and strategy discussions in the ICAD can be further enriched with the participation of representatives from relevant private and civil society organizations, similar to the wisdom requiring the DDB to have two regular members from the private sector.²³ Furthermore, it is glaring that despite their massive responsibility in the campaign against illegal drugs, there are no representatives from any of the Local Government Leagues (i.e., League of Provinces, League of Cities, League of Municipalities, and *Liga ng mga Barangay*) in the ICAD, in addition to the DILG’s participation.

These representatives will be able to provide fresh insights, based on their expertise and experience, for the consideration of national government agencies. At the same time, their participation can pave the way for partnerships that will enable the national government to both expand and multiply the reach of its interventions in all aspects of the campaign, from prevention to reintegration.

²² Section 4, EO No. 15, s. 2017., op. cit.

²³ Section 78, RA No. 9165, op. cit.

B. There is no common and reliable baseline data on the number of drug dependents in the country. Moreover, a uniform process for tracking all subsequent actions and interventions regarding those who surrendered or were arrested is not in place.

Since 2016, different estimates regarding the number of drug users have been used, ranging from 1.8 million to 7.0 to 8.0 million. Government agencies currently use 4.0 million as the estimated number of drug users in the country. The 4.0 million figure is based on an extrapolation, in contrast to the 1.8 million figure reported by the DDB in 2016, the basis of which was a household survey. The PNP, on the other hand, uses the 3.0 million figure for shabu users.²⁴ These figures are expected to be updated in the next household survey. Under EO No. 66, issued in 2018, “a nationwide survey to determine drug prevalence in the country... every three (3) years,”²⁵ was institutionalized. Prior to the enactment of this EO, this survey was conducted every four years.²⁶ The first survey under EO No. 66 was supposed to be conducted in 2018, three years after the last survey in 2015, but was delayed a year due to budgetary issues.²⁷ The DDB is expected to finish the collection and analysis of the latest data by the first quarter of 2020.²⁸

As emphasized in the previous reports to the President,²⁹ without standard and harmonized baseline information, there will be no benchmark for measuring the success of the programs. One of the key indicators that should be tracked in an evidence-based campaign against illegal drugs is whether or not the number of drug users is declining. If the government insists on the use of the 4.0 million figure, then the implication for the government is that despite the aggressive campaign against illegal drugs in the past three and a half years, the number of drug users has more than doubled given the 1.8 million starting figure in 2016.

Since the start of the administration until October 2019, the PNP has reported that only 1.5 million drug users have been accounted for. Using the extrapolated 4.0 million figure, this means that there are 2.5 million drug users out there that still have to be accounted for. This is a massive red flag for an administration that claims it is serious about the drug menace, and it requires an urgent explanation and immediate action from the concerned agencies to account for the 2.5 million.

Not only is reliable baseline data for the number of drug users absent, a common process across agencies for systematically tracking data pertaining to what happens to users after they surrender or are arrested is also not yet in place.³⁰ This is mirrored by the observation that for most of the implementation period, the

²⁴ “PH consumes at least 3 tons of shabu every week – PNP,” 28 November 2019, <https://news.mb.com.ph/2019/11/28/ph-consumes-at-least-3-tons-of-shabu-every-week-pnp/>.

²⁵ Section 7, EO No. 66, s. 2018, op. cit. DDB is expected to finish the collection and analysis of the latest data by the first quarter of 2020, as presented in the meeting with DDB, 20 November 2019.

²⁶ DDB, ICAD Conference, 08 November 2019.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Memorandum for the President from the Vice President dated 11 November 2019, and Memorandum for the President from the Vice President dated 18 November 2019.

³⁰ In the Vice President’s letter to PDEA Director General dated 18 November 2019, a proposed format for consolidating data was included.

number of surrenderers has been proudly reported as a measure of success to both domestic³¹ and international³² audiences, but largely without talking about what happened to these individuals after they have surrendered.

During the meeting with the DILG, the PNP reported that, from 01 July 2016 to 31 October 2019, there were 1,287,036 surrenderers, and 304,179 were arrested.³³ However, there is no further information as to where they are currently in the system and their current status. While the ICAD agencies have data on matters like rehabilitation admissions and number of cases filed, it is unclear how these data link up with each other. For example, how many of the 1.5 million drug users accounted for are in detention centers, jails, and rehabilitation centers, respectively? If they are in detention centers or jails, do we know the status of their cases? If they are undergoing rehabilitation, how many are in CBDR programs, outpatient facilities, and inpatient facilities, respectively? More importantly, do we know how many have completed rehabilitation and have been successfully reintegrated into society?

It is even more alarming that of the 1.5 million accounted for, the government is not able to distinguish the users from the pushers. The PDEA, in the ICAD Conference, admitted that they “could not identify *kung alin ba doon yung drug users* and *iyong drug pushers*.”³⁴ This was seconded by the PNP, who committed that they “will exert [their] best effort... to generate [the] intent of separating those that are classified as users and those that are pushers.”³⁵ This basic matter has enormous implications, because under RA No. 9165,³⁶ “persons who may have offended Section 15... (Use of Dangerous Drugs) are given by the law a different treatment – or more accurately, a preferred treatment – when compared to pushers and others who are involved in the drug trade. With respect to drug users, the intent of the law is primarily to... give them the opportunity to rehabilitate and possibly be exempt from criminal liability.”³⁷

It is worthwhile to note that efforts are underway by the DDB and the DILG to establish information systems to consolidate data. There are also existing models at the local level. For example, Quezon City already has a computerized integrated drug abuse profiling system for drug dependents (complete with photo, biometrics, occupation, type of drugs used, frequency and length of use), which is

³¹ “More than 1 million drug addicts surrender to gov’t,” 31 December 2016, <https://www.rappler.com/nation/157082-one-million-drug-addicts-surrender>.

³² “Locsin: 1.4 million Filipino drug users surrendered for rehab in war vs drugs,” 15 March 2019, <https://globalnation.inquirer.net/173624/locsin-1-4-million-filipino-drug-users-surrendered-for-rehab-in-war-vs-drugs>.

³³ PNP, Meeting with DILG, 19 November 2019. It should be pointed out that the figure reported by PDEA and PNP on 12 December 2019 is much lower. According to them, the total number of arrested drug personalities from 01 July 2016 to 30 November 2019 is 220,728. Source: “Over 200,000 arrested in 3-year drug war,” 12 December 2019, <https://news.abs-cbn.com/news/12/12/19/over-200000-arrested-in-3-year-drug-war>.

³⁴ PDEA, ICAD Conference, 08 November 2019.

³⁵ Ibid.

³⁶ RA No. 9165, Comprehensive Dangerous Drugs Act of 2002, 07 June 2002.

³⁷ ASOG Working Paper 19-006, “How Change Rendered Human Rights More Vulnerable: Examining the Anti-Drug Campaign Legal Framework with a Human Rights Lens,” as of 25 April 2019.

linked to all of its 142 barangays and the stations of the QCPD.³⁸ Some of the safeguards to maintain the integrity of said system are as follows: (1) A full-time barangay administrator is trained to conduct the profiling of drug dependents; (2) Biometrics and facial recognition features prevent duplicate entries; (3) QCADAAC serves as the repository of data from all barangays; and (4) Only QCADAAC can make the necessary corrections.³⁹ In cases of voluntary surrender to the local police, the latter will be redirected to the barangay for proper profiling.⁴⁰

To institutionalize an evidence-based and data-driven campaign against illegal drugs, the following are recommended:

1. Establish accurate and updated baseline data on the number of drug dependents, and a system for tracking the status of individuals after surrenders and arrests.

The conduct of the regular DDB survey to describe the nature and extent of drug use in the Philippines should be supported to determine the updated baseline.

With respect to consolidated information systems, the newly launched AIDIS, the objective of which is to “tell the real story on how the government through its different drug enforcement agencies is really faring in the anti-illegal drugs drive,”⁴¹ should have comprehensive and updated data by 31 December 2019 at the latest. This can be made possible with the cooperation of all relevant agencies, as well as the Regional Oversight Committees led by the PDEA, since it was mentioned in the Meeting with the Enforcement Cluster that these Oversight Committees are tasked with consolidating and validating data from the LGUs.⁴² The tracking of the current status of those who surrendered or were arrested, in response to the questions raised above regarding how the available information relate to one another, should be reflected in the AIDIS dashboards. The presence of such dashboards will be useful in improving the current public reporting done via the PCOO-initiated #RealNumbersPH, where such level of specificity is lacking. The current PDEA page on #RealNumbersPH does not even present to the public any information regarding how many of those who surrendered or arrested are currently undergoing rehabilitation or are still detained.⁴³ The total number of surrenderers per se is not relevant if they are not given the proper interventions.

³⁸ QCADAAC Presentation, QCADAAC and BADAC Briefing, 22 November 2019.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ DILG, “Centralized info system launched to capture real score on anti-drugs drive,” 11 November 2019, <https://dilg.gov.ph/news/Centralized-info-system-launched-to-capture-real-score-on-anti-drugs-drive/NC-2019-1278>.

⁴² ICAD Enforcement Cluster Secretariat, Meeting with the Enforcement Cluster of the ICAD, 14 November 2019.

⁴³ PDEA, #RealNumbersPH, <http://pdea.gov.ph/2-uncategorised/279-realnumbersph>.

Ultimately, information systems will only be as good as the quality of the data that are recorded. Otherwise, government figures in general and #RealNumbersPH in particular will continue to be criticized for discrepancies and inconsistencies. To illustrate, in July 2019, #RealNumbersPH reported that 5,526 drug personalities were killed in anti-drug operations as of June, but just a month earlier the PNP stated the number already reached 6,600.⁴⁴ Agencies should be provided with the needed budget and staffing complement to vet and update their data on a real-time basis. Only when the right baselines are established can sensible targets be set and government accountability measured to make the campaign against illegal drugs more effective. In other words, the government cannot truly say the campaign is working without these baseline numbers.

2. Separate users from pushers in processing arrests and surrenders for proper reporting.

In processing arrests and surrenders, protocols should be strict about delineating between users from pushers. This way, the numbers being reported of those that have been accounted for can be broken down accordingly. This will entail coordination chiefly among the PDEA, the PNP, the DILG, the BJMP, and the DOH.

⁴⁴ “Revised drug war death toll is thousand less than previous figure, 19 July 2019, <https://www.philstar.com/headlines/2019/07/19/1936097/revised-drug-war-death-toll-thousand-less-previous-figure>.

C. Attention and resources were disproportionately focused on street-level enforcement, at the cost of largely de-emphasizing prevention, detention, prosecution, rehabilitation, and reintegration.

