



Republic of the Philippines
Supreme Court
Office of the Court Administrator
Manila

OCA CIRCULAR NO. 07-2024

TO : ALL DESIGNATED REGIONAL TRIAL COURTS AS ANTI-TERRORISM COURTS

SUBJECT : RULES ON THE ANTI-TERRORISM ACT OF 2020 (ATA) AND RELATED LAWS

In its Resolution dated 05 December 2023 in **A.M. No. 22-02-19-SC**, the Court *en banc* **RESOLVED** to **APPROVE** the “*Rules on the Anti-Terrorism Act of 2020 and Related Laws.*” This rule shall apply to petitions and applications regarding detentions without judicial warrants of arrest, surveillance orders, freeze orders, restrictions on travel, designations, proscriptions, and other court issuances promulgated to implement the ATA and other related laws.

Among the salient features of the aforesaid Rules are as follows:

1. It lays down the procedure to be followed by an individual, organization, association, or group of persons who seek to obtain judicial relief from their designation as terrorist by the Anti-Terrorism Council (ATC) and the issuance of any freeze order by the Anti-Money Laundering Council (AMLC) as a result of such designation.
2. The CA may issue an Order of Proscription, upon a verified petition by the Department of Justice Secretary, declaring as outlawed terrorist any group of persons, organization, or association that commits any of the acts defined and penalized under Sections 4 to 12 of the ATA, or that is organized to engage in terrorism.
3. CA may, within 72 hours from the filing of such verified petition, issue *ex parte* a Preliminary Order of Proscription upon the petitioner’s showing of probable cause that such is necessary to prevent the commission of terrorism. Such issuance empowers the AMLC to investigate, inquire, and examine the bank deposits of the respondent/s and freeze their assets and properties in accordance with the provisions of the ATA. The CA shall then conduct continuous summary hearings and decide the petition within three (3) months, counted from the time it is submitted for resolution. Upon the petitioner’s establishment of clear and convincing evidence, the CA shall issue a Permanent Order

of Proscription, which shall be effective for a period of three years from the date of its publication.

4. Law enforcement agent or military personnel is required to secure a prior written surveillance order from the CA to be able to secretly wiretap, overhear and listen to, intercept, screen, read, surveil, record, or collect with the use of any electronic, mechanical, or other equipment or device or technology, or any suitable ways and means, any private communications, conversation, or messages in whatever form, kind, or nature between members of a judicially-proscribed terrorist organization, as provided in the ATA; between members of a designated person as defined in Section 3(e) of Republic Act No. 10168, or "*The Terrorism Financing Prevention ands Suppression Act of 2012;*" and any person charged with, or suspected of, committing any of the crimes defined and penalized under the ATA. The Rules likewise sets the grounds for the issuance of surveillance order as well its content and effectivity.
5. ATC may, in its application for a surveillance order, pray for the issuance of a data preservation order to compel any service provider to preserve all existing data pertaining to subscriber information, traffic data, and communication content data of any person or entity subject of the surveillance.
6. Within the context of Rule 113, Section 5 of the *Rules of Court*, a person suspected of committing any of the acts defined and penalized under Sections 4 to 12 of the ATA, and any member of a group, organization, or association proscribed under Section 26 of the said law, can be arrested and detained by any law enforcement agent or military personnel without a judicial warrant of arrest. However, this detention cannot exceed the period provided under Article 125 of the *Revised Penal Code* unless authorized in writing by the ATC for a period of up to fourteen (14) calendar days and, thereafter, by a designated Regional Trial Court for a period of not more than ten (10) calendar days. Those arrested shall be informed of their constitutional rights and custodial rights under Section 30 of the ATA. The use of torture and other cruel, inhumane, and degrading treatment or punishment during investigation or interrogation is prohibited.
7. It lays down the procedure to be followed by an investigation prosecutor in applying for a precautionary hold departure order against a person who has been suspected of committing any violation of Sections 4 to 12 of the ATA. To prevent the suspected person from leaving the country, the investigating prosecutor may file a verified application with any designated Regional Trial Court within whose territorial jurisdiction the alleged crime was committed. The Rules also provides for the remedy of the suspected person who seeks to lift the precautionary hold departure order on good grounds.
8. It lays down the procedure for dealing with and handling classified evidence involving national security and state secrets.

9. In cases where those belonging to the most vulnerable groups composed of the elderly, pregnant, persons with disability, women, and children are unable to safeguard their interests, the court shall appoint a guardian *ad litem* to protect their rights.
10. The Rules shall not diminish the substantive rights of the parties provided under all existing laws and international treaties, conventions, and agreements. The parties can likewise avail of other existing remedies, such as the writs of *habeas corpus*, *amparo*, *habeas data*, and appeals to the Supreme Court when appropriate.
11. Any violation of any provision of the Rules or any duly-issued court order shall be a ground for contempt under Rule 71 of the *Rules of Court*.

For reference, the full text of the Rules is appended herein as Annex "A."

The Resolution shall **take effect on 15 January 2024**.

Any prior circular from the Office of the Court Administrator on this matter which is contrary to the foregoing is hereby deemed superseded.

For the information, guidance, and strict observance of all concerned.

10 January 2024



RAUL B. VILLANUEVA
Court Administrator



Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court En Banc issued a Resolution dated
DECEMBER 5, 2023 *which reads as follows:*

"A.M. No. 22-02-19-SC

**RULES ON THE ANTI-TERRORISM ACT OF 2020
AND RELATED LAWS**

WHEREAS, Article II, Section 4 of the 1987 Constitution declares "[t]he prime duty of the Government is to serve and protect the people;"

WHEREAS, Article II, Section 5 of the 1987 Constitution declares that "[t]he maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy;"

WHEREAS, Article II, Section 11 of the 1987 Constitution declares that "[t]he State values the dignity of every human person and guarantees full respect for human rights;"

WHEREAS, Section 2 of [t]he Anti-Terrorism Act of 2020, Republic Act No. 11479, declares terrorism as "a crime against the Filipino people, against humanity, and against The Law of Nations;"

WHEREAS, Section 2 of [t]he Anti-Terrorism Act of 2020 makes it a policy of the State to "uphold the basic rights and fundamental liberties of the people as enshrined in the Constitution" in the implementation of the law;

WHEREAS, Section 2 of [t]he Terrorism Financing Prevention and Suppression Act of 2012, Republic Act No. 10168, as amended, makes it a goal to reinforce the State's fight against terrorism "by criminalizing the financing of terrorism and related offenses, and by preventing and suppressing the commission of said offenses through freezing and forfeiture of properties or funds while protecting human rights;"

WHEREAS, there is a need to provide for procedural rules to implement further the Anti-Money Laundering Act (Republic Act No. 9160) as amended, Anti-Wire Tapping Act of 1965 (Republic Act No. 4200), and other laws that pertain to terrorism, that will balance the State's duty to safeguard the lives and safety of the people with the need to protect individual civil liberties from abuses;

WHEREAS, Article III, Section 5(5) of the 1987 Constitution empowers this Court to “[p]romulgate rules concerning the protection and enforcement of constitutional rights;”

WHEREAS, through Memorandum Order Nos. 115-2022 dated July 18, 2022, 138-2022 dated September 9, 2022, and 92-2023 dated August 11, 2023, the *Ad Hoc Committee for the Formulation of the Special Rules of Procedure on Anti-Terrorism Cases* was organized to prepare a working draft of the Proposed Special Rules on Anti-Terrorism Cases and propose amendments or updates to existing rules related to terrorism in view of the Anti-Terrorism Act of 2020, and is composed of the following:

Chairperson: **Hon. Reynato S. Puno**
Chief Justice (Ret.), Supreme Court

Vice Chairperson: **Hon. Rosmari D. Carandang**
Associate Justice (Ret.), Supreme Court
Chancellor, Philippine Judicial Academy

Members: **Hon. Germano Francisco D. Legaspi**
Associate Justice, Court of Appeals

Hon. Maria Josefina G. San Juan-Torres
Presiding Judge – Regional Trial Court (Morong, Rizal)

Hon. Niven R. Canlapan
Presiding Judge – Regional Trial Court (Carmona, Cavite)

Atty. Mel Georgie B. Racela
Bangko Sentral ng Pilipinas

Dir. Matthew M. David
Anti-Money Laundering Council
AMLC Representative

Dep. Dir. Romeo Raymond C. Santos
Litigation and Evaluation Group
Alternate AMLC Representative

Act. Dep. Dir. Ronel U. Buenaventura
Commitments and Policy Group
Alternate AMLC Representative

Atty. Luis Anthony K. Warren
Legal Officer, Litigation and Enforcement Group
Alternate AMLC Representative

Hon. Leah C. Tanodra-Armamento
Former Commissioner and Chairperson,
Commission on Human Rights
Human Rights Sector Representative

Prof. Anthony Charlemagne C. Yu
Professorial Lecturer – Constitutional Law
Philippine Judicial Academy/University of the
Philippines
Academe Representative

Atty. Adrian Ferdinand S. Sugay
Former Undersecretary – Department of Justice

Atty. Fritz Bryn Anthony M. Delos Santos
Atty. Miguel Martin A. Buenaventura
Atty. Chantal C. Chua
Atty. Vanessa Gloria S. Vergara
Office of the Chief Justice
Chief Justice Representatives

Secretariat: **Atty. Camille Sue Mae L. Ting**
Atty. Kristine Leigh G. Domingo
Office of Associate Justice Jose Midas P. Marquez

Stenographers: **Maria Lourdes A. Banal**
Mary Grace A. Santiago
Office of the Clerk of Court En Banc

NOW, THEREFORE, the Court *En Banc* resolves to **APPROVE** the “Rules on the Anti-Terrorism Act of 2020 and Related Laws.”

December 5, 2023.


ALEXANDER G. GESMUNDO
Chief Justice

*Conceded.
without prejudice to the
autonomy of any future challenge
to the law of procedure*

MARVIC M.V.F. LEONEN
Senior Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

ON OFFICIAL LEAVE
BUT LEFT HIS VOTE
RODIL V. ZALAMEDA
Associate Justice

MARIO V. LOPEZ
Associate Justice

SAMUEL H. GAERLAN
Associate Justice

RICARDO R. ROSARIO
Associate Justice

JHOSEP V. LOPEZ
Associate Justice

ON OFFICIAL LEAVE

JAPAR B. DIMAAMPAO
Associate Justice

ON OFFICIAL BUSINESS
JOSE MIDAS P. MARQUEZ
Associate Justice

ANTONIO T. KHO, JR.
Associate Justice

MARIA FILOMENA D. SINGH
Associate Justice

RULE 1

GENERAL PROVISIONS

Section 1. Title.—This set of Rules shall be known and cited as the “Rules on the Anti-Terrorism Act of 2020 and Related Laws.”

