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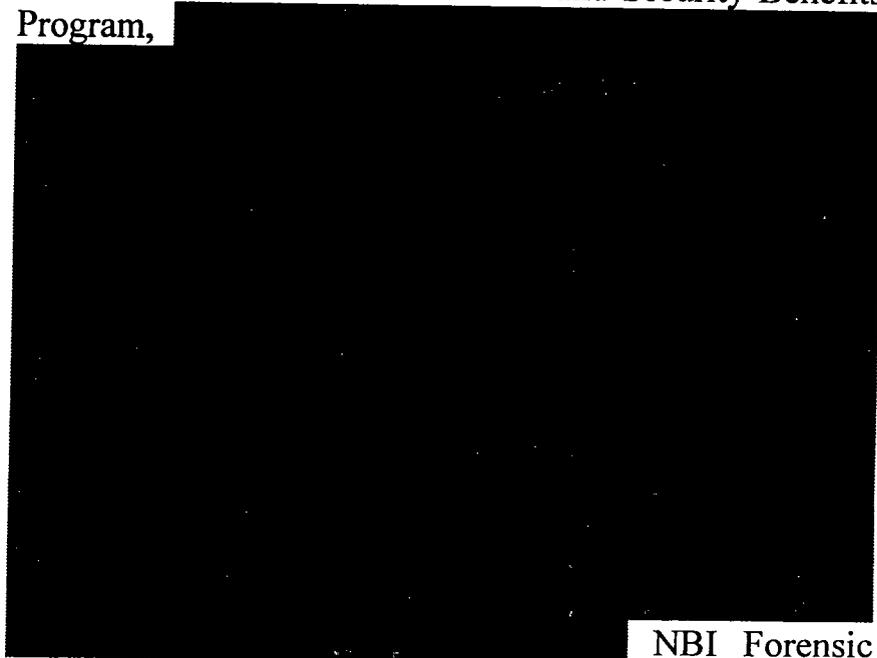
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## LIST OF ACRONYMS AND TERMS USED

<b>AA</b>	Action Agent
<b>AC</b>	Acting Chief
<b>ACP</b>	Advance Command Post
<b>AD</b>	Acting Director
<b>AFP</b>	Armed Forces of the Philippines
<b>AHJAG</b>	Ad Hoc Joint Action Group
<b>AOR</b>	Area of Responsibility
<b>ARMM</b>	Autonomous Region of Muslim Mindanao
<b>BBL</b>	Bangsamoro Basic Law
<b>BatCom</b>	Battalion Commander
<b>BC</b>	Base Command
<b>BDE or Bde</b>	Brigade
<b>B/GEN</b>	Brigadier General or one star General in the AFP; it is equivalent to the rank of police Chief Superintendent in the PNP
<b>BIAF</b>	Bangsamoro Islamic Armed Forces
<b>BIFF</b>	Bangsamoro Islamic Freedom Fighters or "Freedom"
<b>BOI</b>	Board of Inquiry of the PNP or the Board
<b>BSC</b>	Battle Staff Conference
<b>BTC</b>	Bangsamoro Transition Commission
<b>CAPT or Capt</b>	Captain in the AFP; it is equivalent to the rank of Police Senior Inspector in the PNP
<b>CCCH</b>	Coordinating Committee on the Cessation of Hostilities
<b>CDS</b>	Chief of Directorial Staff; it is the fourth highest position in the PNP
<b>CIC</b>	Commander-in Charge of all the armed forces of the Philippines; as per Section 18, Article VII of the 1987 Constitution of the Republic of the Philippines
<b>CIDG</b>	Criminal Investigation and Detection Group of the PNP
<b>CG</b>	Commanding General
<b>CLG</b>	Crime Laboratory Group of the PNP
<b>CMO</b>	Civil-Military Operations of the AFP
<b>COA</b>	Courses of Action
<b>CO</b>	Commanding Officer
<b>COC</b>	Chain of Command
<b>COL or Col</b>	Colonel in the AFP; it is equivalent to the rank of

<b>COMMEL</b>	Police Senior Superintendent in the PNP
<b>COM6</b>	Communications and Electronics Commander of the 6 <sup>th</sup> Infantry Division of the Philippine Army
<b>CONOPS</b>	Concept of Operations
<b>COP</b>	Chief of Police
<b>CPNP</b>	Chief of the Philippine National Police
<b>CPO</b>	City Police Office
<b>CR</b>	Command Responsibility
<b>CSAFP</b>	Chief of Staff of the Armed Forces of the Philippines
<b>D</b>	Director of a PNP Office, Group or Service
<b>DD</b>	Deputy Director of a PNP Office, Group or Service
<b>DFA</b>	Department of Foreign Affairs
<b>DI</b>	Directorate for Intelligence of the PNP
<b>DIDM</b>	Directorate for Investigation and Detective Management of the PNP
<b>DILG</b>	Department of Interior and Local Government
<b>DIPO</b>	Directorate for Integrated Police Operations of the PNP
<b>DNA</b>	Deoxyribonucleic Acid
<b>DND</b>	Department of National Defense
<b>DO</b>	Directorate for Operations of the PNP
<b>DOA</b>	Dead on Arrival
<b>DOJ</b>	Department of Justice
<b>DOS</b>	Datu Odin Sinsuat; it is a Municipality in the province of Maguindanao
<b>DPCR</b>	Directorate for Police Community Relations of the PNP
<b>DRC</b>	Division Reconnaissance Company; it is an elite unit under the operational control of the Division Commander of the Philippine Army
<b>DSAF</b>	Director of the Special Action Force of the PNP
<b>EO</b>	Executive Order
<b>EOD</b>	Explosive and Ordinance Disposal
<b>FA</b>	Firearm
<b>FAP</b>	Final Assault Position
<b>FBI</b>	Federal Bureau of Investigation of the United States of America
<b>FIID or F2 -</b>	Force Intelligence and Investigation Division of the SAF
<b>FO</b>	Forward Observer of the Artillery Units
<b>FSB</b>	Force Support Battalion

<b>FSO</b>	Fire Support Operations
<b>FTPP</b>	Focal Team on the Peace Process
<b>GC</b>	Ground Commander or Grid Coordinates
<b>GEN</b>	General or four star General in the AFP. It is a rank conferred only to the Chief of Staff of the AFP; it is equivalent to the rank of Police Director General that is accorded only to the Chief of the PNP
<b>GPH</b>	Government of the Philippines; current country code of the GRP; replaced GRP
<b>GPNP</b>	Government Peace Negotiating Panels
<b>GPS</b>	Geographical Positioning System
<b>GRP</b>	Government of the Republic of the Philippines; is currently GPH
<b>GSC</b>	General Staff Course; it is equivalent to the Public Safety Officers Senior Executive Course of PSOSEC
<b>GSW</b>	Gun Shot Wound
<b>G1</b>	Personnel or Administrative Officer in the Philippine Army
<b>G2</b>	Intelligence Officer in the Philippine Army
<b>G3</b>	Operations Officer in the Philippine Army
<b>G7</b>	Civil-Military Operations Officer in the Philippine Army
<b>HE</b>	High Explosive
<b>HOR</b>	House of Representatives
<b>HVT</b>	High Value Target
<b>H6ID</b>	Headquarters of the 6 <sup>th</sup> Infantry Division of the Philippine Army
<b>IB</b>	Infantry Battalion of the Philippine Army
<b>ID</b>	Infantry Division of the Philippine Army or Intelligence Division of the CIDG
<b>IDP</b>	Internally Displaced Person
<b>IED</b>	Improvised Explosive Device
<b>IG</b>	Intelligence Group of the PNP
<b>IMT</b>	International Monitoring Team
<b>Inf Sec</b>	Infantry Section
<b>IP</b>	Intelligence Packet/Intelligence Package
<b>IPB</b>	Intelligence Preparation of the Battlefield
<b>IPHO</b>	Integrated Provincial Health Office under the Department of Health
<b>ISR</b>	Intelligence, Surveillance and Reconnaissance
<b>ISTAR</b>	Intelligence Surveillance Target Acquisition and Reconnaissance of SAF

<b>ISU</b>	Intelligence Security Unit of AFP
<b>JCCT</b>	Joint Ceasefire Crisis Team
<b>JCMP</b>	Joint Ceasefire Monitoring Post
<b>JI</b>	Jema'ah Islamiyah; an international terrorist organization
<b>KIPO</b>	Killed in Police Operation; it is a term used in the PNP that is similar to Killed-in-Action (KIA) in the AFP
<b>LAU</b>	Light Armor Unit of the Philippine Army
<b>LAV</b>	Light Armored Vehicle
<b>LD/LC</b>	Line of Departure/Line of Contact
<b>LCC</b>	Last Cover and Concealment
<b>LED</b>	Light Emitting Diode
<b>LEO</b>	Law Enforcement Operation; it is a term used in the PNP that is similar to Civil-Military Operation in the AFP
<b>L/FTO</b>	Lawless/Foreign Terrorist Organizations
<b>LGU</b>	Local Government Unit; it refers to the Regional, Provincial, City, Municipal or Barangay Offices under locally elected public officials
<b>LTCOL or Lt Col</b>	Lieutenant Colonel in the AFP; it is equivalent to the rank of Police Superintendent in the PNP
<b>LTGEN or Lt Gen</b>	Lieutenant General or three star General in the AFP; it is equivalent to Police Deputy Director General in the PNP
<b>MAJ</b>	Major in the AFP; it is equivalent to the rank of Police Chief Inspector in the PNP
<b>MB</b>	Mechanized Brigade of the Philippine Army
<b>MCIU</b>	Major Crime Investigation Unit of the CIDG
<b>ME</b>	Main Effort of the Assault Force of SAF under Oplan EXODUS
<b>MECH or Mech</b>	Mechanized
<b>Mech Bde</b>	Mechanized Brigade
<b>Mech Coy</b>	Mechanized Company
<b>Mech Inf</b>	Mechanized Infantry
<b>Mech Sec</b>	Mechanized Section
<b>M/GEN or M/Gen</b>	Major General or two Star General in the AFP; it is equivalent to Police Director in the PNP
<b>MIB</b>	Military Intelligence Battalion of the Philippine Army
<b>MILF</b>	Moro Islamic Liberation Front
<b>MLGO</b>	Municipal Local Government Office

<b>MSR</b>	Main Supply Route
<b>NAPOLCOM</b>	National Police Commission
<b>NCMC</b>	National Crisis Management Committee
<b>NFS</b>	Night Fighting System
<b>NICA</b>	National Intelligence Coordinating Agency
<b>NVG</b>	Night Vision Goggles
<b>OAT</b>	Operational Audit Team of the PNP-BOI
<b>OCD</b>	Office of Civil Defense
<b>OIC</b>	Officer-in-Charge
<b>Ombudsman</b>	The Ombudsman of the Philippines. It is responsible for the investigation and prosecution of prosecution of government officials accused of crimes, especially graft and corruption
<b>OPAPP</b>	Office of the Presidential Adviser on the Peace Process
<b>OPORD</b>	Operations Order
<b>OPLAN</b>	Operation Plan
<b>OPSEC</b>	Operation Security
<b>PA</b>	Philippine Army. It is one of the three (3) branches of service of the AFP
<b>PAG</b>	Private Armed Group or "Massacre"
<b>PCMC</b>	Provincial Crisis Management Committee
<b>PCSUPT or PCS</b>	Police Chief Superintendent or one-star General in the PNP. It is equivalent to the rank of Brigadier General in the AFP
<b>PD</b>	Provincial Director of the PNP
<b>PDDG</b>	Police Deputy Director General or three-star General in the PNP. It is equivalent to the rank of Lieutenant General in the AFP
<b>PDIR or PDir</b>	Police Director or two star General in the PNP. It is equivalent to the rank of Major General in the AFP
<b>PDG</b>	Police Director General or four star General in the PNP; it is a rank accorded only to the Chief of the PNP; it is equivalent to the rank of General conferred only to the Chief of Staff of the AFP
<b>PINSP or PI</b>	Police Inspector in the PNP; it is equivalent to the rank of either 1 <sup>st</sup> or 2 <sup>nd</sup> Lieutenant in the AFP
<b>PINTAKASI</b>	A local dialect/term in vernacular which means a conglomeration of just about any armed malefactor, immaterial of group affiliation and united by religion, blood ties and the singular goal of annihilating a common enemy usually an outsider or intruder

<b>PCO</b>	Police Commissioned Officer
<b>PNCO</b>	Police Non-Commissioned Officer
<b>PNP</b>	Philippine National Police
<b>PO</b>	Police Officer
<b>POP</b>	Police Operational Procedure
<b>PPO</b>	Police Provincial Office
<b>PRO</b>	Police Regional Office
<b>PPSC</b>	Provincial Public Safety Company
<b>PSINSP or PSI</b>	Police Senior Inspector in the PNP. It is equivalent to the rank of Captain in the AFP
<b>PSOSEC</b>	Public Safety Officer Senior Executive Course in the PNP; it is equivalent to the General Staff Course (GSC) in the AFP
<b>PSUPT</b>	Police Superintendent in the PNP; it is equivalent to the rank of Lieutenant Colonel in the AFP
<b>PSSUPT</b>	Police Senior Superintendent; it is equivalent to the rank of Colonel in the AFP
<b>QRF</b>	Quick Reaction Force
<b>RD</b>	Regional Director of the Police Regional Office of the PNP
<b>RDB</b>	Rapid Deployment Battalion of the SAF
<b>RDRRMC</b>	Regional Disaster Risk Reduction Management Council
<b>ROE</b>	Rules of Engagement
<b>RID</b>	Regional Intelligence Division
<b>RPC</b>	Revised Penal Code
<b>RPG</b>	Rocket Propelled Grenade
<b>RPSB</b>	Regional Public Safety Battalion
<b>RR</b>	Recoilless Rifle
<b>SAB</b>	Special Action Battalion
<b>SAC</b>	Special Action Company
<b>SAF</b>	Special Action Force
<b>SAR</b>	Search and Rescue
<b>SE</b>	Support Effort or the Support Units of SAF under Oplan EXODUS
<b>SILG</b>	Secretary of the Interior and Local Government
<b>SMS</b>	Short Messaging Service
<b>SND</b>	Secretary of National Defense
<b>SOG</b>	Special Operation Group of the MILF or BIFF
<b>SOP</b>	Standard Operating Procedure
<b>SPO</b>	Senior Police Officer
<b>SSE</b>	Sensitive Site Exploitation
<b>TCP</b>	Tactical Command Post

<b>TDCA</b>	The Deputy Chief PNP for Administration; it is the second highest position in the PNP
<b>TDCO</b>	The Deputy Chief PNP for Operation
<b>TELCOS</b>	Telephone Companies or Providers
<b>TL</b>	Team Leader
<b>TOC</b>	Tactical Operation Center
<b>TOG</b>	Tactical Operating Group
<b>TOT</b>	Time-on-Target
<b>UAV</b>	Unmanned Aerial Vehicle
<b>UHF</b>	Ultra-High Frequency
<b>US</b>	United States
<b>VDOP</b>	Vehicle Drop-Off Point
<b>VHF</b>	Very High Frequency
<b>WESMINCOM</b>	Western Mindanao Command of the AFP
<b>WIPO</b>	Wounded-in-Police-Operation
<b>WP</b>	Way Point
<b>84SAC</b>	may be used interchangeably with Seaborne Company

## EXECUTIVE SUMMARY

### A. Introduction

Death was a recurring theme in the cornfields of Mamasapano, Maguindanao on January 25, 2015. By day's end, forty four (44) highly trained and specially skilled commandos of the elite Philippine National Police Special Action Force (SAF), who were precisely deployed as the Government's long arm of the law to capture three (3) most wanted terror suspects categorized as high value targets (HVTs), would instead fall to their gruesome deaths among the cornstalks. The SAF commandos' violent clash with the combined forces of the Moro Islamic Liberation Front (MILF), the Bangsamoro Islamic Freedom Fighters (BIFF) and private armed groups (PAGs), who consider Mamasapano as a stronghold and sanctuary, also reportedly resulted in the deaths of seventeen (17) members of the MILF and four (4) civilians at or near those cornfields.

Public outrage was swift and widespread as accounts surfaced that SAF commandos, police officers and symbols of law and order, were brutally and disproportionately killed by insurgents, private armies and armed civilians while out to serve warrants of arrest against HVTs Zulkifli Bin Hir alias "Marwan", Ahmad Akmad Batabol alias "Basit Usman" and Amin Baco alias "Johan". The incident drew widespread condemnation for both the killers of the SAF and those who crafted and approved Oplan EXODUS, now determined by both the PNP's Board of Inquiry (BOI) and the Senate as an ill-planned, ill-executed and resultantly, an ill-fated special police operation. In one fell swoop, Oplan EXODUS and its drafters put at risk the Government's carefully laid out plans for a negotiated peace with the MILF and heightened the chances of a new war in Mindanao.

"Massacre" was how the Senate graphically described the carnage at Mamasapano. The MILF would use the rather clinical (and non-English) word "misencounter". Whatever descriptive nouns are used, nagging doubts were cast on the sincerity of the MILF to truly talk peace with the Government, even as its forces were found to be among those who engaged the SAF commandos.

## **B. Authority to Investigate**

Against this backdrop, the Department of Justice (DOJ), the investigative and prosecutorial arm of the State, with the power to investigate crimes and prosecute all offenders, launched its own fact-finding investigation to determine the criminal liability of those involved in the incident from both sides, for the resulting deaths, injuries, and other felonies. On February 2, 2015, Secretary of Justice Leila M. De Lima issued Department Order No. 034 constituting the Joint National Bureau of Investigation-National Prosecution Service Special Investigation Team (NBI-NPS SIT) made up of five (5) prosecutors from the Office of the Prosecutor General and ten (10) agents from the NBI Regional Operations Service.

## **C. Framework**

We approached this inquiry from one immovable standpoint: the State has sovereignty over *all* its territory, and that the areas militarily occupied by the MILF in Maguindanao and elsewhere in the Philippines are part of it.

