

**PHILIPPINE NATIONAL POLICE MANUAL
PNP-ISOD-10-3-07 (DO)**



**POLICE OPERATIONAL
PROCEDURES**

IN THE IMPLEMENTATION OF THE

**HUMAN SECURITY ACT OF 2007
(REPUBLIC ACT NO. 9372)**

OCTOBER 2007



Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
NATIONAL HEADQUARTERS, PHILIPPINE NATIONAL POLICE
OFFICE OF THE CHIEF, PNP
Camp Crame, Quezon City

FOREWORD

In support to the global war against terrorism, the Human Security Act of 2007 (Republic Act 9372) was signed into law on March 06, 2007. The law covers all aspects of terrorism and mandates the creation of the Anti-Terrorism Council that shall be responsible for the proper and effective implementation of the Act.



The Philippine National Police, concurrent with its mission to enforce the law, to prevent and control crimes, to maintain peace and order, and to ensure public safety and internal security with the active support of the community, shall serve as one of the support agencies of the Anti-Terrorism Council (ATC).

Given the sensitivity of police operations relative to the implementation of the Act, police operational procedures were set to guide PNP personnel on the proper enforcement of the law and preclude the commission of prohibited acts.

It is hoped that these police operational procedures will enable our PNP personnel to apply the full force of the law and to faithfully comply with it in the course of protecting life, liberty, and property from acts of terrorism.


AVELINO TRAZON, JR
Police Director General
Chief, PNP



Republic of the Philippines
Department of the Interior and Local Government
NATIONAL POLICE COMMISSION
NATIONAL HEADQUARTERS, PHILIPPINE NATIONAL POLICE
DIRECTORATE FOR OPERATIONS
Camp Crame, Quezon City



MESSAGE

In consideration of the passage of the Human Security Act of 2007, the Police Operational Procedures in Implementing the Human Security Act of 2007 was crafted for our police officers as a medium of instruction and reference in apprehending those who commit acts of terror and bringing them to the courts of justice, without violating human rights.



The importance of these police operational procedures cannot be overly underscored since it is our police officers who are at the forefront in containing terrorist acts and arresting perpetrators. They have to possess a full grasp of the anti-terrorism and human rights laws, for them to effectively carry out their responsibilities in the government's overall human rights strategy campaign.

Police officers are therefore enjoined to read, understand and apply these operational procedures for them to ably enforce the law and preserve the basic rights enjoyed by every person.

SILVERIO D ALARCIO JR., GEO VI
Police Chief Superintendent
The Acting Director for Operations

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Chapter I

BACKGROUND

The Human Security Act of 2007 is a special penal law enacted by Congress to protect life, liberty and property from acts of terrorism, to condemn terrorism as inimical and dangerous to national security and making terrorism a crime against the Filipino people, against humanity, and the law of nations.

Chapter II

STATE POLICY

It is declared a policy of the State to protect life, liberty, and property from acts of terrorism, to condemn terrorism as inimical and dangerous to the national security of the country and to the welfare of the people, and to make terrorism a crime against Filipino people, against humanity, and against the law of nations.

In the implementation of the policy stated above, the State shall uphold the basic rights and fundamental liberties of the people as enshrined in the Constitution. (*par. 1 and 2, Section 2 R.A. 9372*)

Chapter III

DEFINITION OF TERMS

A. Crime of Terrorism

The Human Security Act defines the crime of terrorism as an act whereby any person commits any of the acts punishable under any of the following provisions of the Revised Penal Code:

1. Piracy in General and Mutiny in the High Seas or in the Philippine waters (Art. 122);
2. Rebellion or Insurrection (Art. 134);
3. Coup d'etat (Art. 134-a), including acts committed by private persons;
4. Murder (Art. 248);
5. Kidnapping and Serious Illegal Detention (Art. 267);
6. Crimes involving destruction (Art. 324) or under special laws, to wit:

- 6.1 The Law on Arson (P.D. 1613);

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Implementation of The Human Security Act
Republic Act No. 9372

- 6.2 Toxic Substances and Hazardous and Nuclear Waste Control Act of 1990 (R.A. 6969)
- 6.3 Atomic Energy Regulatory and Liability Act of 1968 (R.A. 5207);
- 6.4 Anti-Hijacking Law (R.A. 6235)
- 6.5 Anti-Piracy and Anti-Highway Robbery Law of 1974 (P.D. 532)
- 6.6 Illegal and unlawful possession, manufacture, dealing in, acquisition or disposition of firearms, ammunitions or explosives (P.D. 1866, as amended)

Thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace, in order to coerce the government to give in to an unlawful demand shall be guilty of terrorism and shall suffer the penalty of 40 years imprisonment, without the benefit of parole.

Elements: For the crime of terrorism to be committed therefore, it must be emphasized that all the elements must be present and not in the alternative. The essential elements that must be present are:

1. commission of one or more of the crime specified in Section 3 of the HSA;
2. the acts enumerated under Section 3 of the law must sow and create a condition of widespread and extraordinary fear and panic among the populace; and
3. it must be committed for the purpose of coercing the government to give in to an unlawful demand.

B. Crime of Conspiracy to Commit Terrorism - is a crime wherein two or more persons come to an agreement concerning the commission of the crime of terrorism as defined in Section 3 of the Act, and decide to commit the same.

C. Public Prosecutor's Office - refers to the National Prosecution Service of the Department of Justice.

D. Act - refers to Republic Act No. 9372, otherwise known as the "Human Security Act of 2007".

E. Accomplice - any person who, not being a principal under Article 17 of the Revised Penal Code or a conspirator as defined in Section 4 of the Act,

cooperates in the execution of either the crime of terrorism or conspiracy to commit terrorism by previous or simultaneous acts.

F. Accessory – any person who, having knowledge of the commission of the crime of terrorism or conspiracy to commit terrorism, and without having participated therein, either as principal or accomplice under Article 17 and 18 of the Revised Penal Code, takes part subsequent to its commission in any of the following manner: (a) by profiting himself or assisting the offender to profit by the effects of the crime; (b) by concealing or destroying the body of the crime, or the effects, or instruments thereof, in order to prevent its discovery; (c) by harboring, concealing, or assisting in the escape of the principal or conspirator of the crime.

Chapter IV

PROCEDURES

A. Surveillance of Suspects and Interception and Recording of Communications:

Notwithstanding the provisions on the Anti-Wire Tapping Law (Republic Act 4200), a police or law enforcement official and the members of his team may, upon written order of the Court of Appeals, listen to, intercept and record, with the use of any mode, form, kind or type of electronic or other surveillance equipment or intercepting and tracking devices, or with the use of any other suitable ways and means for that purpose, any communication, message, conversation, discussion, or spoken or written words between members of a judicially declared and outlawed terrorist organization, association, or group of persons or of any person charged with or suspected of the crime of terrorism or conspiracy thereof, except those that are considered as privileged communication enumerated under Sec. 7, 2nd paragraph of the HSA.

Section 1: *Application for Anti-Terrorism Council ("ATC") Authorization.* The original applicant (PPOs/ROs of NSUs & others) armed with an application for ATC Authorization initially approved by the RDs/PROs, shall submit the written application to the Director, Intelligence Group (D, IG) for pre-processing. Finding the application sufficient in form and substance to warrant approval by the ATC, the D, IG shall immediately endorse the application to the Command Group through TDI for processing. Thereafter, the Command Group shall transmit the application to the C, PNP for approval.¹

¹ See sample format no.1

Section 2: *Approval by the Chief, PNP.* Upon approval by the C, PNP, the application shall be forwarded to the ATC, through the ATC Secretariat.

Approval by ATC. The written authorization to be issued by the ATC shall be coursed through the same channel down to the original applicant.

Section 3: *Formal Application for Judicial Authorization.* An *ex parte* written application shall then be filed by the original applicant duly authorized in writing by the ATC to file such application, to the authorizing division of the Court of Appeals (CA).²

Effective Period of Judicial Authorization. The Judicial Authorization granted by the CA (authorizing division) shall only be effective for the length of time specified in the written order, which shall not exceed a period of thirty (30) days from the date of receipt of the written order by the applicant police.