On 01 July 2016, Project: “Double Barrel” was launched with the issuance of PNP CMC No. 16-2016. It was meant to be the anti-illegal drug campaign plan of the PNP, supposedly in support of the Barangay Drug Clearing Strategy of the government, and prompted because “in the quest to go after high level drug traffickers, the government overlooked the worsening drug problem at the grassroots level”.⁴⁵ It provides for a two-pronged approach, namely, Project *Tokhang*, which involves “house to house visitations to persuade suspected illegal drug personalities to stop their illegal drug activities”, and Project HVT, “a massive and reinvigorated conduct of anti-illegal drugs operations targeting illegal drugs personalities and drug syndicates”.⁴⁶

“To generate impact... all police offices/units/stations and designated anti-drug units” were tasked to “conduct massive and simultaneous operations” under Project *Tokhang*.⁴⁷ This was expected to result in the voluntary surrender of suspected drug personalities. However, Project *Tokhang* was intensely implemented from the first day of the administration without first ensuring that a system for dealing with the influx of surrenderers and those arrested was in place, creating various downstream issues. After only one year of implementation, a total of 1,309,776 persons had surrendered and 86,030 had been arrested.⁴⁸

The DDB admitted there is nothing in RA No. 9165 on the handling of voluntary surrender.⁴⁹ While the policy under RA No. 9165 is clear – to make voluntary rehabilitation (as well as compulsory rehabilitation) available to drug dependents who are considered minor offenders⁵⁰ – there were no guidelines on the handling of voluntary surrender of drug personalities in the context of Project *Tokhang*. In other words, at the height of Project *Tokhang*, our citizens were “persuaded” to

⁴⁵ Part 2 and Part 3, PNP CMC No. 16-2016, op. cit.

⁴⁶ Part 5(a), PNP CMC No. 16-2016, op. cit.

⁴⁷ Ibid.

⁴⁸ One Year Report 01 July 2016 – 30 June 2017, PNP Chief Ronald M. dela Rosa, page 3. This includes HVTs of which 3,522 surrendered and 1,340 were arrested. This is inconsistent with the report of PNP in the Meeting with DILG on 19 November 2019 stating a total of 1,287,036 surrendered from 01 July 2016 to 31 October 2019.

⁴⁹ Third Whereas Clause, DDB Board Regulation No. 3, s. 2016, Guidelines on Handling Voluntary Surrender of Drug Personalities, 03 August 2016. Note also that Part 5(a)(4), PNP CMC No. 16-2016, op. cit., states that a surrenderer will sign a voluntary surrender form and will be invited to the local police station for interview and documentation. But there is no requirement to inform a surrenderer of one’s rights or the consequences of what was subsequently called in DDB Board Regulation No. 3, s. 2016, as a “voluntary confession”.

⁵⁰ Section 54 (voluntary submission) and Section 62 (compulsory submission) in relation to Section 10 (manufacture or delivery of equipment, instrument, apparatus, and other paraphernalia for dangerous drugs), Section 12 (possession of equipment, instrument, apparatus, and other paraphernalia for dangerous drugs), and Section 15 (use of dangerous drugs) of RA No. 9165, op. cit.

surrender and admit to having committed a crime without even being guaranteed their rights.⁵¹ Eventually, the DDB had to release successive issuances.⁵²

More than six months after Project: “Double Barrel” was implemented, DDB released another issuance in the form of DDB Board Regulation No. 3, s. 2017, which provided the parameters for conducting barangay drug clearing operations and certifying a barangay as drug-cleared.⁵³ One of the parameters listed for declaring a barangay as drug-cleared is the absence of a drug user/dependent.⁵⁴ However, the status of the surrenderers as to whether they were already screened and provided with the appropriate interventions is not considered.

On rehabilitation, the screening and the DDE of surrenderers became a massive bottleneck. Screening and DDE are necessary to determine the appropriate type of intervention needed by a drug dependent: (1) CBDR for mild cases; (2) Outpatient Treatment and Rehabilitation Program for moderate cases; and (3) Inpatient Treatment and Rehabilitation Program for severe cases.⁵⁵ The only figures available for the percentage that have been screened and assessed come from the Rapid Assessment conducted by the USAID, where it is estimated that only 32% to 50% of the 1.3 million surrenderers have been screened and assessed to determine the appropriate intervention and only about 10% to 15% of the same figure have undergone CBDR treatment as of July 2019 or three years after Project *Tokhang* was implemented.⁵⁶

The low uptake of CBDR is alarming because 90% to 95% of those already screened are found to be mild users and are recommended to undergo CBDR.⁵⁷ A possible reason is that not all local communities had CBDR programs in place prior to and during the implementation of Project: “Double Barrel.” Moreover, existing policies did not even encourage drug dependents to undergo community-based interventions. For example, DDB Board Regulation No. 3, s. 2017, states that BADACs should report to the appropriate LEAs those who voluntarily surrendered, leading to unwillingness and fear on the part of the surrenderers.⁵⁸ In other words, government policy needed to catch up to guide the LGUs on how CBDR should be done instead of leaving it largely to their initiative and capacity whether and how to craft their own programs.

The surge in surrenderers also had an impact on the administration of justice, particularly court congestion. According to the Supreme Court, 83,396 new drug

⁵¹ ASOG Working Paper 19-006, op. cit. See also Section 2, RA No. 9165; and Section 12, RA No. 10173, Data Privacy Act of 2012, 15 August 2012.

⁵² DDB Board Regulation No. 3, s. 2016, op. cit., and DDB Board Regulation No. 4, s. 2016, Oplan Sagip – Guidelines on Voluntarily Surrender of Drug Users and Dependents and Monitoring Mechanism of Barangay Anti-Drug Abuse Campaigns, 19 September 2016.

⁵³ DDB Board Regulation No. 3, s. 2017, Strengthening the Implementation of Barangay Drug Clearing Program, 14 February 2017.

⁵⁴ Section 8(I), DDB Board Regulation No. 3, s. 2017, op. cit.

⁵⁵ Rehabilitation and Reintegration Cluster Presentation, ICAD Conference, 08 November 2019.

⁵⁶ Dr. Maria Regina Hechanova-Alampay and USAID RenewHealth, Presentation on CBDR in the Philippines: A Situationer, CBDR Program Facilitators Workshop, 25 November 2019.

⁵⁷ Rehabilitation and Reintegration Cluster Presentation, ICAD Conference, 08 November 2019.

⁵⁸ Section 3(12), DDB Board Regulation No. 3, s. 2017, op. cit.

cases were filed in 2017, with trial courts registering a mere 12% disposition rate.⁵⁹

In 2017, the Supreme Court struck down the prohibition on plea bargaining, which was mandated in Section 23 of RA No. 9165,⁶⁰ and subsequently issued a plea bargaining framework.⁶¹ As a consequence, a person accused of, say, illegal sale of up to 0.99 gram of shabu or up to 9.99 grams of marijuana may plead guilty to possession of paraphernalia with a penalty of six months and one day to four years instead of life imprisonment under Section 5 of RA No. 9165. Moreover, the accused, if found positive in a drug dependency test, must undergo treatment and rehabilitation for at least six months.⁶² As a result, the number of drug personalities who availed of plea bargaining and were taken into rehabilitation centers jumped from 211 in 2017 to 3,070 in 2018.⁶³ In inpatient rehabilitation centers alone, as much as 60% of the admission consists of plea bargain patients.⁶⁴ According to the DOH, the total bed capacity of their DATRCs at present is 6,500 beds⁶⁵. However, there are at least 140,000 drug users still awaiting the result of their plea bargaining deals as of 05 February 2019.⁶⁶

In the same manner, the number of PDLs⁶⁷ increased, with the congestion rate in detention facilities reaching as high as 634% in September 2017⁶⁸ compared to the 2015 congestion rate of 364.7%.⁶⁹

⁵⁹ Supreme Court, The Judiciary Annual Report 2017, page 32.

⁶⁰ *Estipona v. Lobrigo*, G.R. No. 226679, 15 August 2017. Estipona was charged with possession of 0.084 grams of shabu. On arraignment, Estipona, represented by PAO, pleaded not guilty but subsequently withdrew his plea and filed a Motion to Allow Plea Bargaining with prayer to enter a plea of guilty for possession of paraphernalia on the basis of his being first time offender and the minimal quantity seized in his possession. The Supreme Court held that Section 23 of RA No. 9165 encroached upon its exclusive power under Section 5(5), Article VIII of the 1987 Constitution to promulgate rules on the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts.

⁶¹ A.M. No. 18-03-16-SC, Adoption of the Plea Bargaining Framework in Drugs Cases; as reflected in OCA Circular No. 90-2018, Plea Bargaining Framework in Drugs Cases, 04 May 2018, and OCA Circular No. 104-2019, Court En Banc Resolution Dated 4 June 2019 in A.M. No. 18-03-16-SC (re: Adoption of Plea Bargaining Framework in Drug Cases), 05 July 2019.

⁶² OCA Circular No. 80-2019, Minute Resolution dated 02 April 2019 in A.M. No. 18-03-16-SC (re: Letter of Associate Justice Diosdado M. Peralta on the Suggested Plea Bargaining Framework Submitted by the Philippine Judges Association), 30 May 2019.

⁶³ Rehabilitation and Reintegration Cluster Presentation, ICAD Conference, 08 November 2019.

⁶⁴ *Ibid.*

⁶⁵ DOH Presentation, Meeting with DOH, 17 November 2019.

⁶⁶ "High prisoner turnover threatens to overwhelm rehab centers: DOH", 05 February 2019, <https://www.pna.gov.ph/articles/1060966>.

⁶⁷ "Persons Deprived of Liberties are detainees who are incarcerated pending trial and/or final judgement." Source: Presentation on Persons Deprived of Liberties (PDLs): A Human Rights Situationer by CHR Commissioner Jose Manuel Mamauag, [http://bjmp.gov.ph/files/Persons%20Deprived%20of%20Liberty%3B%20A%20Human%20Rights%20Situationer%20\(Hon.%20Jose%20Manuel%20S.%20Mamauag\).pdf](http://bjmp.gov.ph/files/Persons%20Deprived%20of%20Liberty%3B%20A%20Human%20Rights%20Situationer%20(Hon.%20Jose%20Manuel%20S.%20Mamauag).pdf).

⁶⁸ BJMP Memorandum Circular BJMP-DWD-MC-68, Drug Counseling for PDL who availed Plea Bargaining under A.M. No. 18-03-16-SC, 28 June 2019.

⁶⁹ "PH jail congestion rate soars to over 500% amid drug war," 16 June 2017, <https://www.rappler.com/nation/173114-philippines-jail-congestion-rate-soars-drug-war-coa>.