The Ceasefire Agreement between the Government of the Philippines (GPH) and the MILF, despite its laudable purpose of laying the groundwork for eventual autonomy for certain Muslim areas in Mindanao, does not remove these parts from Philippine territory, nor divest the State of its power to exact punishment for violations of its penal laws. The State's ability to exercise such power is deemed read into any agreement it enters into.

Being an inseparable part of the Philippines, Maguindanao or any other place physically occupied by the MILF for that matter, should be accessible to GPH forces whenever the latter discharges its duty to protect the State from groups who threaten its very existence. If the residents in that area, whether MILF, BIFF, PAGs, or even civilians stand in the way of law enforcement operations and they have no legal justification, they should be prosecuted—no different if the same set of facts happened in a cornfield or riverbank in another part of the country. In short, Philippine penal laws that apply elsewhere, must apply perforce in Maguindanao. They must apply to ordinary civilians, MILF, BIFF, PAGs, and to SAF commandos *equally* in Maguindanao.

## **D. Scope**

With its mandate to conduct a thorough, in-depth and comprehensive investigation and case build-up, the scope of the investigation of the NBI-NPS SIT theoretically extend to all the administrative and criminal offenses that were possibly committed by persons involved in the Mamasapano incident.

### **1. Administrative Liability and Criminal Liability of Certain Public Officers**

It is settled that in administrative cases falling under the concurrent jurisdiction of two or more disciplining authorities, the body where the complaint is filed first, and which opts to take cognizance of the case, acquires jurisdiction to the exclusion of other tribunals exercising concurrent jurisdiction. Since the Ombudsman, through its Office of the Deputy Ombudsman for the Military and other Law Enforcement Offices (MOLEO), already started its own investigation of the Mamasapano incident in March 2015, its exercise necessarily precludes us from making any determination on the administrative liabilities of public officers involved in the drafting, planning and implementation of Oplan EXODUS and their superiors in the Executive department.

In the matter of the possible criminal liability of these public officers, under the Ombudsman Act of 1989, the Ombudsman “investigate(s) and prosecute(s) on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan.” Hence, it would only be proper for us to defer to the jurisdiction of the Ombudsman in the matter of the criminal liability of public officers involved in the drafting, planning and implementation of Oplan EXODUS and their superiors in the Executive department. This is especially considering that, at least from the initial inquiry conducted, those who approved Oplan EXODUS have a Salary Grade of 27 or higher, which is within the jurisdiction of the Sandiganbayan.

## **2. Criminal Liability**

Our investigation sought to determine *all* manner of crimes that may have been committed during and after the Mamasapano incident and the persons liable therefor. It must be stressed that the NBI-NPS SIT was vested with a mandate that bound it to observe a fundamental principle in our criminal justice system – *Penal laws are obligatory upon all who live or sojourn in the Philippines.*

Our investigation cast a wide net to identify and find *all* persons, whether public or private individuals, who must be held accountable for crimes committed during the Mamasapano incident, subject to the jurisdiction of the Ombudsman over public officers within the salary grade threshold.

### **E. Limitations**

Several factors outside the control of the NBI-NPS SIT slightly hampered its aim of a thorough, in-depth and comprehensive investigation. These factors included the following:

*a. Limited area inspection at Mamasapano.*

As a result of AFP offensives against BIFF controlled areas, the site inspection was limited to Barangay Tukanalipao, Mamasapano at the area where the 55<sup>th</sup> Special Action Company (SAC) of the SAF clashed with the local armed groups. Barangay Pidsandawan, where the 84<sup>th</sup> SAC killed Marwan, was therefore not inspected by the team.

*b. Lapse of time prior to the ocular inspection.*

It is said that the initial phase or the first seventy two (72) hours after the commission of a violent crime is crucial. The team's site inspection of Barangay Tukanalipao was conducted more than a month after January 25, 2015 because of safety and security concerns. Physical or object evidence were probably destroyed because of the delay, alternating weather conditions, continuous farming and harvesting as well as habitation and pedestrian traffic in that predominantly agricultural area.

*c. The NBI-NPS SIT was unable to access possible eyewitnesses in the area whose identities and circumstances are known to the MILF.*

All efforts were made to coordinate with the MILF and the team sent two (2) written notices to its leadership for access to resident eyewitnesses in the areas of Mamasapano under its control. Access was not given to us by the MILF.

*d. The time period given to the NBI-NPS SIT to complete its investigation was likewise limited.*

The public's vociferous demand for the truth and speedy justice for the SAF commandos constrained the DOJ to understandably impose a two (2) month period for the team to complete the investigation. The self-imposed deadline prevented the gathering of additional time-crucial testimonial, documentary and object evidence that could lead to a more comprehensive determination of *all* the crimes committed and *all* the persons liable.

*e. Lack of Eyewitnesses from Barangay Pidsandawan*

As of this writing, the team is unable to find other testimonial evidence with which to test the sworn statements of the 84<sup>th</sup> SAC (Seaborne) commandos who survived. No resident eyewitness has come forward yet to give us a sketch of what exactly happened at Barangay Pidsandawan.

But as the incident in Tukanalipao, though related to that in Pidsandawan, happened independently of the former, it is possible to determine the relevant penal laws violated by the parties involved *only* in Tukanalipao. We are therefore constrained to leave the events at Pidsandawan for a further fact finding investigation, including the deaths that are being attributed to PO2 Christopher Lalan. This is because the proofs of death of the Pidsandawan victims have not been submitted by the MILF to the NBI-NPS SIT, despite written and verbal requests.

## **F. Methodologies Employed**

The NBI-NPS SIT employed various sources and methods to obtain the following evidence:

## **1. Testimonial Evidence**

The NBI-NPS conducted several interviews and in reaching its findings and recommendations, considered only those witnesses who gave statements based on their personal knowledge of the facts.

### **a. Witnesses interviewed**

To shed light on particular facts and issues, P/Supt Raymund Train, PO3 Lloyd Ensoy and PO2 Christopher Lalan of the SAF were summoned for clarificatory questioning. Accompanied by counsel of their choice, P/Supt. Train, PO3 Ensoy and PO2 Lalan appeared before the NBI-NPS SIT on March 27, 2015 and answered many questions regarding their respective roles under Oplan EXODUS and during its execution.

Other persons identified to be present at or near Barangay Tukanalipao from January 25 to 26, 2015 were interviewed by the team on February 26 to 27, 2015 at secure locations in Mindanao. Foremost among these witnesses is the one we named MARATHON. For the safety and security of these persons, the identities of these witnesses shall be withheld *until* the filing of the appropriate criminal complaints for preliminary investigation.

## **2. Documentary Evidence**

The NBI-NPS SIT considered only the original documents, consistent with the best evidence rule.

### **a. Sworn Statements**

The sworn statements executed by individuals, most of whom were before the defunct BOI and submitted by the latter to the team were considered, cross referenced or made the bases for further clarificatory questioning.

### **b. Medico-Legal Reports**

The PNP Crime Laboratory conducted individual post-mortem examinations on the remains of the forty four (44) SAF members who were killed as a result of the Mamasapano Incident. These reports were submitted

to the NBI-NPS SIT upon the latter's request. No medico-legal reports or similar documents were submitted by the MILF despite the team's requests.

### **c. Intelligence and Situational Reports**

Upon request, the intelligence services of both the PNP and the AFP provided the NBI-NPS SIT with secret and classified operational plans such as Oplans EXODUS, WOLVERINE, TERMINATOR (and their respective versions), various sensitive intelligence and national security documents, including situation reports and threat disposition maps for relevant time periods. The team utilized the data in these secret or classified reports to build or check leads for the NBI component. Other sensitive data were sparingly used to cross-check with the sworn statements, declared personal circumstances and affiliations of suspects, persons of interest and that of crucial witnesses. Being secret or classified, these documents will not be included as annexes in this report, or described nor referenced further than absolutely necessary.

### **d. The Board of Inquiry (BOI) Report**

The defunct Board of Inquiry was a fact finding and investigative body constituted by the PNP, upon directive issued on January 26, 2015 by the Secretary of the Interior and Local Government, to investigate the Mamasapano Incident. A copy of the report was submitted to the Secretary of Justice on March 9, 2015, which was then studied by the team in detail and sifted for the sworn statements referenced therein.

### **e. MILF Special Investigation Commission Report on the Mamasapano Incident**

On January 26, 2015, the leadership of the MILF organized its Special Investigative Commission (SIC). The SIC, composed of Ustadz Said Abdulsalam as chairperson and Hussein "Sonny" Munoz, Toks Ebrahim, Von Al Haq and Ustadz Abu Ubadiyah Agkong as members, was mandated to investigate what transpired in Mamasapano on January 25 and 26, 2015. On March 24, 2015, the MILF furnished the NBI-NPS SIT a copy of its report.

### **f. Committee Report No. 120, Senate of the Philippines**

On March 25, 2015, the Senate joint Committees transmitted to the

DOJ a copy of its Committee Report No. 120 on the Mamasapano incident. The team took time to carefully study the report and its attachments.

### **3. Site Inspection at Brgy. Tukanalipao, Mamasapano**

A site inspection of the environs of Barangay Tukanalipao, Mamasapano, Maguindanao was originally planned for February 27, 2015. The site was chosen because of its relevance as a vast crime scene. The cornfield area bisected by the Kabulnan River was where the 55<sup>th</sup> Special Action Company (SAC) of the SAF clashed encounter with various armed groups. Also included in the planned site inspection was the prayer room and extension house where, according to barangay officials of Barangay Tukanalipao, several individuals were allegedly killed from January 25 to 26, 2015.

On March 11, 2015, the NBI-NPS SIT and the Secretary of Justice, along with a security support team from the NBI, conducted a site inspection at Barangay Tukanalipao, Mamasapano. The accounts of witnesses were validated. A forensic team from the NBI also conducted its crime scene investigation (CSI) and processed the site. A wide range of object evidence were collected and relevant data were gathered using established scientific methods adopted by the NBI.

The NBI-NPS SIT studied the feasibility of inspecting the area of Barangay Pidsandawan, the site of the clash between the SAF's 84<sup>th</sup> SAC and armed groups but an unexplained fire that earlier razed Marwan's hut and the ongoing military offensive in Barangay Pidsandawan on February 24, 2015, convinced the team to temporarily cancel all plans to conduct an ocular inspection there.

### **4. Photographic evidence**

The NBI took an estimated five hundred (500) still photographs during the site inspection at Barangay Tukanalipao, Mamasapano on March 11, 2015. These photographs are sequentially numbered and form part of the report submitted by the NBI's Forensic Division and the Photography and Publication Laboratory Division to the NBI-NPS SIT.

## **5. Forensic Evidence**

During the site inspection of Brgy. Tukanalipao, Mamasapano, a forensic team from the NBI, composed of a ballisticsian, a photographer, a videographer and an artist-illustrator, conducted a forensic examination. Consequently, the following evidence were gathered:

### **a. Ballistics**

Examinations of various shells and bullet holes recovered from Barangay Tukanalipao were likewise made to determine the individual bullet trajectories on the trees and wooden bridge across the Kabunlan River and to ascertain whether or not the fired cartridge cases were fired from particular firearms.

### **b. Site measurements**

Using both the azimuth wheel and triangulation method, measurements were taken of relevant areas at Barangay Tukanalipao, Mamasapano for the purpose of determining the location and relative distance of the witnesses, victims, surrounding landmarks and objects from certain points at the site.

## **6. Other object evidence**

During the site inspection at Brgy. Tukanalipao, Mamasapano, the NBI collected several object evidence from a structure made of light materials described as a prayer room and extension house owned by Faisal Dagadas after the barangay chairperson of Barangay Tukanalipao informed the NBI forensic team that four (4) civilians died inside the prayer house during on January 25, 2015.

## **7. Electronic documents / data message**

For purposes of the Rules on Electronic Evidence, the term “electronic document” may be used interchangeably with “electronic data message”. Electronic data message, on the other hand, refers to information generated, sent, received or stored by electronic, optical or similar means. Several persons were found to have taken video footages during the Mamasapano incident. These videos, recorded on mobile phones, are

considered electronic evidence and were examined by the NBI Cybercrime Division.

**a. Uploaded videos depicting stages of the Mamasapano incident**

The NBI Cybercrime Division conducted digital forensic examinations on two (2) mobile phones and a downloaded video of phases of the Mamasapano incident that went viral on the Internet.

**b. Other videos examined by the NBI**

The NBI made an analysis of four (4) videos that were apparently recorded using a mobile phone camera. However, the analysis of the said videos were limited to determining the language/dialect heard from the recording and translating the same to Filipino. These videos were later shown to witnesses for authentication.

**c. Video stored in mobile phone in the possession of a witness**

MARATHON is a principal eyewitness to the Mamasapano incident. While giving his statement to the NBI, he showed a video stored in his mobile phone. He stated that the video was originally recorded on January 25, 2015 at Barangay Tukanalipao and depicts scenes from the Mamasapano incident. He admitted that he was not the one who recorded the video and that the video in his possession was merely shared to him via bluetooth. Nonetheless, MARATHON was able to prove the due execution and authenticity of the said video [REDACTED]

**8. Video footage by GMA News of its interview with PO2 Christopher Lalan**

During the course of the inquiry, the NBI-NPS SIT were informed of an interview of SAF member PO2 Christopher Lalan by GMA News that was shown in several GMA News programs. By reason thereof, the NBI-NPS SIT caused the issuance of a subpoena *duces tecum* directing GMA News to produce and submit a duly authenticated video footage of the interview. In compliance with the subpoena, GMA Network, Inc. submitted an authenticated digital video disc (DVD) recording of the interview.

## G. Findings of Facts

There is a ceasefire agreement in effect between the GPH and the MILF. Because of this ceasefire agreement, there has been *no clash* between the parties since 2011.

The results of our investigation show that the Mamasapano incident did not unravel as a massacre, as what the Senate investigation has concluded, nor a simple “misencounter” as what the MILF investigation suggests.

What happened in Mamasapano on January 25, 2015, at the area around the now famous Tukanalipao wooden footbridge was a chance firefight that became direct assault before it deteriorated into the complex crime of direct assault with murder. Theft of government property and personal property of the dead SAF commandos were also committed by those elements of the MILF, BIFF, and PAGs involved.

Despite the fatal outcome for both sides, testimonial and documentary evidence show that the SAF commandos did not intentionally seek out the MILF, BIFF, and PAGs in Mamasapano. The SAF commandos were, in fact, pursuant to Oplan EXODUS, merely out to capture Marwan, Usman and Baco.

The firefight between the SAF and the MILF, BIFF and PAGs at Barangay Tukanalipao erupted *after* the successful neutralization of Marwan and the foiled attempt to arrest Usman and Baco. The firefight erupted because the MILF, BIFF, PAGs and armed unaffiliated civilians, who are residents of Pidsandawan and Tukanalipao saw that there were armed *outsiders* inside their communities that they instinctively had to repel.

“Pintakasi” is a “centuries old indigenous community activity.” Community members help each other for the benefit of all members of the community. While generally a positive force to bring people together in times of weddings, farming and church activities, “pintakasi” is also applicable in times of threat, where the enemy of one becomes the enemy of all. Conversely, the “pintakasi” that ensued in order to repel outsiders, was not a preconceived guerilla offensive of these MILF, BIFF, PAGs and armed unaffiliated civilians against the SAF (or other GPH forces) in Mamasapano. The resulting “pintakasi” was something that those involved did *not*

undertake as an exclusively organized group of *only* MILF members, or *only* BIFF members, or *only* PAGs or *only* armed unaffiliated civilians.

But the legal implications of the firefight changed *a fortiori* when the SAF commandos' opponents learned that they were up against police officers and yet, still continued to engage the SAF until the 55<sup>th</sup> SAC was wiped out save for one survivor.

The above narrative is supported by the following established facts:

- On January 25, 2015, the SAF commandos of the 84<sup>th</sup> Seaborne and 55<sup>th</sup> SAC were in Mamasapano, Maguindanao to serve a warrant of arrest against Marwan, Usman and Baco who were classified as HVTs by the PNP and DND.
- The area of the SAF's operation was near AFP-identified MILF, BIFF and PAGs communities and these groups intermingle because most of them are related either by blood or marriage.
- The 55<sup>th</sup> SAC fired the first shot that started the firefight at the cornfield in Barangay Tukanalipao, Mamasapano.
- There was a "pintakasi" by the MILF, BIFF and PAGs against the 55<sup>th</sup> SAC.
- By 8:00 a.m. of January 25, 2015, the MILF, BIFF and PAGs who fought the 55<sup>th</sup> SAC already knew that they were engaged in a firefight with police officers.
- Some 55<sup>th</sup> SAC commandos tried to surrender but the MILF, BIFF and PAGs continued firing at them until the commandos could no longer fight back because many of them were already dead and those still alive were severely wounded.
- After the firefight, MILF elements crossed the river over to the cornfield to finish off the dying 55<sup>th</sup> SAC members.

- There were a total of forty four (44) SAF casualties from the firefight; nine (9) from the 84<sup>th</sup> SAC and thirty five from the 55<sup>th</sup> SAC.

## H. Conclusions

### 1. Non-Applicability of Republic Act No. 9851 (Philippine Act on Crimes against International Humanitarian Law, Genocide and Other Crimes against Humanity).

For our purposes, we shall refer to Republic Act No. 9851 as the International Humanitarian Law (IHL). The IHL does *not* apply to the Mamasapano incident because there is *no* armed conflict in an IHL context between the GPH and MILF now that there is a Ceasefire Agreement in effect. In fact, there has been no clash since 2011 up until the incident in question. The end of hostilities also end the personal application of the IHL, as when the actors have entered into a ceasefire agreement making declarations therein ending the hostilities.

Even assuming that there is an existing state of armed conflict between the State and the Muslim rebels involved in the Mamasapano incident, still, the said incident appears to be an isolated and sporadic act of violence that IHL expressly excludes from its coverage.