Extension or Renewal. Such authorization may be extended or renewed for another non-extendible period which shall not exceed thirty (30) days from the expiration of the original period. The police must show that the extension or renewal is for public interest and that the *ex parte* application for extension or renewal must be filed by the original applicant duly authorized in writing by the ATC. In case of death or physical disability of the original applicant, the one next in rank to the original applicant among the members of the team named in the original written order of the CA, shall file such application for extension or renewal.

Section 4: *Procedure in the Implementation of the CA written authorization to conduct surveillance, interception and recording of communications.* Upon receipt of the approved written authorization from the Court of Appeals, the original applicant shall immediately implement the judicial authorization to conduct surveillance, interception and recording of communications while simultaneously forwarding a copy of the judicial authorization to D, IG, TDI, Command Group, C, PNP, Secretariat and ATC.

Section 5: *Deposit of tapes, discs and recordings to the CA.* Within forty-eight (48) hours after the expiration of the period fixed in the written order of the CA or within 48 hours after the expiration of

² See sample format no. 2

any extension or renewal granted by the CA, all tapes, discs, and recordings made pursuant to the Authorization shall be deposited with the Authorizing Division of the CA in a sealed envelop or sealed package and shall be accompanied by a *joint affidavit* of the applicant police and the members of his team.³

Contents of Joint Affidavit⁴ - The joint affidavit of the police and the individual members of his team shall state:

- a) the number of tapes, discs, and recordings that have been made, as well as the number of excerpts and summaries thereof and the number of written notes and memoranda, if any, made in connection therewith;
- b) the dates and times covered by each of such tapes, discs, and recordings;
- c) the number of tapes, discs, and recordings, as well as the number of excerpts and summaries thereof and the number of written notes and memoranda made in connection therewith that have been included in the deposit;
- d) the date of the original written authorization granted by the Anti-Terrorism Council to the applicant to file the *ex parte* application to conduct the tracking down, tapping, intercepting, and recording, as well as the date of any extension or renewal of the original written authority granted by the authorizing division of the Court of Appeals; and
- e) the joint affidavit shall also certify under oath that no duplicates or copies of the whole or any part of any such tapes, discs, and recordings, and that no duplicates or copies of the whole or any part of any of such excerpts, summaries, written notes, and memoranda, have been made, or, if made, that all such duplicates and copies are included in the sealed envelope or sealed package, as the case may be, deposited with the authorizing division of the Court of Appeals.

³ See sample format No. 4

⁴ Note: It shall be unlawful for any person, police or law enforcement official to omit or exclude from the joint affidavit any item or portion in the required contents thereof. Penalty: Any person, police or law enforcement official who violates this provision shall suffer the penalty of not less than ten (10) years and one (1) day to twelve (12) years of imprisonment.

Sample Format No. 1: Application for ATC Authorization

Republic of the Philippines
Department of the Interior and Local Government
National Police Commission
NATIONAL HEADQUARTERS PHILIPPINE NATIONAL POLICE
Camp Crame, Quezon City

[date]

Honorable Executive Secretary [name]
Chairman, Anti-Terrorism Council

Thru: Director General
National Intelligence Coordinating Agency
Secretariat, Anti—Terrorism Council

Subject: Request for Authorization to Apply for Judicial Authorization to
Conduct Surveillance and/or Interception and Recording of
Communications

Honorable Executive Secretary:

In compliance with the provisions of the Human Security Act of 2007 (R.A. 9372), the undersigned respectfully requests that an authorization be granted to the Philippine National Police (name of unit/office) to apply for a judicial authorization from the Court of Appeals to conduct surveillance of suspects and interception and recording of communications of [name/s of suspected terrorist/s].

During the course of investigation conducted by the PNP of suspected members of reported terrorist organization that [name/s of suspected terrorist/s] was/were verified to have been engaged or is/are presently engaged in acts or activities which constitute the crime of terrorism as defined and penalized under R.A. 9372.

[state the background/circumstances of participation and/or involvement of suspect/s]

In connection therewith, it is respectfully requested that an authority be given to the PNP personnel listed below, to apply for judicial authorization before the Court of Appeals to allow the said office/unit to listen to, intercept and record, with the use of any mode, form or type of electronic or surveillance, intercepting and tracking equipment/devices to any communication, message, conversation, or spoken or written words made or delivered by [name of subject]:

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[state names and designation of the surveillance team]

Thank you and hoping that this request will merit your approval.

CHIEF, PNP

Sample Format No. 2: *Ex Parte* Application to conduct surveillance,
interception and recording of communications

Republic of the Philippines
COURT OF APPEALS
Manila

In the Matter of the Application for
Surveillance, Interception and
Recording of Communications of
[NAME OF SUBJECT],

S.P. Case No. _____

[NAME OF APPLICANT]
[Name of Unit],
Applicant.

x-----x

EX PARTE APPLICATION

The undersigned Applicant, unto this Honorable Court respectfully
states that:

1. He is a member of the (Name of Unit) of the Philippine National Police, with office address at _____, and currently conducting an investigation on the suspected commission of a crime of terrorism or conspiracy to commit terrorism as defined and penalized under Republic Act No. 9372, otherwise known as the Human Security Act, by (Name of Subject), a resident of (address) and business/residence address at (address);
2. In the course of his investigation of the named subject, he has developed personal knowledge of the facts and circumstances pointing to the fact that the subject is committing the crime of (state the crime under the RPC) thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand, which constitute the crime of terrorism specifically, through the following acts –
 - 2.1
 - 2.2
 - 2.3

3. In strengthening the case against the subject, evidences essential for conviction of the subject or to the solution or prevention of terrorism can only be obtained by means of tracking down, tapping, listening to, intercepting, and recording communications, messages, conversations, discussions, or spoken or written words of the subject (name of subject) made at his house/office (state the specific location of house/office);
4. There is no other effective means readily available for acquiring the required evidence for conviction or solution or prevention of the crime of terrorism; and
5. In accordance with Section 8 of the Human Security Act, he has applied for and has been granted authority by the Anti-Terrorism Council to file the herein application to track down, tap, listen to, intercept, and record communications, messages, conversations, discussions, or spoken or written words of the subject.

Attached hereto is a copy of the authority granted by the Anti-Terrorism Council.

WHEREFORE, in view of the foregoing, it is respectfully prayed that herein Applicant be given authority to track down, tap, listen to, intercept, and record communications, messages, conversations, discussions, or spoken or written words of the subject at his location at (residence/business address).

Other reliefs just and equitable under the premises are likewise prayed for.

Quezon City for Manila, 4 August 2007.

(Name of Applicant)
(Position/Designation)
(Office Address)

Sample Format No. 3: Notice (to the subject of surveillance)

Republic of the Philippines
Department of Interior and Local Government
National Police Commission
NATIONAL HEADQUARTERS PHILIPPINE NATIONAL POLICE
Camp Crame, Quezon City

[Name of Subject]
[Residence/Office Address]

In the Matter of the Surveillance and
Interception and Recording of
Communications of
[NAME OF SUBJECT],

NOTIFICATION

Pursuant to and in compliance with the provisions of the Human Security Act of 2007 (RA 9372), notice is hereby given to you that a judicial order has been issued by the authorizing division of the Court of Appeals, authorizing the Philippine National Police [Unit/Office] to listen to, intercept and record, with the use of any mode, form, kind, or type of electronic or other surveillance equipment or tracking device, or with the use of any other suitable ways and means for the purpose, any communication, message, conversation, discussion or spoken or written words between suspected person/s and group of persons or any person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism.

This is to notify you further that the judicial authorization to conduct surveillance, interception and recording on you which commenced on _____ has expired and terminated on _____ and that neither a case for terrorism nor conspiracy to commit terrorism has been filed against you.

Camp Crame, Quezon City
August 7, 2007

[Name of Applicant/Team Leader]
[Rank/Position]

Sample Format No. 4: Joint Affidavit

Republic of the Philippines}
City of _____} s.s.