Section 2. Scope and Applicability.—This set of Rules shall apply to all petitions and applications regarding detentions without judicial warrants of arrest, surveillance orders, freeze orders, restrictions on travel, designations, proscriptions, and other issuances promulgated to implement “The Anti-Terrorism Act of 2020” (ATA) and other laws related to terrorism.¹

Section 3. Definition of Terms.—For purposes of this set of Rules, the following terms are defined as follows:

- (a) *Application* – an initiatory pleading filed by an authorized officer before the proper court seeking to implement the provisions of the ATA and other related laws.
- (b) *Arrest* – the taking of a person into custody in order that he or she may be bound to answer for the commission of an offense.
- (c) *Assets* – refer to both properties and funds, including incorporeal rights or interests therein, of the subject or target of designation or proscription.
- (d) *Classified information* – pertains to data or information that are confidential or highly-sensitive such as matters that involve national security and state secret/s.
- (e) *Clear and Convincing Evidence*² – refers to the measure or degree of proof which will produce in the mind of the trier of facts a firm belief or conviction as to the allegations sought to be established. It is such quantum of proof which is less than proof beyond reasonable doubt but greater than preponderance of evidence; in which the degree of believability is higher than that of an ordinary civil case.³

¹ Including but not limited to: Republic Act No. 9160 (2001), Anti-Money Laundering Act of 2001; Republic Act No. 10168 (2012), The Terrorism Financing Prevention and Suppression Act of 2012; Republic Act No. 4200 (1965), Anti-Wire Tapping Law; Republic Act No. 10175 (2012), Cybercrime Prevention Act of 2012.

² Such standard or quantum of proof is usually used as a balancing mechanism to accommodate legitimate state interests vis-à-vis private rights (see *Colorado v. New Mexico*, 467 U.S. 310 [1984]).

³ *Tankeh v. Development Bank of the Philippines*, 720 Phil. 641, 675–676 (2013).

- (f) *Confidential business correspondence* – refers to any communication or information related to a business or commercial transaction that pertains to any matter within the scope of the legitimate business or trade of such entity or institution, which is intended to be kept private or secret.
- (g) *Delisting* – an administrative or judicial process of removing for justifiable cause the name or identity of an individual, organization, association, or group of persons from among those designated as terrorists under the ATA.
- (h) *Detention Without Judicial Warrant* – the act of law enforcement agents or military personnel in arresting and detaining individuals without judicial warrant based on probable cause within the context of Rule 113, Section 5 of the Rules of Court.
- (i) *Effective Judicial Protection* – refers to the right of a person or group of persons or association to seek relief from a court: (a) with competent jurisdiction; (b) independent, fair, and impartial, and that will (c) actively protect their rights especially in proceedings that exclude them or when vulnerable persons are involved.⁴
- (j) *Hash Value* – refers to the mathematical algorithm produced against digital information (a file, a physical disk, or a logical disk) thereby creating a “digital fingerprint” or “digital DNA” for that information.⁵ It is a one-way algorithm and makes impossible to change digital evidence without changing the corresponding hash values.
- (k) *Prima Facie Evidence* – means evidence which, if unexplained or uncontradicted, is sufficient to sustain a judgment in favor of the issue it supports, but which may be contradicted by other evidence.⁶
- (l) *Probable Cause* – means the existence of such facts and circumstances leading to the conclusion that a person is engaged in criminal activity or that a property is related to a criminal activity viewed in the eyes of a reasonably discreet, prudent, or cautious person, and in light of the totality of circumstances.⁷

⁴ In line with Article 8 of the United Nations’ Universal Declaration of Human Rights. *See also* Judgment of 13 March 2007, *Unibet (London) Ltd. and Unibet (International) Ltd. v. Justitiekanslern*, C-432/05, EU:C:2007:163, paragraph 37: “[T]he principle of effective judicial protection is a general principle of Community law stemming from the constitutional traditions common to the Member States, which has been enshrined in Articles 6 and 13 of the European Convention for the Protection of Human Rights and Fundamental Freedoms[.]”

⁵ A.M. No. 17-11-03-SC (2018), sec. 1.4(i), Rule on Cybercrime Warrants.

⁶ *Wa-acon v. People*, 539 Phil. 485, 494 (2006).

⁷ *People v. Montilla*, 349 Phil. 640, 659–660 (1998).

- (m) *Service Provider* – refers to: (1) any public or private entity that provides to users of its service the ability to communicate by means of a computer system; and (2) any other entity that processes or stores computer data on behalf of such communication service or its users.

The term service provider includes any service provider offering its services within the territory of the Philippines, regardless of its principal place of business.⁸

- (n) *Substantial Evidence* – means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion, even if other minds equally reasonable might conceivably opine otherwise,⁹ considering the totality of the obtaining situation and the consistency of the hearsay evidence with the other available evidence in the case.
- (o) *Surveillance Activity* – the act of tracking down, following, or investigating individuals or organization; or tapping, listening, overhearing, screening, reading, viewing, intercepting, collecting, and recording of messages, conversations, discussions, spoken or written words, including computer and network surveillance, and other communications of individuals engaged in terrorism.¹⁰
- (p) *Vulnerable Persons* – refer to the elderly, pregnant, persons with disability, women, and children who are under investigation, interrogation, or detention pursuant to the ATA.¹¹
- (q) *Write-protection* – refers to the method or process of rendering a file, object, or contents within a storage device immutable from being deleted, altered, or introduced with new data or information.

RULE 2

JUDICIAL RELIEF FROM DESIGNATIONS BY THE ANTI-TERRORISM COUNCIL AND FREEZE ORDERS OF THE ANTI-MONEY LAUNDERING COUNCIL

Section 1. *Petition for Certiorari.*— An individual, organization, association, or group of persons may file with the Court of Appeals a verified petition for *certiorari* within twenty (20) calendar days from the date of publication of designation in the newspaper of general circulation, online official gazette, or on the

⁸ A.M. No. 17-11-03-SC (2018), sec. 1.4(q), Rule on Cybercrime Warrants.

⁹ *Miro v. Vda. De Erederos*, 721 Phil. 772, 787 (2013).

¹⁰ The Anti-Terrorism Act of 2020, secs. 3(i) and 16.

¹¹ The Anti-Terrorism Act of 2020, sec. 51.

official website of the Anti-Terrorism Council (ATC),¹² whichever is earlier, to remove his/her/its/their name or identity from the list of designated terrorists. If the petition also assails the issuance of any freeze order to effectuate the designation, a copy of the petition shall be furnished the Anti-Money Laundering Council (AMLC).

A request for delisting filed with the ATC shall bar the filing of a petition for *certiorari* against the designation by the ATC. However, if the request for delisting is not resolved by the ATC within thirty (30) calendar days from filing, or is denied, the individual, organization, association, or group of persons may resort to a petition for *certiorari* with the Court of Appeals within twenty (20) calendar days from the lapse of the thirty (30)-calendar day period or from receipt of the denial of the request for delisting, as the case may be.

Section 2. Form and Content of the Petition.—The verified petition for *certiorari* shall contain the following:

- (a) ATC resolution of designation;
- (b) AMLC Freeze Order, if any;
- (c) Date of publication of designation;
- (d) Proof of service of the petition to the ATC and the AMLC; and
- (e) A statement that no prior request for delisting has been filed with the ATC, or if filed, was denied or not resolved within thirty (30) calendar days from its filing.

The petitioner shall specify the alleged gross misapprehension of facts and misinterpretation of law showing the ATC's or AMLC's grave abuse of discretion amounting to lack or excess of jurisdiction in designating the petitioner pursuant to Section 25¹³ of the ATA and issuing the Freeze Order. The petitioner shall attach all

¹² *Publication of Designation.*—The Department of Foreign Affairs with respect to designation under Section 3(e)(1) of this Act, and the ATC with respect to designation under Section 3(e)(2) and (3) and Section 11 of this Act, shall publish a list of the designated persons to which this Act or the Human Security Act applies. The concerned agencies shall ensure that an electronic version of the document is made available to the public on their *respective website*. (The Terrorism Financing Prevention and Suppression Act of 2012, sec. 15)

¹³ *Sec. 25. Designation of Terrorist Individual, Groups of Persons, Organizations or Associations.*—Pursuant to our obligations under United Nations Security Council Resolution (UNSCR) No. 1373, the ATC shall automatically adopt the United Nations Security Council Consolidated List of designated individuals, groups of persons, organizations, or associations designated and/or identified as a terrorist, one who finances terrorism, or a terrorist organization or group.

Request for designations by other jurisdictions or supranational jurisdictions may be adopted by the ATC after determination that the proposed designee meets the criteria for designation of UNSCR No. 1373.

The ATC may designate an individual, group of persons, organization, or association, whether domestic or foreign, upon a finding of probable cause that the individual, groups of persons, organization, or association commit, or attempt to commit, or conspire in the commission of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12 of this Act.

The assets of the designated individual, groups of persons, organization, or association above-mentioned shall be subject to the authority of the Anti-Money Laundering Council (AMLC) to freeze pursuant to Section 11 of Republic Act No. 10168.

judicial affidavits of his/her/its/their witnesses and all other exculpatory evidence in support of the allegations in the petition. Evidence not attached by the petitioner shall not be considered by the Court of Appeals in its Decision. Noncompliance with any of these requirements shall warrant the dismissal of the petition.

In case the ATC Resolution of Designation or AMLC Freeze Order is based on generalities or conclusions, which will not enable a petitioner to intelligently dispute the designation, the ATC and AMLC shall have the burden of evidence to prove the existence of probable cause to designate the petitioner and freeze his/her/its/their properties and assets.

Section 3. Action on the Petition.— Immediately upon receipt of the petition, the Court of Appeals shall direct the ATC and AMLC, as the case may be, to file their verified Comment within a non-extendible period of five (5) calendar days from receipt of the order. This is without prejudice to the Court of Appeals requiring the petitioner to complete his/her/its/their compliance with Section 2 of this Rule if warranted.

The Comment shall show that there is no grave abuse of discretion in designating the petitioner/s and freezing his/her/its/their assets and properties. The ATC and AMLC shall attach all evidence to prove their defense, including the judicial affidavits of their witnesses. If the evidence is wholly or in part classified and involves national security and state secret/s, the ATC and AMLC, as the case may be, shall manifest such fact in their Comment and the evidence need not be attached to the Comment. The Court of Appeals will give it due consideration pursuant to Rule 7 of this set of Rules. Any other evidence not attached by the ATC or the AMLC shall not be considered by the Court of Appeals in its Decision. If the petition raises questions of law against the ATC and AMLC, the Comment shall refute the same, citing all legal authorities, treatises, and applicable laws and jurisprudence on the matter.