Section 3 of the IHL states:

(d) "Armed Conflict" means any use of force or armed violence between States or a protracted armed violence between governmental authorities and organized armed groups or between such groups within the State; provided, that such force or armed violence gives rise to a situation to which the Geneva Conventions of 12 August 1949, including their common Article 3, apply. Armed conflict may be international, that is, between two (2) or more States, including a belligerent occupation; or non-international, that is, between government authorities and organized armed groups or between such groups within a state. **It does not cover internal disturbances or tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.** (Emphasis supplied).

Since the “pintakasi” of the MILF, BIFF and PAGs elements against the 55<sup>th</sup> SAC happened *after* the end of hostilities because of the Ceasefire Agreement between the GPH and MILF, it cannot be said that the Mamasapano incident was an armed conflict between the two parties.

On the other hand, as discussed above, the resulting “pintakasi” against the SAF commandos was something that those involved did *not* undertake as an exclusively organized group of *only* MILF members, or *only* BIFF members, or *only* PAGs or *only* armed unaffiliated civilians. It is clear that however gruesome the result, that “pintakasi” was an isolated act of violence by the MILF, BIFF and PAGs elements against the SAF commandos.

## **2. Applicability of the Revised Penal Code (RPC)**

### **a. Complex Crime of Direct Assault with Murder**

At Barangay Tukanalipao, the firefight started when the 55<sup>th</sup> SAC fired first at the MILF members who tried to cross the wooden footbridge. But to determine who among the members of the 55<sup>th</sup> SAC fired the first shot, and their possible criminal liability has no benefit to this investigation since all of them, with the exception of PO2 Christopher Lalan, died, and criminal liability is extinguished by death. A lengthy discussion on the death of the MILF members, save those being attributed to PO2 Lalan, is similarly academic.

The firefight that ensued cannot be a clear basis of criminal liability even for the elements of the MILF, BIFF, and PAGs who fired back at the SAF not knowing at the time that the people concealed in the cornfield and shooting at them were police officers.

The point where criminal liability clearly attached for the elements of the MILF, BIFF and PAGs involved was when all the latter learned that they were shooting it out with police officers. Based on an eyewitness’ account, this happened at around 8:00 a.m., when he heard those involved say that they were shooting it out with police officers. At that point, those involved in the firefight against the 55<sup>th</sup> SAC became liable for direct assault.

Article 148 of the RPC provides:

Article 148. *Direct Assault* - Any person or persons who, without a public uprising, shall employ force or intimidation for the attainment of any of the purpose enumerated in defining the crimes of rebellion and sedition, or shall attack, employ force, or seriously intimidate or resist any person in authority or any of his agents, while engaged in the performance of official duties, or on occasion of such performance

And when the firefight degenerated into the killing of the 55<sup>th</sup> SAC even when its members already came out of the cornfield with their arms raised in surrender, the MILF, BIFF, and PAGs involved became liable for the complex crime of direct assault with murder. The 55<sup>th</sup> SAC commandos were clad in complete uniform and equipment and at that point easily identifiable. Treachery and abuse of superior strength are easily two qualifying circumstances that attend the killing of the 55<sup>th</sup> SAC members.

Article 248 of the RPC states:

Article 248. *Murder*. -Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by *reclusion perpetua* to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid or armed men, or employing means to weaken the defense or to insure or afford impunity.

It was murder all the way and around when the MILF, BIFF, and PAGs crossed the river over to the cornfield to finish off the dying members of the 55<sup>th</sup> SAC, by means of gunshots to the head and other parts of their bodies. There was a conspiracy among the MILF, BIFF and PAGs elements to kill the 55<sup>th</sup> SAC commandos. This conspiracy took the form of the phenomenon that is called "pintakasi." The MILF, BIFF, and PAGs elements were impelled by a common intention, and banded together against the 55<sup>th</sup> SAC to kill and wipe out the latter.

## b. Theft

After killing the SAF commandos, theft of government property was then committed by those involved when they took the firearms and other fighting equipment issued by the Government to the said police officers. Theft of personal property was also committed when those involved made away with the personal property of the SAF commandos. The Revised Penal Code provides:

ART. 308. Who are liable for theft.—Theft is committed by any person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another with the latter's consent.

In its report, the MILF admits that its forces took the firearms of the fallen 55<sup>th</sup> SAC commandos, but justifies its action as acceptable behavior among parties to a conflict. According to the MILF, its members' seizure of military equipment belonging to the other is supposedly justified under the Lieber Code, which was adopted during the American Civil War.

We note that under the 1949 Geneva Convention III, war booty is property of the belligerent, not the personal property of the individual combatants. Based on eyewitness accounts, after the 55<sup>th</sup> SAC commandos lay dead, MILF elements behaved like mercenaries when they treated captured military equipment as individual personal property with no intention of turning them over to the MILF's central command. As a matter of fact, it was the MILF leadership who had to plead to its individual elements to return the SAF's firearms, ammunition and special equipment. Apparently, not all MILF elements complied because not all of the long firearms of the 55<sup>th</sup> SAC were returned. It should be stressed that SAF standard equipment include a sidearm, a 9 mm pistol. Interestingly, no short firearm was returned by the MILF to the Government. Even assuming that these special government issued equipment are returned (as in fact, a paltry number of rifles were returned with ceremony), the liability of the MILF, BIFF and PAGs for theft was already a *fait accompli*.

Consistent with our findings that the IHL does not apply to the Mamasapano incident, it follows that the "war booty" concept under customary international humanitarian law also does not cover the 55<sup>th</sup> SAC's firearms and other equipment.

As to the theft of personal belongings of the SAF commandos, such as watches, wallets, cellphones and other personal property, which remain in the possession of MILF, BIFF and PAGs elements and have not been returned, it is beyond doubt that the latter are all liable for theft of personal property.

## **I. Recommendations**

### **1. Filing of Criminal Complaints**

#### **a. Complex Crime of Direct Assault with Murder against Identified Suspects**

Based on the foregoing discussions on the probable criminal liabilities of the MILF, BIFF and PAGs suspects, the NBI-NPS SIT recommends the filing of a complaint for the complex crime of direct assault with murder against the ninety (90) positively identified by MARATHON and several other witnesses at Barangay Tukanalipao as among those who were present and who participated in the killing of the SAF commandos there on January 25, 2015 for preliminary investigation.

The complaint for the complex crime of direct assault with murder against the ninety (90) respondents cover the thirty five (35) SAF commandos-victims at Barangay Tukanalipao. It is recommended that the complaint be filed with either of the DOJ's existing Task Force on Special Cases or its Anti-Terrorism and National Security Cases Task Force. Assuming that the preliminary investigation panel finds probable cause against these ninety (90) respondents, an option is later available for it to file thirty five (35) separate Informations with the Regional Trial Court of Cotabato City against the ninety (90) respondents collectively, corresponding to the number of victims they killed through their conspiracy.

#### **b. Theft of Government and Personal Property**

MARATHON will also identify who among the MILF, BIFF, PAGs or civilians took the SAF commandos' firearms, ammunition, personal protection gear, night fighting equipment, combat boots and other government issued property. Those identified will be individually charged based on the property or item he took or abstracted from individual SAF

commandos, for his own use and with intent to gain. There is no conspiracy in theft.

## **2. Temporary Non-Disclosure of the Suspects' Identity**

The suspects identified by MARATHON are all presently at large in Maguindanao and may well be considered armed and dangerous. To prematurely identify these suspects before the charges against them are filed, gives these suspects all the more reason to evade the law and will make it difficult for law enforcement agencies to arrest them, perhaps requiring another Oplan EXODUS type of operation for their capture.

It is therefore recommended that the names of these suspects and their affiliations be temporarily kept secret until after the complaint for murder has been filed with the preliminary investigation panel.

## **3. Temporary Non-Disclosure of MARATHON's Identity**

MARATHON is presently under the custody of the Witness Protection Program (WPP) and temporarily sheltered in one of its safe houses. The series of speculative news reports on the identities and number of witnesses already being processed by the NBI-NPS SIT, already places MARATHON under considerable security risk from the armed groups and the suspects he has so far identified. The NBI-NPS SIT therefore recommends that his identity be kept secret until after the complaint for murder has been filed with another set of prosecutors that will compose the preliminary investigation panel.

## **4. Continue the Investigation**

There were a number of factors that challenged our capacity to fully gather all the facts and evidence in order to bring out the whole picture of what actually happened at Mamasapano on January 25, 2015 and to draw up a comprehensive list of all suspects in the killing of the forty four (44) SAF commandos. The NBI-NPS SIT did not have an open-ended opportunity to freely interview witnesses and process physical and other object evidence there, as is normally done in most cases. Another factor was the self-imposed albeit understandable two (2) month deadline imposed on the NBI-NPS SIT to complete and submit this report.

To successfully bridge these gaps, the NBI-NPS SIT must be allowed to continue to gather more testimonial, documentary and object evidence. Considering the complexity of this case, the slight delay will enable the NBI-NPS SIT to gather more facts that could lead to a clearer resolution. The team recommends an additional two (2) months to cover the following crucial issues.

**a. Third Party Eyewitnesses at Barangay Pidsandawan**

Our recommendation to charge ninety (90) respondents merely pertain to those at the crime scene at Barangay Tukanalipao. This limits the number of victims known to have been killed by the said suspects to only thirty five (35) SAF commandos, leaving nine (9) dead SAF commandos without identified respondents. There are no third party eyewitnesses so far regarding the assault by the 84<sup>th</sup> Seaborne on the house of Marwan and its consequences. The affidavits of the surviving 84<sup>th</sup> SAC members do *not* identify the particular persons belonging to either MILF, BIFF or PAGs, or whether these persons actually *knew* at the time that they were resisting and fighting police officers.

Another set of eyewitnesses along the likes of MARATHON, are necessary to give another perspective on what happened immediately before, during and after Marwan was killed by the SAF commandos at Barangay Pidsandawan.

**b. Establishment of an Approximate Sequence of SAF Commandos' Deaths at Barangay Tukanalipao**

There have been no timelines or sequence of the deaths of the members of the 55<sup>th</sup> SAC at Barangay Tukanalipao. An accurate timeline will place the particular juncture when the MILF, BIFF and PAGs elements were fighting the SAF commandos with the *actual knowledge* that their targets were police officers. This actual knowledge will totally negate the claim of self-defense by the MILF, BIFF or PAGs elements. An extended investigation may be able to gather the very last SMS or call logs from the next of kin or families of the SAC commandos, and to subpoena the telecommunications companies and accurately verify the actual time SMS messages were sent or calls made by the SAF commandos versus the exact time these were received by their families.

**c. PO2 Lalan and Proof of Death of His Alleged Victims at Barangay Tukanalipao**

At present, we have no recommendation as to what crimes or offenses PO2 Lalan may have committed at Barangay Tukanalipao on January 25, 2015. Further investigation should be continued in order to address the MILF's claim that PO2 Lalan was responsible for the deaths of civilians at a *langgal* or small mosque at Sitio Amilil in Barangay Tukanalipao. Despite our prior requests, the MILF was unable to give us testimonial or documentary proof of the identities and deaths of these persons.

It must be stressed that even as the MILF SIC Report identified the alleged witnesses against Lalan, the MILF did not grant access to the NBI-NPS SIT to interview these witnesses and assess their testimonies for ourselves. A further investigation may include the interview of the alleged victims' families so that the necessary proof of death and their respective testimonies as to the circumstances of these deaths can be presented.

**d. The Need to Obtain an Inventory of SAF Equipment Issued to the Dead 55<sup>th</sup> SAC Commandos and their Respective Monetary Value**

During the next phase of the investigation, the PNP can direct the SAF to submit to the NBI-NPS SIT a detailed inventory, with breakdown and recapitulation, of firearms, personal protection equipment, night fighting equipment, navigation equipment, battle dress attire, combat boots, and other special equipment issued to each of the dead commandos from the 55<sup>th</sup> SAC for Oplan EXODUS, with their corresponding value. These would be necessary for the preliminary investigation of the complaint for theft.

**e. The Need to Obtain the Sworn Statements from the Next of Kin of Each of the Dead SAF Commandos.**

The NBI-NPS SIT will need the sworn statements of the families of each of the dead forty four (44) SAF commandos because as next of kin and survivors they are the logical complainants in the preliminary investigation of the identified MILF, BIFF and PAGs respondents. In our criminal procedure, where the civil action for damages is deemed instituted with the

criminal complaint, their sworn statements are obviously necessary.

#### **f. The American Involvement in Oplan EXODUS**

An accurate description of the Americans' role in the previous Oplans whose mission, just like Oplan EXODUS, was the capture of Marwan, Usman and Baco was not established by previous investigative bodies. We are fully aware of the need for secrecy in intelligence and anti-terrorism operations and to maintain it for future Philippine-United States partnership in this regard. But criminal investigations and national security are not mutually exclusive. One only needs to frame the issue and ask the *relevant* questions.

The facts are not clear whether the six (6) Americans at the Oplan EXODUS tactical command post (TCP) at the headquarters of the 43<sup>rd</sup> SAC at Camp Datu Akilan, Shariff Aguak violated Philippine *penal* laws. We cannot, under the convenient mantra of national security just dismiss the presence of foreigners, however limited, at or near a crime scene or at the first instance refrain from investigating them without a general sketch of their activities there in the first place. We thus further recommend the continuation of the investigation as to the American participation in Oplan EXODUS, where the interests of national security can be properly balanced with the national demand for justice and to know what truly happened on January 25, 2015 at Mamasapano.

**THE REPORT OF THE JOINT NATIONAL BUREAU OF  
INVESTIGATION - NATIONAL PROSECUTION SERVICE  
SPECIAL INVESTIGATION TEAM (NBI-NPS SIT) ON THE  
MAMASAPANO INCIDENT OF JANUARY 25, 2015**

**I. Introduction**

On January 24 to 25, 2015, members of the elite Philippine National Police-Special Action Force (SAF) were deployed to Mamasapano, Maguindanao to conduct a high-risk law enforcement operation against terror suspects considered as high value targets (HVT) by the Government. Dubbed Oplan EXODUS, the objective of the operation was to serve outstanding warrants of arrest against suspected terrorists Zhulkifli Bin Hir or Zulkifli Abhir alias "Marwan," Ahmad Akmad Batabol Usman alias "Basit Usman," and Amin Baco alias "Johan."

Oplan EXODUS is an illustrative case of a "glass half empty or half full." However one looks at it, whether as a resounding success or an utter failure, the plain fact is that Oplan EXODUS resulted in the disproportionate deaths of seven (7) police commissioned officers and thirty seven (37) police non-commissioned officers. Of the three (3) HVTs, only "Marwan" was confirmed killed.<sup>1</sup> The other two managed to elude capture at Mamasapano and as of this writing, remain at large. Several other non-combatants were alleged to have been killed or injured. In one fell swoop, Oplan EXODUS put at risk the Government's carefully laid out plans for a negotiated peace with the Moro Islamic Liberation Front (MILF) and heightened the chances of a renewed war in Mindanao.

On February 2, 2015, with the aim of ferreting out the entire truth and to identify and prosecute those who committed crimes at Mamasapano on January 25, 2015, the Secretary of Justice constituted the Joint National Bureau of Investigation – National Prosecution Service Special Investigation Team (NBI-NPS SIT).

This Report contains the factual findings and recommendations of the NBI-NPS SIT culled from its two (2) month exhaustive probe of

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<sup>1</sup> Publicly confirmed on April 2, 2015 by the Federal Bureau of Investigation (FBI) through DNA testing of Marwan's tissue taken from his detached left index finger.

that dark and sad chapter in Philippine law enforcement history that is now called the Mamasapano incident.