JOINT AFFIDAVIT

We, [Name of Police-Team Leader and Members], all of legal age, organic members/personnel of the Philippine National Police, assigned to [Name of Unit/Office], with office address at _____, after having been duly sworn to in accordance with law, do hereby depose and say that:

1. Pursuant to the *Order* dated _____ and issued by the Court of Appeals (authorizing division), we have been duly designated as the team assigned and tasked to conduct surveillance, interception and recording of communications of [Name of suspect/s], suspected violators of the Human Security Act of 2007;
2. In the course of the said surveillance operations, we were able to intercept, monitor and record the communications, messages, discussions (written and/spoken) of the above-named suspect/s, the details of which are as follows: (state the following details)
 - a. number of tapes, discs and recordings that have been made;
 - b. dates and times covered by each tape, discs and recordings;
 - c. number of tapes, discs, and recordings, as well as the number of excerpts and summaries;
3. Pursuant to Sections 11, 12 and 13 of R.A. 9372, we hereby submit the above-described materials, documents in a sealed envelope to the Court of Appeals;
4. We further certify, under oath, that no duplicate or copies of the whole or any part of any such excerpts, summaries, written notes and memoranda have been made, or if made, that all such duplicates and copies are included in the sealed envelope or sealed package which we hereby deposit with the Honorable Court; and

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5. We are executing this Joint Affidavit to attest to the truthfulness of the foregoing and in compliance with the requirements of RA 9372.

IN WITNESS WHEREOF, we hereunto set our hand this ___ day of _____ at the City of _____.

AFFIANTS

SUBSCRIBED AND SWORN TO before me this ___ day of _____ 2007 at _____ City, affiants exhibiting to me their Community Tax Certificate with Nos. _____, _____, and _____, issued on _____, _____ and _____ respectively.

Doc. No.
Page No.
Book No.
Series of 2007.

Notary Public

B. PROCEDURE IN THE FILING OF CASES

Section 6: *Filing of Case before the Public Prosecutor's Office.* The applicant police shall have thirty (30) days after the termination of the period originally granted by the CA, or its extension or renewal, if any, within which to file the appropriate case before the National Prosecution Service of the Department of Justice.

If no case has been filed within the 30 day period, the applicant police shall immediately *notify*⁵ the person subject of the surveillance, interception and recording of the said surveillance, interception and recording.⁶

C. PROCEDURE IN THE EXAMINATION OF BANK DEPOSITS, ACCOUNTS AND RECORDS

The police duly authorized in writing by the ATC, shall file an *ex parte* application with the authorizing division of the CA to examine bank deposits, accounts and records of any person charged with or suspected of the crime of terrorism or of judicially declared and outlawed terrorist organization, association, or group of persons, or any member of such organization, association or group persons.⁷

Section 7: *Application for ATC Authorization.* The original applicant (PPOs/ROs of NSUs & others) armed with an application for ATC Authorization initially approved by the RDs/PROs shall submit the written application to the D, IG in coordination with the Anti-Money Laundering Council (AMLC) for pre-processing. Finding the application sufficient in form and substance to warrant approval by the ATC, the D, IG shall immediately endorse the application to the Command Group through TDI for processing. Thereafter, the Command Group shall transmit the application to the C, PNP for approval.

Upon approval by the C, PNP, the application will be forwarded to the ATC through the Secretariat. Once the ATC approves such application, the written authorization to be issued by the ATC

⁵ See sample format no. 3

⁶ **Penalty:** The penalty of ten (10) years and one (1) day to twelve (12) years of imprisonment shall be imposed upon the applicant police or law enforcement official who fails to notify the person subject of the surveillance, monitoring, interception and recording.

⁷ **Penalty:** Any police or law enforcement personnel guilty of unauthorized or malicious bank examination shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment. In addition to this penalty, the penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be impose upon a police personnel who maliciously obtained an authority from the CA.

shall be coursed through the same channel down to the original applicant.⁸

Section 8: *Application for CA Authorization.* The original applicant armed with the ATC written authorization shall then file an *ex parte* written application for judicial authorization with the authorizing division of the CA.⁹

Section 9: *Procedure in the Implementation of the CA written authorization to examine bank deposits, accounts and records.* Upon receipt of the approved written authorization from the CA, the original applicant shall immediately implement the judicial authorization to conduct examination of bank deposits, accounts and records while simultaneously forwarding a copy of the judicial authorization to the D, IG, TDI, Command Group, C, PNP, Secretariat and ATC.

Effective Period. Judicial Authorization. The authorization issued by the authorizing division of the CA to examine or to cause the examination of bank deposits, accounts and records, or to gather information about the same shall be effective for the length of time specified in the order, which period shall not exceed a period of thirty (30) days from the date of receipt of the written order of the CA by the applicant police or law enforcement official.

Extension or Renewal. Such authorization may be extended or renewed for another extendible period, which shall not exceed thirty (30) days from the expiration of the original period. The police or law enforcement official must show that the extension or renewal is for public interest and that the *ex parte* application for extension or renewal must be filed by the original applicant duly authorized in writing by the ATC. In case of death or physical disability of the original applicant, the one next in rank to the original applicant among the members of the team named in the original written order of the CA, shall file such application for extension or renewal.

Section 10: If no case is filed within the thirty (30) – day period following the expiration of the authorized period for the conduct of bank examination, the applicant police shall immediately *notify*¹⁰ in writing the person subject of the bank examination and freezing

⁸ See sample format no. 5

⁹ See sample format no. 6

¹⁰ See sample format no. 7

of bank deposits, placements, trust accounts, assets and records. ¹¹

Section 11: Within forty-eight (48) hours after the expiration fixed in the written order of the Court or within forty-eight (48) hours after the expiration of the extension or renewal, all information obtained in the examination of deposits, placements, trust accounts, assets and records shall be deposited with the authorizing division of the CA in a sealed envelope or sealed package and shall be accompanied by a *joint affidavit* of the applicant police or law enforcement official and the persons who actually conducted the examination of such deposits, assets and records. ¹²

The Joint Affidavit shall contain a statement¹³ of the following:

- a) identifying marks, numbers, or symbols of the deposits, placements, trust accounts, assets, and records examined;
- b) identity and address of the bank or financial institution where such deposits, placements, trust accounts, assets, and records are held and maintained;
- c) number of bank deposits, placements, trust accounts, assets, and records discovered, examined, and frozen;
- d) the outstanding balances of each of such deposits, placements, trust accounts, assets;
- e) all information, data, excerpts, summaries, notes, memoranda, working sheets, reports, documents, records examined and placed in the sealed envelope or sealed package deposited with the authorizing division of the Court of Appeals;
- f) the date of the original written authorization granted by the Anti-Terrorism Council to the applicant to file the *ex parte* application to conduct the examination of the said bank deposits, placements, trust accounts, assets and records, as well as the date of any extension or renewal of the original written authorization granted by the authorizing division of the Court of Appeals;

¹¹ Penalty: The penalty of ten (10) years and one day to twelve (12) years of imprisonment shall be imposed upon the applicant police or law enforcement official who fails to notify in writing the person subject of the bank examination and freezing of bank deposits, placements, trust accounts, assets and records.

¹² See sample format no. 8

¹³ Penalty: for false or untruthful statement or misrepresentation of material fact in the Joint Affidavits: Affiants shall suffer individually the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

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- g) that the items enumerated were all that were found in the bank or financial institution examined at the time of the completion of the examination; and
- h) The joint affidavit shall also certify under oath that no duplicates or copies of the information, data, excerpts, summaries, notes, memoranda, working sheets, reports, and documents acquired from the examination of the bank deposits, placements, trust accounts, assets and records have been made, or, if made, that all such duplicates and copies are placed in the sealed envelope or sealed package deposited with the authorizing division of the Court of Appeals.¹⁴

¹⁴ Note: It shall be unlawful for any person, police or custodian of the bank data and information obtained after examination of deposits, placements, trust accounts, assets and records to copy, to remove, delete, expunge, incinerate, shred or destroy in any manner the required items/contents of the joint affidavits in whole or in part under any pretext whatsoever. Penalty: Any person who copies, removes, deletes, expunges, incinerates, shreds or destroys the items/contents of judicial affidavits shall suffer the penalty of not less than six (6) years and one day to twelve (12) years of imprisonment.