Where the burden of evidence has shifted to the ATC and AMLC, pursuant to Section 2 hereof, they shall submit the judicial affidavits of their witnesses and attach to their Comment all evidence they considered in finding probable cause designating the petitioner/s as a terrorist or as a terror group, and freezing their assets and properties.

Section 4. Preliminary Conference.— Within three (3) calendar days from receipt of the ATC's and AMLC's Comments, the Court of Appeals shall call the parties to a preliminary conference to discuss the following:

- (a) Possibility of obtaining stipulations or admissions of facts and of evidence to avoid unnecessary proof;

The designation shall be without prejudice to the proscription of terrorist organizations, associations, or groups of persons under Section 26 of this Act.

- (b) Simplification of issues;
- (c) Necessity of amendments to the pleadings;
- (d) Limitation of the number of witnesses and the dates of summary hearing;
- (e) Procedure to follow pursuant to Rule 7 of this set of Rules when the classified evidence involves matter of national security and state secret/s; and
- (f) Other matters that may aid in the prompt disposition of the petition.

Section 5. Preliminary Conference Order.—The Court of Appeals shall issue a Preliminary Conference Order within ten (10) calendar days from termination of the Conference. The Order shall include:

- (a) An enumeration of the admitted facts;
- (b) The legal and factual issue/s to be tried;
- (c) The evidence marked;
- (d) Hearing dates for the presentation of petitioner's evidence;
- (e) Hearing dates for the presentation of respondent's evidence; and
- (f) Determination if some classified evidence involves national security and state secret/s and the procedure to be followed under Rule 7 of this set of Rules.

Section 6. Summary Hearing.—The hearings on the petition shall be summary in nature and continuous, and shall be terminated within three (3) months from the issuance of the Preliminary Conference Order. Hearings via videoconferencing may be adopted.

Section 7. Decision.—The Decision shall be rendered within one (1) month from the time the case is submitted for decision and shall be immediately executory.

RULE 3

PROSCRIPTION

Section 1. Petition for Judicial Proscription.—Upon verified petition by the Secretary of the Department of Justice (DOJ), the Court of Appeals may issue an Order of Proscription declaring as outlawed terrorist any group of persons, organization, or association that commits any of the acts defined and penalized under

Sections 4,¹⁴ 5,¹⁵ 6,¹⁶ 7,¹⁷ 8,¹⁸ 9,¹⁹ 10,²⁰ 11,²¹ and 12²² of the ATA or organized for the purpose of engaging in terrorism.

¹⁴ Sec. 4. *Terrorism*.—Subject to Section 49 of this Act, terrorism is committed by any person who, within or outside the Philippines, regardless of the stage of execution:

(a) Engages in acts intended to cause death or serious bodily injury to any person, or endangers a person's life;

(b) Engages in acts intended to cause extensive damage or destruction to a government or public facility, public place or private property;

(c) Engages in acts intended to cause extensive interference with, damage or destruction to critical infrastructure;

(d) Develops, manufactures, possesses, acquires, transports, supplies or uses weapons, explosives or of biological, nuclear, radiological or chemical weapons; and

(e) Release of dangerous substances, or causing fire, floods or explosions when the purpose of such act, by its nature and context, is to intimidate the general public or a segment thereof, create an atmosphere or spread a message of fear, to provoke or influence by intimidation the government or any international organization, or seriously destabilize or destroy the fundamental political, economic, or social structures of the country, or create a public emergency or seriously undermine public safety, shall be guilty of committing terrorism and shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592, otherwise known as "An Act Amending Articles 29, 94, 97, 98 and 99 of Act No. 3815, as amended, otherwise known as the Revised Penal Code": *Provided*, That, terrorism as defined in this section shall not include advocacy, protest, dissent, stoppage of work, industrial or mass action, and other similar exercises of civil and political rights[.]

¹⁵ Sec. 5. *Threat to Commit Terrorism*.—Any person who shall threaten to commit any of the acts mentioned in Section 4 hereof shall suffer the penalty of imprisonment of twelve (12) years.

¹⁶ Sec. 6. *Planning, Training, Preparing, and Facilitating the Commission of Terrorism*.—It shall be unlawful for any person to participate in the planning, training, preparation and facilitation in the commission of terrorism, possessing objects connected with the preparation for the commission of terrorism, or collecting or making documents connected with the preparation of terrorism. Any person found guilty of the provisions of this Act shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592.

¹⁷ Sec. 7. *Conspiracy to Commit Terrorism*.—Any conspiracy to commit terrorism as defined and penalized under Section 4 of this Act shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592.

There is conspiracy when two (2) or more persons come to an agreement concerning the commission of terrorism as defined in Section 4 hereof and decide to commit the same.

¹⁸ Sec. 8. *Proposal to Commit Terrorism*.—Any person who proposes to commit terrorism as defined in Section 4 hereof shall suffer the penalty of imprisonment of twelve (12) years.

¹⁹ Sec. 9. *Inciting to Commit Terrorism*.—Any person who, without taking any direct part in the commission of terrorism, shall incite others to the execution of any of the acts specified in Section 4 hereof by means of speeches, proclamations, writings, emblems, banners or other representations tending to the same end, shall suffer the penalty of imprisonment of twelve (12) years.

²⁰ Sec. 10. *Recruitment to and Membership in a Terrorist Organization*.—Any person who shall recruit another to participate in, join, commit or support terrorism or a terrorist individual or any terrorist organization, association or group of persons proscribed under Section 26 of this Act, or designated by the United Nations Security Council as a terrorist organization, or organized for the purpose of engaging in terrorism, shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592.

The same penalty shall be imposed on any person who organizes or facilitates the travel of individuals to a state other than their state of residence or nationality for the purpose of recruitment which may be committed through any of the following means:

(a) Recruiting another person to serve in any capacity in or with an armed force in a foreign state, whether the armed force forms part of the armed forces of the government of that foreign state or otherwise;

(b) Publishing an advertisement or propaganda for the purpose of recruiting persons to serve in any capacity in or with such an armed force;

(c) Publishing an advertisement or propaganda containing any information relating to the place at which or the manner in which persons may make applications to serve or obtain information relating to service in any capacity in or with such armed force or relating to the manner in which persons may travel to a foreign state for the purpose of serving in any capacity in or with such armed force; or

(d) Performing any other act with the intention of facilitating or promoting the recruitment of persons to serve in any capacity in or with such armed force.

Any person who shall voluntarily and knowingly join any organization, association, or group of persons knowing that such organization, association, or group of persons is proscribed under Section 26 of this Act, or designated by the United Nations Security Council as a terrorist organization, or organized for the purpose of engaging in terrorism, shall suffer the penalty of imprisonment of twelve (12) years.

Section 2. Form of the Petition.—The petition shall be verified and shall contain the following:²³

- (a) The authorization of the ATC and the recommendation of the National Intelligence Coordinating Agency (NICA) to file the petition;
- (b) Proof of service of the petition on the group of persons, organization, or association sought to be proscribed. If the respondent/s whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave of court, be effected by publication of the verified petition in the official website of the ATC, DOJ, AMLC, or NICA and at least once in a newspaper of general circulation or in such places and time as the Court of Appeals may order;
- (c) The judicial affidavits of witnesses and all inculpatory evidence to prove the allegations in the petition except classified evidence that involve national security and state secret/s. The right of respondent/s to access said evidence and their evidentiary value shall be treated pursuant to Rule 7 of this set of Rules. Only evidence submitted in support of the petition shall be considered by the Court of Appeals; and
- (d) A statement whether a petition for proscription had been previously filed against the same group of persons, organization, or association, and its resolution.

Section 3. Content of the Petition.—The petition shall contain:

²¹ Sec. 11. *Foreign Terrorist.*—The following acts are unlawful and shall suffer the penalty of life imprisonment without the benefit of parole and the benefits of Republic Act No. 10592:

(a) For any person to travel or attempt to travel to a state other than his/her state of residence or nationality, for the purpose of perpetrating, planning, or preparing for, or participating in terrorism, or providing or receiving terrorist training;

(b) For any person to organize or facilitate the travel of individuals who travel to a state other than their states of residence or nationality knowing that such travel is for the purpose of perpetrating, planning, training, or preparing for, or participating in terrorism or providing or receiving terrorist training; or

(c) For any person residing abroad who comes to the Philippines to participate in perpetrating, planning, training, or preparing for, or participating in terrorism or provide support for or facilitate or receive terrorist training here or abroad.

²² Sec. 12. *Providing Material Support to Terrorists.*—Any person who provides material support to any terrorist individual or terrorist organization, association or group of persons committing any of the acts punishable under Section 4 hereof, knowing that such individual or organization, association, or group of persons is committing or planning to commit such acts, shall be liable as principal to any and all terrorist activities committed by said individuals or organizations, in addition to other criminal liabilities he/she or they may have incurred in relation thereto.

²³ The Anti-Terrorism Act of 2020, sec. 26.

- (a) A specific identification of the group of persons, organization, or association sought to be proscribed, including the names and addresses of every member at the time the petition is filed and their respective dates of membership, if known;
- (b) A detailed discussion of the factual and legal bases relied upon to justify the issuance of an Order of Proscription, whether preliminary or permanent; and
- (c) A commitment of the petitioner to have the Permanent Order of Proscription reviewed within six (6) months prior to its expiration.²⁴

Section 4. Outright Dismissal of Petition.—The Court of Appeals shall dismiss without prejudice the petition if it finds that it is not sufficient in form or substance.

Section 5. Comment on the Petition.—If the petition is sufficient in form and substance, the Court of Appeals shall require the respondent/s to file a verified Comment within a non-extendible period of ten (10) calendar days from receipt of the Order. In case the addresses of the respondent/s are unknown, the Court of Appeals shall direct the petitioner to cause the publication of the Order, in accordance with Section 2(b) of this Rule. Thereafter, the respondent/s shall file their verified Comment within a non-extendible period of ten (10) calendar days from the date of publication.

The respondent/s shall submit the judicial affidavits of their witnesses and all other exculpatory evidence in support of the allegations contained in their verified Comment. Evidence not submitted by the respondents shall not be considered by the Court of Appeals in its Decision.

If no Comment is filed within the reglementary period, the Court of Appeals shall hear the case *ex parte* and render judgment on the basis of the evidence presented.