## **A. Authority and Mandate of the NBI-NPS SIT**

### **1. Legal authority**

The Department of Justice (DOJ) is the prosecutorial sword and investigative shield of the Government. It is mandated to carry out the declared policy of the State to administer the criminal justice system in accordance with the accepted processes thereof.<sup>2</sup> To accomplish this policy, the DOJ has the power to investigate the commission of crimes and prosecute all offenders.<sup>3</sup>

Based on its mandate, and pursuant to the directive of the President for the DOJ to undertake case build-up in connection with the Mamasapano incident, the Secretary of Justice issued<sup>4</sup> Department Order No. 034 on February 2, 2015 constituting the NBI-NPS SIT.<sup>5</sup> The NPS component was composed of five (5) prosecutors from the Office of the Prosecutor General:

1. Juan Pedro C. Navera  
Assistant State Prosecutor
2. Irwin A. Maraya  
Assistant State Prosecutor
3. Gino Paolo S. Santiago  
Assistant State Prosecutor
4. Josie Christina T. Dugay  
Assistant State Prosecutor
5. Ethel Rea G. Suril  
Associate Prosecution Attorney

The NBI component was composed of thirteen (13) members from the Regional Operations Service and Regional Offices led by Deputy Director for Regional Operations Service Edward A. Villarta,

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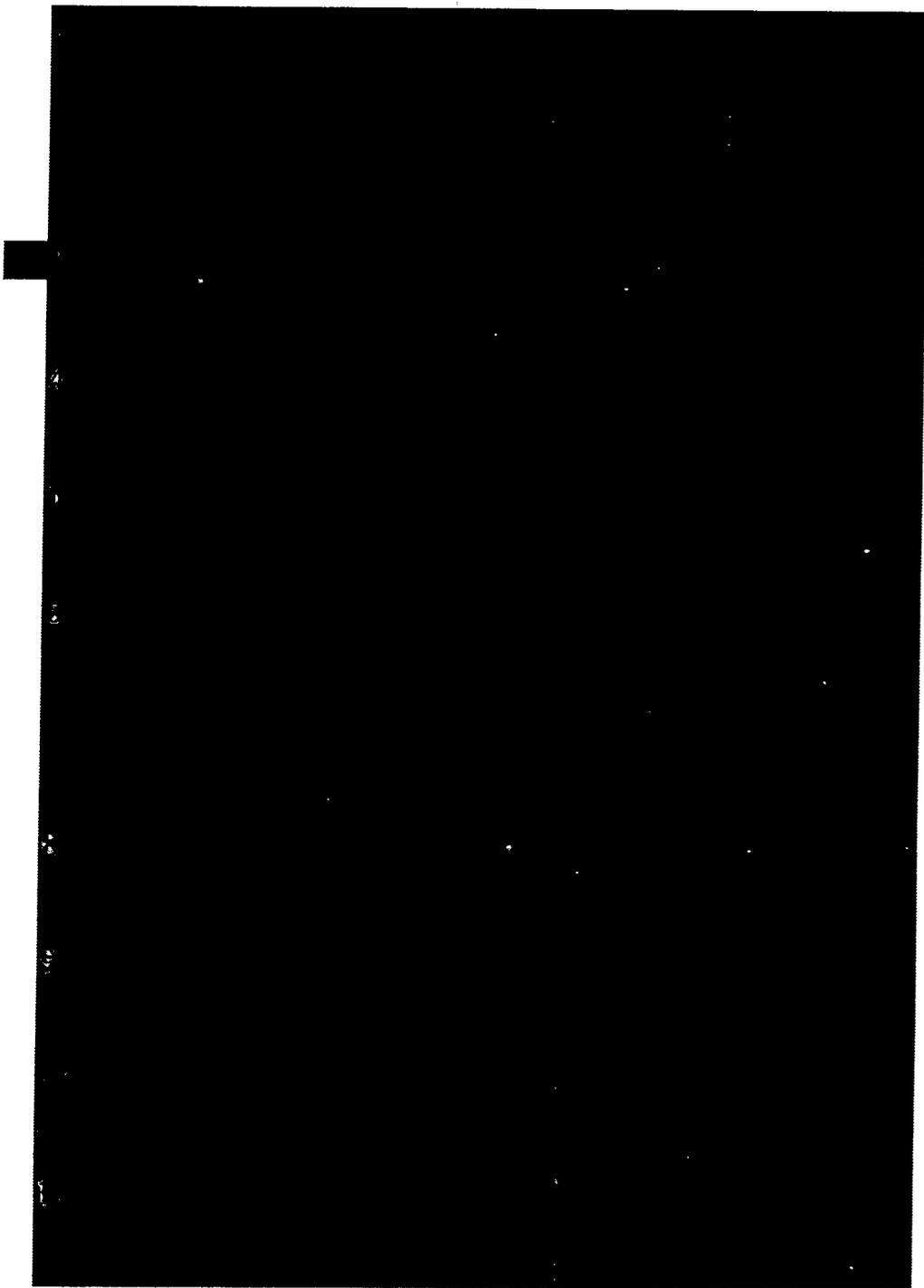
<sup>2</sup> ADMINISTRATIVE CODE OF 1987, Book IV, Title III, Chapter I, Sections 1 and 2

<sup>3</sup> Id., Section 3

<sup>4</sup> The power of the Secretary of Justice to issue administrative issuances is provided under ADMINISTRATIVE CODE, Book IV, Chapter 2, Section 7(4), in relation to Book IV, Chapter 11, Section 50.

<sup>5</sup> Department Order No. 034. Series of 2015, attached as Annex "A"

assisted by Cecilio R. Zamora, Jr., Chief of Staff, Regional Operations Service and the following field agents:<sup>6</sup>



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<sup>6</sup> The composition of the NBI component is pursuant to a confidential directive of the Secretary of Justice.

## 2. Mandate

The remit of the NBI-NPS SIT are:<sup>7</sup>

1. To conduct a thorough, in-depth and comprehensive investigation and case build-up;
2. To identify and formulate the appropriate criminal charges that may be filed against those found to have most probably committed a criminal offense;
3. To prepare the evidence in support of the prosecution of criminal charges for purposes of preliminary investigation and the filing of the appropriate charges before the courts; and
4. To make a report of its findings and recommendations for the filing of appropriate criminal and administrative charges against those who may be found responsible.

The prosecutors from the NPS were assigned to evaluate, assess and determine the sufficiency of the evidence so far gathered by the NBI and to guide the latter as to other evidence and areas of investigation that needed to be collected or explored in order to build a strong case for the eventual prosecution of suspects before the courts.

On the other hand, the NBI component was tasked with gathering evidence, interviewing witnesses and coordinating with other law enforcement agencies such as the PNP and even with the AFP, as well as with other intelligence services. At the same time, they were likewise directed to launch entrapment operations against suspects and to identify and protect eyewitnesses to the Mamasapano incident.

Both NBI and NPS components were directed to meet regularly and update the Secretary of Justice on their respective ad hoc findings and to fuse the latter's evidentiary requirements with the former's investigative and intelligence expertise, capacity and resources for a rare although not novel "whole of DOJ" approach to case building.

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<sup>7</sup> D.O. No. 035 s. 2015

## **B. Scope and Limitations of the Investigation**

### **1. Scope**

With its mandate to conduct a thorough, in-depth and comprehensive investigation and case build-up, the scope of the investigation of the NBI-NPS SIT would have to extend to determining all the administrative and criminal offenses that were possibly committed by persons involved in the Mamasapano incident. This notwithstanding, supervening events were also considered, as will be explained below.

#### **a. Administrative Liability and Criminal Liability of Certain Public Officers**

As discussed above, the NBI-NPS SIT was tasked to make a report of its findings and recommendations for the filing of appropriate criminal and administrative charges against those who may be found responsible. On the other hand, in view of the supervening fact that the Ombudsman, through its Office of the Deputy Ombudsman for the Military and other Law Enforcement Offices (MOLEO), already started its own investigation of the Mamasapano incident in March 2015, the NBI-NPS team resolved to limit its investigation into the criminal liabilities of those parties physically present at Mamasapano, Maguindanao and refrained from probing the possible administrative and criminal liabilities of public officers involved in the drafting, planning and implementation of Oplan EXODUS and their superiors in the Executive department.

It is settled that in administrative cases falling under the concurrent jurisdiction of two or more disciplining authorities, the body where the complaint is filed first, and which opts to take cognizance of the case, acquires jurisdiction to the exclusion of other tribunals exercising concurrent jurisdiction.<sup>8</sup> Since the Ombudsman already assumed investigative jurisdiction over the incident by conducting its own probe, its exercise necessarily precludes the NBI-NPS SIT from making any determination on the administrative liabilities of public officers involved in the drafting and planning of Oplan EXODUS and their superiors in the Executive department.

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<sup>8</sup> *Civil Service Commission v. Alfonso*, G.R. No. 179452, June 11, 2009

In the matter of the possible criminal liability of the said public officers, under the Ombudsman Act of 1989<sup>9</sup>, the Ombudsman “investigate(s) and prosecute(s) on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan xxx.”<sup>10</sup> Moreover, under an existing Memorandum of Agreement between the Ombudsman and the DOJ<sup>11</sup>, it is proper for the NBI-NPS SIT to defer to the jurisdiction of the Ombudsman in the matter of the criminal liability of public officers involved in the drafting and planning of Oplan EXODUS and their superiors in the Executive department, especially when these public officers have a Salary Grade of 27 or higher, which is within the jurisdiction of the Sandiganbayan.<sup>12</sup>

### **b. Criminal liability**

The investigation of the NBI-NPS SIT sought to determine *all* manner of crimes that may have been committed during and after the Mamasapano incident and the persons liable therefor. It must be stressed that the NBI-NPS SIT was vested with a mandate that bound it to observe a fundamental principle in our criminal justice system – *Penal laws are obligatory upon all who live or sojourn in the Philippines.*<sup>13</sup> Thus, while the NBI-NPS SIT is aware of and not indifferent to the widespread public condemnation of those responsible for the death of the forty four (44) SAF commandos, at the very onset of its composition, it resolved that its remit to look into crimes at Mamasapano should be as broad and long as the cold facts supported by evidence and the applicable laws showed.

Accordingly, the investigation was not merely aimed at identifying and finding the private individuals who may be criminally liable for the killing of the SAF commandos. Rather, our investigation cast a wide net to identify and find *all* persons, whether public officers

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<sup>9</sup> Republic Act No. 6770

<sup>10</sup> Id., Section 15

<sup>11</sup> Memorandum of Agreement between the Ombudsman and DOJ dated March 29, 2012; the Ombudsman has primary jurisdiction in the conduct of preliminary investigation and inquest proceedings over complaints for crimes cognizable by the Sandiganbayan.

<sup>12</sup> Republic Act No. 8249

<sup>13</sup> CIVIL CODE, Article 14; *People vs. Jalosjos*, G.R. No. 132875-76, February 3, 2000

or private individuals, regardless of their membership in the military, police forces, or insurgent group, or their religion or nationality, who must be held accountable for crimes committed during the Mamasapano incident, subject to the jurisdiction of the Ombudsman over public officers outside the salary grade 27 threshold.

## **2. Limitations**

Several factors outside the control of the NBI-NPS SIT slightly hampered its aim of a thorough, in-depth and comprehensive investigation. These factors included the following:

### *a. Limited area inspection at Mamasapano.*

The Mamasapano incident consisted of a series of events that occurred in several sites spread across a wide area just outside the so-called "SPMS Box", which refers to the adjoining towns of Salibo, Pagatin, Mamasapano and Shariff Aguak in Maguindanao. The SPMS Box is a square shaped area generally described by both the AFP and the PNP as a stronghold of several armed groups, including the Moro Islamic Liberation Front (MILF) and Bangsamoro Islamic Freedom Fighters (BIFF). Thus, while a thorough, in-depth and comprehensive investigation demands a detailed scrutiny of all the places relevant to the Mamasapano incident, safety and security issues stymied attempts to completely satisfy this evidentiary requirement.

As a consequence, the site inspection was limited to Barangay Tukanalipao, Mamasapano at the area where the 55<sup>th</sup> Special Action Company (SAC) of the SAF clashed with the local armed groups. Nevertheless, despite the obvious constraints, the site inspection was able to cover the alleged prayer room and extension house that barangay officials of Barangay Tukanalipao identified as the place where four (4) other non-SAF persons were allegedly killed during the Mamasapano incident.

More importantly, the area of Barangay Pidsandawan, which according to Oplan EXODUS was where the HVT Marwan was killed, was already a denied area for non-military personnel on the latter part of February to March 2015 because of the ground and air offensives launched by the AFP against BIFF guerillas operating there.

Barangay Pidsandawan, while crucial in the narrative, was therefore not inspected by the team.

*b. Lapse of time prior to the ocular inspection.*

It is said that the initial phase or the first seventy two (72) hours after the commission of a violent crime is crucial<sup>14</sup>. However, while the NBI-NPS SIT was able to conduct a site inspection of Barangay Tukanalipao, Mamasapano and its environs, the same was done more than a month after the Mamasapano Incident because of safety and security concerns. In fact, the team's scheduled site inspection on February 27, 2015 had to be postponed until March 11, 2015 due to an extended firefight that erupted between the AFP and the BIFF at Datu Unsay, Maguindanao which is near Barangay Tukanalipao. Hence, it is more than probable that physical or object evidence necessary for a detailed forensic investigation were destroyed because of the delay, alternating weather conditions, continuous farming and harvesting as well as habitation and pedestrian traffic in that predominantly agricultural area.

*c. The NBI-NPS SIT was unable to access possible eyewitnesses in the area whose identities and circumstances are known to the MILF.*

All efforts were made to coordinate with the MILF and the NBI-NPS SIT sent two (2) written notices to its leadership for access to resident eyewitnesses in the areas of Mamasapano under its control.<sup>15</sup>

*d. The time period given to the NBI-NPS SIT to complete its investigation was likewise limited.*

The Mamasapano incident generated widespread and intense public outrage against the armed insurgent groups and the Government itself. The notion that a thorough investigation, which in turn leads to a swift identification, arrest and prosecution of those responsible for the debacle at Mamasapano is an ideal for all law enforcement and prosecutorial agencies. The public's vociferous

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<sup>14</sup> See PNP Field Manual on Investigation of Crimes of Violence and Other Crimes printed by Directorate for Investigation and Detective Management, Philippine National Police

<sup>15</sup> Letters of the SOJ to MILF dated February 26, 2015 and March 17, 2015, attached as Annexes A-1, A-2, respectively

demand for the whole truth and speedy justice for the SAF commandos constrained the DOJ to understandably impose a two (2) month period for the team to complete the investigation.<sup>16</sup>

On the other hand, the imposed deadline also prevented the gathering of additional time-crucial testimonial, documentary and object evidence that could lead to a more comprehensive determination of *all* the crimes committed and *all* the persons who may be liable. Consequently, the findings and recommendations in this report are obviously based only on the proven facts and established evidence which are available as of this writing.

*e. Lack of Eyewitnesses from Barangay Pidsandawan*

As of this writing, the team is unable to find other testimonial evidence with which to test the sworn statements of the 84<sup>th</sup> SAC (Seaborne) commandos who survived. No resident eyewitness has come forward yet to give us a sketch of what exactly happened at Barangay Pidsandawan.

But as the incident in Tukanalipao, though related to that in Pidsandawan, happened independently of the former, it is possible to determine the relevant penal laws violated by the parties involved *only* in Tukanalipao. We are therefore constrained to leave the events at Pidsandawan for a further fact finding investigation, including the deaths that are being attributed to PO2 Christopher Lalan. This is because the proofs of death of the Pidsandawan victims have not been submitted by the MILF to the NBI-NPS SIT, despite written and verbal requests.

### **C. Methodologies Employed**

In order to ensure a balanced, thorough, in-depth and impartial investigation, the NBI-NPS SIT gathered and collected evidence from all possible sources. It considered no evidence other than what is allowed under the applicable laws and Rules of Court. The NBI-NPS SIT employed various sources and methods to obtain the following evidence:

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<sup>16</sup> In a Memorandum dated March 30, 2015, the Secretary of Justice granted the team an additional period of two (2) weeks, or up to April 16, 2015 to submit its report.

## 1. Testimonial Evidence

All persons who can perceive, and perceiving, can make known their perception to others are considered qualified witnesses.<sup>17</sup> The NBI-NPS conducted several interviews and in arriving at its conclusions and recommendations, considered only those witnesses who gave statements based on their personal knowledge of the facts.

### a. Witnesses interviewed

To shed more light on particular facts and issues, P/Supt Raymund Train, PO3 Lloyd Ensoy and PO2 Christopher Lalan of the SAF were summoned for clarificatory questioning. Accompanied by counsel of their choice<sup>18</sup>, P/Supt Train, PO3 Ensoy and PO2 Lalan appeared before the NBI-NPS SIT on March 27, 2015 and answered many questions regarding their respective roles under Oplan EXODUS and during its execution.

Other persons identified to be present at or near Barangay Tukanalipao from January 25 to 26, 2015 were interviewed by the team on February 26 to 27, 2015 at secure locations in Mindanao. During the interviews, these persons were vetted, and their bases of personal knowledge established. Subsequently, their written statements<sup>19</sup> were taken down by the team's NBI component. However, for the safety and security of these persons, the NBI-NPS SIT resolved to withhold the identities of these witnesses *until* the filing of the appropriate criminal complaints for preliminary investigation.

## 2. Documentary Evidence

Documents as evidence consist of writings or any material containing letters, words, numbers, figures, symbols or other modes of written expressions offered as proof of their contents.<sup>20</sup> The NBI-NPS SIT considered only the original documents, consistent with the best evidence rule.<sup>21</sup>

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<sup>17</sup> RULES OF COURT, Rule 130, Section 20

<sup>18</sup> Atty. Mark Julio U. Abong, Chief Legal Counsel of PNP SAF

<sup>19</sup> Sworn Statements of these witnesses are attached as Annexes "C" to "C-11"

<sup>20</sup> RULES OF COURT, Rule 130, Section 2

<sup>21</sup> *Id.*, Section 3

**a. Sworn Statements**

The sworn statements<sup>22</sup> executed by the following individuals, before the defunct BOI and submitted by the latter to the NBI-NPS SIT were considered, cross referenced or made the bases for further clarificatory questioning:

1. P/D Getulio P. Napeñas
2. P/Supt. Noli G. Taliño
3. P/SSupt. Richard F. dela Rosa
4. P/Supt. Michael John C. Mangahis
5. P/Supt. Abraham D. Abayari
6. PSI Lyndon A. Espe
7. PO3 Lloyd Tano Ensoy
8. P/Supt. Raymond A. Train
9. PSI Rix S. Villareal
10. SPO4 Bill Fernando P. Jumalon
11. PO3 Samson A. Albinar
12. SPO1 Reynaldo Batadlan Tubog
13. SPO2 Tebbeng B. Hamidhan
14. PO2 Adolfo C. Andrada
15. PO2 Ard P. Dulnuan
16. PO3 Rommel P. Magno
17. PO3 Ryan J. Temporada
18. PO1 Victory R. Fernandez
19. PO2 Dioscoro A. Basañez
20. PO2 Dominick O. Lukingan
21. PO2 Jovalyn D. Lozano
22. PO2 Jose S. Mana-ar, Jr.
23. PO1 Yaumaldin B. Reniedo
24. PO1 John Mariel S. Galvo
25. PO1 Eugene B. Macasasa
26. SPO1 Allan L. Franco
27. PO3 Juanito A. Yogyog
28. PO3 Darwin M. Rama
29. PO3 Arnil L. Ruiz
30. PO2 Wharlther Jay T. Rebucas
31. PO2 Carlos B. Bocaig

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<sup>22</sup> All sworn statements are attached as Annex "C-12", et. seq.