Ultimately, the launch of Project: “Double Barrel” and the strong public pronouncements of the administration to go after drug users⁷⁰ saw the government embark on an anti-illegal drug campaign that was almost singularly driven by enforcement. This contravened the strategy embodied in the NADPA,⁷¹ and even the PADS that was issued after more than two years into the term of the current administration,⁷² to confront the drug menace through a holistic and balanced approach. In fact, the PADS even presented a consolidated budget across multiple agencies to ensure that resources are available for all aspects of the campaign against illegal drugs, totaling to a recommended budget of Php 9.32 billion for 2020.⁷³ However, only around Php 2.0 billion was recommended to be included in the NEP for 2020, according to the DDB.⁷⁴ The inordinate focus on law enforcement ignored the policy “that people’s health should be at the core of the matter” and “that the national anti-illegal drugs strategy includes suppressing the flow of illegal drugs supply through sustained law enforcement operations and reducing consumer demand for drugs and other substances through drug rehabilitation and massive preventive education and awareness programs.”⁷⁵ Moreover, it revealed the weaknesses of the treatment and rehabilitation program, the criminal justice system, and the prevention component. Clearly, there was a failure to ensure that effective complementary systems were established and institutionalized.

It was only in late 2019 – or after more than three years into the term of the current administration – when the government, through the issuance of DDB Board Regulation No. 7, s. 2019, took an integrated approach to address the “mass surrender” of drug personalities and the effect of allowing plea bargaining clients to avail of rehabilitation.⁷⁶

While the said regulation is a welcome development as it attempts to outline a system where surrenderers and those who availed of plea bargain are processed through documentation, interviews, screening, and assessment of the appropriate program where they can be treated, including CBDR, it still places majority of the responsibilities on local ADACs without the commensurate investments in their capacity and resources to develop, implement, monitor, and sustain CBDR programs. Moreover, there is still no policy to reconcile and rationalize the range of interventions offered by different agencies, taking into consideration the status of the drug dependents as users, pushers, or both.

A comprehensive and effective aftercare and reintegration program should also be given priority to ensure that drug dependents who have undergone rehabilitation are successfully reintegrated into society, and do not relapse. Much

⁷⁰ “Shoot to kill? Duterte’s statements on killing drug users,” 05 October 2016, <https://www.rappler.com/newsbreak/iq/148295-philippines-president-rodrigo-duterte-statements-shoot-to-kill-drug-war>.

⁷¹ DDB, National Anti-Drug Plan of Action 2015-2020.

⁷² EO No. 66, s. 2018, op. cit.

⁷³ DDB, ICAD Conference, 08 November 2019.

⁷⁴ Ibid.

⁷⁵ DDB, Philippine Anti-Illegal Drugs Strategy, pages 5 to 7.

⁷⁶ DDB Board Regulation No. 7, s. 2019, Consolidated Revised Rules Governing Access to Treatment and Rehabilitation Programs and Services, 29 October 2019.

work needs to be done in this regard. While the DOH reported that there are several agencies providing livelihood assistance and skills training,⁷⁷ what is lacking, as repeatedly raised by the DILG, is an aftercare policy to synergize all these efforts.⁷⁸

Finally, together with strengthening systems for rehabilitation and reintegration, a health-based approach to the campaign against illegal drugs requires a strong prevention element. This is critical for ensuring that those who are at risk will not fall into the trap of using illegal drugs in the first place.

The DepEd currently has its National Drug Education Program, which hopes to integrate the dangers of drug abuse in the curriculum of schools.⁷⁹ Unfortunately, experiences from other countries have shown that a mere information program such as this is ineffective in curbing drug abuse.⁸⁰

With the PADS in place and given recent developments, the following proposals may be considered to ensure that other equally important aspects of the campaign are given ample attention and support:

1. Correct the imbalance in the budget by realigning funding to support the entire campaign against illegal drugs.

There is no stronger manifestation of the imbalance of strategy than the government’s budget. Table 1 below compares the appropriations for law enforcement activities (concentrating on only the activities of the PDEA, the PNP, the NBI, and the PCG related to the anti-illegal drug campaign; appropriations for agencies like the BOC and the BI should also be included but their budgets do not indicate which items are specifically related to the anti-illegal drug campaign) vis-à-vis rehabilitation interventions (treatment and rehabilitation centers under the DOH and community-based drug rehabilitation under the DILG, through the Strengthening of ADACs), from 2017 to 2019. The budget for rehabilitation went as low as being 92% lower compared to the budget for law enforcement in 2018.

TABLE 1
Comparative Appropriations: Enforcement vs. Rehabilitation⁸¹

Year	Enforcement (PDEA, PNP, NBI, PCG) In Php	Rehabilitation (DOH, DILG) In Php	Difference (Enforcement-Rehabilitation) In Php
2017	8.54 billion	3.65 billion	4.89 billion (57% lower)

⁷⁷ ICAD Conference, 08 November 2019.

⁷⁸ ICAD Conference, 08 November 2019, and Meeting with DILG, 19 November 2019.

⁷⁹ DepEd Memorandum No. 200, s. 2016, Strengthening the National Drug Education Program in Schools, 23 November 2016.

⁸⁰ Meeting with US Embassy and US Government Officials, 13 November 2019.

⁸¹ GAA 2017, 2018, 2019.

2018	12.57 billion	0.97 billion	11.60 billion (92% lower)
2019	11.40 billion	1.24 billion	10.16 billion (89% lower)

The importance of a balanced strategy in eradicating the drug problem is underscored in the PADS. This same balance should be reflected in budget allocations.

2. Amend DDB Board Regulation No. 3, s. 2017, to include screening of and conduct of actual interventions for surrenderers as one of the parameters for declaring a barangay as drug-cleared.

To ensure that barangays declared as drug-cleared are truly drug-free, Section 8 of DDB Board Regulation No. 3, s. 2017, should be amended to include the requirement of screening and provision of interventions to surrenderers.

3. Certify as urgent a bill institutionalizing ADACs, and ADAOs with accompanying permanent plantilla positions.

RA No. 9165 only mandated local governments to “appropriate a substantial portion of their respective annual budgets to assist in or enhance the enforcement of this Act giving priority to preventive or educational programs and the rehabilitation or treatment of drug dependents.”⁸² This has been largely criticized for being ineffective because some LGUs do not have enough funds to create and implement CBDR programs for drug dependents in their areas.⁸³ While DILG Memorandum Circular No. 98-227 issued in 1998 officially created BADACs in all barangays in the country,⁸⁴ the question of capacity remains because of the limited staffing, expertise, and funds.

Legislation should be passed not only to institutionalize the creation of ADACs and ADAOs at all levels of local governance, but ensure that they have the provisions necessary to be more responsive to the needs of each locality. This includes mandating national funding for these entities to ensure continuity of their programs at the municipality and barangay levels.

The CSC should make the qualifications for the plantilla positions of ADAOs realistic at the level of the LGU.⁸⁵ Furthermore, other professionals, such as social workers, psychometricians, and psychologists, who have undergone the requisite training, can be allowed to assess drug dependents in order to address the bottleneck in screening and the conduct of DDE.

⁸² Section 51, RA No. 9165, op. cit.

⁸³ DILG, Meeting with the Enforcement Cluster of the ICAD, 14 November 2019.

⁸⁴ DILG Memorandum Circular No. 98-227, Creation of Provincial, City, Municipal and Barangay Anti-Drug Abuse Councils, 1998. This was also reiterated several times in issuances such as the NADPA and DDB Board Regulation No. 3, s. 2017.

⁸⁵ E.g., A Master’s Degree is required even for Psychologist I (SG 11) positions. Source: CSC MC No. 14, s. 2019, Amendment to the Qualification Standards of the Psychologist I, II, and III Positions, 31 July 2019.

4. Certify as urgent legislation creating a system of CBDR in all barangays in the country.

Currently, DDB Board Regulation No. 7, s. 2019, outlines the minimum requirements for creating CBDR programs in barangays.⁸⁶ This, however, needs to be institutionalized, by law, in order to be fully efficient and so that all LGUs will be required to have an evidence-based CBDR system.

5. Amend DDB Board Regulation No. 3, s. 2017, to strike out the requirement of submitting the list of those who undergo CBDR to LEAs.

The provision requiring LGUs and barangays to report to LEAs the list of people who voluntarily submitted themselves to rehabilitation is a hindrance to the CBDR approach as it leads to unwillingness and fear on the part of the drug dependents.

It is, therefore, recommended that DDB Board Regulation No. 3, s. 2017, be amended to allow LGUs to keep their list confidential to dispel the fear of enrollees that they will become a target. Only the names of those who do not complete their treatments should be released to LEAs for prosecution.

6. Amend the plea bargaining framework to ensure that drug dependents are screened and directed to appropriate interventions for rehabilitation.

The type and duration of intervention needed by a drug dependent is determined on the basis of DDE.⁸⁷ According to DOH, the interventions available are: (1) CBDR for mild cases (which constitute 90% to 95% of drug dependents and lasts for two to four months); (2) Outpatient Treatment and Rehabilitation Program for moderate cases (which constitute 4% to 6% of drug dependents and lasts four to six months); and (3) Inpatient Treatment and Rehabilitation Program for severe cases (which constitute 1% to 2% of drug dependents and lasts for six to 12 months).⁸⁸

However, the plea bargaining framework introduced by the Supreme Court imposes a minimum period of six months for rehabilitation,⁸⁹ implying that inpatient treatment is the default mode insofar as courts are concerned, regardless of severity. According to the DOH, even when they make recommendations regarding the appropriate rehabilitation, the courts do not necessarily adopt it.⁹⁰ This ultimately compromises the goal of de-clogging the

⁸⁶ DDB Board Regulation No. 7, s. 2019, op. cit.

⁸⁷ Rehabilitation and Reintegration Cluster Presentation, ICAD Conference, 08 November 2019.

⁸⁸ Ibid.

⁸⁹ A.M. No. 18-03-16-SC, op. cit.; as reflected in OCA Circular No. 90-2018, op. cit., and OCA Circular No. 104-2019, op. cit.

⁹⁰ Meeting with DOH, 18 November 2019.

courts of drug cases since it increases the chances of relapse,⁹¹ therefore resulting in a higher likelihood of repeat offenders.

In October 2019, a DDB Board Regulation⁹² was issued to try to address these complications. Now, if a drug dependent who availed of plea bargaining is assessed with moderate substance use disorder based on DDE, the drug dependent shall be referred to an outpatient program accredited by the DOH.⁹³ If the drug dependent who availed of plea bargaining is assessed with severe substance use disorder based on DDE, the drug dependent shall be referred to an inpatient facility accredited by the DOH.⁹⁴ In both cases, the duration of treatment is left to the discretion of the physician.