Section 6. Preliminary Order of Proscription.—Within seventy-two (72) hours from the filing of the verified petition, the Court of Appeals may issue *ex parte*, a Preliminary Order of Proscription declaring the respondent/s as terrorist/s.²⁵

The Preliminary Order of Proscription must be based on probable cause sufficiently established in the verified petition and by the evidence in its support, and that the issuance of such Preliminary Order is necessary to prevent the commission of terrorism. In the event the respondent/s, within the same period, filed an Opposition to the prayer for a Preliminary Order of Proscription, the Court of

²⁴ This is to emphasize that petitioner has the responsibility to determine if relevant circumstances warrant extension of the order of proscription upon issuance.

²⁵ The Anti-Terrorism Act of 2020, sec. 27.

Appeals may resolve the issue on the basis of the verified petition together with the Opposition and their annexes, or call for a summary hearing.

Section 7. Effect of Preliminary Order of Proscription.—The Preliminary Order of Proscription shall empower the AMLC to exercise its authority to investigate, inquire, and examine respondent/s bank deposits and freeze their assets and properties under Sections 35²⁶ and 36²⁷ of the ATA.

Section 8. Preventive Freeze Order; Extension.—Upon the issuance by the Court of Appeals of a Preliminary Order of Proscription, the AMLC may, upon its own initiative or at the request of the ATC, issue without delay an *ex parte* preventive freeze order, which shall take effect immediately and shall remain in effect for a period not exceeding twenty (20) calendar days, freezing (a) any property or funds based on probable cause that are in any way related to financing of terrorism as defined and penalized under Republic Act No. 10168, or any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11, or 12²⁸ of the ATA, or (b) property or funds of any person or

²⁶ Sec. 35. *Anti-Money Laundering Council Authority to Investigate, Inquire into and Examine Bank Deposits.*— Upon the issuance by the court of a preliminary order of proscription or in case of designation under Section 25 of this Act, the AMLC, either upon its own initiative or at the request of the ATC, is hereby authorized to investigate: (a) any property or funds that are in any way related to financing of terrorism as defined and penalized under Republic Act No. 10168, or violation of Sections 4, 6, 7, 10, 11 or 12 of this Act; and (b) property or funds of any person or persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of the aforementioned sections of this Act.

The AMLC may also enlist the assistance of any branch, department, bureau, office, agency or instrumentality of the government, including government-owned and -controlled corporations in undertaking measures to counter the financing of terrorism, which may include the use of its personnel, facilities and resources.

For purposes of this section and notwithstanding the provisions of Republic Act No. 1405, otherwise known as the "Law on Secrecy of Bank Deposits," as amended; Republic Act No. 6426, otherwise known as the "Foreign Currency Deposit Act of the Philippines," as amended; Republic Act No. 8791, otherwise known as "The General Banking Law of 2000" and other laws, the AMLC is hereby authorized to inquire into or examine deposits and investments with any banking institution or non-bank financial institution and their subsidiaries and affiliates without a court order.

²⁷ Sec. 36. *Authority to Freeze.*—Upon the issuance by the court of a preliminary order of proscription or in case of designation under Section 25 of this Act, the AMLC, either upon its own initiative or request of the ATC, is hereby authorized to issue an *ex parte* order to freeze without delay: (a) any property or funds that are in any way related to financing of terrorism as defined and penalized under Republic Act No. 10168, or any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11 or 12 of this Act; and (b) property or funds of any person or persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of the aforementioned sections of this Act.

The freeze order shall be effective for a period not exceeding twenty (20) days. Upon a petition filed by the AMLC before the expiration of the period, the effectivity of the freeze order may be extended up to a period not exceeding six (6) months upon order of the Court of Appeals: *Provided*, That, the twenty-day period shall be tolled upon filing of a petition to extend the effectivity of the freeze order.

Notwithstanding the preceding paragraphs, the AMLC, consistent with the Philippines' international obligations, shall be authorized to issue a freeze order with respect to property or funds of a designated organization, association, group or any individual to comply with binding terrorism-related resolutions, including UNSCR No. 1373 pursuant to Article 41 of the charter of the UN. Said freeze order shall be effective until the basis for the issuance thereof shall have been lifted. During the effectivity of the freeze order, an aggrieved party may, within twenty (20) days from issuance, file with the Court of Appeals a petition to determine the basis of the freeze order according to the principle of effective judicial protection: *Provided*, That the person whose property or funds have been frozen may withdraw such sums as the AMLC determines to be reasonably needed for monthly family needs and sustenance including the services of counsel and the family medical needs of such person.

However, if the property or funds subject of the freeze order under the immediately preceding paragraph are found to be in any way related to financing of terrorism as defined and penalized under Republic Act No. 10168, or any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11 or 12 of this Act committed within the jurisdiction of the Philippines, said property or funds shall be the subject of civil forfeiture proceedings as provided under Republic Act No. 10168.

²⁸ See notes 14–22.

persons in relation to whom there is probable cause to believe that such person or persons are committing or attempting or conspiring to commit, or participating in or facilitating the financing of the aforementioned prohibited acts. Before the expiration of this initial period, the AMLC may move for an extension, which the Court of Appeals may resolve with or without notice to the respondent. The motion for extension shall be resolved within a period of ten (10) calendar days from the time it is submitted for resolution. The effectivity of the preventive freeze order may be extended by the Court of Appeals to a period not exceeding six (6) months.

Prior to the expiration of the effectivity of the freeze order, the AMLC, represented by the Office of the Solicitor General, may initiate civil forfeiture proceedings under A.M. No. 05-11-04-SC and pursuant to Section 36²⁹ of the ATA.

Section 9. Preliminary Conference.—The Court of Appeals shall call the parties to a preliminary conference within three (3) calendar days from receipt of the Comment to discuss the following:

- (a) Possibility of obtaining stipulations or admissions of facts and evidence to avoid unnecessary proof;
- (b) Simplification of issues;
- (c) Limitation of the number of witnesses and their judicial affidavits, and the setting of trial dates;
- (d) Procedure to follow pursuant to Rule 7 of this set of Rules when classified evidence involve matters of national security and state secret/s; and
- (e) Other matters that may aid in the prompt disposition of the petition.

Section 10. Preliminary Conference Order.—The Court of Appeals shall issue an order within ten (10) calendar days after termination of the Preliminary Conference which shall include:

- (a) An enumeration of admitted facts;
- (b) The legal and factual issue/s to be tried;
- (c) The evidence marked;
- (d) Determination if classified evidence involves national security and state secret/s;

²⁹ See note 27.

- (e) Hearing dates for the presentation of the parties' evidence, including the names of their witnesses, if any; and
- (f) Procedure to follow when the evidence involves matters of national security and state secret/s pursuant to Rule 7 of this set of Rules.

Section 11. Period and Nature of Hearing.—Upon issuance of a Preliminary Conference Order, the Court of Appeals shall conduct continuous hearings on the petition, which shall be summary in nature. The hearings shall be completed within six (6) months from the date of filing of the petition.

Section 12. Required Quantum of Proof.—On the matter of issuing a Preliminary Order of Proscription, it shall be the burden of the petitioner to establish the existence of probable cause that the respondent is a terrorist and an outlawed organization or association within the meaning of Section 26³⁰ of the ATA, and that the Order is necessary to prevent the commission of terrorism.

On the matter of issuing a Permanent Order of Proscription, it shall be the burden of the petitioner to prove by clear and convincing evidence³¹ that the respondent is a terrorist and an outlawed organization or association within the meaning of Section 26 of the ATA and that the Order is necessary to prevent the further commission of terrorism.

Section 13. Decision.—The Court of Appeals shall decide the Petition within three (3) months from the time it is submitted for resolution and the Decision shall be immediately executory. A Permanent Order of Proscription shall be effective for a period of three (3) years from the date of its publication.

The Permanent Order of Proscription shall automatically lapse upon the expiration of the three (3)-year period provided that there is no order extending or continuing the proscription.

Section 14. Publication and Effectivity.—The ATC shall publish the Permanent Order of Proscription issued by the Court of Appeals in a newspaper of general circulation, in the official website of the ATC, DOJ, AMLC, NICA, and the Official Gazette. The Order shall take effect upon its publication in a newspaper of general circulation.

³⁰ Sec. 26. *Proscription of Terrorist Organizations, Associations, or Group of Persons.*—Any group of persons, organization, or association, which commits any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act, or organized for the purpose of engaging in terrorism shall, upon application of the DOJ before the authorizing division of the Court of Appeals with due notice and opportunity to be heard given to the group of persons, organization or association, be declared as a terrorist and outlawed group of persons, organization or association, by the said Court.

The application shall be filed with an urgent prayer for the issuance of a preliminary order of proscription. No application for proscription shall be filed without the authority of the ATC upon the recommendation of the National Intelligence Coordinating Agency (NICA).

³¹ *Calleja v. Executive Secretary*, G.R. No. 252578 et al., December 7, 2021 [Per J. Carandang, En Banc].

Section 15. Review of Permanent Order of Proscription on Motion of a Party.—At any time before the expiration of the three (3)-year period of the Permanent Order of Proscription, any party may file a verified motion before the Court of Appeals to modify or lift the order due to change in the circumstances of the parties.

The verified motion shall be accompanied by all evidence to justify the ground of change in circumstances and proof of service on the ATC, NICA, and AMLC. Any opposing party shall have ten (10) calendar days from receipt of the motion within which to file its Comment. The motion shall be resolved by the Court of Appeals on the basis of the pleadings or in a summary hearing.

Section 16. Review of the Permanent Order of Proscription.—Within six (6) months before the expiration of three (3) years, the Court of Appeals, upon the filing of a verified application by the DOJ, shall undertake a review of the Permanent Order of Proscription.³² The Court of Appeals may require the DOJ and the proscribed group of persons, organization, or association and its identified members to establish within ten (10) calendar days from notice whether circumstances warrant the continuation or the lifting of the Permanent Order of Proscription.

If the Court of Appeals finds in a summary hearing that evidence justifies the continuation of the Permanent Order of Proscription in the interest of national security or public safety, the Order shall remain effective for another period of not more than three (3) years from its original issuance.

Section 17. Dismissal not a bar.—The dismissal of a petition for proscription shall not bar the filing of another petition against the same group of persons, organization, or association, if the subsequent petition is:

- (a) grounded on new evidence which the petitioner could not have presented even in the exercise of reasonable diligence; and
- (b) filed six (6) months after the dismissal of the prior petition for proscription.

Section 18. New Application for Proscription.—The application for proscription shall be docketed as a new petition and shall be raffled to another division of the Court of Appeals.

³² The Anti-Terrorism Act of 2020, sec. 27.

RULE 4**JUDICIAL AUTHORIZATION³³ TO CONDUCT SURVEILLANCE****A. SURVEILLANCE ORDER**

Section 1. Authorization for Surveillance.³⁴—Without any written order from the Court of Appeals, no law enforcement agent or military personnel may secretly wiretap, overhear and listen to, intercept, screen, read, surveil, record, or collect, with the use of any mode, form, kind, or type of electronic, mechanical or other equipment or device or technology now known or may hereafter be known to science or with the use of any other suitable ways and means, any private communications, conversation, discussion/s, data, information, messages in whatever form, kind or nature, spoken or written words between persons mentioned in Section 2 of this Rule.