Sample Format No. 5: Application for ATC Authorization

Republic of the Philippines
Department of the Interior and Local Government
National Police Commission
NATIONAL HEADQUARTERS PHILIPPINE NATIONAL POLICE
Camp Crame, Quezon City

[date]

Honorable Executive Secretary [name]
Chairman, Anti-Terrorism Council

Thru: Director General
National Intelligence Coordinating Agency
Secretariat, Anti—Terrorism Council

Subject: Request for Authorization to Apply for Judicial Authorization to
Examine Bank Deposits, Accounts and Records of Suspected
Terrorist/s

Honorable Executive Secretary:

In compliance with the provisions of the Human Security Act of 2007 (R.A. 9372), the undersigned respectfully request that an authorization be granted to the Philippine National Police (name of unit/office) to apply for a judicial authorization from the Court of Appeals to examine the bank deposits, placements, trust accounts, assets and other pertinent bank records of [name/s of suspected terrorist/s].

During the course of investigation conducted by the PNP of suspected members of reported terrorist organization that [name/s of suspected terrorist/s] was/were verified to have been engaged or is/are presently engaged in acts or activities which constitute the crime of terrorism as defined and penalized under R.A. 9372.

[state the background/circumstances of participation and/or involvement of suspect/s]

In connection therewith, it is respectfully requested that an authority be given to the PNP Unit/Office to apply for judicial authorization before the Court of Appeals to allow the said office/unit to examine, or to cause the examination of, the bank deposits, placements, trust accounts, assets and records of [name/s of suspect/s] in the following banks or financial institutions:

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[state the name of banks/financial institutions-branch/location]

The examination shall be undertaken by the following:
[names/designation of PNP team]

Thank you and hoping that this request will merit your approval.

CHIEF, PNP

Sample Format No. 6: *Ex Parte* Application to conduct Examination of bank deposits, accounts, and records

Republic of the Philippines
COURT OF APPEALS
Manila

In the Matter of the Application to
conduct Examination of the bank
deposits, accounts, and records of
[NAME OF SUBJECT],

S.P. Case No. _____

[NAME OF APPLICANT]
[Name of Unit],
Applicant.

x-----x

EX PARTE APPLICATION

The undersigned Applicant, unto this Honorable Court respectfully states that:

1. He is a member of the (Name of Unit) of the Philippine National Police, with office address at _____, and currently conducting an investigation on the suspected commission of a crime of terrorism or conspiracy to commit terrorism as defined and penalized under Republic Act No. 9372, otherwise known as the Human Security Act, by (Name of Subject), a resident of (address) and business/residence address at (address);
2. In the course of his investigation of the named subject, he has developed personal knowledge of the facts and circumstances pointing to the fact that the subject is committing the crime of (state the crime under the RPC) thereby sowing and creating a condition of widespread and extraordinary fear and panic among the populace in order to coerce the government to give in to an unlawful demand, which constitute the crime of terrorism specifically, through the following acts -

2.1
2.2

2.3

3. In strengthening the case against the subject, evidences essential for conviction of the subject or to the solution or prevention of terrorism, can only be obtained through examination of the bank deposits, placements, trust accounts, assets and records of the above-named subject;
4. There is no other effective means readily available for acquiring the required evidence for conviction or solution or prevention of the crime of terrorism; and
5. In accordance with Section 28 of the Human Security Act, he has applied for and has been granted authority by the Anti-Terrorism Council to file the herein application to examine, or cause the examination of, gather or cause the gathering of any relevant information about deposits, placements, trust accounts, assets, and records from a bank or financial institution.

Attached hereto is a copy of the authority granted by the Anti-Terrorism Council.

WHEREFORE, in view of the foregoing, it is respectfully prayed that herein Applicant be given authority to examine, or cause the examination of, gather or cause the gathering of any relevant information about deposits, placements, trust accounts, assets, and records from a bank or financial institution of [name of subject].

Other reliefs just and equitable under the premises are likewise prayed for.

Quezon City for Manila, 4 August 2007.

(Name of Applicant)
(Position/Designation)
(Office Address)

Sample Format No. 7: Notice (to the person subject of bank examination)

Republic of the Philippines
Department of Interior and Local Government
National Police Commission
NATIONAL HEADQUARTERS PHILIPPINE NATIONAL POLICE
Camp Crame, Quezon City

[Name of Subject]
[Residence/Office Address]

In the Matter of Bank Examination and
freezing of bank deposits, placements,
trust accounts, assets and records of
[NAME OF SUBJECT],

NOTIFICATION

Pursuant to and in compliance with the provisions of the Human Security Act of 2007 (RA 9372), notice is hereby given to you that a judicial order has been issued by the authorizing division of the Court of Appeals, authorizing the Philippine National Police [Unit/Office] to examine or cause the examination of and to freeze bank deposits, placements, trust accounts, assets and records, or to gather information of the same of suspected person/s and group of persons or any person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism.

[state further the circumstances of termination of such examination]

This is to notify you further that the judicial authorization to conduct surveillance, interception and recording on you which commenced on _____ has expired and terminated on _____ and that neither a case for terrorism nor conspiracy to commit terrorism has been filed against you.

Camp Crame, Quezon City
August 7, 2007

[Name of Applicant/Team Leader]
[Rank/Position]

Sample Format No. 8: Joint Affidavit

Republic of the Philippines}
City of _____} s.s.

JOINT AFFIDAVIT

We, [Name of Police-Team Leader and Members], all of legal age, organic members/personnel of the Philippine National Police, assigned to [Name of Unit/Office], with office address at _____, after having been duly sworn to in accordance with law, do hereby depose and say that:

1. Pursuant to the *Order* dated _____ and issued by the Court of Appeals (authorizing division), we have been duly designated as the team assigned and tasked to conduct examination of bank deposits, accounts and records of [Name of suspect/s], suspected violators of the Human Security Act of 2007;
2. The details of the course of the said examination of bank deposits, placements, trust accounts, assets and records, are as follows: (state the details of the examination of bank deposits made and in connection therewith, such as:)
 - a. Identifying marks, numbers, or symbols of the deposits, placements, trust accounts, assets, and records examined;
 - b. The identity and address of the bank or financial institution where such deposits, placements, trust accounts are held and maintained;
 - c. Number of bank deposits, placements, trust accounts, assets, and records discovered, examined, and frozen;
 - d. Outstanding balances of each of such deposits, placements, trusts accounts, assets;
 - e. All information, data, excerpts, summaries, notes, memoranda, working sheets, reports, documents, records examined and placed in the sealed envelope or sealed package deposited with the authorizing division of the Court of Appeals;
 - f. Date of the original written authorization granted by the Anti-Terrorism Council to the applicant police to file the ex parte Application to conduct the said examination, as well as the date of any

- extension or renewal of the original written authorization granted by the authorizing division of the Court of Appeals; and
- g. The items enumerated herein-above were all found in the bank or financial institution examined at the time of completion of the examination.
3. Pursuant to Section 31 of R.A. 9372, we hereby submit the above-described materials, documents in a sealed envelope to the Court of Appeals;
4. We further certify, under oath, that no duplicates or copies of the information, data, excerpts, summaries, notes, memoranda, working sheets, reports, and documents acquired from the examination of bank deposits, placements, trusts accounts, assets and records have been made, or if made, that all such duplicates and copies are placed in the sealed envelope or sealed package which we hereby deposit with the Honorable Court;
5. We are executing this Joint Affidavit to attest to the truthfulness of the foregoing and in compliance with requirements under RA 9372.

IN WITNESS WHEREOF, we hereunto set our hand this _____ day of _____ at the City of _____.