32. PO2 Anson O. Posot
33. PO2 Solomon A. Agayso
34. PO1 Clifford P. Agayyong
35. PO2 Christopher I. Lalan
36. PCI Larry L. Corales, Jr.
37. PO3 Ronald M. Reyes
38. PO1 Yasser D. Balabagan
39. PO3 Roderlito S. Camay
40. PO3 Alex M. Dela Cruz
41. PO2 Darvyn E. Celeste
42. PO3 Ganie A. Solano
43. PO1 Argeo R. Gerunda
44. PO2 Marcial D. Inuguidan
45. PO3 Luke B. Velasco
46. PO3 Rowen P. Chiva
47. PO3 Victor A. Jardio
48. PO1 Abubakar I. Alig
49. P/Supt. Hendrix B. Mangaldan
50. P/SInsp. Malvin Q. Medrano
51. P/SInsp. Peter C. Aquino
52. SPO3 Marlon I. Layno
53. SPO2 Jerry N. Rosales
54. PO3 Herbert B. Manggad
55. PO3 Juriejake B. Balaoag
56. PO2 Reynaldo A. Aniñon
57. PO3 Arthur P. Saavedra
58. PO2 Jimmy U. Dalire, Jr.
59. PO2 Jordan A. Binay-an
60. PO2 Dandy P. Cadurnigara
61. PO1 Ralph A. Balasbas
62. PO1 Abdullah S. Asiri
63. PSI Arquimedes Crosby D. Wesley
64. PO3 Robert A. Abarquez
65. PO3 Manuel S. Leonor Jr.
66. PO2 Ismael N. Nahyahan
67. PO2 Shane F. Sokoken
68. PO1 Domingo C. Balintad
69. PO1 Clark Jarold A. Javier
70. PO1 Albert Gumilac
71. PInsp Neil M. Vistar
72. PO3 Jasper Van R. Sumugoy

73. PO2 Brian C. Omania
74. PO1 Jan Reinz S. Fermin
75. PO1 Vincent P. Felix
76. PO1 Genie T. Tejero
77. PO1 Aldrex L. Benny
78. PO1 Ar-Raffly A. Ganih
79. PInsp Reynante C. Pascua
80. PO3 Leo M. Bagcat
81. PO1 Mark John C. Caimoso
82. PO2 Joseph S. Rafol
83. PO1 Louie L. Tangaro
84. PO1 Ibarra S. Oribello
85. PO1 Reynante D. Alvis
86. PO1 Rolando B. Lumawag
87. PO1 Rey A. Arangcana
88. PO3 Ronie R. Inocentes
89. PO3 Cris J. Gler
90. PO1 Israel Bryant M. Lauron
91. PO2 Raymond S. Martinez
92. PO1 Jordan D. Pagnas
93. PO2 Noel G. Diola
94. PO2 Frankie S. Ellazo
95. PO3 Arnel L. Baguio
96. PO3 Aldrin Tamayo
97. PO1 Mark P. Latiga
98. PO1 Joedy L. Berbano
99. PO1 Franklin B. Fernandez
100. PO1 Benjamin B. Mantilla, Jr.
101. PO1 Edwin M. Bowat
102. PO2 Jimmy Brian D. Angeles
103. PO1 Dominic L. Appi
104. PSI Jess U. Dela Cruz
105. PSI Ramil B. Salem
106. PI Maximo M. Beleo
107. PO2 Romel V. Tulio
108. PO2 Noel B. Dalasen
109. PO1 Brian DL Palor
110. PO1 Frederick M. Cabrera
111. PO3 Julius P. Goce
112. PO2 Jackson L. Basilio
113. PO1 Richard Y. Wakin

114. PO1 Nylis B. Angitag
115. PO1 Rexie C. Bautista
116. PO3 Rheyman C. Manlangit
117. PO3 Robert M. Paddanan
118. PO3 Joven G. Campo
119. PO1 Marcelo B. Culhi
120. PO3 Noel C. Bacanto
121. PO1 Ariel C. Nobog
122. PO1 Federico F. Bautista, Jr.
123. PO2 Gerald B. Gayaso
124. PO1 Ramil D. Datul
125. PO1 Julieto T. Erediano
126. PO1 Cresenciano B. Elibeto. Jr.
127. PO2 Romulo B. Aresta
128. PO1 Eugene L. Cayat
129. PO1 Audie W. Capan
130. PO2 Oliver B. Catubig
131. PO3 Matruel G. Traveño
132. PO2 Aivan G. Gabucayan
133. PO2 John Rex S. Ungsod
134. PO1 Joseph G. Bano
135. PO2 Rodel M. Besmonte
136. PO1 Anthony A. Caliguia
137. PO1 Ranelo R. Reyes
138. PO3 Darwin L. Vilorio
139. PO2 Elorde W. Asim
140. PO1 Arturo A. Pacad
141. PO2 Melvin F. Sagisa
142. PO1 Danny L. Humpa
143. PO3 Mauro G. Olidan, Jr.
144. SPO1 Manuel T. Camayang
145. PO2 Arnel R. Bolante
146. PO1 Wiended D. Espina
147. PO3 Reynaldo F. Dapilaga
148. PSInsp Norman L. Yparraguirre
149. PO2 Erwin Taoc Betacura
150. PO3 Ernie G. Maralit
151. PO1 Kennedy L. Dawing
152. PO2 Johnny C. Cunapa
153. PO2 Joefrey L. Mamauag
154. PO2 Harold C. Fontanilla

155. PO1 Richie A. Miana
156. PO1 Marvin T. Tejero
157. PInsp Irving O. Keryao
158. PO3 Gary V. Cercado
159. PO2 Arron H. Almine
160. PO2 Rudy B. Inomneng, Jr.
161. PO2 Manuel F. Aswit, Jr.
162. PO2 Michael C. Misa
163. PO1 Gyver R. Tabbang
164. PO1 Noel M. Butala
165. PInsp Bryan Angelo P. Pajarillo
166. PO3 Beltzasar E. Aporbo, Jr.
167. PO2 Ruel U. Ingcog
168. PO1 Rogelio B. Javier
169. PO1 Johnrey M. Garrido
170. PO1 Neil D. Dabuet
171. PO1 Jaysan A. Basiana
172. PO1 Roberto W. Alberto
173. PO3 Michael P. Cuyahon
174. PO2 Richard N Quiling
175. PO1 Jose T. Balogo
176. PO1 Jeffrey G. Pascual
177. PO1 Chester M. Beleo
178. PO2 Allen T. Padong
179. PO1 Elwin R. Baligat
180. PO1 Abel Rendal Ambulario
181. PO3 Sergio M. Pahang
182. PO3 Erwin M. Asturias
183. PO2 Levy S. Aliba
184. PO1 Dennis B. Razos
185. PO1 Adonis O. Curambao
186. PO1 Ben M. Cayasfon
187. PO1 Ronnie Boots A. Vicente
188. PO1 Adrik D. Gabreza
189. PO1 Arsenio L. Pagaddu, Jr.
190. PO1 Romar B. Baricaua
191. PSI Erving D. Chan
192. PO3 Edgar S. Mabatan
193. PO1 Ericson A. Salida
194. PO2 Denis B. Cayat
195. PO2 Wellington Manganip

196. PO3 Peter A. Wong
197. PO1 Climson Longtoy
198. PSI Neil Christopher C. Gaspar
199. PO3 Julius M. Astrero
200. PO1 Rolly Boy L. Dalog
201. PO2 Erico O. Bestid, Jr.
202. PO1 Nasser S. Sailila
203. PO1 Adonis A. Manudom
204. PO1 Ariel B. Managtag
205. PI Mark Kenneth S. Salvacion
206. PO2 Eliser D. Baltazar
207. PO1 Joshua T. Pancho
208. PO1 Gerome Q. Laca
209. PO1 Donato Aguirre
210. PO1 Ferdinand H. Panhon
211. PO1 Sukarno D. Adam, Jr.
212. PO1 Dexter L. Dalignoc
213. PO3 Gonny C. Lague
214. PO2 Kleven Thomas A. Guting
215. PO1 Danilo P. Panganduyon
216. PO1 Robert Bagni, Jr.
217. PO1 Alcher L. Dacula
218. PO1 Robespierre Y. Dulawan
219. PO1 Rambo Belingon
220. PO1 Albert Paulo M. Comidoy
221. PO2 Gin-Mar L. Reyes
222. PO1 Norberto M. Nazareno, Jr.
223. PO1 Frederick P. Virrey
224. PO1 Abdurahman O. Jalil
225. PO1 Walter B. Bustamante
226. PO1 Nel G. Ortega
227. PO1 Genus E. Dominguez
228. PO1 Harold D. Maraggun
229. PO1 Jazz R. Dag
230. PO1 Joel J. Balnao
231. PO1 Gerome Tedoco
232. PInsp Efren G. Cogasi
233. PInsp Janly C. Placido
234. PO3 Randi B. Balungayan
235. PO3 Florentino T. Sibal
236. PO2 Zulkipar B. Akkuh

- 237. PO1 Julius A. Chelnag
- 238. PO1 Bernard P. Gaayon
- 239. PO1 Alvin P. Macababbad
- 240. PInsp John Vincent F. Bravo
- 241. PO3 Dexter A. Zamora
- 242. PO3 Glenn S. Alcaraz
- 243. PO2 Raffy A. Ponpon
- 244. PO2 Joker I. Masweng
- 245. PO1 Joseph A. Luy-od, Jr.
- 246. PO1 Bern S. Gumaya
- 247. PO1 Richieboy C. Ferrer
- 248. PO3 Gilbert M. Pilapil
- 249. PO3 Norman Tulaban
- 250. PO2 Nelson B. Aben
- 251. PO2 Samir P. Mustapha
- 252. PO2 Romnick R. Diloy
- 253. PO1 Manuel N. Natino, Jr.
- 254. PO1 Rudy C. Ticangen
- 255. PO1 Jerwil B. Payangdo
- 256. PO2 Elorde B. Lunas
- 257. PO3 Adonis M. Caspe
- 258. PO2 Jaike A. Lamusao
- 259. PO2 John G. Bilango
- 260. PO2 Edgraen A. Mabini
- 261. PO1 Rizalde B. Bunay
- 262. PO1 Federico F. Maslang
- 263. PO1 Jimmy N. Vicente
- 264. PO3 Elcid A. Puguon
- 265. PO1 Nixon L. Coseph
- 266. PO2 Jup C. Limangan
- 267. PO2 Samuel T. Tang
- 268. PO1 Vincinth M. Catalbas
- 269. PO1 Roland T. Lawig
- 270. PO3 Armand F. Ibañez
- 271. PO1 Rex T. Nomen
- 272. PSInsp Merben Bryan M. Lago
- 273. PO3 Felix W. Alistag
- 274. PO2 Allen B. Ricardo
- 275. PO2 Bobie L. Elam
- 276. PO2 Edwin A. Cinco
- 277. PO2 Joseph P. Adaya

- 278. PO1 Arthur A. Cagurangan
- 279. PO1 Mergel J. Banac
- 280. PO1 Lester S. Molina
- 281. PSInsp Edenyl S. Molina
- 282. PO3 Romulo A. Decena
- 283. Carlos T. Bayeta
- 284. PO2 Dhomer F. Suplaag
- 285. PO2 Reynaldo O. Mendoza, Jr.
- 286. PO1 Rommel E. Baltazar
- 287. PO1 Omarshabieb L. Hatae
- 288. PInsp John Paul. S Bajar
- 289. PO3 Dlou G. Espuerta
- 290. PO2 Dennis P. Bañag
- 291. PO2 Paquito A. Ruiz
- 292. PO2 Leonifer O. Ayodoc
- 293. PO2 Jefferson C. Labasan
- 294. PO1 Noli B. Magayam
- 295. PO1 Raymond R. Tabanao
- 296. PInsp Denver A. Apola
- 297. PO3 Wenefredo S. Buntad
- 298. PO2 Felix A. Alcantara
- 299. PO2 Alfredo G. Truita
- 300. PO1 Henry C. Villarba, Jr.
- 301. PO2 Paul C. Ofo-ob
- 302. PO1 Arnold Allan B. Felix
- 303. PO1 Mateo A. Cabingan, Jr.
- 304. PO1 Gerald George P. Agnawa
- 305. PO2 Jayson B. Collawit
- 306. PO1 Frederic B. Bucio
- 307. PInsp Jayson B. Estillore
- 308. PO3 Orland S. Juntarciego
- 309. PO2 Donald A. Santos
- 310. PO2 Jeffrey S. Ferrer
- 311. PO1 Sirad C. Dimalna, Jr.
- 312. PO1 Lee C. Kedyam
- 313. PO1 Yves Rolan O. Dolalas
- 314. PO1 Joseph L. Macapobre
- 315. PO1 John Steven B. Estrellante
- 316. PInsp Richard B. Ananayo
- 317. PO3 Aladin C. Kabuntalan
- 318. PO2 Gaudencio L. Liwanon

319. PO3 Greg B. Lagunero
320. PO3 James B. Pawid
321. PO3 Ernie F. Tolentino
322. PO2 Medina C. Ollasic
323. PO2 Norlito C. Rojas
324. Major Gen. Edmundo R. Pangilinan
325. Lt. Gen. Rustico O. Guerrero
326. Col. Robert I. Velasco
327. Lt. Col. Allan Hambala
328. Col. Gener P. del Rosario
329. Col. Melquiades L. Feliciano
330. Lt. Col. Gregorio B. Hernandez, Jr.
331. Col. Romeo N. Bautista
332. Lt. Col. Danilo B. Benavides
333. Sgt. Whiler D. Jaranilla
334. 2<sup>nd</sup> Lt. Lylevan L. Panamogan
335. 2<sup>nd</sup> Lt. Rigor Rivera
336. Major Carlos T. Sol, Jr.
337. Ronnie L. Arap, Jr.
338. Dave C. Jungco

#### **b. Medico-Legal Reports**

The PNP Crime Laboratory conducted individual post-mortem examinations on the remains of the forty four (44) SAF members who were killed as a result of the Mamasapano incident. These reports<sup>23</sup> were submitted to the NBI-NPS SIT upon the latter's request. No medico-legal reports or similar documents were submitted by the MILF despite the team's requests.

#### **c. Intelligence and Situational Reports**

Upon request, the intelligence services of both the PNP and the AFP provided the NBI-NPS SIT with secret and classified operational plans such as Oplans EXODUS, WOLVERINE, TERMINATOR (and their respective versions), various sensitive intelligence and national security documents, including situation reports and threat disposition maps for relevant time periods. The team utilized the data in these secret or classified reports to build or check leads for the NBI

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<sup>23</sup> Medico-Legal Reports of all the deceased are attached as Annex "D," et sequentia

component. Other sensitive data were sparingly used to cross-check with the sworn statements, declared personal circumstances and affiliations of suspects, persons of interest and that of crucial witnesses. Being secret or classified, these documents will not be included as annexes in this report, or described nor referenced further than absolutely necessary.

#### **d. Photographic evidence**

The NBI took an estimated five hundred (500) still photographs<sup>24</sup> during the site inspection at Barangay Tukanlipao, Mamasapano on March 11, 2015. These photographs are sequentially numbered and form part of the report submitted by the NBI's Forensic Division and the Photography and Publication Laboratory Division to the NBI-NPS SIT.

#### **e. Board of Inquiry (BOI) Report**

The defunct BOI was a fact finding and investigative body constituted by the PNP, upon a directive issued on January 26, 2015 by the Secretary of the Interior and Local Government, to investigate the Mamasapano Incident. It was composed of P/Director Benjamin Magalong as chairperson with P/Director Catalino Rodriguez and C/Supt. John Sosito as members. A copy of the BOI report was submitted to the Secretary of Justice on March 9, 2015, which was then studied by the team in detail and sifted for the sworn statements referenced therein.

#### **f. MILF Special Investigation Commission Report on the Mamasapano Incident**

On January 26, 2015, the leadership of the MILF organized its Special Investigative Commission (SIC). The SIC, composed of Ustadz Said Abdulsalam as chairperson and Hussein "Sonny" Munoz, Toks Ebrahim, Von Al Haq and Ustadz Abu Ubadiyah Agkong as members, was mandated to investigate what transpired in Mamasapano on January 25 and 26, 2015. In a letter dated March 9, 2015, the Secretary of Justice requested for a full copy of the report.

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<sup>24</sup> Photographs taken by the NBI Photographer are attached as Annex "G", et sequentia

and the same was furnished the DOJ on March 24, 2015. It was likewise objectively considered by the team.

### **g. Committee Report No. 120, Senate of the Philippines**

On March 25, 2015, the Senate Joint Committees transmitted to the DOJ a copy of its Committee Report No. 120 on the Mamasapano incident. The Committee Report was signed by twenty (20) Senators and subsequently filed with the Senate Legislative Bills and Index Service. This Report was submitted jointly by the Committees on Public Order and Dangerous Drugs; Peace, Unification and Reconciliation; and Finance. The team took time to carefully study the report and its attachments.

### **3. Site Inspection at Barangay. Tukanalipao, Mamasapano**

A site inspection of the environs of Barangay Tukanalipao, Mamasapano, Maguindanao was originally planned for February 27, 2015. The site was chosen because of its relevance as a vast crime scene. The cornfield area bisected by the Kabulnan River was where the 55<sup>th</sup> Special Action Company (SAC) of the SAF clashed with various armed groups. Also included in the planned site inspection was the prayer room and extension house where, according to barangay officials of Barangay Tukanalipao, several individuals were allegedly killed from January 25 to 26, 2015. Among the other factors for selecting the Tukanalipao site included the heavy Army, Marines and PNP security presence then imposed in the area, the limited window for an ocular inspection and the available logistics.

At around noon of February 27, 2015, the NBI-NPS SIT, together with the Secretary of Justice, proceeded to the headquarters of the Philippine Army 601<sup>st</sup> Infantry Brigade (IB) at Tantangan, South Cotabato before the planned site inspection. However, the planned site inspection was aborted upon the advice of Col. Melquiades Feliciano, commanding officer of the 601<sup>st</sup> IB who cited the ensuing firefight between the AFP and members of the Bangsamoro Islamic Freedom Fighters (BIFF) at Datu Unsay, Maguindanao on that very day.

On March 11, 2015, the NBI-NPS SIT and the Secretary of Justice, along with a security support team from the NBI, and the Coordinating Committee on the Cessation of Hostilities (CCCH)

proceeded to the Mamasapano Municipal Hall and met with Mayor Datu Tahirudin Benzar Ampatuan and Col. Feliciano for coordination prior to the actual site inspection.

During the site inspection, the accounts of witnesses were validated. A forensic team from the NBI also conducted its forensic investigation and processed the site. A wide range of object evidence were collected and relevant data were gathered using established scientific methods adopted by the NBI.