Through a written order from the Court of Appeals, a law enforcement agent or military personnel may compel service providers to produce all customer information and identification records as well as call and text data records, content, and other cellular or internet metadata of any person suspected of committing or committing any of the crimes defined and penalized under the ATA. A copy of the *ex parte* application shall be furnished the Commissioner of the National Telecommunications Commission (NTC), which shall be held in strict confidence.

Section 2. Subjects or Targets of Surveillance Orders.—Surveillance Orders shall be limited to the following subjects or targets:³⁵

- (a) Between members of a judicially-proscribed terrorist organization, as provided in Section 26³⁶ of the ATA;
- (b) Between members of a designated person as defined in Section 3(e)³⁷ of Republic Act No. 10168; or

³³ The Anti-Terrorism Act of 2020, sec. 17, uses the term “judicial authorization.”

³⁴ The Anti-Terrorism Act of 2020, sec. 16.

³⁵ The phrase “subjects or targets” is used instead of the term “suspect” to dispel any misinterpretation that surveillance orders or authorization may be issued on the basis of mere suspicion.

³⁶ See note 30.

³⁷ The Terrorism Financing Prevention and Suppression Act of 2012, sec. 3(e).

(e) *Designated persons* refers to:

(1) any person or entity designated and/or identified as a terrorist, one who finances terrorism, or a terrorist organization or group under the applicable United Nations Security Council Resolution or by another jurisdiction or supranational jurisdiction;

(2) any organization, association, or group of persons proscribed pursuant to Section 17 of the Human Security Act of 2007; or

(3) any person, organization, association, or group of persons whose funds or property, based on probable cause are subject to seizure and sequestration under Section 39 of the Human Security Act of 2007.

- (c) Any person charged with, or suspected of, committing any of the crimes defined and penalized under the provisions of the ATA.

Notwithstanding the foregoing enumeration of subjects or targets, no written order shall be issued for the surveillance of the following communications: (i) between lawyers and clients; (ii) doctors and patients; (iii) journalists and their sources; and (iv) confidential business correspondence.³⁸

Section 3. Verified Ex Parte Application for Surveillance Order.—Any law enforcement agent or military personnel seeking to conduct the surveillance activities mentioned in Section 1 of this Rule shall file a verified *ex parte* application with the Court of Appeals which shall contain the following:

- (a) The written authority from the ATC to file the verified *ex parte* application;
- (b) The identity of the law enforcement agent or military personnel, including the individual identities of the members of their team who will undertake the surveillance;
- (c) The name and address of the next in rank of the law enforcement agent or military personnel authorized to file the verified *ex parte* application;
- (d) The identity/ies, such as name and address, of the person/s whose communication/s, message/s, conversation/s, discussion/s, or spoken or written word/s is/are to be tracked down, tapped, listened to, intercepted, and recorded;
- (e) The length of time within which the authorization shall be used or carried out;
- (f) The offense or offenses committed, or being committed, or sought to be prevented by the ATA;
- (g) The electronic transmission systems or the telephone numbers to be tracked down, tapped, listened to, intercepted, and recorded and their locations, in the case of radio, electronic, or telephonic (whether wireless or otherwise) communications, messages, conversations, discussions, or spoken or written words; and
- (h) The name of the service provider and the relevant information and identification records and call and text data records, content and other cellular or internet metadata of its customer suspected of

³⁸ The Anti-Terrorism Act of 2020, sec. 16.

committing any of the crimes defined and penalized under the ATA.

Section 4. Grounds for the Issuance of a Surveillance Order.—The Surveillance Order shall issue upon showing that:³⁹

- (a) There is probable cause to believe, based on personal knowledge of facts and circumstances, that any of the offenses enumerated in Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12⁴⁰ of the ATA have been committed, are being committed, or are about to be committed by the subject/s; and
- (b) There is probable cause to believe, based on personal knowledge of facts and circumstances, that evidence will be obtained which is essential to the conviction of any charged or suspected person for violation of Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12⁴¹ of the ATA or to the solution or prevention of any of the previously enumerated offenses.

The applicants shall submit all evidence, testimonial and non-testimonial, in support of the verified *ex parte* application. The testimonial evidence shall be given in judicial affidavits. Classified evidence that involves national security and state secret/s may be submitted for the consideration of the Court of Appeals and shall be treated in accord with Rule 7 of this set of Rules. Only evidence attached to the application shall be considered by the Court of Appeals in the course of hearing the *ex parte* application.

Section 5. Action on the Verified Ex Parte Application.—The Court of Appeals may take the following actions on the verified *ex parte* application:

- (a) It shall dismiss *motu proprio* the application if it is insufficient in form or substance;
- (b) If the application is sufficient in form and substance, it shall conduct summary and continuous hearings within twenty-four (24) hours upon its filing. The Court of Appeals shall, within seventy-two (72) hours from termination of the summary and continuous hearings, resolve the application;
- (c) In the summary hearings, the applicant shall adduce proof of probable cause as required in Section 4 of this Rule; and

³⁹ The Anti-Terrorism Act of 2020, sec. 17.

⁴⁰ See notes 14–22.

⁴¹ *Id.*

- (d) To determine probable cause, the Justices shall proactively examine the applicants and their witnesses with probing and searching questions to ensure that the right of the subject to effective judicial protection is not violated and their constitutional rights are not unduly derogated with due regard to the preventive purpose of the Surveillance Order. The searching questions and answers shall form part of the records of the case.

Section 6. Content of Surveillance Order.—The Surveillance Order shall be in writing and shall specify the following:⁴²

- (a) The identity/ies, such as name and address, if known, of the person/s whose communication/s, message/s, conversation/s, discussion/s, or spoken or written word/s is/are to be tracked down, tapped, listened to, intercepted, and recorded; and, in the case of radio, electronic, or telephonic (whether wireless or otherwise) communications, messages, conversations, discussions, or spoken or written words, the electronic transmission systems or the telephone numbers to be tracked down, tapped, listened to, intercepted, and recorded and their location. Person or persons suspected of committing any of the crimes defined and penalized under the provisions of the ATA not fully known shall be the subject of continuous surveillance;
- (b) The identity of the law enforcement agent or military personnel, including the members of his or her team, judicially authorized to undertake surveillance;
- (c) The offense or offenses committed, or being committed, or to be prevented;
- (d) The length of time within which the Order shall be used or carried out;⁴³ and
- (e) The name of the service provider that will produce, identify, and preserve the relevant information and information/data⁴⁴ identification records and call and text data records, content and other cellular or internet metadata of its customer suspected of or committing any of the crimes defined and penalized under the ATA.

⁴² The Anti-Terrorism Act of 2020, sec. 18.

⁴³ *Id.*

⁴⁴ Cybercrime Prevention Act of 2012, sec. 3(o).

Section 7. Service of Surveillance Order.—Copies of the Surveillance Order shall be served by the clerk of court or any other duly authorized personnel of the Court of Appeals personally on the applicant law enforcement agent or military personnel, the Commissioner of the NTC, and service providers not later than twenty-four (24) hours from its promulgation.

Section 8. Persons Who May Conduct Surveillance.—The authority granted in the Surveillance Order shall be limited to the law enforcement agent or military personnel and the members of their team named therein. No surveillance activity may be outsourced, subcontracted, or delegated to private individuals, groups, or entities.

The law enforcement agent or military personnel shall keep a record of the surveillance activities undertaken, including the names of the persons participating therein and the dates thereof, subject to the procedure laid down in Rule 7 hereof when matters of national security and state secret/s are involved.

Section 9. Effectivity of Surveillance Order.—The Surveillance Order shall be effective for the length of time specified in the Order which shall not exceed sixty (60) calendar days from the date of its receipt by the applicant law enforcement agent or military personnel.⁴⁵

The Surveillance Order shall automatically lapse upon the expiration of the period specified in the Order if the applicant fails to file a motion for its extension.

Section 10. Extension of Judicial Authorization.⁴⁶—An *ex parte* verified motion may be filed by the original applicant to extend the authorization to a period which shall not exceed thirty (30) calendar days.

The Justices shall proactively determine the merits of the motion through searching questions which, together with the answers given by the applicant and the witnesses, shall form part of the records of the case. The motion shall be granted if warranted by public interest.

No further motion for extension shall be entertained and allowed beyond the first extension.

In case of death or physical disability of the original applicant, the one next in rank among the members of the team named in the original written order shall file the motion.

Section 11. Period To File Charges.—The applicant law enforcement agent or military personnel shall have thirty (30) calendar days after the termination of the surveillance period within which to file the appropriate charges before the Public Prosecutor's Office for any violation of the ATA. After the expiration of the period,

⁴⁵ The Anti-Terrorism Act of 2020, sec. 19.

⁴⁶ *Id.*

the Court of Appeals shall direct them to report whether or not an appropriate case has been filed. If no case is filed, the applicant shall manifest the reasons therefor.

Section 12. Custody of Intercepted and Recorded Communications.—All tapes, discs, other storage devices, recording, notes, memoranda, summaries, excerpts, and all their copies, including a record of the surveillance activities undertaken under Section 8 of this Rule, shall, within forty-eight (48) hours after the expiration of the period fixed in the Surveillance Order or its extension, be deposited with the Court of Appeals in a sealed envelope or sealed package, and shall be accompanied by a joint affidavit of the applicant law enforcement agent or military personnel and the members of their team.

In case of death or disability of the applicant, the one next in rank among the members of the team named shall execute the required affidavit with the members of the team.⁴⁷

The joint affidavit of the law enforcement agent or military personnel shall state the following: (a) the number of tapes, disc, and recordings that have been made; (b) the dates and times covered by each of such tapes, disc, and recordings; and (c) the chain of custody or the list of persons who had possession or custody over the tapes, discs and recordings.

They shall also certify under oath that no duplicate/s or copy of the whole or any part of any such tapes, discs, other storage devices, recordings, notes, memoranda, summaries, or excerpts have been made or, if made, that all are included in the sealed envelope or sealed package deposited with the authorizing division of the Court of Appeals.⁴⁸

Section 13. Authorization for Opening, Replaying, Disclosing, and Using Sealed Envelope or Package as Evidence.—The sealed envelope or sealed package and their contents referred to in Section 12 of this Rule are classified information and shall remain classified if no case has been filed against the surveilled subject.⁴⁹ The Secretary of the DOJ, duly authorized in writing by the ATC, may, however, file a verified motion for the sealed envelope or sealed package and their contents to be opened, replayed, disclosed, or be used as evidence in an appropriate case.⁵⁰

Copy of the motion shall be served on the person whose conversation, communication, message, discussion, or spoken or written word/s has been the subject of surveillance, monitoring, recording, and interception.