AFFIANTS

SUBSCRIBED AND SWORN TO before me this ___ day of _____ 2007 at _____ City, affiants exhibiting to me their Community Tax Certificate with Nos. _____, _____, and _____, issued on _____, _____ and _____ respectively.

Doc. No.
Page No.
Book No.
Series of 2007.

Notary Public

D. ARREST AND DETENTION WITHOUT WARRANT

Any police may take custody of a person charged or suspected of a crime of terrorism or conspiracy to commit terrorism without a warrant of arrest only upon written authority by ATC, and not incur any criminal liability under Article 125 of the Revised Penal Code (Delay in the delivery of prisoners) if he delivers said charged or suspected person to the proper judicial authority within three (3) days counted from the moment said person has been arrested, detained or taken into custody. Provided, that the arrest must result from the surveillance under Section 7 and examination of bank deposits under Section 27 of the Act. Failure to deliver the person arrested to the proper judicial authority within three (3) days is punishable by imprisonment of a maximum of 12 years. (Section 20, HSA)

(Note: Authorization is not necessary when person to be arrested has committed a crime, has already committed a crime or about to commit an act and the arresting person has personal knowledge of such facts.)

Section 12: *Procedure in the Application for ATC Authorization to Effect Arrest Without Judicial Warrant.* During or after the conduct of surveillance, interception and recording of communications, examination of bank deposits, accounts and records, against persons charged or suspected of the crime of terrorism or conspiracy to commit terrorism by virtue of a written authorization issued by the Court of Appeals, the original applicant (PPOs/ROs of NSUs & others) shall submit to the D, IG the application to arrest without judicial warrant for pre-processing. The application however, must first be approved by the RDs, PROs. Thereafter, the application shall be transmitted to the Command Group through the TDI for processing. Finding the application sufficient in form and substance to warrant approval of the ATC, the Command Group shall endorse the same to the C, PNP for approval.

Section 13: *Approval and Authorization to effect Arrest.* Finding the application warranted, the Chief, PNP will approve and endorse the application to the ATC through the Secretariat. Upon approval of the ATC, it shall issue the written authorization to effect arrest without judicial warrant passing thru the same channel down to the original applicant. The original applicant upon receipt of the ATC written authorization shall thereafter immediately effect arrest.

Section 14: After arrest and before detention, the person charged or suspected for the crime of terrorism or conspiracy to commit terrorism shall be presented before any judge, at the latter's residence or office nearest the place of arrest at any time of the

day or night in order for the judge to ascertain the identity of the police effecting the arrest and the person/s they have arrested; and for the judge to inquire into the reasons why they have arrested such person/s and to determine by questioning and personal observation whether or not the suspect/s has/have been subjected to any physical, moral or psychological torture.

The person arrested must be delivered to the proper judicial authority within three (3) days from the arrest.¹⁵

Immediately after taking custody of the person, the arresting officer shall *notify*¹⁶ in writing the Judge of the court nearest the place of arrest. If arrest is made on a Saturday, Sunday, Holiday or after office hours, written notice shall be served at the residence of the Judge.¹⁷ He shall verify and report within three (3) days to the court that has jurisdiction over the case of the person arrested.

Section 15: *Detention in the Event of an Actual or Imminent Terrorist Attack. Period.* As a general rule, suspects may not be detained for more than three (3) days. However said period of detention may be extended;

- a) In the event of an actual or imminent terrorist attack; and
- b) With the written approval of a municipal, city, provincial or regional official of the Human Rights Commission or judge of the municipal, regional trial court, the Sandiganbayan or a justice of the Court of Appeals nearest the place of the arrest which must be secured by the police or law enforcement official within five (5) days after the date of detention. Provided that within three (3) days after the detention, his connection with terror attack or threat must be established by filing a case with the Prosecutor's Office/Court. Otherwise, the person arrested should be released immediately.

¹⁵ Penalty: The penalty of ten (10) years and one (1) day to twelve (12) years of imprisonment shall be imposed upon any police who has apprehended or arrested, detained and taken custody of a person charged with or suspected of the crime of terrorism or conspiracy to commit terrorism and fails to deliver such charged or suspected person to the proper judicial authority within the period of three (3) days.

¹⁶ See sample format no. 8

¹⁷ Penalty: The penalty of ten (10) years and one (1) day to twelve (12) years of imprisonment shall be imposed upon the police who fails to notify in writing a judge of the court nearest the place of arrest.

Rights of the person under Custodial Detention.¹⁸ The moment a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism is apprehended or arrested and detained, he shall forthwith be informed, by the arresting police or law enforcement officers or by the police or law enforcement officers to whose custody the person concerned is brought, of his or her right:

- a) to be informed of the nature and cause of his arrest, to remain silent and to have competent and independent counsel preferable of his choice.
- b) If the person cannot afford the services of counsel of his or her choice, the police or law enforcement officers 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 or her with legal assistance. These rights cannot be waived except in writing and in the presence of the counsel of choice;
- c) allowed to communicate freely with his 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 family or with his nearest relatives and to be visited by them; and
- e) allowed freely to avail of the service of a physician or physicians of choice.

Rights of a Foreign National under Custodial Investigation. In addition to the rights of a person under custodial detention provided for in Section 21 of the Act, if the person detained is a foreign national, he/she shall be entitled to:

- a) communicate without delay with the nearest appropriate representative of the State of which he/she is a national or which is otherwise entitled to protect his/her rights; and
- b) be visited by a representative of his/her country of nationality.

¹⁸ Penalty: Any police or law enforcement personnel, or any personnel of the police or law enforcement custodial unit that violates any of the aforesaid rights of a person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism shall be guilty of an offense and shall suffer the penalty of ten (10) years and one (1) day to twelve (12) years of imprisonment.

Section 16: *The Custodial Logbook and its contents.*¹⁹ The police or other law enforcement custodial unit in whose care and control the person charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism 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 or lawyers of the person under custody or any member of his or her family or relative by consanguinity or affinity within the fourth civil degree or his or her physician at any time of the day or night without any form of restriction. 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 initial admission for custodial arrest and detention;
- c) the name and address of the physician or physicians who examined him physically and medically;
- d) the state of his health and physical condition at the time of his initial admission for custodial detention;
- e) the date and time of each removal of the detained person from his cell for interrogation or for any purpose;
- f) the date and time of his return to his cell;
- g) the name and address of the physician or physicians who physically and medically examined him 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 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 visits;
- l) the date and time of each request of the detained person to communicate and confer with his legal counsel or counsels;
- m) the date and time of each visit, and date and time of each departure of his 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.

¹⁹ Penalty: The police or law enforcement custodial unit who fails to comply with the requirements in the keeping of an official logbook shall suffer the penalty of ten (10) years and one day to twelve (12) years of imprisonment.

Police Operational Procedures in the
Implementation of The Human Security Act
Republic Act No. 9372

The said police or law enforcement custodial unit shall upon demand of the aforementioned lawyer or lawyers or members of the family or relatives within the fourth civil degree of consanguinity or affinity of the person under custody or his or her physician issue a certified true copy of the entries of the logbook relative to the concerned detained person without delay or restriction or requiring any fees whatsoever including documentary stamp tax, notarial fees, and the like. 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.

Section 17: *Duty to Record and Report the Name and Address of the Informant.* The police or law enforcement officers to whom the name of a suspect in the crime of terrorism was first revealed shall record the real name and the specific address of the informant. The police concerned shall report the informant's name and address to their superior officer who shall transmit the information to the Congressional Oversight Committee or to the proper court within five (5) days after the suspect was placed under arrest or his properties were sequestered, seized or frozen. The name and address of the informant shall be considered confidential and shall not be unnecessarily revealed until after the proceedings against the suspect shall have been terminated.

