

## ***Executive Summary***

This report aims to provide a perspective of the anti-corruption efforts of Ombudsman Deputized Prosecutors from the Department of Justice. Specifically, this report describes the extent of investigative and prosecutorial activities of deputized prosecutors in the handling of Ombudsman cases. This integrated report also looks into the experiences of the Office of the Ombudsman (OMB) and the Department of Justice (DOJ) since forging partnership on 5<sup>th</sup> October 1995. The next step defines the priority collaborative strategies between the OMB and DOJ in the prompt handling and speedy disposition of about 6,000 OMB cases before the regular courts.

The report is presented in two parts. The first part contains the integrated report of the nationwide capacity-building of OMB deputized prosecutors from the DOJ, workshop priority issues and concerns, and examines the prosecutor-participants' view of the effectiveness of existing anti-graft bodies (or agencies) and laws. The second part provides the individual or regional batch reports that served as basis for the findings presented in the integrated report.

### **PROSECUTION OF OMBUDSMAN CASES ...**

- ◆ ***The prosecution stage in a graft case is synonymous to the 4<sup>th</sup> quarter in a basketball game.*** The sound of the buzzer ending the 4<sup>th</sup> quarter is the much awaited moment by the watching fans in a basketball game. The sound of the buzzer is also the official declaration of the winner. The public watches intensely the prosecution stage of a graft case just like in the basketball game. The watching public wants to see the prosecuting team win over the defense team. This win simply means "*corruption does not pay.*" The prosecuting team in this regard is the Office of the Special Prosecutor of the Office of the Ombudsman.

### **THE PLAYING COURT ...**

- ◆ ***SANDIGANBAYAN is the court where the game is played.*** The Sandiganbayan is a special court created in 1979 by virtue of Presidential Decree No. 1606, as amended, to specifically hear and try graft and corruption cases. The court has five divisions with the first three stationed in Metro Manila, the fourth in Cebu City for cases coming from the Visayas region, and the fifth in Cagayan de Oro City for cases coming from the Mindanao region. The Sandiganbayan for the past 24 years (February 1979 to 31<sup>st</sup> August 2003) worked on about 29,670 cases or about 1,237 cases per year; resolving about 27,304 cases or about 1,138 cases per year and pending of 2,366 cases or about 99 cases per year.

### **ADDING MORE PLAYING COURTS ...**

- ◆ ***The necessity of adding courts in order to play the pending games.*** Sandiganbayan got its much needed breather with the approval of Republic Act No. 7975 on 30<sup>th</sup> March 1995. This law provides for the functional and organizational strengthening of Sandiganbayan by clearly defining and delineating its jurisdiction on graft and corruption cases with that of other courts. Specifically, Sandiganbayan shall exercise original jurisdiction over high profile cases involving officials, officers, and employees occupying positions with Salary Grade 27 and higher as classified under the Compensation and Position Classification Act of 1989. The jurisdiction on all other cases are now vested in the proper Regional Trial Court, Metropolitan Trial Court, Municipal Trial Court, and Municipal Circuit Trial Court, as the case may be, pursuant to their respective jurisdiction as provided in Batas Pambasa Bilang 129. This law drastically increased the number of playing courts from the five divisions in the Sandiganbayan to about 2,130 courts nationwide.

#### **WE HAVE A LONGER BENCH OF PLAYERS ...**

- ◆ ***The number of players also increased.*** The increase in the number of playing courts likewise reflects an increase in the number of players. The fiscal-prosecutors of the Department of Justice numbering about 1,090 and deployed throughout the country became potential players. The Office of the Ombudsman consequently deputized prosecutors of the Department of Justice to handle and prosecute Ombudsman cases before the regular courts.

#### **THE NEED FOR A PARTNERSHIP ...**

- ◆ ***Office of the Ombudsman and Department of Justice partnership.*** The Office of the Ombudsman and the Department of Justice aptly formed a partnership on 5<sup>th</sup> October 1995 with the issuance of OMB-DOJ Joint Circular No. 95-001, series of 1995, signed by Ombudsman Aniano A. Desierto and Department of Justice Secretary Teofisto T. Guingona, Jr. The circular calls for the prompt handling and speedy disposition of about 6,000 Ombudsman cases before the regular courts and defines the guidelines in the conduct of investigation and prosecution of these cases.

#### **PROGRESS IS QUITE MINIMAL ...**

- ◆ ***Progress – while minimal – is not doing any good.*** Despite the joint undertaking between the Office of the Ombudsman and the Department of Justice, it remains a fact that there has been minimal progress in the speedy handling and disposition of Ombudsman cases before the regular courts. The Office of the Ombudsman recognizes and attributes this minimal progress to the inadequate coordination between the prosecutors of the Office of the Ombudsman and Department of Justice. This incidence, as the Office of the

Ombudsman views, further results in the lukewarm handling of Ombudsman cases by the deputized prosecutors.