Thus, instead of the automatic imposition of a six-month minimum rehabilitation period, the DOH can advocate that the Supreme Court's plea bargaining framework consider the distinct types of interventions based on the severity of addiction, as culled from the DDE conducted by a DOH-accredited physician, including its duration.

In all plea bargain cases, the DOH, through the physician conducting DDE, the DOJ, through the prosecutor, and the PAO, as counsel for the accused, must all agree on the basic requirement that each drug dependent should obtain the type of rehabilitation most suited to their individual situation, and they must raise this to the court for the issuance of the appropriate court order.

To ensure that successful rehabilitation is implemented, a specific and complete template for the court order approving a plea bargain is necessary, which contains the following:

- a. Recommendation of the DOH on the proper type of intervention (CBDR, outpatient, or inpatient), and the proper institution that should provide it;
- b. Requirement that the accused undergo the intervention identified, including the applicable aftercare program; and
- c. Requirement that the intervention service provider report to the Court the completion of the intervention, including the applicable aftercare program.

7. Direct the creation of a central database for all cases related to illegal drugs to guide courts and prosecutors in dealing with plea bargaining.

The DOJ has set a policy on when plea bargaining in dangerous drugs cases may be supported by its prosecutors, which is less expansive compared to the Supreme Court's framework.⁹⁵ But sometimes, courts approve plea bargaining over the objection of the prosecution or despite the existence of strong

⁹¹ DDB, Philippine Anti-Illegal Drugs Strategy, page 42.

⁹² DDB Board Regulation No. 7, s. 2019, op. cit.

⁹³ Section 7(B), DDB Board Regulation No. 7, s. 2019, op. cit.

⁹⁴ Section 7(C), DDB Board Regulation No. 7, s. 2019, op. cit.

⁹⁵ DOJ Department Circular No. 027, s. 2018, Amended Guidelines on Plea Bargaining for Republic Act No. 9165 Otherwise Known as the "Comprehensive Dangerous Drugs Act of 2002", 26 June 2018.

evidence against the accused for the original charge.⁹⁶ Judges should not grant plea bargain if evidence of guilt of the charge is strong or if the offender is a recidivist or a habitual offender.⁹⁷ There also seems to be no provision limiting the number of times that plea bargaining may be availed of, unlike in probation. These concerns may be addressed, or at the very least monitored, with a database⁹⁸ that would indicate the following:

- a. Relevant facts, such as whether the accused is a recidivist, habitual offender, one repeatedly charged for dangerous drugs offense, or one who previously availed of plea bargain; to be provided by the apprehending officer;
- b. Reason why the prosecutor is consenting to the plea bargain, i.e., if evidence of guilt is not strong; and
- c. Whether the court approved a plea bargain over the objection of the prosecutor, including the basis of the objection.

8. Adopt a unified manual for the investigation and prosecution of illegal drugs cases.

When evidence of guilt is strong, the prosecution would have a better chance of securing a conviction and not resorting to plea bargaining. One common issue among investigators and prosecutors is the chain of custody requirement under Section 21 of RA No. 9165.⁹⁹

Despite the amendment of Section 21 by RA No. 10640¹⁰⁰ and issuances by the Supreme Court,¹⁰¹ confusion remains as to the rule on witnesses during physical inventory.¹⁰² Thus, the unified manual on the investigation and prosecution of illegal drugs cases¹⁰³ should be finalized as soon as possible, not only to have a protocol on case build-up and prosecution of drugs cases, but also to emphasize the spirit behind the chain of custody requirement.¹⁰⁴

⁹⁶ OCA Circular No. 80-2019, op. cit.

⁹⁷ OCA Circular No. 80-2019, op. cit. Also, "CJ Bersamin to Concerned Agencies: Review Drug Policies," 06 September 2019, <http://sc.judiciary.gov.ph/6421/>.

⁹⁸ The AIDIS recently launched by the ICAD does not yet include the DOJ. Source: DILG Presentation, Meeting with DILG, 19 November 2019.

⁹⁹ Section 21, RA No. 9165, op. cit.

¹⁰⁰ RA No. 10640, An Act to Further Strengthen the Anti-Drug Campaign of the Government, Amending for the Purpose Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002", 15 July 2014.

¹⁰¹ *People v. Miranda*, G.R. No. 229671, 31 January 2018; *People v. Lim*, G.R. No. 231989, 4 September 2018; OCA Circular No. 251-2018, Resolution dated 13 November 2018 in G.R. No. 231989 (*People of the Philippines v. Romy Lim Y Miranda*) Providing, Among Others, Further Clarification on the Application and Interpretation of the Mandatory Policy that shall Govern the Practice in Maintaining the Chain of Custody to Preserve the Integrity and Evidentiary Value of Seized/Confiscated Illegal Drugs and Other Drug-Related Items, 29 November 2018.

¹⁰² Section 21 as amended in 2014 now requires the presence of only two witnesses (and no longer three) when the apprehending team conducts a physical inventory and photograph of seized drugs. The Supreme Court also clarified that any non-compliance can be explained in a sworn statement by the apprehending officer including the steps taken to preserve the integrity of the seized item.

¹⁰³ Justice Cluster Presentation, ICAD Conference, 08 November 2019.

¹⁰⁴ For example, it can provide:

9. Direct the DDB to rationalize the geographic spread of rehabilitation and reformatory facilities and harmonize what the different facilities are offering.

Despite the issuance of DDB Board Regulation No. 7, s. 2019, the DOH still raised the issue of contamination during the ICAD Conference.¹⁰⁵ Indeed, the regulations do not categorically state any policy against the lumping of users and pushers in the same DOH-accredited rehabilitation program or facility, particularly for drug dependents with moderate or severe substance use disorder. There is no statement of policy whether pushers should be prioritized for reformatory facilities.

In the case of drug dependents with mild substance use disorder, the drug dependent may be referred to any intervention program mentioned in the regulations (e.g., provided with or referred to general interventions by the concerned ADAC,¹⁰⁶ referred by the paramedical to community-based and outpatient intervention programs¹⁰⁷) and even to reformatory facilities like *Balay Silangan* and *Bahay Pagbabago*.¹⁰⁸ Again, there is no explicit policy regarding pushers who are also users, i.e, whether they should be prioritized for reformation and whether certain facilities should be made exclusive for them in order to prevent the contamination that the DOH raised.

In fact, *Bahay Pagbabago*, a program undertaken by the PNP in coordination with ADACs, was specifically designed to reform surrendered drug personalities who are not users¹⁰⁹ but the reformatory facilities have admitted users for rehabilitation as well.¹¹⁰ This is also true for *Balay Silangan*, a

Any justification or explanation in cases of noncompliance with the requirements of Section 21(1) of RA No. 9165, as amended, shall be clearly stated in the sworn statements/affidavits of the apprehending/seizing officers, as well as the steps taken to preserve the integrity and evidentiary value of the seized/confiscated items. Certification or record of coordination for operating units other than the PDEA pursuant to Section 86(a) and Section 86(b), Article IX of the IRR of RA No. 9165 shall be presented.

Such justification or explanation may include: (1) their attendance was impossible because the place of arrest was a remote area; (2) their safety during the inventory and photograph of the seized drugs was threatened by an immediate retaliatory action of the accused or any person acting in his behalf; (3) the elected official himself was involved in the punishable act sought to be apprehended; (4) earnest efforts to secure the presence of a DOJ or media representative and an elected public official within the period required under Article 125 of the Revised Penal Code prove futile through no fault of the arresting officer; (5) time constraints and urgency of the anti-drug operations, which often rely on tips of confidential assets, prevented the law enforcers from obtaining the presence of the required witnesses even before the offenders could escape.

¹⁰⁵ DOH, ICAD Conference, 08 November 2019.

¹⁰⁶ Section 9(2)(a) and Section 6(1), DDB Board Regulation No. 7, s. 2019, op. cit.

¹⁰⁷ Section 9(2)(a) and Section 7, DDB Board Regulation No. 7, s. 2019, op. cit.

¹⁰⁸ Section 9(2)(a), DDB Board Regulation No. 7, s. 2019, op. cit.

¹⁰⁹ Section 2, DDB Board Regulation No. 2, s. 2018, *Balay Silangan – Guidelines for Community Involvement in Reforming Drug Offenders Into Self-Sufficient and Law-Abiding Members of Society*, 24 January 2018.

¹¹⁰ "In Bataan town, drug reformists get second life," 24 November 2019, <https://www.rappler.com/nation/245475-dinalupihan-bataan-drug-rehabilitation-in-the-philippines>; "Balik-Loob Program and Bahay Pagbabago officially launched," <https://puratarlac.gov.ph/balik->

program under the PDEA meant for the reformation of drug pushers who are not users.¹¹¹ It has also undertaken the rehabilitation of users.¹¹²

Moreover, the role of the BJMP is not mentioned in DDB Board Regulation No. 7, s. 2019. The BJMP has *Katatagan Kontra Droga sa Komunidad*, an in-house intervention program for plea bargainers ordered by courts to undergo drug rehabilitation interventions but who cannot be transferred to DOH centers because they cannot be absorbed.¹¹³ The BJMP reported that there are not enough certified *Katatagan Kontra Droga sa Komunidad* facilitators among the BJMP personnel and activity space in jail facilities is limited.¹¹⁴

All of the foregoing are exacerbated by the lack of effort to rationalize the geographic spread of inpatient and outpatient rehabilitation facilities, in order to ensure that the establishment and operation of facilities are calibrated according to where drug dependency is prevalent and where the number of surrenderers and arrests are larger. Related to this, the national government should focus on building smaller but more geographically spread treatment facilities, which are closer to communities, instead of a few, large ones. Various approaches have emphasized the importance of family involvement for effective treatment,¹¹⁵ which reinforces the need to bring treatment facilities closer to communities.

In the end, it is the mandate of the agencies, led by the DOH as Co-Chair of the Rehabilitation and Reintegration Cluster of the ICAD, with the help of DDB as the policy-making and strategy-formulating body, and the PDEA as the head of the *Balay Silangan* National Oversight Committee, to formalize a policy concerning the separation of drug users and pushers, and determine the profile of drug personalities suited to each type of rehabilitation or reformation facility. A nationwide audit of the operations of all existing facilities should be done at the soonest to aid in this effort.