Sample Form No. 8: Notice of Detention without Judicial Warrant

Republic of the Philippines
Department of Interior and Local Government
National Police Commission
NATIONAL HEADQUARTERS PHILIPPINE NATIONAL POLICE
Camp Crame, Quezon City

Honorable [Name of Judge]
Regional Trial Court/Municipal Trial Court
Branch ____
Place/Jurisdiction [nearest the place of arrest]

In the Matter of the Application for the
Detention without Warrant of
Arrest of
[NAME OF SUBJECT],
For: Violation of Human Security Act
of 2007 (RA 9372)

x-----x

NOTICE
(of Detention without Judicial Warrant)

The undersigned Police Officer respectfully serves and submits this notice to this Honorable Court and further states therein that:

1. On [date/time/place] operatives of the [PNP Unit/Office], after having been duly authorized in writing by the Anti-Terrorism Council has taken custody of [Name of suspect/s] who are charged with or suspected of the crime of terrorism or the crime of conspiracy to commit terrorism as a result of a surveillance conducted by our unit/office pursuant to Section 7 and examination of bank deposits under section 27 of the Human Security Act of 2007 (RA 9372);
2. That in compliance with Section 18 thereof, we hereby bring and present the above-named suspect/s before the Honorable [Name of Judge] prior to detention in order for the court to ascertain the identity of the police or law enforcement personnel effecting the arrest and the person/s they have arrested; and for the Honorable Court

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Republic Act No. 9372

to inquire into the reasons why they have arrested such person/s and to determine by questioning and personal observation whether or not the suspect/s has/have been subjected to any physical, moral or psychological torture.

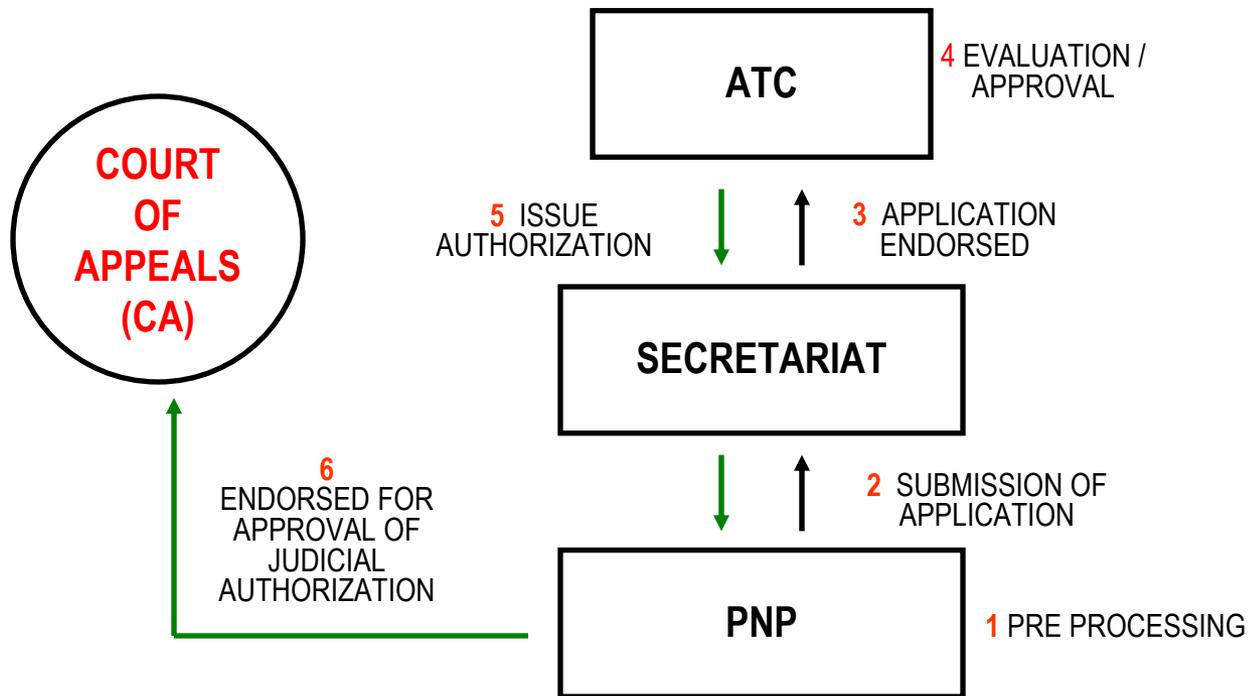
Respectfully submitted.
August 7, 2007

[Name of Team Leader]
[Rank/Position]
[Office address]

APPENDICES

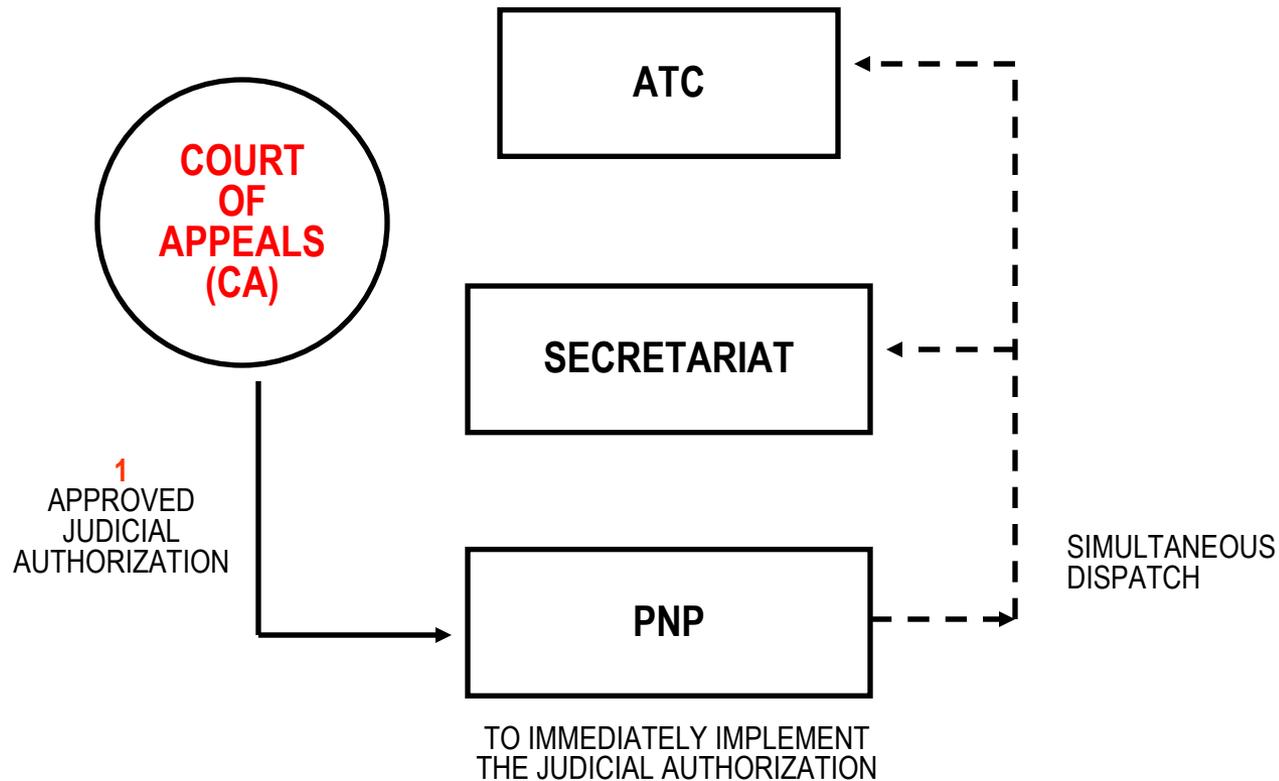
APPENDIX A:

FLOWCHART ON PROCESSES IN SECURING JUDICIAL AUTHORITY ON SURVEILLANCE, INTERCEPTION AND RECORDING OF COMMUNICATIONS; EXAMINATION OF BANK DEPOSITS, ACCOUNTS AND RECORDS