### LET US SIT AND TALK ...

- ◆ ***Initial strategic response of the Office of the Ombudsman.*** The first strategic response of the Office of the Ombudsman is to orient and increase the level of awareness, understanding, and appreciation of deputized prosecutors from the Department of Justice on the nature and characteristics of Ombudsman cases. The Office of the Ombudsman eventually designed, funded, and implemented a seminar-workshop for the prosecutors of the Department of Justice, National Capital Region (NCR) to address the concern. A total of 39 prosecutors representing 12 cities and 5 municipalities in Metropolitan Manila served as participants.

### WE ARE HERE TO HELP ...

- ◆ ***Timely response from a donor agency.*** The Government of the Philippines through the National Economic and Development Authority and the United Nations Development Programme developed and published a Strategic Agenda Framework (2002-2004) entitled *Portfolio on Enabling Environment: Poverty Reduction Through Good Governance*. This portfolio is a 3-point governance agenda that is directed towards contributing to the substantive reduction of poverty in the country. The capacity-building initiative of the Office of the Ombudsman with the deputized prosecutors from the Department of Justice falls within the context of the Agenda 1 – Sustaining the Gains of Public Sector Reforms – of this GoP-UNDP portfolio. Specifically, Agenda 1 addresses the capacity development requirements of the government machinery and pursues initiatives that promote and provide opportunities to incorporate the elements of good governance particularly in the key area of ***anti-corruption***.

### OMB REQUESTS DONOR AGENCY AND SUPPORT MATERIALIZES ...

- ◆ ***Office of the Ombudsman taking the opportunity.*** The Office of the Ombudsman created a task force to explore the possibility of seeking assistance to continue the capacity-building initiative with the deputized prosecutors from the Department of Justice to cover the other 14 regions of the country. The Ombudsman task force headed by Assistant Ombudsman Cyril E. Ramos with Graft Investigation Officer Ador G. Paulino held exploratory meetings with UNDP Portfolio Manager on Governance Dr. Emmanuel E. Buendia. A Terms of Reference entitled *Strengthening Investigative and Prosecutorial Capacities: Focus on the Office of the Ombudsman Deputized Prosecutors* was the result of these series of meetings that Dr. Buendia supported with much patience. The Terms of Reference was submitted to and approved by the UNDP and implemented in December 2002.

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## THE PROGRAM DESIGN ...

- ◆ **Seminar-workshop design.** The seminar workshop was designed to effect progress in the speedy handling and disposition of Ombudsman cases before the regular courts. Activities during the seminar-workshop were geared towards developing strong coordination and linkages between the Office of the Ombudsman and Department of Justice prosecutors. Specifically, four modules were utilized: (a) Module 1 – Ombudsman Powers, Functions, and Procedures; (b) Module 2 – Anti-Graft Laws, Jurisprudence and Supreme Court decisions Relating to Investigation of Ombudsman Cases; (c) Module 3 – Methods and Techniques Used in the Prosecution of Ombudsman Cases; and, (d) Module 4 – Workshop: Problem Identification, Solutions and Recommendations Relative to the Handling and Prosecution of Ombudsman Cases.

## THE RESOURCE SPEAKERS ...

- ◆ **Top caliber resource speakers.** Invited resource speakers are composed of high ranking officials from the Office of the Ombudsman and the Office of the Special Prosecutor with positions ranging from Overall Deputy Ombudsman, Deputy Ombudsman, Assistant Ombudsman, Deputy Special Prosecutor, Bureau Director, Resident Ombudsman, Graft Investigation and Special Prosecution Officers. A briefing and orientation of all resource speakers per module was conducted before the start of each seminar-workshop to guarantee quality performance from each speaker. The orientation-briefing likewise served as venue to clarify expectations relative to the delivery of lectures and activities involved on specific topics.

## ADD-ON ACTIVITY ...

- ◆ **Survey on corruption and the effectiveness of existing anti-graft bodies and laws.** The Office of the Ombudsman incorporated in the seminar-workshop design a perception-based research to determine the view of 448 prosecutor-participants on corruption, adequacy and effectiveness of existing anti-graft bodies (or agencies), and laws. significant findings revealed that:
  - **On the perceived causes of corruption.** The vast majority or 70.98% of deputized prosecutors ranked “low pay” as the primary reason for corruption in the country. The incumbency of corrupt leaders in the government was ranked as the second reason by about 69.64% of participants while lack of moral values ranked third with 67.86%.
  - **Perceived reasons for continued prevalence of corruption.** The lack of real political will to fight corruption was mentioned by 69.64% of participants as the major reason for corruption’s continued prevalence. About 55.8% cited the country’s economic situation as another major reason,

- apathy with 50.8% and systemic nature of corruption with 48.44% as the other reasons.
- ***On the effectiveness of anti-graft bodies (agencies).*** The Office of the Ombudsman, on a scale of 0 to 10 (with 0 being the lowest and 10 the highest), got a rating of 7.22, Department of Justice 6.94, Supreme Court 6.44, Sandiganbayan 6.41, Lower Courts 5.76, Civil Service Commission 5.12, Commission on Audit 4.85, and Presidential Anti-Graft Commission 4.36.
  - ***On the adequacy of anti-graft laws.*** There are sufficient existing laws and statutes on graft and corruption according to the prosecutor-respondents. They do believe however there is much to be desired in the enforcement of these laws.