Until that is done, the BJMP would have to be capacitated to create and run its own rehabilitation facilities separate from the DOH.¹¹⁶

Lastly, the voluntary confinement program could also be improved. RA No. 9165 requires a court order before a drug dependent, who violates Section 15 of said law, can voluntarily undergo treatment and rehabilitation.¹¹⁷ A court

loob-program-and-bahay-pagbabago-officially-launched/; "Bulacan PNP Bahay Pagbabago reopens," 22 June 2018, <https://pia.gov.ph/news/articles/1009304>.

¹¹¹ Section 1, DDB Board Regulation No. 2, s. 2018, op. cit.

¹¹² "Camiguin learns from Lanao Norte 'Balay Silangan' center, 09 November 2019, <https://www.pna.gov.ph/articles/1085551>.

¹¹³ BJMP Memorandum Circular BJMP-DWD-MC-68, op. cit.

¹¹⁴ Ibid.

¹¹⁵ PAP, *Philippine Journal of Psychology*, 2019, 52(1), 65-101, "Evaluation of the Training and Pilot Implementation of *Katatagan Kontra Droga sa Komunidad*," 2019.

¹¹⁶ DILG, ICAD Conference, 08 November 2019.

¹¹⁷ Section 54, RA No. 9165. Also, DDB Regulation No. 3, s. 2007, Rules Governing Voluntary Confinement for Treatment and Rehabilitation of Drug Dependents, 06 June 2007, and DDB Board

order is likewise required for the release of the drug dependent who has been rehabilitated.¹¹⁸ Treatment should instead be made available to those who decide to enter voluntarily without need for court intervention. The DOH can supervise the program.

10. Establish synergized and targeted reintegration programs for drug dependents who are successfully rehabilitated.

While some agencies have programs that provide livelihood opportunities and social safety nets specifically for underprivileged drug dependents who have successfully undergone rehabilitation, these programs should be synergized and targeted to maximize impact. Metrics for the success of such interventions should include indicators like the employment rate among CBDR graduates, the percentage of CBDR graduates that are able to start their own enterprises, and the increase in the incomes of CBDR graduates, among others. Monitoring and evaluation systems should be put in place to assess the effectivity of these programs and whether the metrics are being met or not.

11. Institute evidence-based prevention programs in communities and schools, which tie up the anti-drug agenda to anti-poverty programs.

The proliferation of illegal drugs is rooted in poverty. This necessitates that government should create anti-poverty programs, as part of prevention, which specifically targets areas that are both poverty-stricken and drug-infested. For example, the government can use its Build, Build, Build program to specifically train and hire both skilled and unskilled labor from such areas in order to generate income for the population and prevent them from falling into drug use. The government's housing program can also be tapped to cater to residents from low-income communities that also have high drug prevalence. In addition, several drug policy reforms need to be instituted to achieve the Sustainable Development Goals.¹¹⁹ These reforms include giving everyone access to proper healthcare and developing the farming sector to prevent them from growing drug-related crops.¹²⁰

To push prevention at the community level, the DOH should help the ADACs and ADAOs prepare modules, which are age-appropriate and evidence-based, and done with the involvement of families. The model of the UNODC's Strong Families Program,¹²¹ which have produced favorable results in Central

Regulation No. 7, s. 2019, op. cit. DDB will file the petition for voluntary submission. The treatment and rehabilitation shall be for a minimum of six months.

¹¹⁸ Section 56, RA No. 9165. Also, DDB Board Regulation No. 3, s. 2007, op. cit., and DDB Board Regulation No. 7, s. 2019, op. cit.

¹¹⁹ Health Poverty Action, "Drug Policy and the Sustainable Development Goals", Briefing, November 2015, healthpovertyaction.org/wp-content/uploads/2018/12/HPA-SDGs-drugs-policy-briefing-WEB.pdf

¹²⁰ Ibid.

¹²¹ The Strong Families Program has the following aspects:

(1) Caregiver sessions (three sessions for three weeks): normalize and manage stress; improve parenting confidence and skills to develop positive parenting strategies; enhance resources to deal with stress.

American countries like Panama, Honduras, Guatemala, Nicaragua and the Dominican Republic, can be used as a basis by the DOH.¹²² In addition, minimum standards should be adopted for age-appropriate prevention programs. The UNODC's International Standards on Drug Use Prevention¹²³ may be adopted for our local programs. The standards include the following:

a. "Infancy

- Prenatal and infancy visitation: [A] trained nurse or social worker visits mothers-to-be and new mothers to provide them with parenting skills and support in addressing a range of issues (health, housing, employment, legal, etc.).
- Interventions targeting pregnant women: All pregnant women should be... advised of the potential health risks to themselves and to their babies... [M]anagement of substance use and treatment of pregnant women with substance use disorders can and should be offered as a priority and must follow rigorous clinical guidelines based on scientific evidence.

b. Early Childhood Education

- [P]rogrammes... [should] support the social and cognitive development of pre-school children (2 to 5 years of age) from deprived communities.

c. Middle Childhood

- Parenting skills programs: Parenting skills programmes support parents in being better parents, in very simple ways. A warm child-rearing style, where parents set rules for acceptable behaviours, closely monitor free time and friendship patterns, help to acquire personal and social skills, and are role models is one of the most powerful protective factors against substance use and other risky behaviors. These programmes can be delivered also for parents of early adolescents
- Personal and social skills education: [T]rained teachers engage children in interactive activities to give them the opportunity to learn and practice a range of personal and social skills. These programmes are typically delivered to all children via series of structured sessions... The programmes provide opportunities to learn skills to be able to cope with difficult situations in the daily life in a safe and healthy way. They support the development of general social competencies, including mental and emotional wellbeing.
- Classroom environment improvement programmes: [S]trengthen the classroom management abilities of teachers, and support children to socialize in their role as a student, whilst reducing early aggressive and disruptive behaviors. Teachers are typically supported to implement a

(2) Child sessions (two sessions for two weeks focusing on children 8 to 15 years): improve mental health outcomes; deal with stress; reduce challenging behavior.

(3) Family sessions (two sessions for two weeks, in parallel with the sessions above): improved communications and relationships; decreased coercive parenting.

Source: UNODC, Strong Families Programme, https://www.unodc.org/documents/drug-prevention-and-treatment/Strong_families_Brochure.pdf.

¹²² UNODC, "The Strengthening Families Programme: Prevention of drug use, HIV/AIDS and crime amongst youth through family skills training programmes in low- and middle-income countries," <https://www.unodc.org/ropan/en/DrugDemandReduction/strong-families.html>.

¹²³ UNODC and WHO, International Standards on Drug Use Prevention, Second updated edition, https://www.unodc.org/documents/prevention/standards_180412.pdf

collection of non-instructional classroom procedures in the day-to-day practices with all students for the purposes of teaching prosocial behavior as well as preventing and reducing inappropriate behavior. These programmes facilitate both academic and socio-emotional learning.

- Policies to retain children in school: School attendance, attachment to school, and the achievement of age-appropriate language and numeracy skills are important protective factors for substance use among children of this age. A variety of policies has been implemented in low- and middle-income countries to support the attendance of children and improve their education outcomes.
- Addressing mental health disorders: Emotional disorders... and behavioural disorders..., are associated with higher risk of substance use later in adolescence and in life. In both childhood and adolescence, supporting children, adolescents and parents to address emotional and behavioral disorders as early as possible is an important prevention strategy.

d. Early Adolescence

- Prevention education based on social competence and influence: During skills based prevention programs, trained teachers engage students in interactive activities to give them the opportunity to learn and practice a range of personal and social skills (social competence). These programs focus on fostering substance and peer refusal abilities that allow young people to counter social pressures to use substances and in general cope with challenging life situations in a healthy way.
- School policies on substance use: School policies on substance use mandate that substances should not be used on school premises and during school functions and activities by both students and staff. Policies also create transparent and non-punitive mechanisms to address incidents of use transforming it into an educational and health promoting opportunity. These interventions and policies are universal, but may include also indicated components such as screening, brief interventions and referral.
- School-wide programs to enhance school attachment: School-wide programmes to enhance school attachment support student participation, positive bonding and commitment to school.
- Addressing individual psychological vulnerabilities: Some personality traits such as sensation-seeking, impulsivity, anxiety sensitivity or hopelessness, are associated with increased risk of substance use. These indicated prevention programmes help these adolescents that are particularly at-risk deal constructively with emotions arising from their personalities, instead of using negative coping strategies including hazardous and harmful alcohol use.
- Mentoring: These programmes match youth, especially from marginalised circumstances (selective prevention), with adults who commit to arrange for activities and spend some of their free time with the youth on a regular basis.

e. Adolescence and Adulthood

- Brief intervention consists of one-to-one counselling sessions that can include follow up sessions or additional information to take home. They can be delivered by a variety of trained health and social workers to

people who might be at risk because of their substance use, but who would not necessarily seek treatment. The sessions first identify whether there is a substance use problem and provide immediate appropriate basic counselling and/or referral for additional treatment. The sessions are structured, and last typically from 5 to 15 minutes.

- Brief intervention is typically delivered in the primary health care system or in emergency rooms, but it also has been found to be effective when delivered as part of school-based and workplace programs, and when delivered online or via computers.
- Brief intervention sessions typically employ motivational interviewing techniques, which is a psycho-social intervention where the substance use of a person is discussed and the patient is supported in making decisions and setting goals about his/her substance use. In this case, brief intervention is normally delivered over the course of up to 4 sessions that can be up to 1 hour long, but usually the sessions have shorter duration.”

The DepEd and the CHED, for their part, must make sure that all schools are capacitated to handle anti-addiction counseling through training and/or additional addiction counselors. These agencies – as well as the NYC and the SK – can also be provided with training and resources to adopt age-appropriate and evidence-based youth substance abuse prevention programs.

D. Tokhang, which has become synonymous with drug-related killings, must be abandoned in favor of a reinvigorated policy on anti-illegal drug enforcement that strongly promotes and ensures accountability and transparency.

“Tokhang” is the term specifically used to describe the law enforcement strategy under Project: “Double Barrel” of conducting house-to-house visits “to persuade suspected illegal drug personalities to stop their illegal drug activities,”¹²⁴ and which has evolved in meaning over the past three and a half years. In common parlance, and as the PDEA Director General Aaron Aquino himself admitted,¹²⁵ *Tokhang* has come to refer to the killing of “suspected illegal drug personalities,” who were the same persons who should have only been officially “persuaded” to cease and desist from their involvement with drugs. Thus, the focus on street-level enforcement has given rise to the most controversial aspect of the anti-illegal drug campaign – the allegations of unlawful killings, otherwise known in the public mind as the extrajudicial killings, regardless of whether they were allegedly committed by law enforcers or by still unidentified assailants.