Any listened to, intercepted, and recorded communications, message, conversation/s, discussion/s, or spoken or written word/s, or any part or parts thereof, or any information or fact contained therein, including their existence, content, substance, purport, effect, or meaning, which have been secured in violation of the

⁴⁷ The Anti-Terrorism Act of 2020, sec. 20.

⁴⁸ The Anti-Terrorism Act of 2020, sec. 21.

⁴⁹ The Anti-Terrorism Act of 2020, sec. 22.

⁵⁰ *Id.*

ATA, or the provisions of this Rule, shall be inadmissible and cannot be used as evidence in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, or proceeding.⁵¹

Section 14. Classification of Surveillance Order and Application.—The *ex parte* application, the surveillance order, and all its incidents are classified information. Access to these documents shall be limited to the applicant, duly authorized personnel of the ATC, the Justices of the authorizing division of the Court of Appeals, its division clerk of court, and other duly authorized personnel of the Court of Appeals.⁵²

B. Data Preservation Order

Section 15. Data Preservation Order.—The ATC may, in its application for a surveillance order, pray for the issuance of a data preservation order to compel any service provider to preserve all existing data pertaining to the subscriber information, traffic data, and communication content data of the person, entity, or group subject of the surveillance.

The ATC shall specifically describe the data sought to be preserved or retrieved under the data preservation order.

Section 16. Obligations of the Service Provider.—The service provider shall, in compliance with the Data Preservation Order, perform the following:

- (1) Retain and store in its facility all data pertaining to subscriber information, traffic data, and communication content data of the person, entity, or group subject of the surveillance for a period of sixty (60) calendar days⁵³ or that which is specified by the Court of Appeals reckoned from receipt of the Data Preservation Order;
- (2) Retain and store in its facility the aforementioned data for six (6) months⁵⁴ reckoned from the last day of the court-approved surveillance period;
- (3) Make the aforementioned data available to the ATC for copying;
- (4) Record the data sought by the ATC to be copied in a write-protected storage medium which includes and shall not be limited to CDs, DVDs, solid state flash drives, magnetic hard drives, and other storage medium that may hereinafter be known to science;

⁵¹ The Anti-Terrorism Act of 2020, sec. 23.

⁵² The Anti-Terrorism Act of 2020, sec. 18.

⁵³ The Anti-Terrorism Act of 2020, sec. 19.

⁵⁴ Cybercrime Prevention Act of 2012, sec. 13.

- (5) Assign a hash value on the write-protected⁵⁵ storage medium;⁵⁶
- (6) Execute a certification containing the description of the data contained in the write-protected storage medium as well as its hash value; and
- (7) Turn over the certification and the write-protected storage medium with assigned hash value to the ATC.

Section 17. Obligations of the ATC.—The ATC shall turn over to the Court of Appeals, within forty-eight⁵⁷ (48) hours after each request of the recorded data,⁵⁸ the certification executed by the service provider under the preceding Section as well as all the retrieved data of the person, entity or group subject of the surveillance contained within the write-protected storage medium with assigned hash value.

The ATC shall provide for the write-protected storage medium at its own expense and shall be responsible for retrieval and storage of all the data it needs from the service provider regarding the person, entity, or group subject of the surveillance.

Under no circumstance shall the ATC examine, access, or make use of the data recovered from the service provider without first filing a motion with the Court of Appeals for the opening, replaying, disclosing, or using as evidence of the sealed envelope or sealed package, or the contents thereof under Rule 4, Section 13 of this set of Rules.

Section 18. Return.—After retrieving all the data covering the surveillance period from the service provider, the ATC shall file a return with the Court of Appeals describing and listing all the data retrieved or recovered within five (5) calendar days reckoned from the expiration of such period.

Section 19. Implementation of the Communication Content Data Preservation Order on Service Providers Located Outside the Philippines.—Whenever the communication content data sought to be preserved or retrieved is in the possession or control of a service provider situated outside of the Philippines, the Data Preservation Order shall be coursed through the Department of Justice – Office of Cybercrime (DOJ-OOC) as the Central Authority under Republic Act No. 10175 or the Cybercrime Prevention Act of 2012. The DOJ-OOC shall enforce the

⁵⁵ This ensures that the data in the storage medium cannot be altered by anyone as any infinitesimal modification of such data will always reflect a different hash value.

⁵⁶ Assigning a hash value to lock in the contents of all data stored will enable the Court of Appeals to authenticate the same.

⁵⁷ The Anti-Terrorism Act of 2020, sec. 20.

⁵⁸ It may happen that the data retrieved from the internet service providers or telecommunications service providers within the period of surveillance will be necessary for the ATC to prevent the commission of an impending terrorism.

preservation or retrieval of the data in line with all relevant international instruments and/or agreements on the matter.

RULE 5

ARREST AND DETENTION WITHOUT JUDICIAL WARRANT OF ARREST

Section 1. Who Can Be Arrested and Detained Without Judicial Warrant of Arrest.—Within the context of Rule 113, Section 5 of the Rules of Court, the following persons can be arrested and detained by any law enforcement agent or military personnel without judicial warrant of arrest: (a) a person suspected of or committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12⁵⁹ of the ATA, and (b) any member of a group of persons, organization, or association proscribed under Section 26⁶⁰ of the ATA.⁶¹ Every person arrested shall be informed of his rights under the Constitution and in conformity with Section 30⁶² of the ATA.

Section 2. Anti-Terrorism Council to Authorize Detention.—No detention without judicial warrant can be undertaken beyond the period provided in Article 125 of the Revised Penal Code by any law enforcement agent or military personnel without any authority in writing of the ATC.

The authorization of the ATC to extend the detention beyond the period provided in Article 125 of the Revised Penal Code shall be based on a finding of probable cause that the person arrested and detained is suspected of or is committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12 of the ATA.⁶³

Section 3. Period of Detention; Extension.—Prior to the lapse of the period under Article 125 of the Revised Penal Code, the law enforcement officer or military

⁵⁹ See notes 14–22.

⁶⁰ See note 30.

⁶¹ The Anti-Terrorism Act of 2020, sec. 29.

⁶² Sec. 30. *Rights of a Person under Custodial Detention.*—The moment a person charged with or suspected of committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act is apprehended or arrested and detained, he/she shall forthwith be informed, by the arresting law enforcement agent or military personnel to whose custody the person concerned is brought, of his/her right: (a) to be informed of the nature and cause of his/her arrest, to remain silent and to have competent and independent counsel preferably of his/her choice. If the person cannot afford the services of counsel of his/her choice, the law enforcement agent or military personnel concerned shall immediately contact the free legal assistance unit of the Integrated Bar of the Philippines (IBP) or the Public Attorney's Office (PAO). It shall be the duty of the free legal assistance unit of the IBP or the PAO thus contacted to immediately visit the person/s detained and provide him/her with legal assistance. These rights cannot be waived except in writing and in the presence of his/her counsel of choice; (b) informed of the cause or causes of his/her detention in the presence of his legal counsel; (c) allowed to communicate freely with his/her legal counsel and to confer with them at any time without restriction; (d) allowed to communicate freely and privately without restrictions with the members of his/her family or with his/her nearest relatives and to be visited by them; and, (e) allowed freely to avail of the service of a physician or physicians of choice.

⁶³ See notes 14–22.

personnel may request from the ATC the extension of the period of detention without judicial warrant for up to fourteen (14) calendar days counted from the moment he/she has been arrested, detained, and taken into custody. The request for extension should be accompanied by a sworn statement stating the details of the person suspected of committing acts of terrorism, the relevant circumstances as basis for taking custody of said person, and the factual reasons for the request for extension.

Before the lapse of the initial extension of the period of detention, the ATC, through the Secretary of the DOJ, may file with the designated Regional Trial Court (RTC) of the judicial region within or nearest to the place of apprehension or arrest a verified motion with notice to the detainee and counsel for another extension of the period of detention which shall not be more than ten (10) calendar days based on the following grounds: (a) further detention of the person/s is necessary to preserve evidence gathered against them related to terrorism or to complete their investigation; (b) further detention of the person/s is necessary to prevent the commission of another act of terrorism; and (c) their investigation is being conducted properly and without delay.⁶⁴ The specific details of these general grounds shall be established by the ATC, through the Secretary of the DOJ, with substantial evidence in a summary hearing. If the burden of evidence is not discharged, the designated RTC of the judicial region that has acquired jurisdiction over the case shall order the immediate release of the detainee.

The detainee shall be delivered to the judicial authorities within the authorized period of detention. Otherwise, the detainee shall be released.

Section 4. Procedure for the Conduct of Arrest and Detention.—Within twenty-four (24) hours from the arrest of the person/s specified in Section 1 of this Rule, the law enforcement agent or military personnel making the arrest shall file, personally or electronically, a verified written report with the designated RTC of the judicial region within or nearest to the place of apprehension or arrest. The said report shall contain the following facts:⁶⁵

- (a) The time, date, and manner of arrest;
- (b) The location of the detainee;
- (c) The physical and mental condition of the detainee;
- (d) The detainee has been informed of the nature and cause of his/her arrest, in the presence of his/her legal counsel of choice;
- (e) The detainee has been informed of his/her right to remain silent and to have competent and independent counsel preferably of his/her choice;

⁶⁴ The Anti-Terrorism Act of 2020, sec. 29.

⁶⁵ The Anti-Terrorism Act of 2020, secs. 29 and 30.

- (f) If the detainee cannot afford the service of counsel of his/her choice, the law enforcement agent or military personnel has immediately contacted the free legal assistance unit of the Integrated Bar of the Philippines (IBP) or the Public Attorney's Office (PAO) to provide counsel;
- (g) If the detainee is a foreign national, the law enforcement agent or military personnel immediately informed the appropriate foreign embassy or consulate in the Philippines or the Department of Foreign Affairs (DFA) regarding the detention and that the detainee has been given the right to communicate with his/her embassy or consulate;
- (h) If the detainee is a stateless person, the law enforcement agent or military personnel immediately informed the DFA regarding the detention;
- (i) The detainee has been given the right to an interpreter;
- (j) If the detainee belongs to a vulnerable group and is unable to safeguard his or her own interest, the law enforcement agent or military personnel immediately informed the Department of Social Welfare and Development (DSWD) for assistance;
- (k) The detainee is allowed to communicate freely with his/her legal counsel and to confer with them at any time without restriction;
- (l) The detainee is allowed to communicate freely and privately without restrictions with the members of his/her family or with his/her nearest relatives and to be visited by them; and
- (m) The detainee is allowed freely to avail of the service of a physician or physicians of his/her choice.