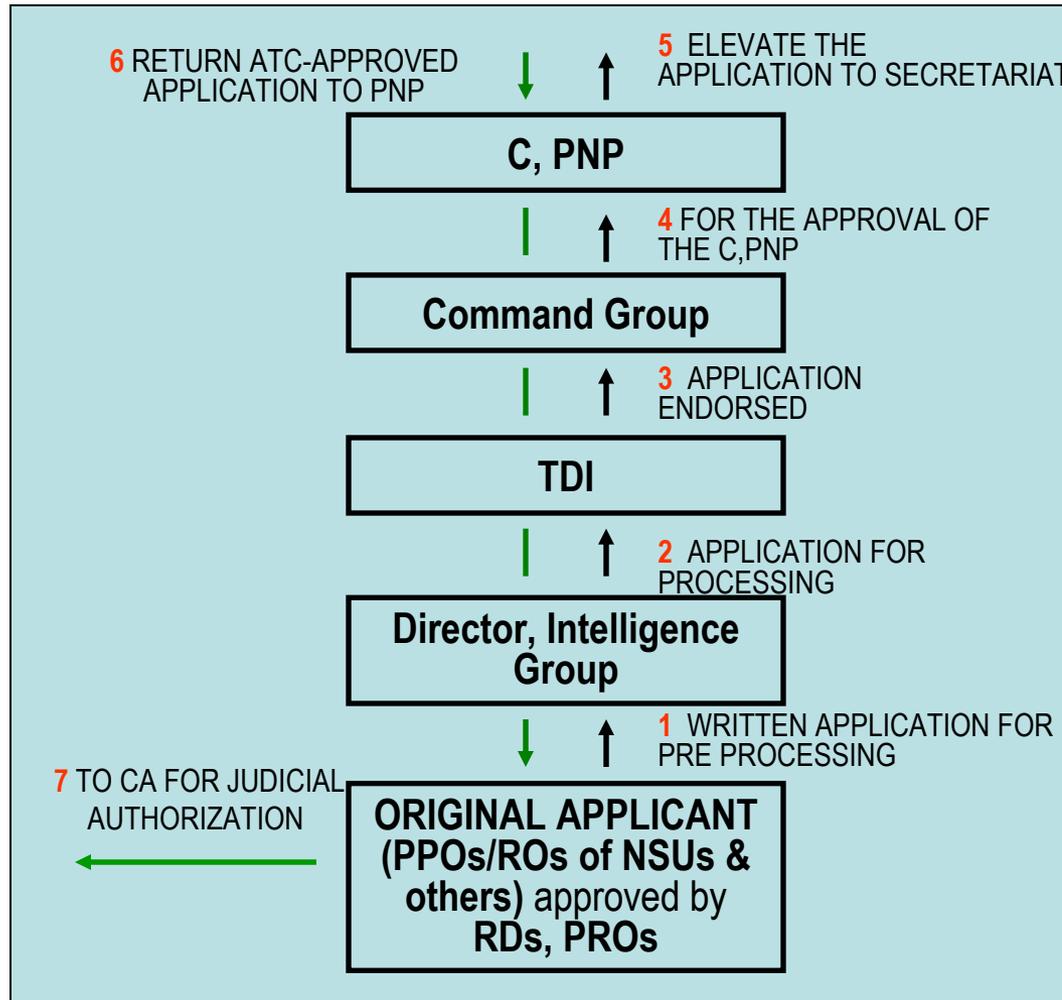
APPENDIX B:

**FLOWCHART ON THE IMPLEMENTATION OF JUDICIAL AUTHORITY ON SURVEILLANCE,
INTERCEPTION AND RECORDING OF COMMUNICATIONS; EXAMINATION OF BANK
DEPOSITS, ACCOUNTS AND RECORDS**

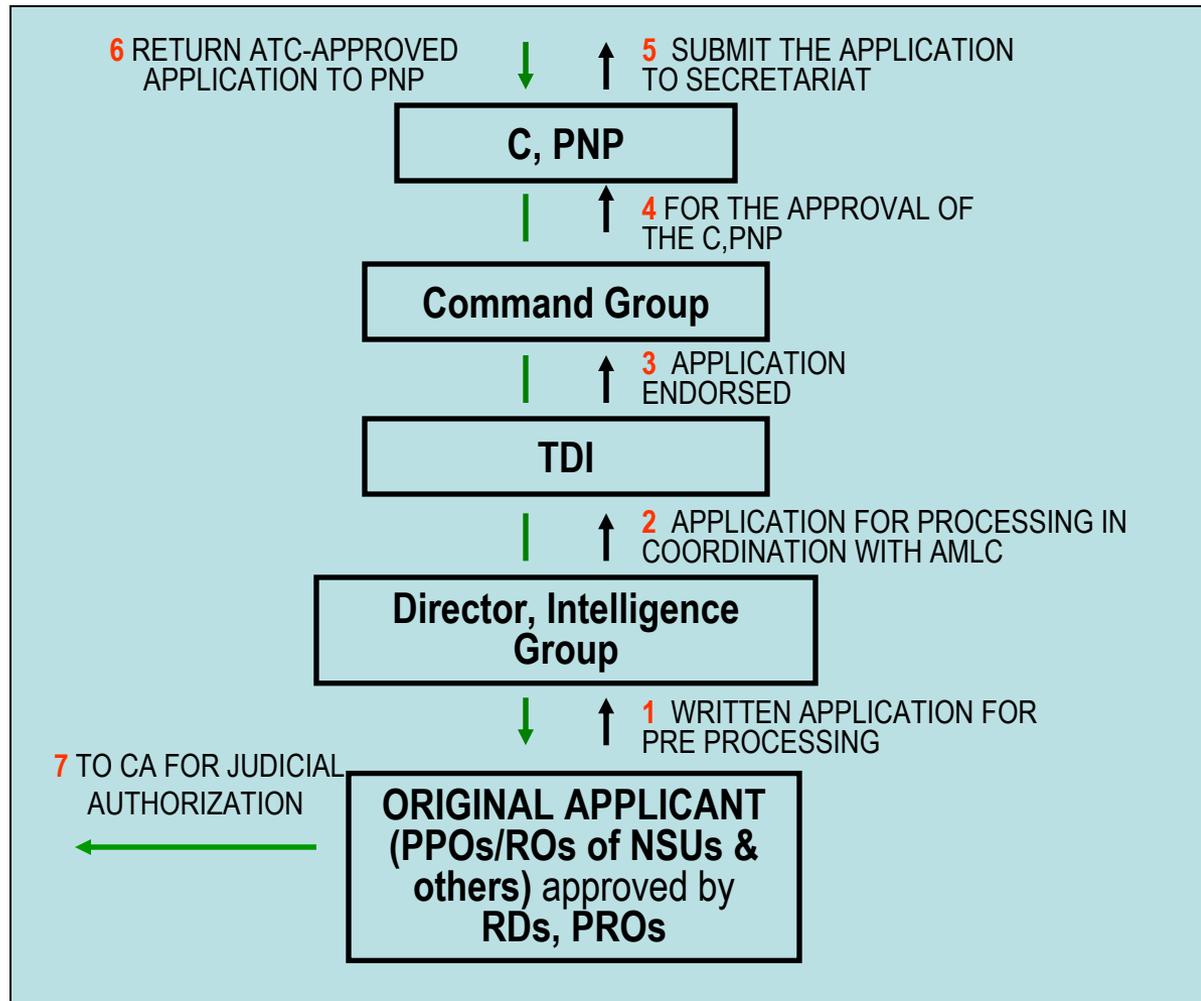


APPENDIX C:

**FLOWCHART WITHIN THE PNP ON APPLICATION FOR SURVEILLANCE,
INTERCEPTION AND RECORDING OF COMMUNICATIONS**

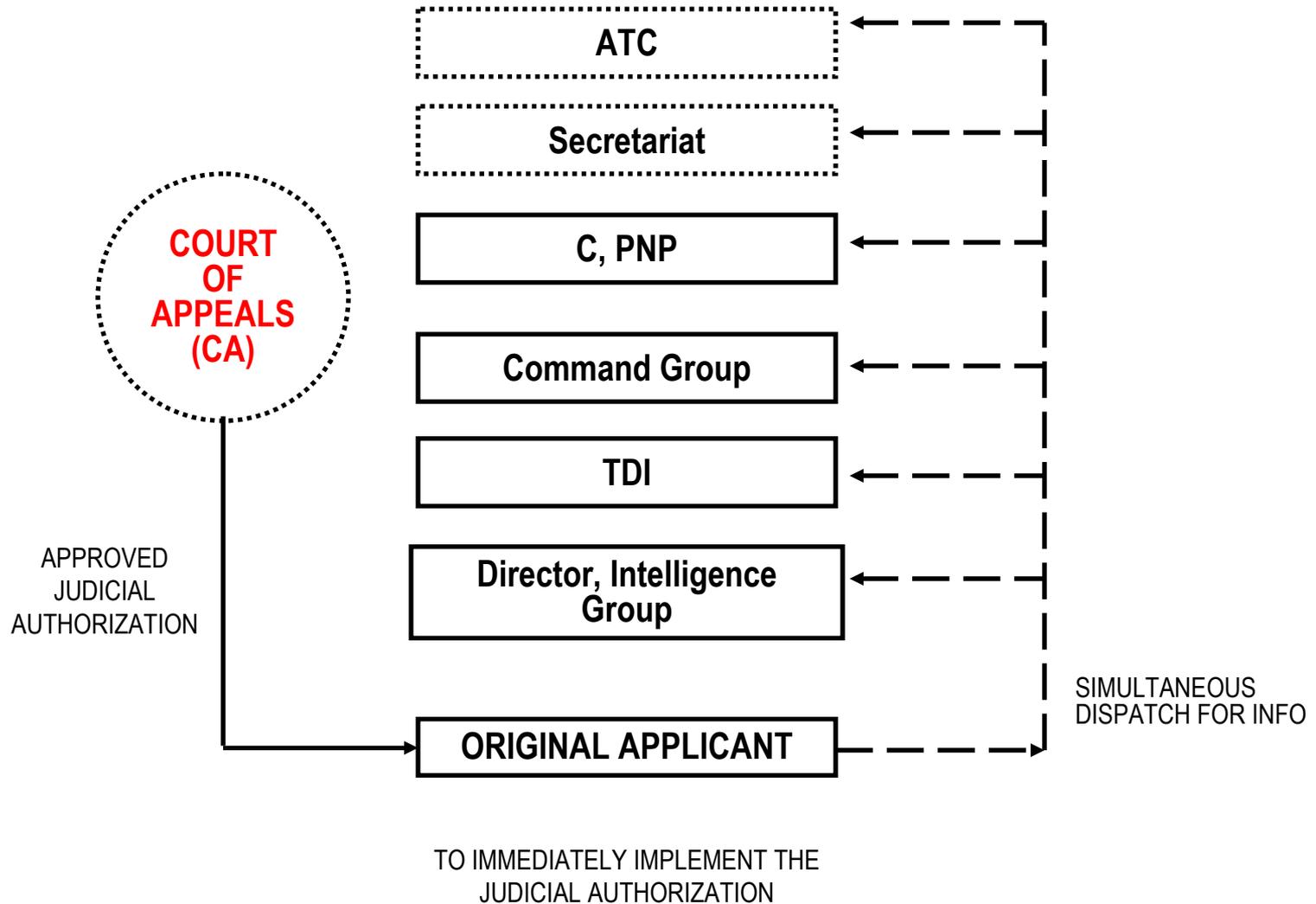


APPENDIX D:
**FLOWCHART WITHIN THE PNP ON PROCEDURE IN APPLYING FOR JUDICIAL AUTHORIZATION
TO EXAMINE BANK DEPOSITS, ACCOUNTS AND RECORDS**



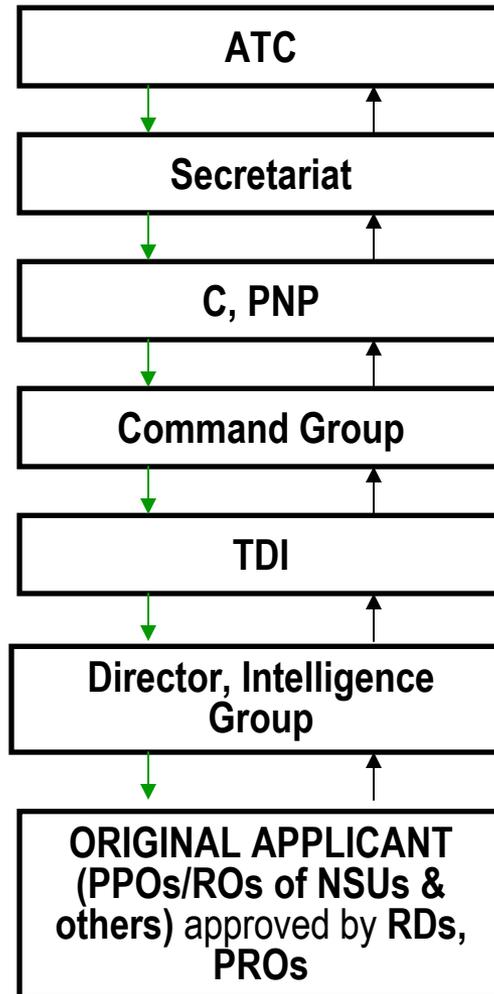
APPENDIX F:

FLOWCHART ON PROCEDURE IN IMPLEMENTING JUDICIAL AUTHORIZATION TO EXAMINE BANK DEPOSITS, ACCOUNTS AND RECORDS



APPENDIX G:

FLOWCHART ON PROCEDURE IN APPLYING FOR ATC AUTHORIZATION TO EFFECT ARREST WITHOUT JUDICIAL WARRANT



TO IMMEDIATELY IMPLEMENT THE
ATC AUTHORIZATION

Police Operational Procedure In the Implementation of the Human Security Act of 2007

Chairman - PDG AVELINO I RAZON JR - *Chief, PNP*
Vice-Chairman - PDDG REYNALDO P VARILLA - *TDCO*

Technical Working Group

Head - PCSUPT SILVERIO D ALARCIO JR - *TDO*
Assistant Head - PSSUPT MARIO R SAN DIEGO - *Dir, LS*
Members - PCSUPT RAUL L CASTAÑEDA - *Dir, IG*
 PCSUPT ARTURO G CACDAC JR - *Dir, CLG*
 PCSUPT YOLANDA G TANIGUE - *C, WCCD, DIDM*
 PCSUPT FLORENCIO A CACCAM JR - *C, FED, CSG*
 PSSUPT ROMMEL D HEREDIA - *Ex-O, DHRDD*
 PSSUPT FELICISIMO V KHU JR - *Ex-O, DPRM*
 PSSUPT ROBERTO P RONGAVILLA - *Ex-O, DO*
 PSSUPT REY L LAÑADA - *Ex-O, DL*
 PSSUPT JUAN G LUNA - *Ex-O, DC*
 PSSUPT PEDRO P DESUASIDO JR - *Ex-O, DPL*
 PSSUPT BENJARDI H MANTELE - *Ex-O, DIDM*
 PSSUPT RAMON F OCAMPO - *Ex-O, DPCR*
 PSSUPT ORLANDO M MABUTAS - *Ex-O, DI*
 PSSUPT NELSON P NARIO - *Acting, Ex-O, DRD*
 PSSUPT AGER P ONTOG JR - *TF Cmdr, TF Sanglahi*
 PSSUPT FRANCISCO DON C MONTENEGRO - *DDO, CIDG*
 PSI DARWIN CLARK B PAZ - *Legal Officer, LS*

Secretariat – Directorate for Operations

Head Secretariat - PSUPT RENE L CASTRO - *C, ISOD*
Members - PSUPT SUSAN R JALLA
 PCI DARWIN S MIRANDA
 PSI SEVERINO C MOLATO JR
 SPO3 DANILO C GARCIA
 PO2 JENNILYN T MERIÑO
 NUP ANNALYN B CRUZ
 NUP MARY ANN L TIUKINHOY
 NUP JOHNNY A SANTIAGO
 NUP ARIEL DG AMIT