According to the PNP, a total of 6,701 persons were killed during the anti-illegal drug operations conducted from 01 July 2016 to 31 October 2019.¹²⁶ This means that, on the average, 248 persons were killed each month, or at least eight persons killed every day.

These numbers, while already high, do not yet include killings of drug personalities committed by unidentified perpetrators and those that have been termed as “deaths under investigation.” A number of independent organizations have even given a much higher tally of the drug-related killings.¹²⁷

The staggering number of drug-related killings, as well as persistent suspicions that some of these drug personalities may have been killed in violation of law and operational procedures, have given rise to the controversy that has fueled persistent criticism of the government’s anti-illegal drug efforts, which has largely come to define the popular perception of the entire campaign.

At this juncture, and in connection with the public perception of the anti-illegal drug campaign, it is worth noting that in the SWS survey conducted in December 2018, survey results reveal that 78% are worried about becoming victims of

¹²⁴ Part 5(a), PNP CMC No. 16-2016, op. cit.

¹²⁵ “PDEA chief wants PNP to drop the term *tokhang*,” 11 December 2017, <https://www.rappler.com/nation/191035-pdea-chief-pnp-drop-tokhang-term-war-on-drugs>.

¹²⁶ PNP, Meeting with DILG, 19 November 2019. However, in a press briefing held on 12 December 2019, PDEA reported that the total number of drug personalities killed is only 5,582. Source: “Over 200,000 arrested in 3-year drug war,” op. cit.

¹²⁷ ASOG Working Paper 18-002, “The Role of Mayors and Barangay Captains in the Philippines’ Anti-Drugs Campaign,” 02 July 2018; “UN Needs to Act Now to End Philippines Killings,” 24 June 2019, <https://www.hrw.org/news/2019/06/24/un-needs-act-now-end-philippines-killings>; “U.N. Rights Council to Investigate Killings in Philippine Drug War,” 11 July 2019, <https://www.nytimes.com/2019/07/11/world/asia/philippines-duterte-killings-un.html>; “Three years on, no ‘meaningful accountability’ for extrajudicial killings in PH – Amnesty International,” 08 July 2019, <https://cnnphilippines.com/news/2019/7/8/Duterte-war-on-drugs-Amnesty-International.html>.

EJK.¹²⁸ Necessarily, therefore, restoring the credibility of the anti-illegal drug campaign requires that immediate and decisive steps be taken to address this issue. And the first problem that must be addressed is the lack of clear operational guidance on how Project *Tokhang* must be conducted.

According to a working paper that is part of the output of a consortium involving the Ateneo School of Government, De La Salle University, and the University of the Philippines, the introduction of Project *Tokhang* as part of the options of the police in its conduct of anti-illegal drug operations is unprecedented. Consequently, the implementation of Project *Tokhang* is devoid of clearly defined standard operating procedures, to wit:

The 2014 Revised PNP Manual on Anti-Illegal Drugs Operations and Investigation... does not cover a species that is *Tokhang* and mentions and details standard operating procedures only for these anti-illegal drug operations: buy-bust operations; searches/seizures by virtue of a warrant; eradication of plantations, which are sources of illegal drugs; financial investigations; controlled deliveries; operations involving clandestine laboratories; and unplanned operations such as in flagrante delicto cases.¹²⁹

The wide latitude that came with the broad goal for the house-to-house visits “to persuade suspected illegal drug personalities to stop their illegal drug activities,”¹³⁰ coupled with the lack of protocols and guidelines for these visits, gave an opening for some unscrupulous elements to commit abuses that have made the implementation of the entire program controversial.

Additional deficiencies and/or irregularities that have been reported as accompanying the conduct of Project *Tokhang* include the following: (1) Circumventing “the need for a search or arrest warrant or to complete case build-up... routinely required under the PNP Manual before anti-illegal drugs operations can be executed,”¹³¹ making subjects especially susceptible to violations of their right to due process; (2) Lack of transparency in how the lists are prepared and validated, especially at the start when there were “no guidelines... on how *Tokhang* subjects erroneously identified as illegal drug personalities can take themselves out of the targeted subjects of the operations;”¹³² and (3) Persistent albeit unconfirmed reports of quotas, awards and promotions being anchored on aggressive *Tokhang* operations.¹³³

The entirety of Project *Tokhang* must, therefore, be revamped to fill in these gaps and severely limit, if not completely eliminate, the potential for abuse. Such

¹²⁸ Social Weather Stations, “Fourth Quarter 2018 Social Weather Survey: 78% of Pinoys worry about becoming victims of extrajudicial killings or EJK,” 01 March 2019, <https://www.sws.org.ph/swsmain/artcldisppage/?artcsyscode=ART-20190301201652>.

¹²⁹ Page 4, ASOG Working Paper 19-006, op. cit.

¹³⁰ Page 6, Ibid.

¹³¹ Page 5, Ibid.

¹³² Page 11, Ibid.

¹³³ Shiela S. Coronel, “A Mandate for mass killings?: public support for Duterte’s war on drugs” In Nicole Curato, *The Duterte Reader: Critical Essays on Rodrigo Duterte’s Early Presidency*, 2017.

abuses of some members of the PNP have unfairly tainted the integrity of the whole institution. It should be the paramount concern of the government to investigate and put a stop to these abuses with the intention of beginning the long process of healing and rebuilding the institution.

A key problem that must be resolved is the need for safeguards to ensure the lawful execution of the anti-illegal drug operations. Worth highlighting is the fact that much of the controversy surrounding the anti-illegal drug campaign springs from: (1) suspicions relating to repeated police claims that drug personalities “resisted arrest” in order to justify the high number of killings; as well as (2) the huge number of vigilante killings and cases of missing individuals that have accompanied the conduct of the drug war. That can be addressed only by putting in place stronger measures to ensure that anti-illegal drug operations are conducted in full compliance with the requirements set forth in applicable laws as well as the PNP’s own operations manual, and with high respect for human rights.

Greater transparency should also accompany efforts to address concerns that complaints involving alleged police abuses are not being seriously acted upon by the concerned authorities. Consequently, prompt and public action must also be taken in response to outstanding allegations against active members of LEAs.

In that regard, a study¹³⁴ published by the same consortium mentioned above, that maps out the location of 7,029 drug-related killings from 10 May 2016 to 31 December 2018 culled from media reports, can provide a useful starting point. Specific police jurisdictions identified as having unusually high numbers of drug-related killings must be prioritized for review and investigation, including cross-referencing against the data that the DILG has on the drug affectation of barangays. This will serve both the purpose of ensuring accountability for police officers who commit abuses, as well as protecting police officers who act lawfully and professionally from unfounded accusations.

In a presentation on its efforts for “internal cleansing,” the PNP reported that 10,765 administrative cases have been resolved from 01 July 2016 to 31 October 2019.¹³⁵ However, it did not specify how many of these cases arose out of anti-illegal drug operations. Media reports on public statements of police officials suggest that the number of cases investigated by the PNP IAS is small and far less than the 6,701 deaths that should have been automatically investigated.¹³⁶ There was also no data on criminal cases filed and resolved.

¹³⁴ Jenna Mae L. Atun, Ronald U. Mendoza, Clarissa C. David, et. al., “The Philippines’ antidrug campaign: Spatial and temporal patterns of killings linked to drugs,” In the International Journal of Drug Policy Volume 73, November 2019.

¹³⁵ PNP Presentation, Meeting with DILG, 19 November 2019.

¹³⁶ From July 2016 to November 2017, PNP IAS Chief Inspector General Alfegar Triambulo stated that only 125 were found administratively liable for irregularities in anti-illegal drug operations (Source: “PNP says 125 cops punished for drug war-related offenses,” 28 November 2017, <https://www.rappler.com/nation/189788-police-punished-pnp-ias-drug-war-sc-ejk>). In June 2018, it was reported that the IAS had investigated 150 administrative cases of erring PNP personnel involved in anti-illegal drugs operations and out of this, 85 police were recommended for dismissal. At the time, almost 3,000 cases related to deaths in in anti-illegal drugs operations were yet to be investigated (Source: “War on drugs: PNP Internal Affairs wants 85 cops sacked,” 02

There must be a more serious effort undertaken to pursue these efforts at cleansing the entire institution of the PNP, whose credibility and reputation have suffered alarming setbacks amid the widespread criticisms of Project *Tokhang* and its implementation. The only way to do this is to ensure accountability, transparency, and respect for proper procedures in the conduct of anti-illegal drug operations. To restore and preserve the integrity of the institution, the following are recommended:

1. Revoke PNP CMC No. 16-2016 that provides for Project: “Double Barrel” and adopt a new issuance that will provide a clear set of operational guidelines and prescribe the appropriate metrics for police action in anti-drug efforts.

Interventions that require house visits must be entrusted to local ADACs and ADAOs in order to address the widespread perception of abuse that the implementation of Project *Tokhang* has generated. The ADACs and ADAOs play a central role in all aspects of the anti-drug campaign, from information gathering and verification, to coordinating with LEAs, and ensuring that prevention and rehabilitation programs are in place at the community level, which makes it better suited to conduct any house-to-house component of the anti-illegal drug campaign.

A reinvigorated policy on community-level anti-drug efforts that takes into account public feedback from the past three and a half years establishes a stronger leadership role for LGU-level institutions in the community-based anti-drug campaign. The role of police officers, as well as the specific guidelines and metrics concerning their involvement (if any), in these visits must be clearly defined in a new issuance.

2. Prescribe the mandatory use of body cameras for all anti-illegal drug operating units.

The use of body cameras will provide an invaluable resource for reviewing the conduct of operations to protect officers from unfounded accusations, as well as to establish a basis for liability, if warranted. Together with mainstreaming the use of such cameras, regulations need to be adopted to govern the recording, transmission, management, storage, preservation of integrity, and use of video footage obtained from the same.

3. Initiate and pursue actions against abusive members of the PNP through the activation of relevant accountability mechanisms.

June 2018, <https://news.abs-cbn.com/news/06/01/18/war-on-drugs-pnp-internal-affairs-wants-85-cops-sacked>).

In September 2019, PNP reported that only 594 officers have been charged administratively for deaths related to anti-illegal drug operations, while only 103 officers have been charged in court and 150 others have undergone an inquest (Source: “PNP: Only 253 cops face raps in 6,600 drug slays,” 14 September 2019, <https://cebudailynews.inquirer.net/257900/pnp-only-253-cops-face-raps-in-6600-drug-slays#ixzz66vmT6lfR>).