The head of the detaining facility shall ensure that the detainee is informed of his/her rights under the ATA and shall ensure access to the detainee by his/her counsel or agencies and entities authorized by law to exercise visitorial powers over detention facilities. The law enforcement agent or the military personnel making the arrest shall also furnish a copy of the written report to the ATC, the Commission on Human Rights (CHR), the detainee's counsel, and any immediate family member, if known, within twenty-four (24) hours from the arrest of the person/s.

Section 5. Powers of the Designated RTC Judge.—The judge of the designated RTC shall exercise proactive control and supervision over cases of detention without judicial warrant of arrest to ensure that the rights of the detainee

under Sections 29,⁶⁶ 30,⁶⁷ 32,⁶⁸ and 33⁶⁹ of the ATA are not violated.⁷⁰ For this purpose, the judge may (a) issue an Order putting the place of detention under his jurisdiction for its inspection and visitation, requiring a report on every transfer of location of the detainee for health or security reasons; (b) hear and resolve, in summary proceedings, all complaints for violation of the rights of the detainee under the ATA; and (c) *motu proprio* take all actions, necessary and proper, to ensure that

⁶⁶ Sec. 29. *Detention without Judicial Warrant of Arrest.*—The provisions of Article 125 of the Revised Penal Code to the contrary notwithstanding, any law enforcement agent or military personnel, who, having been duly authorized in writing by the ATC has taken custody of a person suspected of committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act, shall, without incurring any criminal liability for delay in the delivery of detained persons to the proper judicial authorities, deliver said suspected person to the proper judicial authority within a period of fourteen (14) calendar days counted from the moment the said suspected person has been apprehended or arrested, detained, and taken into custody by the law enforcement agent or military personnel. The period of detention may be extended to a maximum period of ten (10) calendar days if it is established that (1) further detention of the person/s is necessary to preserve evidence related to terrorism or complete the investigation; (2) further detention of the person/s is necessary to prevent the commission of another terrorism; and (3) the investigation is being conducted properly and without delay.

Immediately after taking custody of a person suspected of committing terrorism or any member of a group of persons, organization or association proscribed under Section 26 hereof, the law enforcement agent or military personnel shall notify in writing the judge of the court nearest the place of apprehension or arrest of the following facts: (a) the time, date, and manner of arrest; (b) the location or locations of the detained suspect/s and (c) the physical and mental condition of the detained suspect/s. The law enforcement agent or military personnel shall likewise furnish the ATC and the Commission on Human Rights (CHR) of the written notice given to the judge.

The head of the detaining facility shall ensure that the detained suspect is informed of his/her rights as a detainee and shall ensure access to the detainee by his/her counsel or agencies and entities authorized by law to exercise visitorial powers over detention facilities.

The penalty of imprisonment of ten (10) years shall be imposed upon the police or law enforcement agent or military personnel who fails to notify any judge as provided in the preceding paragraph.

⁶⁷ See note 62.

⁶⁸ Sec 32. *Official Custodial Logbook and Its Contents.*—The law enforcement custodial unit in whose care and control the person suspected of committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11 and 12 of this Act has been placed under custodial arrest and detention shall keep a securely and orderly maintained official logbook, which is hereby declared as a public document and opened to and made available for the inspection and scrutiny of the lawyer of the person under custody or any member of his/her family or relative by consanguinity or affinity within the fourth civil degree or his/her physician at any time of the day or night subject to reasonable restrictions by the custodial facility. The logbook shall contain a clear and concise record of: (a) the name, description, and address of the detained person; (b) the date and exact time of his/her initial admission for custodial arrest and detention; (c) the name and address of the physician or physicians who examined him/her physically and medically; (d) the state of his/her health and physical condition at the time of his/her initial admission for custodial detention; (e) the date and time of each removal of the detained person from his/her cell for interrogation or for any purpose; (f) the date and time of his/her return to his/her cell; (g) the name and address of the physician or physicians who physically and medically examined him/her after each interrogation; (h) a summary of the physical and medical findings on the detained person after each of such interrogation; (i) the names and addresses of his/her family members and nearest relatives, if any and if available; (j) the names and addresses of persons, who visit the detained person; (k) the date and time of each of such visit; (l) the date and time of each request of the detained person to communicate and confer with his/her legal counsel or counsels; (m) the date and time of each visit, and date and time of each departure of his/her legal counsel or counsels; and (n) all other important events bearing on and all relevant details regarding the treatment of the detained person while under custodial arrest and detention.

The said law enforcement custodial unit shall, upon demand of the aforementioned lawyer or members of the family or relatives within the fourth civil degree of consanguinity or affinity of the person under custody or his/her physician, issue a certified true copy of the entries of the logbook relative to the concerned detained person subject to reasonable restrictions by the custodial facility. This certified true copy may be attested by the person who has custody of the logbook or who allowed the party concerned to scrutinize it at the time the demand for the certified true copy is made.

The law enforcement custodial unit who fails to comply with the preceding paragraphs to keep an official logbook shall suffer the penalty of imprisonment of ten (10) years.

⁶⁹ Sec. 33. *No Torture or Coercion in Investigation and Interrogation.*—The use of torture and other cruel, inhumane and degrading treatment or punishment, as defined in Sections 4 and 5 of Republic Act No. 9745 otherwise known as the “Anti-Torture Act of 2009,” at any time during the investigation or interrogation of a detained suspected terrorist is absolutely prohibited and shall be penalized under said law. Any evidence obtained from said detained person resulting from such treatment shall be, in its entirety, inadmissible and cannot be used as evidence in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.

⁷⁰ Pursuant to the principle of “effective judicial protection.”

the objectives of the ATA are achieved considering the duty of the State to protect national security by preventing acts of terrorism and the rights of a detainee under the ATA.

Section 6. No Torture or Coercion in Investigation and Interrogation.—The use of torture and other cruel, inhumane, and degrading treatment or punishment, as defined in Sections 4 and 5⁷¹ of Republic Act No. 9745, otherwise known as the “Anti-Torture Act of 2009,” at any time during the investigation or interrogation of a detained terrorist is prohibited and shall be penalized under said law. Any evidence obtained from such treatment shall be inadmissible in any judicial, quasi-judicial, legislative, or administrative investigation, inquiry, proceeding, or hearing.⁷²

The judge of the designated RTC shall ensure, among others, that the detainee is not subjected to torture and other cruel, inhumane, and degrading treatment or punishment. For this purpose, the judge may (a) require the conduct of an independent medical examination of the detainee; (b) order the transfer of detention facilities; and (c) authorize audio and video recordings of the interrogations conducted under this set of Rules.

Section 7. Proceedings in Violation of the Rights of the Detainee.—Complaints for violation of the rights of the detainee under Sections 29,⁷³ 31,⁷⁴ and 32⁷⁵ of the ATA shall be brought before and summarily investigated by the judge of the designated RTC. If the judge of the designated RTC finds any *prima facie* violation of Sections 29, 31, and 32 of the ATA by any law enforcement agent or military personnel, a cease-and-desist order, together with an order to transfer detention facility when warranted, shall be issued and the matter shall be immediately referred to the DOJ for criminal prosecution.

Section 8. Official Custodial Logbook and Its Contents.—The law enforcement custodial unit in whose care and control the person suspected of or is committing any of the acts defined and penalized under Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12⁷⁶ of this Act has been placed under custodial arrest and detention, shall keep a securely and orderly maintained official logbook. The logbook shall be considered a public document and shall be open to and available for the inspection and scrutiny of the lawyer of the person under custody or any member of his/her

⁷¹ Sec. 5. *Other Cruel, Inhuman and Degrading Treatment or Punishment.*—Other cruel, inhuman or degrading treatment or punishment refers to a deliberate and aggravated treatment or punishment not enumerated under Section 4 of this Act, inflicted by a person in authority or agent of a person in authority against another person in custody, which attains a level of severity sufficient to cause suffering, gross humiliation or debasement to the latter. The assessment of the level of severity shall depend on all the circumstances of the case, including the duration of the treatment or punishment, its physical and mental effects and, in some cases, the sex, religion, age and state of health of the victim.

⁷² The Anti-Terrorism Act of 2020, sec. 33.

⁷³ See note 66.

⁷⁴ Sec. 31. *Violation of the Rights of a Detainee.*—The penalty of imprisonment of ten (10) years shall be imposed upon any law enforcement agent or military personnel who has violated the rights of persons under their custody, as provided for in Sections 29 and 30 of this Act.

Unless the law enforcement agent or military personnel who violated the rights of a detainee or detainees as stated above is duly identified, the same penalty shall be imposed on the head of the law enforcement unit or military unit having custody of the detainee at the time the violation was done.

⁷⁵ See note 68.

⁷⁶ See notes 14–22.

family or relative by consanguinity or affinity within the fourth civil degree or his/her physician at any time of the day or night subject to reasonable restrictions by the custodial facility. The logbook shall contain a clear and concise record of the following: (a) the name, description, and address of the detainee; (b) the date and exact time of the admission for custodial arrest or detention of the detainee; (c) the name and address of the physician or physicians who examined the detainee physically and medically; (d) the state of health and physical condition of the detainee at the time of his/her initial admission for custodial detention; (e) the date and time of each removal of the detainee from his/her cell for interrogation or for any purpose; (f) the date and time of the detainee's return to his/her cell; (g) the name and address of the physician or physicians who physically and medically examined the detainee after each interrogation; (h) a summary of the physical and medical findings of the detainee after each interrogation; (i) the names and addresses of the detainee's relatives, if any and if available; (j) the names and addresses of persons who visit the detainee; (k) the date and time of each of such visit; (l) the date and time of each request of the detainee to communicate and confer with his/her legal counsel or counsels; (m) the date and time of each visit and the date and time of the departure of his/her legal counsel or counsels; and (n) other important events bearing on all relevant details regarding the treatment of the detainee while under custodial arrest and detention.

The law enforcement custodial unit shall, upon demand of the lawyer or members of the family and relatives within the fourth civil degree of consanguinity or affinity of the detainee or his/her physician, issue a certified true copy of the entries of the logbook relative to the detainee subject to reasonable restrictions by the custodial facility. The certified true copy may be attested by the person who has custody of the logbook or who allowed the party concerned to scrutinize.⁷⁷

Section 9. Release of Detainee and Requirement of Verified Return.—Upon expiration of the original or extended period of detention, the law enforcement agent or military personnel concerned shall (i) release the detainee and (ii) file, within twenty-four (24) hours from the date and time of release, a verified⁷⁸ report informing the judge of the designated RTC of the following:

- (a) The date and time of the detainee's release;
- (b) The location of the detention facilities where the detainee was brought, transferred, and released from;
- (c) The health and physical condition of the released detainee; and
- (d) That the detainee

⁷⁷ The Anti-Terrorism Act of 2020, sec. 32.