The NBI-NPS SIT studied the feasibility of inspecting the area of Barangay Pidsandawan, the site of the clash between the SAF's 84<sup>th</sup> SAC and armed groups, and the particular houses supposedly inhabited by HVTs Marwan and Basit Usman. But an unexplained fire that earlier razed Marwan's hut and the ongoing military offensive in Barangay Pidsandawan on February 24, 2015, convinced the team to indefinitely cancel all plans and arrangements to conduct an ocular inspection there.

#### **4. Forensic Evidence**

During the site inspection of Brgy. Tukanalipao, Mamasapano, a forensic team from the NBI, composed of a ballisticsian, a photographer, a videographer and an artist-illustrator, conducted a forensic examination.<sup>25</sup> Consequently, the following evidence were gathered:

##### **a. Ballistics**

Specimens examined or recovered during the site inspection included:

1. Bullet holes on trees and wooden bridge marked as "NBI Ent. 1" to "NBI Ent. 44" and "NBI Exit 1" to "NBI Exit 14".
2. Forty five (45) pieces of Caliber 5.56mm fired cartridge cases marked as "M-1" to "M-45".

Examinations of these specimens were likewise made to determine the individual bullet trajectories on the trees and wooden

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<sup>25</sup> Hiyasmin Abarrientos, Ligaya Banawan, Angelito Perez and Jovito Del Rosario

bridge across the Kabunlan River and to ascertain whether or not the fired cartridge cases were fired from particular firearms.

#### **b. Site measurements**

Using both the azimuth wheel and triangulation method, measurements were taken of relevant areas at Brgy. Tukanalipao, Mamasapano. The purpose was to determine the reference point measurements and respective angle distances. These measurements were also computed for the purpose of determining the location and relative distance of the witnesses, victims, surrounding landmarks and objects from certain points at the site.

#### **5. Other object evidence**

Objects as evidence are those addressed to the senses of the court.<sup>26</sup> During the site inspection at Brgy. Tukanalipao, Mamasapano, the NBI collected the following object evidence from a structure made of light materials described as a prayer room and extension house owned by Faisal Dagadas after the barangay chairperson of Barangay Tukanalipao informed the NBI forensic team that four (4) civilians died inside the prayer house on January 25, 2015. These were:

- a. One (1) piece pillow case with blood taken inside the prayer room;
- b. One (1) piece linoleum cut from the floor taken inside the prayer room; and,
- c. One (1) piece black shoe 5.11 taken from the extension room.

The evidence collection was done in the presence of the NBI agents, NBI forensic team and the Barangay Chairman and three (3) other officials of Barangay Tukanalipao, Mamasapano.

#### **6. Electronic documents / data message**

Electronic document refers to information or the representation of information, data, figures, symbols or other modes of written expression, described or however represented, by which a right is

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<sup>26</sup> RULES OF COURT, Rule 130, Section 1

established or an obligation extinguished, or by which a fact may be proved and affirmed, which is received, recorded, transmitted, stored, processed, retrieved or produced electronically. It includes digitally signed documents and any print-out or output, readable by sight or other means, which accurately reflects the electronic data message or electronic document.

For purposes of the Rules on Electronic Evidence, the term “electronic document” may be used interchangeably with “electronic data message”.<sup>27</sup> Electronic data message, on the other hand, refers to information generated, sent, received or stored by electronic, optical or similar means.<sup>28</sup> Several persons were found to have taken video footages during the Mamasapano incident. These videos, recorded on mobile phones, are considered electronic evidence and were examined by the NBI Cybercrime Division.

**a. Uploaded videos depicting stages of the Mamasapano incident**

The NBI Cybercrime Division conducted digital forensic examinations on two (2) mobile phones and a downloaded video of phases of the Mamasapano incident that went viral<sup>29</sup>. Using Encase 7,<sup>30</sup> the following video files related to the Mamasapano incident were found on the Starmobile Diamond X1 mobile phone of [REDACTED]

1. null.mp4  
Item path:  
Starmobile\C\Facebookvideodownloader\null.mp.4  
File created: 2/10/15 4:23:15PM
2. VID\_20150211\_220830.3gp  
Item path:  
Starmobile\C\DCIM\Camera\VID\_20150211\_220830.3gp  
File created: 2/11/15 10:08:30PM

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<sup>27</sup> Rules on Electronic Evidence, Section 1(h),

<sup>28</sup> Id., Section 1(g)

<sup>29</sup> “Viral” means “quickly and widely spread or popularized especially by person-to-person electronic communication (Merriam-Webster Dictionary).

<sup>30</sup> A type of digital forensic investigation software

3. VID\_20150211\_221056.3gp

Item path:

Starmobile\C\DCIM\Camera\VID\_20150211\_221056.3gp

File created: 2/11/15 10:10:56PM

Another video file related to the Mamasapano Incident was also found on the the Chery Mobile Flare S Q360 mobile phone of [REDACTED]:

1. 25012015282.mp4

Item path: CherryMobile\bluetooth\25012015282.mp4

File created: 2/09/15 02:05:51PM

Using Amped Five<sup>31</sup>, an analysis of the videos were made. A forensic report was then generated using Encase 7, Oxygen Forensic Analyst 2015 and Amped Five.

**b. Other videos examined by the NBI**

The NBI made an analysis of four (4) videos that were apparently recorded using a mobile phone camera. However, the analysis of the said videos were limited to determining the language/dialect heard from the recording and translating the same to Filipino. These videos were later shown to witnesses for cross-reference and authentication.

**c. Video stored in mobile phone in the possession of a witness**

MARATHON is a principal witness to the Mamasapano incident. While giving his statement to the NBI, he exhibited a video stored in his mobile phone. He stated that the video was originally recorded on January 25, 2015 at Barangay Tukanalipao and depicts scenes from the Mamasapano incident. He admitted that he was not the one who recorded the video and that the video in his possession was merely shared to him via bluetooth. Nonetheless, MARATHON was able to prove the due execution and authenticity of the said video

[REDACTED]

<sup>31</sup> A type of photo and video forensic software

## 7. Video footage shot by GMA News

During the course of the inquiry, the NBI-NPS SIT were informed of an interview of SAF member PO2 Christopher Lalan by GMA News that was shown in several GMA News programs. By reason thereof, the NBI-NPS SIT issued a subpoena *duces tecum*<sup>32</sup> directing GMA News to produce and submit a duly authenticated video footage of the interview.

In compliance with the subpoena, GMA Network, Inc. submitted a digital video disc (DVD) recording of the interview and a certification stating that the submitted DVD contains footages found in the Central News Library and that it contains an accurate reproduction of the same footages, except for markings indicating the ownership of GMA.

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<sup>32</sup> Subpoena Duces Tecum addressed to Ms. Marissa Flores, through Atty. Jose Vener Ibarra dated March 16, 2015, attached as Annex "I-1"

## **II. The Government's Ceasefire Agreement with the Moro Islamic Liberation Front (MILF) and Its Consequences on the Fact Finding Investigation**

### **A. Historical Background**

In pursuit of the Government's efforts to finally resolve the historical conflict in Mindanao through peaceful means, several exploratory and preparatory talks were conducted between the Government of the Republic of the Philippine (GRP) and the MILF, during the term of President Fidel V. Ramos.

When negotiations were concluded, representatives from the GRP panel, represented by its chairman Fortunato U. Abat, and Ghadzali Jaafar, the MILF chairman, entered into an "Agreement on General Cessation of Hostilities"<sup>33</sup> on July 18, 1997. With the view of continuing the formal peace talks, both sides agreed to commit the respective armed forces of the GRP and the MILF to a General Cessation of Hostilities. Both panels then agreed to resume and proceed with the formal peace talks in a venue to be agreed upon by both parties. Subsequently, in compliance with the directive set forth in the Agreement on General Cessation of Hostilities, further meetings were conducted by the respective Sub-committees on General Cessation of Hostilities to draw and finalize the guidelines and ground rules for the implementation of the said Agreement.

On September 12, 1997, the "Implementing Administrative Guidelines of the GRP-MILF Agreement on the General Cessation of Hostilities"<sup>34</sup>, was finally signed. Following these guidelines, the GRP and the MILF each created a monitoring body to be called the "Coordinating Committees on the Cessation of Hostilities" (CCCH). The parties' respective CCCHs were also tasked to monitor the other's compliance with the ceasefire agreement. An Independent Fact-Finding Committee was likewise formed to conduct fact-finding inquiries on matters referred by either CCCHs of the GRP and MILF.

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<sup>33</sup> Agreement for Cessation of Hostilities signed by the GRP Panel and MILF Chairman dated July 18, 1997, attached as Annex "B"

<sup>34</sup> Implementing Administrative Guidelines of the GRP-MILF Agreement on the General Cessation of Hostilities dated September 12, 1997, attached as Annex "B-1"

On November 14, 1997, the "Implementing Operational Guidelines of the GRP-MILF Agreement on the General Cessation of Hostilities"<sup>35</sup> was signed. Both parties set the ground rules which the GRP and the MILF panel must observe to realize their intentions set forth in the Agreement on the General Cessation of Hostilities. Both parties agreed to desist from committing any acts which were classified as prohibited hostile acts and prohibited provocative acts. Actions which are *exempt* from the purview of the Cessation of Hostile Acts were also identified. These exempt acts include, but are not limited to, peacekeeping and police actions and defensive or protective actions of the GRP and MILF to ensure the security of its forces, facilities, installations, equipment and lines of communications, and the safety and tranquility of the civil government and the population.<sup>36</sup>

On August 27, 1998, the GRP and the MILF again entered into a "General Framework of Agreement of Intent"<sup>37</sup> whereby both parties pledge to implement the joint agreements previously signed by the parties' representatives. In this agreement, the GRP and the MILF agreed to pursue and resolutely continue the peace process, affirm their commitment to protect and respect human rights, to resolve conflict in a peaceful manner and to refrain from the use or threat of force while the peace negotiations are on-going.

When President Joseph Ejercito Estrada began his term, however, the formal peace talks between the GRP and MILF were suspended. Skirmishes devolved into full-scale battles as the Government dramatically shifted its policy from negotiation to all-out war against the MILF.

Peace talks with the MILF were revived during the term of President Gloria Macapagal-Arroyo. With Malaysia as facilitator, the GRP and the MILF signed on March 24, 2001 the "Agreement on the General Framework for the Resumption of Peace Talks between the

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<sup>35</sup> Implementing Operational Guidelines of the GRP-MILF Agreement on the General Cessation of Hostilities dated November 14, 1997, attached as Annex "B-2"

<sup>36</sup> Id., Article II

<sup>37</sup> General Framework of Agreement between the GRP and MILF dated August 27, 1998, attached as Annex "B-3"

Government of the Republic of the Philippines and the Moro Islamic Liberation Front". A new pendulum shift to observe the ceasefire was impelled by the deleterious effects of the incidents of the conflict between GRP and MILF forces.

On June 22, 2001, the "Agreement on Peace between the Government of the Republic of the Philippines and the Moro Islamic Liberation Front"<sup>38</sup> was signed to reaffirm the General Cessation of Hostilities dated July 18, 1997 and to commit to reaching a negotiated political settlement of the Bangsamoro problem and enduring peace and stability in Mindanao. It was also agreed that upon the signing of the said agreement, a Monitoring Team with representatives from the Organization of Islamic Conference (OIC), shall be constituted.

On August 7, 2001, the Implementing Guidelines on the Security Aspect of the GRP-MILF Tripoli Agreement of Peace of 2001<sup>39</sup> was signed. The more notable aspect of this Implementing Guidelines is Article III, 9 on Cessation of Hostilities and Security Arrangements, which provides:

"9. Police and military actions and administrative/logistic activities shall continue to be undertaken by the GRP throughout Mindanao and the entire country. In the pursuit thereof, confrontational situations between the GRP and the MILF forces shall be avoided by prior coordination with the latter. These actions include but are not limited to, the following:

9.1. Peacekeeping and police actions such as preventive patrols, investigations, arrest, searches and seizures undertaken by the Government against criminality, especially against piracy, robbery, kidnapping, cattle rustling, murder and other criminal acts.

9.2. Defensive or protective actions of the GRP to

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<sup>38</sup> Agreement on Peace between GRP and MILF dated June 22, 2001, attached as Annex "B-4"

<sup>39</sup> Implementing Guidelines on the Security Aspect of the GRP-MILF Tripoli Agreement of Peace of 2001 dated August 2, 2000, attached as Annex "B-5"

ensure the security of its forces, facilities, installations, equipment and lines of communications and the safety and tranquility of the civil government and the population.

9.3. Hot pursuit of suspects by police and military personnel. Paramilitary/irregular forces shall not be allowed to engage in hot pursuit under the terms of this Agreement<sup>40</sup>.

Thereafter on May 6, 2002, a Joint Communiqué<sup>41</sup> of the parties was signed to form an Ad Hoc Joint Action Group (AHJAG) against Criminal Elements in order to pursue and apprehend criminal elements that impede the peace process. The AHJAG was tasked to operate in tandem with the respective CCCH of the GRP and the MILF.

On February 15, 2012, the Implementing Guidelines on the Joint Communiqué of 6 May 2002<sup>42</sup> was signed by the GRP and MILF. This set of guidelines sought to implement the provision of the Joint Communiqué between the GRP and MILF on operations against criminal syndicates/kidnap for ransom groups, lost commands and other criminal elements within the MILF areas/communities. According to the implementing guidelines, the AHJAG, composed of eight (8) members, with (4) members from the GRP and four (4) from the MILF, shall have under it five (5) teams that will cover different areas agreed upon in Mindanao.

## **B. Scope of the Ceasefire Agreement**

As provided for under Rule V of the “Implementing Administrative Guidelines of the GRP-MILF Agreement on the General Cessation of Hostilities”<sup>43</sup>, the cessation of hostilities shall be in effect in the provinces, cities, and other places in Mindanao, Sulu, and Palawan. To ensure proper coordination, the location of MILF

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<sup>40</sup> Id., Article III, Sections 9. 9.1., 9.2. 9.3

<sup>41</sup> Joint Communiqué between the Government of the Republic of the Philippines and the Moro Islamic Liberation Front dated May 6, 2002, attached as Annex “B-6”

<sup>42</sup> Implementing Guidelines on the Joint Communiqué of 6 May 2002, attached as Annex “B-7”

<sup>43</sup> Annex “B-1”

camps/positions shall be verified and determined jointly and agreed upon by the both parties' respective CCCH.

Under the "Implementing Operational Guidelines of the GRP-MILF Agreement on the General Cessation of Hostilities", the GRP and the MILF shall desist from committing any "prohibited hostile acts, which was defined as any terroristic acts, aggressive actions and establishment of checkpoints except those necessary for the GRP's enforcement and maintenance of the peace and order and for the defense and security of the MILF in their identified areas, as jointly determined by the GRP and MILF. These prohibited acts include: the display of MILF flag in non-identified MILF areas, providing sanctuary or assistance to criminal or lawless elements and massive deployment and/or movement of GRP and MILF forces, public pronouncements that undermine the sincerity or credibility of either party in implementing the cessation of hostilities and other acts that endanger the safety and security of the people and their properties and/or that which contributes to the deterioration of peace and order.

Interestingly, Article II of "Implementing Operational Guidelines of the GRP-MILF Agreement on the General Cessation of Hostilities", provides for actions exempted from cessation of hostilities. These include police and military actions and administrative/logistic actions throughout Mindanao and the entire country. However, to avoid confrontational situations between the GRP and MILF forces, *prior coordination* with the later shall be made. The exempt police and military actions are enumerated as:

1. Peacekeeping and police actions such as preventive patrols, investigations, arrest, searches and seizures undertaken by the Government against criminality especially against piracy, robbery, kidnapping, cattle rustling, murder and other criminal acts;
2. Defensive or protective actions of the GRP and MILF to ensure the security of its forces, facilities, installations, equipment and lines of communications, and the safety and tranquility of the civil government and the population.

The movement of MILF forces outside their identified areas, as jointly determined by the GRP and MILF CCCH shall be coordinated by concerned MILF commanders to the GRP force commanders for clearance prior to said movements.

On July 23, 2013, the Revised Joint AFP/PNP Operational Guidelines for the AHJAG<sup>44</sup>, was signed. The said agreement provided for the guidelines which should be followed for the operations against criminal syndicates/kidnap for ransom groups, lost commands and other criminal elements within the MILF areas/communities. The AHJAG mechanism was initiated by the GPH and MILF panels to avoid armed clashes which can easily be triggered by GPH law enforcement operations against criminal elements in transit or living inside the communities near and/or within the MILF areas.

### **C. Dialogue of the Secretary of Justice and the NBI-NPS SIT with the MILF Central Committee on March 10, 2015**

Mindful of the GPH-MILF agreements and the fact that the Mamasapano incident occurred in an area predominantly controlled by the MILF, the NBI-NPS SIT resolved to schedule a meeting with the former's leadership. Through the Secretary of Justice, the team sent requests to the MILF<sup>45</sup>, coursed through the CCCH, stating its desire to formally discuss the investigative objectives of the NBI-NPS SIT. The MILF leadership, through the CCCH, formally acceded to the team's request on March 2, 2015.

On March 10, 2015, the Secretary of Justice, together with the NBI-NPS SIT, met with the MILF Central Committee<sup>46</sup> at Camp Darapanan, Sultan Kudarat, Maguindanao to discuss some factual and

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<sup>44</sup> Revised Joint AFP/PNP Operational Guidelines for the Ad Hoc Joint Action Group dated July 23, 2013, attached as Annex "B-8"

<sup>45</sup> Letters of the Secretary of Justice to Chairman to the MILF Peace Panel dated February 26, 2015 and March 6, 2015

<sup>46</sup> MILF Chairman Al Haj Murad and Mohager Iqbal, chairman of its negotiating panel and three (3) other Central Committee members. The Secretary of Justice, NBI Director Mendez, Deputy Director Villarta, and Assistant State Prosecutors Navera and Maraya for the NBI-NPS SIT. Regional Prosecutor Al Calica were also present.

evidentiary issues on the Mamasapano investigation. The Secretary sought the commitment of the MILF leadership to surrender for future prosecution some identified members from its 105<sup>th</sup> and 118<sup>th</sup> Base Commands that allegedly clashed with the SAF. She also requested that the team be furnished a copy of the MILF's own official report on the Mamasapano incident so that it will be also considered by the NBI-NPS SIT along with the SAF's version. She likewise tried to confirm from the MILF leadership information that there were eighteen (18) other fatalities, MILF, BIFF, and civilians and asked for proof of death for these fatalities.