Both criminal and administrative investigations of reported abuses must be conducted expeditiously, with the results made available to the public. Criminal prosecution must be pursued aggressively in cases where the same is justified by evidence. Adopting a decisive approach against such abuses will be the important first step in cleansing the institution of abusive officers that have disproportionately tainted the whole police force and restoring the institution's integrity.

It is likewise strongly urged that swift action be taken in response to the Senate report¹³⁷ recommending the filing of charges against former PNP Director General Oscar Albayalde and the so-called "ninja cops." Doing so will send a clear message that abusive law enforcers will be held to account, regardless of their rank or position, and reassure the Filipino people that the PNP as an institution is decisive and capable when it comes to policing its own ranks.

In terms of administrative liability, the PNP IAS is mandated to conduct *motu proprio* automatic investigation of incidents where death, serious physical injury, or any violation of human rights occurred in the conduct of a police operation; and where a suspect in the custody of the police was seriously injured.¹³⁸ To be able to preserve the integrity of its role, the PNP IAS has to be made independent from the PNP and be provided its own budget.

Accountability can also be exacted through the Deputy Ombudsman for MOLEO.¹³⁹ The Office of the Ombudsman has the power to investigate and prosecute any act or omission of any public officer or employee when the same appears to be illegal, unjust, improper, or inefficient.¹⁴⁰ It has primary jurisdiction over cases to be heard before the Sandiganbayan,¹⁴¹ i.e., over the PNP officers occupying provincial director positions and those holding the rank of Senior Superintendent.¹⁴² Thus, the creation of an Ombudsman Task Force

¹³⁷ Senate Committee Report No. 17, Submitted by the Committees on Justice and Human Rights; Constitutional Amendments and Revision of Codes; and Accountability of Public Officers and Investigations 05 November 2019, Re: P.S. Res. Nos. 106, 107, 108, 123, and the Privilege Speech on the Good Conduct Time Allowance of Sen. Richard J. Gordon delivered on August 27, 2019.

¹³⁸ RA No. 8551, An Act Providing for the Reform and Reorganization of the Philippine National Police and for Other Purposes, Amending Certain Provisions of Republic Act Numbered Sixty-Nine Hundred and Seventy-Five Entitled, "An Act Establishing the Philippine National Police Under a Re-Organized Department of the Interior and Local Government, and for Other Purposes", 25 February 1998.

¹³⁹ Per Office of the Ombudsman Memorandum Circular No. 02, s. 2003, as amended, the jurisdiction of the Deputy Ombudsman for MOLEO covers PNP, AFP, BJMP, BUCOR, BFP, and PCG. Source: Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices Presentation, <https://www.ombudsman.gov.ph/moleo/JURISDICTION.pdf>.

¹⁴⁰ Section 15, RA No. 6770, An Act Providing for the Functional and Structural Organization of the Office of the Ombudsman, and for Other Purposes, 17 November 1989.

¹⁴¹ Ibid.

¹⁴² Section 2, RA No. 10660, An Act Strengthening Further the Functional and Structural Organization of the Sandiganbayan, Further Amending Presidential Decree No. 1606, As Amended, and Appropriating Funds Therefor, 16 April 2015. Even with regard to erring police officers who are outside the exclusive jurisdiction of the Sandiganbayan, the Ombudsman and the DOJ still have concurrent jurisdiction and they can come up with an agreement regarding the handling of cases

that will investigate and prosecute administrative and criminal cases may be considered.¹⁴³

4. Provide clear and updated numbers on killings that have taken place during the anti-illegal drug campaign.

Police reports and the status of investigations pertaining to anti-illegal drug operations that involved or resulted to deaths must be made accessible as a means of strengthening public confidence. Denial of access to these reports to family members of those killed, to their legal counsels or even to the general public only serves to further aggravate suspicions of official misconduct and operational irregularity. In fact, the Supreme Court has already directed the OSG to release the PNP records related to the drug war and there should be no reason for these records to be withheld further.¹⁴⁴

Beyond the killings resulting from police operations, the tracking of numbers and information should likewise include killings committed by unidentified assailants (i.e., deaths under investigation), including “body dumps” or victims whose dead bodies were discovered in a location and may have been killed elsewhere, and drug personalities that have been reported as missing. Accurate numbers are indispensable in determining investigative targets for the PNP, as well as for gauging the sufficiency of current measures to strengthen operational procedures. In other words, the PNP’s performance should be measured not just based on making progress in investigating cases of legitimate police operations that resulted in death, but also whether cases of vigilante killings and missing individuals, which have markedly increased since 2016, have been resolved.

Needless to state, a proactive policy of transparency will only serve to further strengthen public confidence in the PNP and other law enforcement agencies involved in the anti-illegal drug campaign.

(source: Memorandum of Agreement between the Office of the Ombudsman and DOJ, 29 March 2012).

¹⁴³ In the past, the Office of the Ombudsman has created specialized Task Forces to investigate and prosecute administrative and criminal cases for specific categories of offenses committed by public officers, such as Task Force Abono on the alleged Php 728 million fertilizer fund scam, Task Force on Asset Recovery to intensify asset forfeiture efforts by reviewing all cases recommending the forfeiture of ill-gotten or unlawfully acquired assets, and Task Force for Environmental Concerns on compliance with environmental laws (Source: Office of the Ombudsman, 2008 Annual Report, “Marking milestones the 2008 annual report of the Office of the Ombudsman”).

¹⁴⁴ “Supreme Court orders drug war records released to petitioners,” 03 April 2019, <https://www.philstar.com/headlines/2019/04/03/1906832/supreme-court-orders-drug-war-records-released-petitioners>.

E. Supply constriction, as an aspect of the overall strategy against illegal drugs, has been a massive failure.

As the conduct of the anti-illegal drug campaign fixated on street-level operations, the other aspects of enforcement were not given equal attention, such as the arrest of HVTs, disruption of major supply chains, and dismantling of operations of major drug laboratories. The latter are the types of enforcement operations that can make a major and significant dent on the supply of drugs in the country as they are targeted towards: (1) curtailing the importation to, and/or manufacturing in, the Philippines of illegal drugs; and (2) capturing, arresting, and prosecuting high-value drug lords and syndicates, corrupt and abusive officials serving as drug protectors and enablers, as well as personalities with major involvement in drug manufacturing and distribution.

A serious effort to constrict supply requires us to have an idea on the total volume and value of illegal drugs circulating in the country. For some reason that has yet to be explained, while the PDEA reports the total volume of illegal drugs seized year-on-year as one of its accomplishments, these figures are not analyzed in relation to the estimated total consumption. As admitted by the agency, it is currently not computing estimated total consumption.¹⁴⁵

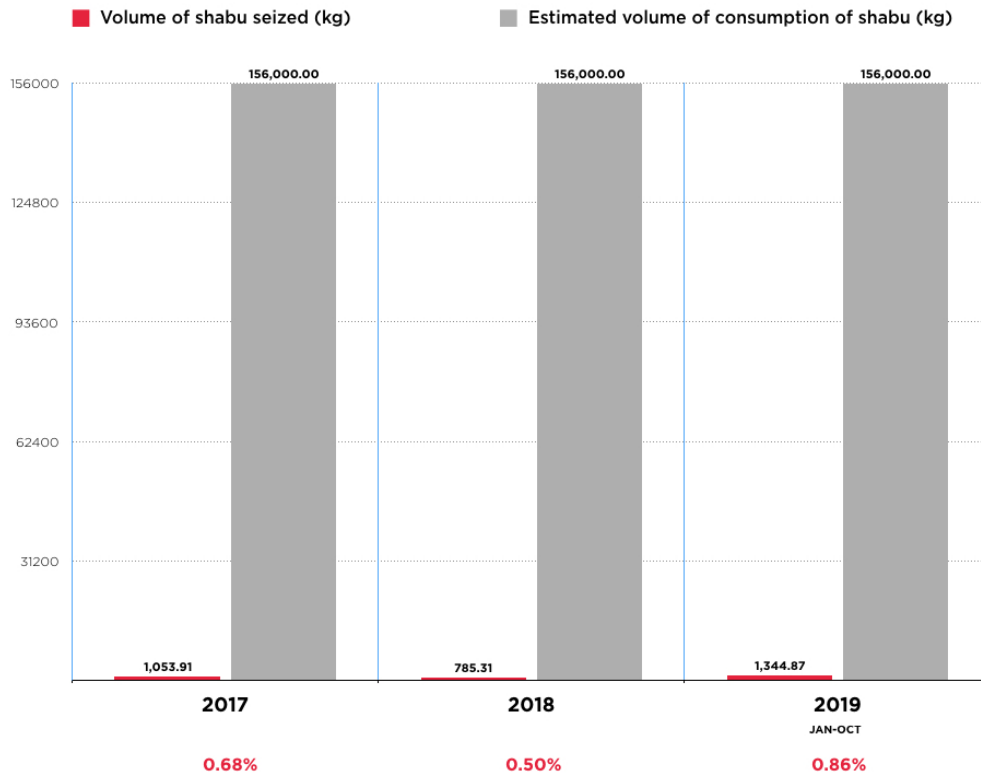
According to the Head of the PNP DEG,¹⁴⁶ and as part of this Report's earnest effort to estimate the total consumption of illegal drugs in the country, the approximate minimum consumption of shabu in the country every week is 3,000 kilograms, using the estimate of 3 million users or 0.001 kilograms per user.

Given the foregoing mathematical approximation, the volume of shabu seized by LEAs may be compared with the estimated volume of consumption of shabu, as shown by the following table:

¹⁴⁵ Meeting with the Enforcement Cluster of the ICAD, 14 November 2019: PDEA Director Maharani Tosoc, ICAD Head Secretariat, mentioned that targets set are in terms of barangays cleared, high value targets arrested, and high-impact operations conducted; volume of illegal drugs seized is not one of them.

¹⁴⁶ "PH consumes at least 3 tons of shabu every week – PNP," op. cit.

FIGURE 1
Seizures vs. Estimated Volume of Consumption of Shabu



Notes:

1. *Volume of shabu seized¹⁴⁷ (in kgs)*
2. *Estimated volume of consumption of shabu¹⁴⁸ (1 year, in kgs)*

Figure 1 shows that the percentage of shabu seized is less than 1% of the total estimated consumption of shabu. Despite the government’s aggressive implementation of Project: “Double Barrel” that was supposed to ferret out drug laboratories and other sources of supply, as well as users and pushers, a staggering percentage of illegal drugs, particularly shabu, is still in circulation.

These dismal performances indicate the urgency and importance of a shift in strategy when it comes to purging our country of illegal drugs.