⁷⁸ The requirement of verification seeks to discourage the commission of perjury.

- (i) was allowed to choose and communicate freely with his/her legal counsel of choice and to confer with them at any time without restriction;⁷⁹
- (ii) was allowed to communicate freely and privately without restrictions with the members of his/her family or with his/her nearest relatives and to be visited by them;⁸⁰
- (iii) was allowed freely to avail of the service of a physician or physicians of his/her choice;⁸¹
- (iv) was not denied access to the custodial logbook and its contents through his/her chosen or PAO/IBP-designated counsel, relatives by consanguinity or affinity within the fourth civil degree, and physician;⁸² and
- (v) was not denied his/her right of access to counsel or agencies and entities authorized by law to exercise visitorial powers over detention facilities.⁸³

Section 10. Report to the SC Court Administrator.—The judge of the designated RTC shall submit a special monthly report to the Court Administrator of the Supreme Court of the proceedings conducted from beginning to the end of all cases involving arrests and detentions without judicial warrant, especially on alleged violations of the rights of the detainee specified in the ATA.

RULE 6

RESTRICTION ON RIGHT TO TRAVEL⁸⁴

Section 1. Precautionary Hold Departure Order.—A Precautionary Hold Departure Order is an Order in writing issued by a designated RTC commanding the Bureau of Immigration to prevent any attempt by a person suspected of or committing any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12⁸⁵ of the ATA from leaving the country.

⁷⁹ The Anti-Terrorism Act of 2020, sec. 30(c).

⁸⁰ The Anti-Terrorism Act of 2020, sec. 30(d).

⁸¹ The Anti-Terrorism Act of 2020, sec. 30(e).

⁸² The Anti-Terrorism Act of 2020, sec. 32.

⁸³ The Anti-Terrorism Act of 2020, secs. 29 and 30(c).

⁸⁴ The Anti-Terrorism Act of 2020, sec. 34.

⁸⁵ See notes 14–22.

Section 2. When and Where to File.—Prior to the filing of an information for any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12⁸⁶ of the ATA, an *ex parte*, verified application for a precautionary hold departure order may be filed by the investigating prosecutor with any designated RTC within whose territorial jurisdiction the alleged crime was committed.

Section 3. Finding of Probable Cause.—The applicant shall prove (a) probable cause to believe that the person concerned is suspected of or is committing a violation of any of Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12⁸⁷ of the ATA; (b) that there is high probability that the person concerned will depart from the Philippines to evade arrest and prosecution; and (c) that the Order is required in the interest of national security or public safety.

Section 4. Proceedings in the designated RTC.—In the *ex parte* proceeding, the judge of the designated RTC shall proactively examine under oath or affirmation, in the form of searching questions and answers in writing, the applicant and the witnesses he/she may produce on facts personally known to them and evaluate all evidence submitted in support of their application for a Precautionary Hold Departure Order. Their sworn statements and the searching questions and answers shall form part of the records of the case. Classified evidence involving national security and state secret/s shall be considered in accordance with Rule 7 of this set of Rules.

Within twenty-four (24) hours from receipt of the application, the judge of the designated RTC shall grant the application if the standards set in the previous section are met by the totality of evidence presented by the applicant. Otherwise, the application shall be denied.

Section 5. Form and Validity of the Precautionary Hold Departure Order.—The Precautionary Hold Departure Order shall indicate the name of the respondent, the alleged crime he/she is suspected of committing or has committed under the ATA, and the time and place of its commission. A copy of the application, personal details, passport number, and photograph of the respondent, if available, shall be appended to the Order. The judge of the designated RTC shall furnish the Bureau of Immigration and the DFA with a duly certified copy of the Precautionary Hold Departure Order within twenty-four (24) hours from issuance.

Section 6. Remedy of the Respondent.—The respondent may file with the issuing court a verified motion, copy furnished the investigating prosecutor, to lift the Precautionary Hold Departure Order on good grounds: that based on the application of the investigating prosecutor and the evidence it submitted and the contrary evidence that he/she will present, no probable cause exists that he/she can be suspected of or is committing any violation of Sections 4, 5, 6, 7, 8, 9, 10, 11, and 12⁸⁸ of the ATA; that he/she is not a flight risk and that the Order is not required by national security or public safety. If sufficient in form and substance, the judge of

⁸⁶ *Id.*

⁸⁷ *Id.*

⁸⁸ *Id.*

the designated RTC shall order the investigating prosecutor to file its Comment on the motion within twenty-four (24) hours from receipt. The motion shall be resolved in a summary hearing within twenty-four (24) hours from its conclusion.

RULE 7

TREATMENT OF CLASSIFIED INFORMATION INVOLVING NATIONAL SECURITY AND STATE SECRET/S

Section 1. Applicability.—This Rule shall apply whenever classified evidence involving national security and state secret/s have been relied upon by the ATC, the AMLC, the DOJ, or any law enforcement agent or military personnel in enforcing the ATA and other laws related thereto, and have to be evaluated by the appropriate court to determine, among others, their admissibility, value, and sufficiency to establish probable cause vis-à-vis the constitutional right of a person or group to access them for their defense.

Section 2. Procedure in Dealing with Classified Information Involving National Security and State Secret/s.—In dealing with classified evidence involving national security and state secret/s, the appropriate court shall observe the following procedure:

- (a) Require the ATC, AMLC, DOJ, law enforcement agent, or military personnel to specify and describe the evidence categorized as classified and involving national security and state secret/s which it used to determine probable cause under the ATA;
- (b) Require the ATC, AMLC, DOJ, law enforcement agent, or military personnel to present official copies of the unmodified, unprocessed, unredacted or unsummarized state, form, or version of the classified evidence involving national security and state secret/s it used against the person or groups concerned to establish probable cause under the ATA. Said evidence shall be shown and given only to the appropriate court;
- (c) Require the ATC, AMLC, DOJ, law enforcement agent or military personnel to justify how the evidence it so classified would endanger national security and state secret/s if accessed by the person or groups concerned and indiscriminately disclosed to the public;
- (d) Study the possibility of presenting such evidence in modified, processed, redacted, or summarized version which can be accessed by the person or groups concerned to effectively prepare for their defense without endangering national security and state secret/s;

- (e) In the event such evidence cannot be presented in modified, processed, redacted, or summarized version without endangering national security and state secret/s, the court by itself shall proactively determine its value and weight in establishing probable cause; and
- (f) In resolving the use of classified information involving national security and state secret/s, the court shall, consistent with the Constitution, limit the derogation on the constitutional rights of the person or groups concerned to what is necessary. The derogation must be proportionate to the need to protect national security and state secret/s, and must be in accord with the principle of effective judicial protection.

Section 3. Handling of Classified Evidence Involving National Security and State Secret/s.—The division or branch clerk of the appropriate court shall have the duty of securing the integrity of the classified information involving national security and state secret/s used in their court. They shall seal them in a separate envelope or container and store them in a secure location inside the premises of their court. They shall also maintain a separate logbook for such classified evidence where the date and time of every opening and closing shall be recorded.

Section 4. Transmittal to Higher Court in case of Appeal or Certiorari.—In case of appeal or review on *certiorari*, the division or branch clerk of the appropriate court shall transmit the logbook and the sealed envelope or container referred to in the immediately preceding section to the clerk of court of the higher court concerned within forty-eight (48) hours from receipt of the order of transmittal.

Section 5. Receipt of Classified Evidence Involving National Security and State Secret/s by the Higher Court.—Upon receipt of the sealed envelope or container referred to in the immediately preceding section, the division or clerk of court concerned shall record the time and date of receipt and shall store the same in a secure location. They shall follow the same procedure as to the handling and maintenance of a separate logbook on such evidence.

Section 6. Unauthorized Disclosure and Handling of Evidence Classified as State Secret/s.—Evidence treated as involving national security and state secret/s shall be deemed as classified information under this Rule and its unauthorized disclosure shall be subject to contempt under Rule 9, Section 2 of this set of Rules.

RULE 8**RELIEFS FOR VULNERABLE PERSONS**

Section 1. Applicability.—This Rule shall apply whenever the rights and interests of vulnerable persons are involved pursuant to Section 51⁸⁹ of the ATA.

Section 2. Detention Without Judicial Warrant.—In cases where the person/s arrested pursuant to Section 29 of the ATA belong to the most vulnerable groups, composed of the elderly, pregnant, persons with disability, women, and children, the verified written report under Rule 5, Section 4 of this set of Rules shall contain the following additional information:

- (a) The arrestee has been informed of his or her rights under Section 30⁹⁰ of the ATA;
- (b) The arrestee is detained in a facility that is separate and more appropriate to his/her condition; and
- (c) The spouse, parents, or legal guardian of the arrestee has been informed of his/her detention.

Section 3. Appointment of Guardian Ad Litem.—In cases where the person/s belonging to vulnerable groups are unable to safeguard their interest, the court shall appoint a guardian *ad litem* to protect their legal rights.

RULE 9**COMMON PROVISIONS**

Section 1. Availability of all Existing Rights and Remedies.—This set of Rules shall not diminish any of the parties' substantive rights provided under all existing laws and international treaties, conventions, and agreements ratified by the Philippines. Likewise, the parties can avail of their existing remedies, such as the writ of *habeas corpus*, writ of *amparo*, writ of *habeas data*, and appeals to the Supreme Court when appropriate.

All criminal proceedings filed for violation of the ATA shall be governed by the Rules of Criminal Procedure.

⁸⁹ Republic Act No. 11479 (The Anti-Terrorism Act of 2020), sec. 51.

Sec. 51. *Protection of Most Vulnerable Groups.*—There shall be due regard for the welfare of any suspects who are elderly, pregnant, persons with disability, women and children while they are under investigation, interrogation or detention.

⁹⁰ See note 62.

The Rules of Court and other Supreme Court issuances shall apply in a suppletory manner to this set of Rules on the Anti-Terrorism Act of 2020 and Related Laws whenever practicable.

Section 2. Judicial Sanctions.—A violation of any mandatory or prohibitory provision in this set of Rules or any duly-issued order of a court shall be a ground for contempt under Rule 71 of the Rules of Court without prejudice to any separate criminal, civil, or administrative charge that may be filed against the violator.

RULE 10

EFFECTIVITY

Section 1. Effectivity.—This set of Rules shall take effect on January 15, 2024, fifteen (15) calendar days after its publication in the Official Gazette or in at least two (2) newspapers of national circulation.