During the brief but cordial meeting, the MILF leadership stated that they are still in the process of verifying casualty figures and identities of the civilian victims. Other than propose that evidentiary requests, such as proof of death, be coursed through the CCCH, the MILF did not commit nor give concessions to surrender their members in the future. The MILF leadership did not fully respond to most of the team's interrogatories either. Rather, the MILF leadership pointedly told the team that being a revolutionary group it must be understood that they are presently *not* subject to Philippine criminal laws. They concluded the meeting by stating that MILF members found involved in the Mamasapano incident must be punished under their own internal discipline procedures.

#### **D. Impact of the Ceasefire Agreement on the Fact Finding Investigation**

Since the incident and the entire crime scene itself was well within the covered areas stipulated in the Ceasefire Agreement, all investigative actions of the NBI-NPS SIT, was carefully coordinated in advance with the appropriate bodies under the current mechanisms. Thus, all communications and evidentiary requests of the Secretary of Justice and the team, were coursed through the GPH-CCCH.

During the site inspection by the Secretary of Justice and the NBI-NPS SIT at Barangay Tukanalipao in Mamasapano, Maguindanao on March 11, 2015, Joint GPH-MILF CCCH representatives and Malaysian and Norwegian members of the International Monitoring Team (IMT) were also present.

The need to course investigative actions such as requests to the MILF for interviews and evidence through the CCCH presented a number of challenges for the NBI-NPS SIT. First of all, this is not the ideal or conventional way to run an investigation. While criminal investigations are not secret proceedings, they are generally *not* open and transparent either. The reason is obvious. The investigator does not want to telegraph to the subject and the world what angle or detail of the investigation he is presently treading. He also does not want the suspect to know beforehand that he is indeed considered a suspect. To inform the suspect gives the latter the motive not to cooperate and *a fortiori* a reason to run. More importantly, the investigator does not want to announce what evidence he currently has or crucially, what he lacks and therefore still needs in order to pin the suspect.

During the phase of the investigation where it had to study and analyze the MILF's role in the Mamasapano incident, however, the NBI-NPS SIT had to jettison all its previously set notions of how an investigation must be conducted and managed from years of training and experience in prosecuting and investigating crimes. The team had to be creative, dynamic and pro-active in the sense that it had to strictly follow the Revised Rules of Criminal Procedure and the Rules of Evidence and yet be sensitive that the GPH-MILF peace mechanisms loomed large in the horizon.

The NBI-NPS SIT, therefore, had no choice but to ironically enlist the help of the MILF leadership itself even as the former was scanning persons of interest within the MILF's order of battle. Had it not done so, the team could not have safely set foot at Mamasapano, much less interview residents there. The prosecutors' and agents' normal procedure of obtaining evidence and interviewing witnesses through coercive subpoenas with "fail not under penalty of law" clauses had to quietly give way to polite and diplomatic requests to the MILF.

The NBI-NPS SIT's discussion with the MILF leadership at Camp Darapanan regarding the investigation brought with it not just the obvious security risks but also evidentiary ones as well, especially where the very organization of the persons of interest being investigated is the one that is being asked to give evidence. Thus,

while the team was able to interview some Mamasapano residents<sup>47</sup>, and received a copy of the MILF's official report, it had to look at all these with a fresh skeptical eye, if only to maintain its cold neutrality and straightforward objectivity, even as the MILF publicly maintained that it is sincere and will cooperate in the investigation.

In a way, it was even more convenient procedurally to investigate the BIFF and the PAGs because the team did not have to give suspects or persons of interest belonging to either, advanced requests or leave to be interviewed. The NBI-NPS SIT was also not hamstrung by statements from BIFF or PAGs that their members will not be surrendered in the future, even if they really have no intention of surrendering. With or without such public pronouncements from the BIFF or PAGs, the Government will have no choice but to arrest them once identified and linked with the Mamasapano incident. On the other hand, insofar as MILF member-suspects are concerned, as discussed above, the GPH-MILF ceasefire agreement, the MILF's public statements, as well as the large swathes of territories covered by the Ceasefire Agreement where some MILF suspects reside, will certainly be factors to consider anew in subsequent investigative and prosecutorial actions, in the same way that they were factors in the execution of Oplan EXODUS.

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<sup>47</sup> Some of whom, interestingly, could not name or identify persons who attacked the SAF commandos but are positive that they are either MILF, BIFF or Private Armed Groups (PAGs)

### **III. The Execution of Oplan EXODUS and its Consequences at Barangays Pidsandawan and Tukanalipao in Mamasapano, Maguindanao**

#### **A. Prelude to EXODUS**

##### **1. Oplans Prior to EXODUS**

In his sworn statement, P/Director Getulio Napeñas, then director of SAF (DSAF), narrates that prior to Oplan EXODUS, there were several police operations for the implementation of the warrant of arrest against High Value Targets (HVTs) Zulkifli Bin Hir alias Marwan, Basit Usman and Amin Baco.

In his recital, Napeñas states that he has conducted previous operations against the said HVTs. He started working for the capture of Marwan since 2010 when he was still Deputy Director of SAF. Later on, Usman was added in the HVT list. In December 2010, he supervised the operation against Marwan in Sulu. Meanwhile, in July 2012, he supervised the operations against Marwan in Butig, Lanao del Sur. On April 25, 2014, he took charge of an operation against Marwan and Usman in Libutan, Mamasapano, Maguindanao. It was aborted because the Armed Forces of the Philippines (AFP) withdrew its commitment to provide Mechanized Brigade (Mech Bde) Units to support the operation.<sup>48</sup>

On the other hand, P/Supt Train, SAF intelligence officer for the Mindanao Area and former 84<sup>th</sup> Seaborne commander, participated in previous operations against Marwan even prior to January 25, 2015. The first operation was Operation PITAS executed from December 5 to 7, 2010 at Parang, Sulu, where he was the company commander of 84<sup>th</sup> Seaborne and their support elements then were the 51<sup>st</sup>, 52<sup>nd</sup> and 53<sup>rd</sup> SAC. The operation failed because the target left hours before they were able to approach the target house. They coordinated with the Philippine Marines only after the actual operation, because based on his experience, if an operation is coordinated with the AFP counterparts prior to take-down, the result is usually a “dry-hole” or negative.<sup>49</sup>

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<sup>48</sup> Sworn Statement of P/Dir Napeñas, dated February 5, 2015, pp. 1-2, Q&A No.5, Annex “C-12”

<sup>49</sup> Sworn Statement of P/Supt Train dated February 4, 2015 p.1, Q&A Nos. 3-4, Annex “C-19”

The other operations against Marwan and Usman prior to the Oplan EXODUS were the joint SAF operations with the AFP on April 25, 2014 and May 30, 2014 which were both aborted and did not materialize. The April 25, 2014 operation was aborted because the AFP refused to provide their mechanized unit. The concept of operations (CONOPS) was approved by the then Chief PNP (CPNP) Allan Purisima and presented during the executive session to the President, DILG Secretary, Chief PNP and PCSupt Delos Reyes, RD PRO-ARMM, who provided the intelligence packet.<sup>50</sup>

On May 29 to 30, 2014, another operation against the same subjects was launched in the same location. It was aborted because the MILF occupied the Vehicle Drop-off Point (VDOP).<sup>51</sup>

On June 30, 2014, the Army's 6<sup>th</sup> Infantry Division (6<sup>th</sup> ID), Mechanized Brigade (Mech Bde) conducted an operation against Marwan and Usman without coordination with SAF but they failed to neutralize the HVTs. Thus, Napenas said that the succeeding operations should no longer be coordinated with the AFP to avoid the possibility that they will be compromised. Napenas averred that whenever the AFP is involved, there is the possibility that it will be compromised because whenever big operations against HVTs are conducted, information and preparations of the operations are leaked because members of the MILF, who coddle the subjects, have a number of contacts within the AFP.<sup>52</sup>

On July 23, 2014, an intelligence report about the new location of Marwan and Usman in Pidsandawan, Mamasapano, Maguindanao, was received. On the basis of such intelligence report, an Intelligence Preparation of the Battlefield (IPB) was drawn.<sup>53</sup>

In August 2014, C/Supt. Delos Reyes gave to DSAF the grid coordinates of the possible location of Marwan in Barangay Pidsandawan, Mamasapano, Maguindanao. They also requested Delos Reyes to provide the route to the location since they did not know of any to the given grid coordinates. They also started the "intelligence preparation in the battlefield" (IPB) knowing that it is

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<sup>50</sup> Sworn Statement of P/Dir Napeñas dated February 5, 2015, p.2, Q&A No.8.

<sup>51</sup> Sworn Statement of P/SSupt Dela Rosa dated February 5, 2015, p.1, Q&A No. 5., Annex "C-14"

<sup>52</sup> Sworn Statement of P/Dir Napeñas dated February 5, 2015 p.2, Q&A No.10.

<sup>53</sup> Sworn Statement of P/SSupt. Dela Rosa dated Feb. 5, 2015, p.1.

too risky because of the presence of thousands of MILF and BIFF fighters in the area and the difficult terrain.<sup>54</sup>

In the latter part of October 2014, another intelligence packet (IP) was relayed by the Intelligence Group (IG) of the PNP to PSSupt Dela Rosa's unit. This IP indicated the exact location of Marwan and Usman.<sup>55</sup>

In the early part of November 2014, Purisima instructed Napenas to proceed to the "White House"<sup>56</sup> in Camp Crame. The CPNP instructed him to work with the Director, Intelligence Group (DIG) regarding the new location of Marwan and Usman and told him that he has an agent in the area of the target location. The DIG told him that the working document from the IG is already with P/Supt Train of 84<sup>th</sup> Seaborne.

The intelligence packet was subjected to a series of long deliberations from the group composed of the following: DSAF, SAF Deputy Director (DDSAF), Intelligence Chief (IC), CDS, 3<sup>rd</sup> Battalion Commander (BatCom), Rapid Deployment Battalion Commander (RD BatCom), P/Supt Train and P/SI Recaredo Marasigan, also an intelligence officer of SAF. Later on, the Seaborne Commander and the 5<sup>th</sup> Battalion Commander were also included in the planning phase. After which, they came up with the CONOPS.<sup>57</sup>

In the latter part of November 2014, they presented the CONOPS to PNP Chief Purisima at the White House. Among those present were: C/Supt Noel Taliño, S/Supt Dela Rosa, S/Supt Mangahis (3<sup>rd</sup> Battalion commander), and PSupt Train. Purisima approved the CONOPS and said "*Go, but I have to tell the President regarding this.*"<sup>58</sup>

When the operational plan for TERMINATOR 1 was presented to the President, P/Supt Train together with Purisima, DSAF Napeñas, and the Director of the Intelligence Group (IG) were present<sup>59</sup>.

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<sup>54</sup> Sworn Statement of PDir Napeñas dated February 5, 2015, p.3, Q&A No. 12.

<sup>55</sup> Sworn Statement of P/SSupt Dela Rosa dated Feb. 5, 2015, p.1, Q&A No. 5.

<sup>56</sup> Unofficial name for the official residence of the PNP Chief.

<sup>57</sup> Sworn Statement of PDir Napeñas dated Feb. 5, 2015, p. 3, Q&A Nos. 13-15.

<sup>58</sup> *ibid*, Q&A Nos. 16-20.

<sup>59</sup> Sworn Statement of P/Supt. Train dated February 4, 2015, p. 2, Q&A No. 10.

“TERMINATOR 1” was launched in November 29, 2014 but was aborted while en route to the target due to equipment failure and the mode of insertion was not doable<sup>60</sup>. In these operations, the coordination with the AFP was to be done only when the main effort (ME) arrived in the target area<sup>61</sup>. Purisima, Napeñas, Taliño, P/Supt. Train and the others reported the outcome to President Benigno Aquino III in a debriefing on November 30, 2014. The President was disappointed and said, “*Haste makes waste, you did not do your homework.*”<sup>62</sup>

Another operation dubbed as TERMINATOR 2 was implemented by the SAF on December 12 to 13, 2014. During this operation, zodiac rubber boats were used. The operation was aborted because of the SAF’s premature engagement with armed men stalking the river bank.<sup>63</sup>

## **2. Reconnaissance Operations for Oplan EXODUS**

In October 2014, as part of their reconnaissance operation, SPO1 Allan L. Franco was instructed by P/Supt Train to scout for Action Agents (AAs) in their area of operation for the arrest of Marwan and Basit Usman. SPO1 Franco was the operative in-charge of the conduct of reconnaissance in the area of operation and in the collection of information regarding the whereabouts and the exact locations of the targets Marwan and Basit Usman. He was able to recruit two (2) AAs. His AAs provided the information on all the possible routes of insertion and extraction of troops going to the targets’ location, the terrain and the river, the number of houses and the population inside the area of operation and the exact location of the targets.

After receiving these inputs from his AAs, SPO1 Franco relayed them to his immediate superior, P/SI Espe, who in turn relayed the information to P/Supt Train. Franco also directed his AAs to conduct continuous monitoring in the area of operation<sup>64</sup>.

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<sup>60</sup> ibid, p. 2, Q&A No. 11.

<sup>61</sup> Sworn Statement of P/SSupt Dela Rosa dated Feb.5, 2015, pp 1-2.

<sup>62</sup> Sworn Statement of P/Supt Train dated Feb. 4, 2015, p. 2, Q&A Nos. 11-12.

<sup>63</sup> Sworn Statement of P/SSupt Dela Rosa dated Feb. 5, 2015, p. 2, Q&A No. 11.

<sup>64</sup> Sworn Statement of SPO1 Franco dated February 13, 2015, p.2., Annex “C-20”

The intelligence operatives were dispatched in the area of operation on the first week of September 2014. [REDACTED]

[REDACTED] were the [REDACTED] dispatched in the area to gather information regarding the whereabouts of the subjects and other details pertaining to the area of operation.<sup>65</sup>

On the other hand, PCI Corales, Jr., team leader of Intelligence Surveillance Target Acquisition and Reconnaissance (ISTAR)-FIID (Force Intelligence and Investigation Division) based in Tambler, General Santos City stated that he learned of the police operation of the SAF as early as December 2014 when his team was given the orders to conduct continuous survey of the access roads going to the area of Mamasapano. His team was required to submit reports of their road survey. According to PCI Corales, Jr., he knew of the general concept of the operation but not the details, such as the target locations and coordination. The job of ISTAR generally involves tactical intelligence gathering and reconnaissance operations such as road survey, area sketching and others. Their jurisdiction covers the entire country but their effort is focused in Mindanao.<sup>66</sup>

### **3. The Mission Planning Phase and Concept of Operations for Oplan EXODUS**

On December 18, 2014, P/Supt Michael John C. Mangahis was directed by Napeñas to assist in the mission planning and preparation of another Oplan. Present during the mission planning were Napeñas, DSAF, C/Supt. Noli Taliño, DDSAF, S/Supt. Dela Rosa, Chief FIID, S/Supt. Edgar Monsalve, Counter Terrorism Division IG, P/Supt Reynaldo Ariño, 5<sup>th</sup> SAB, P/Supt Hendrix Mangaldan, 4<sup>th</sup> SAB, P/Supt. Abraham Abayari, RDB, P/Supt. Raymund Train, FIID, and P/Insp. Recaredo Marasigan, FIID. They hatched the plan based on the intelligence reports gathered by the IG.<sup>67</sup>

They planned for Oplan EXODUS from December 23, 2014 to January 12, 2015 at the SAF headquarters. They then decided that the troop's insertion should be by foot. The plan was for the 84<sup>th</sup> SAC to

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<sup>65</sup> Sworn Statement of PO1 Macasasa dated February 6, 2015, p. 3, Q&A No. 18, Annex "C-45"

<sup>66</sup> Sworn Statement of PCI Corales, Jr. dated February 6, 2015, pp. 1-2., Annex "C-323"

<sup>67</sup> Sworn Statement of P/Supt Mangahis dated February 4, 2015, p. 2, Q&A No.13-15, Annex "C-15"

be the assaulting party, while the 55<sup>th</sup> SAC will be the blocking force, will secure the route after withdrawal from the target. Meanwhile, the 45<sup>th</sup>, 42<sup>nd</sup>, 41<sup>st</sup>, 44<sup>th</sup> and 43<sup>rd</sup> SACs, supported by two (2) V-150 armored personnel carriers, will proceed to their respective waypoints for reinforcement.<sup>68</sup>

The mission objective of Oplan EXODUS was to implement the warrant of arrest against High Value Targets (HVTs) such as Marwan, Basit Usman, and Amin Baco who were believed to be hiding at Pidsandawan, Rajah Buayan, Maguindanao. Moreover, the 84<sup>th</sup> SAC, the FIID team, the 55<sup>th</sup> SAC, and the 4<sup>th</sup> SAB were also involved in the implementation of Oplan EXODUS. Within the group, 84<sup>th</sup> SAC was tasked to penetrate and capture Marwan.