Illegal drugs, particularly shabu, continue “to be smuggled into the country through airports, seaports, and mail and parcel services due to the country’s porous borders and long coastlines.”¹⁴⁹ Authorities need to continue to have the capacity and equipment to closely monitor all these possible entry points, in coordination with foreign counterparts.¹⁵⁰ Otherwise, the supply of illegal drugs will continue to flow unabated and the situation is only expected to grow worse in the remaining

¹⁴⁷ Enforcement Cluster Presentation, Meeting with the Enforcement Cluster of the ICAD, 14 November 2019.

¹⁴⁸ Computed based on PNP DEG’s estimated shabu consumption in the country of 3,000 kilograms per week multiplied by 52 weeks in a year.

¹⁴⁹ DDB, Philippine Anti-Illegal Drugs Strategy.

¹⁵⁰ DDB, Philippine Anti-Illegal Drugs Strategy, page 24.

two and half years of the administration. As far as distribution is concerned, reports have been consistent about how some of the government's own jail and prison facilities serve as nerve centers for the distribution of illegal drugs within the country.¹⁵¹

Related to the above, fund interdiction and asset tracing are most critical in dismantling criminal operations, especially big ones. Freezing assets and bank accounts and taking out the profits, especially of HVTs, have been found in many jurisdictions to be highly effective tools in disrupting drug operations.¹⁵²

Thus, the AMLC should play a major role in constricting the supply of illegal drugs in the country with maximum effectivity through intelligence gathering and closer relations with its foreign counterparts. Drug trafficking being a borderless crime, now enabled by massive leaps in technological innovations in the fields of remittance, finance, and other fields, an effective AMLC can also greatly hinder the business of illegal drugs in the country because it has eyes on local fund flows, as well as international fund flows through its ties with its foreign counterparts.

The AMLC is "mandated to investigate money laundering and other violations of the AMLA... to ensure that the Philippines shall not be used as a money laundering site for the proceeds of any unlawful activity."¹⁵³ The AMLC creates and shares intelligence reports to LEAs, and responds to requests for assistance from the same in terms of investigating fund flows related to crimes that are typically associated with money laundering, one of which is drug trafficking.¹⁵⁴ In fact, drug trafficking is one of several unlawful activities that allow the AMLC to do a bank inquiry within 24 hours without having to go through the Court of Appeals.¹⁵⁵ According to a mutual evaluation report by the APG released in October 2019, the AMLC is now better structured to perform its functions as a financial intelligence unit, investigator, and asset recovery agency.¹⁵⁶

However, despite the powers and tools available to the AMLC, the total number of petitions for freeze orders and civil forfeiture of suspected drug-related accounts that have been filed is hardly commensurate to the scale of the drug operations in the Philippines. The PNP itself has stated that, for shabu alone, the estimated consumption is valued at Php 25 billion per week.¹⁵⁷ That number translates to a

¹⁵¹ "Bato: Bilibid inmates control drug operations in Cebu," 30 September 2018, <https://cebudailynews.inquirer.net/196648/bato-bilibid-inmates-control-drug-operations-cebu>. Also, "Structures hiding criminal activity in NBI demolished," 09 October 2019, <https://newsinfo.inquirer.net/1175673/structures-hiding-criminal-activity-in-nbp-demolished>.

¹⁵² APG, Anti-money laundering and counter-terrorist financing measures - Philippines, Third Round, Mutual Evaluation Report, October 2019, <http://www.apgml.org/includes/handlers/get-document.ashx?d=c0fe3714-bfcf-475e-8ff3-47e9c3cfe496>.

¹⁵³ AMLC, Mandate, Vision, Mission, and Functions, <http://www.amlc.gov.ph/images/PDFs/archive/mandates.pdf>.

¹⁵⁴ RA No. 9160, Anti-Money Laundering Act of 2001, 29 September 2001.

¹⁵⁵ 2018 Implementing Rules and Regulations of Republic Act No. 9160, Otherwise Known as the Anti-Money Laundering Act of 2001, As Amended, 22 November 2018.

¹⁵⁶ APG, Anti-money laundering and counter-terrorist financing measures – Philippines, op. cit.

¹⁵⁷ "PH consumes at least 3 tons of shabu every week – PNP," op. cit.

Php 1.3 trillion consumption per year.¹⁵⁸ However, the AMLC has reported during the first Rehabinasyon National Anti-Drugs Summit held in Davao City in February 2019 that it has frozen a total of Php 1.4 billion in illegal drug-related assets from 2017-2018.¹⁵⁹

While this is almost four times higher than the assets frozen during the 2013-2016 period,¹⁶⁰ it is not even 1% of total estimated consumption, and that is just for shabu. For an administration that champions the campaign against illegal drugs as its flagship program, it should be able to report a sharp increase in drug-related freeze orders, civil forfeitures, and money laundering cases filed because with stronger fund interdiction in enforcement operations, there is a better chance of making HVT arrests and dismantling drug operation networks.

In light of the above, the following are recommended:

1. Shift the focus of LEAs to supply constriction.

Together with efforts to go after users and street-level pushers, which only resulted in a small dent on the drug market, the performance of LEAs should be reported monthly and measured consistently in terms of curtailing the supply and trade of illegal drugs. The first important step in this direction is to require LEAs to set targets in terms of illegal drug seizures and report these in relation to total estimated consumption, on top of existing targets and reports on high-impact operations conducted. This shift of focus is not just more effective; it also shows the government's leadership and sincerity in going after the big players, and not just street-level pushers.

Part of this shift of focus should be intensifying the internal cleansing in all involved LEAs. The importance of this is reinforced in by the controversy in 2018, when Php 11 billion worth of shabu was able to enter the country through magnetic lifters.¹⁶¹ It was later on established that this was facilitated due to collusion among members of the PNP, the PDEA, and the BOC.¹⁶²

Equally important is neutralizing, through global and regional cooperation, transnational drug syndicates responsible for the proliferation of illegal drugs in the Philippines. It is noted in the PADS that there are three transnational syndicates and these are the Chinese or Filipino-Chinese drug syndicates, African drug syndicates, and the Mexican-Sinaloa drug cartel.¹⁶³ The Enforcement Cluster also reported that the Golden Triangle (Myanmar, Laos,

¹⁵⁸ Computed based on PNP DEG's estimated shabu consumption in the country of Php 25 billion per week multiplied by 52 weeks in a year.

¹⁵⁹ "AMLC reports hike in frozen drug-related assets to P1.4 billion," 07 March 2019, <https://www.bworldonline.com/amlc-reports-hike-in-frozen-drug-related-assets-to-p1-4-billion/>.

¹⁶⁰ Ibid.

¹⁶¹ "TIMELINE: P11B-worth of shabu slips past PH customs days after P4.3B worth of shabu was intercepted," 26 October 2018, <https://cnnphilippines.com/news/2018/10/26/timeline-shabu-smuggling-magnetic-lifters.html>.

¹⁶² "PDEA files raps vs suspects in P11-B 'shabu' shipment," 13 December 2018, <https://news.abs-cbn.com/news/12/13/18/49-face-raps-over-p11-b-shabu-in-magnetic-lifters>.

¹⁶³ DDB, Philippine Anti-Illegal Drug Strategy, page.22.

and Thailand)¹⁶⁴ have also been a source of illegal drugs for local drug groups, protectors, and pushers.

The government must continue to work closely with the foreign governments of identified sources and trafficking markets like China, Africa, Mexico, and the Golden Triangle (Myanmar, Laos, and Thailand), to neutralize transnational syndicates. This can be done through multilateral dialogue and cooperation towards agreeing on actionable commitments, including intelligence sharing and fund interdiction, to impede the flow of illegal drugs in and out of the country.

2. Provide the necessary equipment and staffing to LEAs to capacitate them to more effectively prevent the entry of illegal drugs into the country and its distribution, and gather information on HVTs and their operations.

If the drug war is this administration's main program, it must put money where its mouth is and support law enforcement officers who put their lives on the line to go after big drug lords and operators. Additionally, the necessary equipment must be provided to make them more effective in going after and arresting key and major players of drug cartels and/or syndicates.

For instance, each airport and seaport should be equipped with enough high-powered X-ray machines that can detect illegal drugs and the appropriate number of properly trained K9 units to efficiently detect smuggled drugs and controlled precursors and essential chemicals.

To effectively complement the foregoing effort, there should be strict implementation of security measures inside prison and jail facilities to prevent continuous use of cell phones for drug transactions. This can be done through the provision of CCTV cameras, jammer instruments and drug enforcement agents to disrupt distribution networks that operate within these facilities.

3. Strengthen the role of the AMLC in the anti-illegal drug campaign.

It bears stressing that the AMLC plays a critical role in constricting the flow of illegal drugs in the country through its technical expertise in the field of financial surveillance and interception of the money that funds the supply and trafficking operations of drug syndicates. As such, the AMLC's role can be strengthened as follows:

- a. Amend RA No. 9160 or the Anti-Money Laundering Act to allow the AMLC to directly prosecute drug-related money laundering offenders.

Under the current set-up, the AMLC's investigatory, supervisory, and prosecutory roles allow the agency to receive reports from the financial sector on covered and secured transactions, investigate these and share

¹⁶⁴ Enforcement Cluster Presentation, ICAD Conference, 08 November 2019.

information with LEAs.¹⁶⁵ When there are sufficient grounds for a case to be filed, the AMLC assists the OSG in filing a case against offenders of the AMLA.¹⁶⁶

There are delays that arise from the OSG side in filing petitions for freeze orders and filing of money laundering cases. Because of these delays, the AMLC is powerless when drug operators quickly transfer their funds within the investigation period, decreasing the likelihood of success of going after drug operators. The short-term remedy, while the amendment has not been passed, is for the OSG to deputize the AMLC to directly prosecute cases so that it can put money launderers in jail more efficiently and effectively, especially with drug trafficking as a predicate crime.

- b. Prioritize the budget for an increase in the number of AMLC's financial investigators for drug-related cases.

According to the APG Report, "while the PNP and the NBI have general investigation powers," only the AMLC is authorized to investigate money laundering cases and only has 18 officers in the Financial Crimes Investigation Group, who can fulfill the function.¹⁶⁷ Hence, the AMLC is critically understaffed.¹⁶⁸

Moreover, investigators also require further training, specifically when it comes to cryptocurrency and cross border flows.

¹⁶⁵ RA No. 9160, op. cit.

¹⁶⁶ 2018 Implementing Rules and Regulations of Republic Act No. 9160, Otherwise Known as the Anti-Money Laundering Act of 2001, As Amended, op. cit.

¹⁶⁷ APG, Anti-money laundering and counter-terrorist financing measures - Philippines, op. cit.

¹⁶⁸ Ibid.