### THE WORKSHOP ISSUES AND CONCERNS ...

- ◆ ***Workshop highlights.*** The workshop was the culminating activity in the program. The prosecutor-participants were divided into small groups and asked to discuss pre-defined areas (information, evidence, and witnesses) that can facilitate or hinder in the handling of Ombudsman cases before the lower courts. The issue on administrative support within and between the Department of Justice and the Office of the Ombudsman on the monitoring of these Ombudsman cases before the lower courts were likewise discussed. The various recommendations forwarded for this purpose are presented in detail in the integrated report that follows.

### DELIVERABLES OF THE OMBUDSMAN ...

- ◆ ***Accomplishment and UNDP support in 2002.*** Two regions (Regions III and IV) were completed in December 2002 with 46 prosecutors as participants. UNDP provided initial funding support in the amount of *ONE MILLION SIXTY SEVEN THOUSAND SIX HUNDRED PESOS* (PhP1,067,600.00). The Office of the Ombudsman requested to and was granted by the UNDP on 1<sup>st</sup> July 2003 to utilize the remaining balance of *TWO HUNDRED FORTY FOUR THOUSAND AND SEVEN HUNDRED SEVENTY TWO* (PhP244,772.00) for the reprinting of about 5,000 copies and distribution to various government agencies including state universities and colleges of the Revised Compilation of Laws on Graft and Corruption.
- ◆ ***Accomplishment and UNDP support in 2003.*** The remaining 12 regions (Regions VII, XI, VIII, VI, I, X, II, XIII, IX, V, XII, and XIV, respectively) were completed between January and May 2003 with a total of 393 prosecutors as participants. UNDP in this regard provided funding in the amount of *FORTY THOUSAND DOLLARS* (US\$40,000.00) released to the Office of the Ombudsman in two tranches: 80% in the first semester of 2003 and the 20% upon submission of this final integrated report.

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**PROGRAM WORTH ...**

- ◆ **Overall program evaluation.** The overall outcome of this capacity-building undertaking is a success. The results of the program appraisal reflected the realization of the various objectives set forth in the beginning. The strategy of advancing the financial support by the implementing agency proved beneficial to all stakeholders in this regard, particularly the benefactor – the deputized prosecutors from the Department of Justice. The calendar of activities was completed within the scheduled time frame.

**NEXT STEPS ...**

- ◆ **Next steps.** The program success is possible because of the collaborative efforts of all stakeholders, to wit: (a) United Nations Development Programme (UNDP) through Governance Portfolio Manager Dr. Emmanuel E. Buendia; (b) Civil Service Commission as Executing Agency through Assistant Commissioner Mary Ann Z. Fernandez; (c) National Economic and Development Authority through GoP-counterpart Portfolio Manager Director Virgilio T. Salentes; and, (d) Department of Justice through the deputized prosecutors. The following are the some of the significant propositions for the next steps:
  - **Designation of a Special Court to Hear Ombudsman Cases.** The intention of designating a special court for every region or select regions is to prioritize and speed up the dispositions of Ombudsman cases before the lower courts. The Office of the Ombudsman is working with the Department of Justice the details in this regard.
  - **Conduct of Trial Advocacy Skills Development Program.** The top officials of the Office of the Ombudsman as well as the Office of the Special Prosecutors recognized the need to conduct an intensive investigative and prosecutorial training program among the deputized prosecutors from the Department of Justice.
  - **Establishment of a Reporting and Monitoring System.** There was likewise an admission of having weak links between the Office of the Ombudsman and the Department of Justice in the area of case tracking, reporting, and monitoring. One common recommendation is the establishment of an OMB-DOJ Case Monitoring System, which shall serve as feedback mechanism in determining the status of an Ombudsman case at any given time. A few of the project components under consideration are:
    - **Court Watch.** This seeks to tap the senior law students from the various Universities and Colleges all over the country. These students shall serve as the eyes and ears of the Office of the Ombudsman in the monitoring of Ombudsman cases before the lower courts. They shall likewise provide information on the performance of deputized prosecutor vis-à-vis the handling of these Ombudsman cases. Capacity-building for these senior law students is essential.

- **Creation of Regional Task Force of Deputized Prosecutors.** This proposal aims to tap the RSPs or Regional State Prosecutor to act as Task Force Chair and supported by the deputized prosecutors of the region. Specifically, the task force shall handle the prosecutorial activities required in all Ombudsman cases within its area of jurisdiction. This shall also define and clarify accountabilities for the Ombudsman cases in the lower courts.
- **Establishing Clear Procedures in the Transmittal of Ombudsman Case Records.** A must component in the establishment of a reporting and monitoring system. The procedure defining the transmittal of Ombudsman case records eventually make case tracking and recording easy.

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