The following factors were considered during the planning of Oplan EXODUS:

1. Reliability of the information in relation to the targets;
2. Firearms, IEDS, and armed security in the target area;
3. Capability of enemy reinforcements in the target area;
4. Configuration of the terrain and obstacles;
5. Possible fields of fires;
6. Good avenues of approach;
7. IPB factors like the locations of friendly forces, MILF, BIFF and PAGs location and distribution in the area of interest particularly inside and outside the SPMS (Salbo-Pagatin-Mamasapano-Shariff Aguak) Box, their strength and armaments based on latest PSR (Periodic Status Report) of PRO ARMM;
8. EMPCOA (enemy most probable courses of action) and EMDCOA (enemy most dangerous courses of action);
9. Infiltration and extrafiltration tactics and procedures;
10. Contingency plans, reinforcement, and containment plans;
11. Medical evacuation plan;
12. Command and control;
13. Synchronization matrix;
14. Coordination matrix;
15. Decision matrix;

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<sup>68</sup> Sworn Statement of P/Supt. Train dated Feb. 4, 2015, p. 3, Q&A Nos. 16 and 19

- 16.Support from AFP;
- 17.Indirect fire support and air support;
- 18.Protocols of CCCH and AHJAG;
- 19.Additional equipment support from PNP Commel; and
- 20.Operational security and other relevant factors that would affect the mission.<sup>69</sup>

They continuously deliberated until the Oplan as a document was complete in the first week of January 2015.<sup>70</sup>

On January 9, 2015, Napeñas went to Malacañang and met the President at the Bahay Pangarap for the mission update and this time with a new CONOPS. Also present were Purisima, who earlier approved the plan, and the DIG. The President cited concerns about the coordination with the AFP and the number of personnel to participate in the operation. However, PD Napeñas told the President this: *“With all due respect sir, compromised po ang AFP. Planning and preparation stages during big operations are compromised.”* The DIG also expressed his concern whenever coordination with AFP is being undertaken. The President then made no comment.

Napeñas also averred that in the coordination table for Oplan EXODUS, the coordination with the AFP will be “Time-on-Target” (TOT).

After the meeting, Purisima told Napeñas and P/Supt Fernando Mendez: *“Huwag nyo muna sabihan yung dalawa, saka na pag andun na. Ako bahala kay Gen. Catapang.”*, referring to OIC, PNP Espina and SILG Roxas.

On January 19, 2015, DSAF directed the Rapid Deployment Battalion (RDB) commander, the 3<sup>rd</sup> Battalion commander and the SAF chief intelligence officer to iron out and polish the plan together with the participating troops of 84<sup>th</sup> SAC and 55<sup>th</sup> SAC, 5<sup>th</sup> SAB, and to make the final preparations for the operation. He also informed the DIG and Purisima regarding the window for Oplan EXODUS, which is from January 23 to 26, 2015.<sup>71</sup>

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<sup>69</sup> Sworn Statement of PSSupt Dela Rosa dated Feb. 5, 2015, p. 2, Q&A No. 9.

<sup>70</sup> Sworn Statement of PSupt Michael John C. Mangahis dated Feb. 4, 2015, p. 2.

<sup>71</sup> Sworn Statement of PDir Getulio Napeñas dated Feb. 5, 2015, p.4.

In his sworn statement, P/Supt. Abraham Abayari stated that three hundred ninety-two (392) SAF personnel, including those assigned in technical operations, were involved in Oplan EXODUS. He also averred that the location of the target was more or less six (6) kilometers away, by land travel, from the VDOP or the Advance Command Post (ACP) at Barangay Tukanalipao, Mamasapano. The assaulting team was given 5 to 6 hours to reach their target, after reaching the VDOP.<sup>72</sup>

P/Supt Michael John Mangahis narrated that Oplan EXODUS required the 84<sup>th</sup> SAC to move from Suralla, Sultan Kudarat, and proceed to the designated VDOP. During the three (3) hour interval, the 55<sup>th</sup> SAC would then move from the VDOP to their designated way point at Waypoint 19. The 4<sup>th</sup> SAB would next move from their final staging area in Esperanza, Sultan Kudarat to VDOP before proceeding to their designated waypoint per company. But the 4<sup>th</sup> SAB will only move to the VDOP, once the 84<sup>th</sup> SAC arrives at the target area.<sup>73</sup>

#### **4. Preparations of the 84<sup>th</sup> SAC, the Assault Team (Main Effort)**

Before the mission, the members of the 84<sup>th</sup> SAC conducted daily physical conditioning and familiarization of the terrain using Google Earth maps in order to view the aerial and land setting of the target area. They also rehearsed the avenues of approach they will use in cases of an encounter with armed groups.<sup>74</sup>

#### **5. Briefings Conducted among Different SAB/SAC Units**

As early as December 2014, operational briefings were already

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<sup>72</sup> Sworn Statement of P/Supt Abraham Abayari dated February 5, 2015, p.2, Annex "C-16"

<sup>73</sup> Sworn Statement of P/Supt Mangahis dated February 4, 2015, p.3, Q&A No. 24.

<sup>74</sup> Sworn Statements of PO2 Dominick Lukingan dated February 2, 2015, p1, Q&A No.8, Annex "C-35"; PO2 Ard Dulnuan dated February 2, 2015, p. 2, Q&A No. 22, Annex "C-36"; PO3 Rommel Magno dated February 2, 2015, p.2, Q&A No.11, Annex "C-37"; PO2 Jovalyn Lozano dated February 3, 2015, p.2, Q&A No.13, Annex "C-21"; PO2 Adolfo Andrada dated February 2, 2015, p.3, Q&A No. 30, Annex "C-22"; PO1 Yaumaldin Reniedo dated February 2, 2015 p.2 Q&A No. 19, Annex "C-27"; and PO2 Dioscoro Basañez dated February 2, 2015, p.2, Q&A No.11, Annex "C-26"

being conducted. The final briefing was made at General Santos City on January 24, 2015.<sup>75</sup>

P/Supt Hendrix Mangaldan, 4<sup>th</sup> SAB commander, recalled that he came to know of Oplan EXODUS last December 26, 2014 when he and the commanders of the 1<sup>st</sup> and 5<sup>th</sup> Batallion were ordered by P/Supt Mangahis to report to SAF headquarters in Bicutan on December 27, 2014 for a conference. Also present were the DSAF, DDSAF and the SAF Battle Staff. P/Supt Mangahis made the presentation on Oplan EXODUS. Mangaldan was designated as the ground commander for the said operation, although he was not directly involved in the mission planning and that the intelligence build-up was done solely by SAF intelligence division. There were instances where either PSupt. Mangahis, PSupt Train and PI Marasigan will just appear in their area to do intelligence build ups.

The planning in Manila was highly compartmentalized by the command group with special battle staff such as P/Supt Mangahis, P/Supt Train and PSI Marasigan. Mangaldan's involvement was only during the execution phase. According to P/Supt Mangahis and P/Supt Train, there was pressure from the higher ups for this operation. Also discussed during the conference were other CONOPS like vertical insertion and use of precision guided missiles. DSAF told them that such concept will involve the Army, which meant a high risk of compromise. The DSAF also informed them that he will be in charge of all coordinations, making them more confident because the coordination will already be from top brass level. He also told them that there will be no more abort criterias in this operation as it has been cancelled for several times and the same statement was reiterated several times by PSI Mangahis.

Specifically, PSupt Mangaldan's task in the operation was to supervise the blocking and containment process. He had no control over the 84<sup>th</sup> SAC ("Seaborne") and the 55<sup>th</sup> SAC. Instead, the Tactical Command Post (TCP) would be in control of the whole operation. Mangaldan was given a soft copy of the designated waypoints where he was to position the blocking and containment forces. He was told to discuss these with his troops. He was not given communication and

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<sup>75</sup> Sworn Statement of P/Supt Abraham Abayari dated February 5, 2015, p.1, Q&A No. 7.

organization diagrams.<sup>76</sup>

On January 23, 2015, PCI Corales, Jr. of the ISTAR team was directed by P/Supt Mangahis to proceed to their safe house in General Santos City. When he arrived there, he met DSAF Napeñas as well as other SAF officers. He was then informed that his team will be utilized in the said operation. The task given to his team was to conduct road reconnaissance on the stretch of Shariff Aguak to Mamasapano and Tuka junction toward Tukanalipao roads. His team was also tasked to secure the VDOP ahead of all operating troops. According to Corales, road reconnaissance meant to observe and gather information on the communities lying along a certain road, to determine road accessibility, capability and its condition. It also includes checking on hostile movement and other incidents that may affect the operation were also checked.<sup>77</sup>

At around 2:00 p.m. of January 24, 2015, P/Supt Mangahis conducted the final briefing of all team leaders at a safe house. During the briefing, P/Supt Mangahis emphasized that the 4<sup>th</sup> SAB's task was purely blocking and containment. He directed them to arrive in the designated areas by 2:30 a.m. of January 25, 2015 to secure the way points for exfiltration. This is because the Main Effort (ME) and the 55<sup>th</sup> SAC were expected to have engaged the target by that time. P/Supt Mangahis added that the MEs must reach the designated areas before proceeding to the blocking points to avoid compromise considering that the blocking force was large. Thus, the 4<sup>th</sup> SAB was told to secure the given way points for their exfiltration.

PSI Tabdi, the 84<sup>th</sup> SAC's officer-in-charge (OIC) conducted the pre-operational briefing. It was agreed that the ME1 will consist of four (4) eight-man teams and the six-man team of P/Supt Train. Train was attached to Team 1 including two (2) civilian guides, while two (2) snipers, PO1 Eugene B. Macasasa and PO1 John Mariel S. Galvo, and SPO4 Bill Fernando Jumalon were attached to Team 4.<sup>78</sup>

Prior to their dispatch in the evening of January 24, 2015, a briefing was conducted by Train and Tabdi. During the briefing, the

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<sup>76</sup> Sworn Statement of P/Supt Hendrix Mangaldan dated February 4, 2015, Annex "C-47."

<sup>77</sup> Sworn Statement of PCI Larry Corales, Jr. dated February 6, 2015, pp. 1-2.

<sup>78</sup> Sworn Statement of PO2 Ard P. Dulnuan dated February 2, 2015 p. 2, Q&A Nos. 2 and 3.

warrants of arrest against the above-cited subjects were shown to the operating troops<sup>79</sup>. They also discussed their respective tasks. Teams 1, 2, 3, and 4 of the 84<sup>th</sup> SAC were designated as assault team on the target area, while the 55<sup>th</sup>, 42<sup>nd</sup> and 45<sup>th</sup> SAC were designated as the support and blocking force. Teams 1 and 3 of the 84<sup>th</sup> SAC would assault Marwan's house. Teams 2 and 4 were in charge of the guard post of the enemy. The latter teams would then support Teams 1 and 3 when they entered the target area. The 55<sup>th</sup> SAC was designated the first support, 42<sup>nd</sup> SAC the second support and 45<sup>th</sup> SAC the third support according to the operational plan.<sup>80</sup>

### **a. Rules of Engagement**

PSI Rix Villareal was the team leader of the Team 3 of the ME1 (the assault team of 84<sup>th</sup> SAC). He recounted that during the briefing, they were informed and reminded of the Rules of Engagement. According to him, the first rule was to not engage the enemy unless fired upon. If there is gunfire, they should first determine if the gunfire is directed toward them. If it is, they must fire only when they have a clear shot. If the gun fire is not directed toward them, they were reminded not to engage the enemy or compromise their location or position. They were also informed not to engage with civilians, women and children who are not combatants. It was also of utmost priority to capture their targets alive.<sup>81</sup>

### **b. The Possibility of an Encounter with MILF, BIFF and PAGs**

In his statement, P/Supt Train averred that during their briefing, the teams were made aware that the target area is within the SPMS Box, which is the stronghold of the MILF's 105<sup>th</sup> and 118<sup>th</sup> BC, BIFF and PAGS.<sup>82</sup>

Meanwhile, PO3 Ryan Temporada claimed that during their briefing they were made aware of the possibility that they might likely

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<sup>79</sup> Sworn Statement of PO3 Samson A. Albinar dated February 2, 2015 p. 1, Q&A No. 5, Annex "C-33".

<sup>80</sup> Sworn Statement of PO1 Mariel Galvo dated February 7, 2015, pp. 2-3, Q&A Nos. 17 to 22, Annex "C-44".

<sup>81</sup> Sworn Statement of PSI Rix Villareal dated February 2, 2015, p.3, Annex "C-28."

<sup>82</sup> Sworn Statement of P/Supt Raymund Train dated February 4, 2015, pp.5, Q&A No. 37.

encounter the BIFF and Private Armed Groups (PAGs) rather than the MILF's 105<sup>th</sup> BC because of the peace talks<sup>83</sup>. On the other hand, according to PO3 Samson Alih, the only advice he heard during the briefing was for them to avoid engaging first the MILF elements in the area. They were told that there is someone in charge of the coordination with the MILF due to the on-going peace process and that the rest must proceed as planned.<sup>84</sup>

### **c. D-Day Reset to January 24, 2015**

SPO1 Reynaldo Tubog and PO3 Juanito Yogyog of the 84<sup>th</sup> SAC recounted that instead of launching the operation on January 23, 2015, the operation was moved the following day because based on the information relayed by their AAs, HVTs Marwan and Basit Usman were moving from one location to another inside the area of operation.<sup>85</sup>

## **6. The Role of the First Wave of ISTAR**

According to PO3 Ronald Reyes and PO1 Yasser Balabagan of the ISTAR-FIID team, their team leader, PCI Corales informed them in the morning of January 24, 2015, that Oplan EXODUS will push through in the evening of the same date. They were tasked as the first wave of the team. They jumped-off at around 3:15 p.m. of January 24, 2015.

Their task then was to assess the road from the Roundball (rotunda) of Shariff Aguak to the VDOP onboard a Honda XRM motorcycle. While they were at Barangay Bialong, Shariff Aguak and was about to enter the area of Mamasapano, more or less ten (10) men, one (1) carrying an M-16 rifle stopped them and warned them not to proceed. They followed the advice and sought concealment at a place in Barangay Poblacion, Shariff Aguak and waited for instructions from PCI Corales.

Thereafter, they sent a feedback that the area was clear and good to go. At around 10:00 p.m. of January 24, 2015, the first wave

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<sup>83</sup> Sworn Statement of PO3 Temporada dated February 2, 2015, p.3, Annex "C-29."

<sup>84</sup> Sworn Statement of PO3 Albinar dated February 2, 2015, p. 2, Q&A No. 10.

<sup>85</sup> Affidavit of SPO1 Tubog dated February 6, 2015 p.2 par.10, Annex "C-34"; Affidavit of PO3 Yogyog dated February 13, 2015, p.2, par. 13, Annex "C-23."

of SAF (reconnaissance and assault team) passed by their location and proceeded to the VDOP without any untoward incident. The second wave (the 55<sup>th</sup> SAC) followed at around 2:00 p.m. of January 25, 2015. They followed them to the VDOP and stayed to secure the area while the 55<sup>th</sup> SAC commenced to enter their area of operation.<sup>86</sup>

## **B. Execution of Oplan EXODUS on January 24-25, 2015**

### **1. Command Post Narrative**

The following facts were culled from the affidavits submitted by the affiants before the Board of Inquiry (BOI) during their investigation on the Mamasapano clash.

On January 25, 2015, the day of execution of the special police operation dubbed as “Oplan Exodus”, the following persons were at the TCP at the Headquarters of the 43<sup>rd</sup> SAC, Camp Datu Akilan, Shariff Aguak, Maguindanao.

#### **a. Police Director Getulio P. Napeñas**

On D-Day, January 25, 2015, Napeñas was at the TCP directing and monitoring the police operation.

At around 4:15 a.m. of the same day, he received information from P/Supt Train that the target was taken down through the cryptic message “*Bingo*”. Due to the heavy load of information and stressful situation, he allegedly failed to immediately inform OIC-PNP Espina including PDG Purisima of this fact.

He then informed PDG Purisima through text message that Marwan was taken down and while he was preparing his text message to OIC-PNP, his phone rang. Espina called and congratulated him for taking down Marwan. He then said that they needed AFP support in the extraction.

The TCP then received information at around 4:15 a.m. that the troops were engaged in a firefight with troops of Marwan. At past 6:00

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<sup>86</sup> Sworn Statement of PO3 Reyes dated February 7, 2015, pp. 2-3, Annex “C-324”; Sworn Statement of PO1 Balabagan dated February 7, 2015, pp. 1-2, Annex “C-325.”

a.m., Napeñas received information that the 55<sup>th</sup> SAC was engaged in a firefight.

Napeñas then instructed the Deputy Director of SAF (DDSAF), C/Supt Noli Taliño, to inform the Army's Mech Bde commander. He also informed through text message the division commander at about 5:09 a.m. and informed the Regional Director (RD) of PNP-ARMM about the status of the operation.

At around 6:00 a.m., the company commander of the 55<sup>th</sup> SAC radioed that they are under heavy enemy fire so he told them to maximize firepower. He then advised the OIC-PNP to request for AFP support and also advised PDG Purisima that reinforcement was needed. It was agreed during the mission update that he will call General Catapang for support. The OIC-PNP replied through text message to call up "Resty" for the details since he had already talked to him.

At around 7:45 a.m., the DDSAF went to the Army's 601<sup>st</sup> Brigade to request for support. The brigade commander sent six (6) armored vehicles including infantry troops to augment the SAF. DDSAF requested for artillery support to Gen. Pangilinan. However, Gen. Pangilinan replied that artillery cannot be utilized because of civilian presence in the area. All the while the Division Reconnaissance Company (DRC) and the rest of the blocking force tried to link up with the 55<sup>th</sup> SAC but because of heavy fire from enemy forces, they were not able to do so.

At 10:23 a.m., Napeñas received a forwarded message from Secretary of DILG inquiring if a video, photo or DNA sample was taken from Marwan. Napeñas answered in the affirmative.

Thereafter, P/Director Ingking of the Directorate for Integrated Police Operations (DIPO) informed him that efforts were being undertaken to effect a ceasefire by the Coordinating Committee on the Cessation of Hostilities (CCCH) and the International Monitoring Team (IMT).

At past 5:00 p.m., the Army's 6<sup>th</sup> ID fired three (3) white phosphorus shells at Barangay Tukanalipao to support the 84<sup>th</sup> SAC who were then surrounded by the enemy.

Napeñas stated that the main reason for the high number of SAF casualties was because the follow-on units to support 55<sup>th</sup> SAC and 84<sup>th</sup> SAC failed to occupy their positions and because the artillery support was not provided early on. He observed that when the white phosphorus shells landed near the position of the 84<sup>th</sup> SAC at about 5:30 p.m. the gunfire stopped and the attackers withdrew.

He also stated that the efforts of the CCCH and IMT are sometimes not honored by the armed groups plus the fact that some of the attackers are BIFF members who are not included in the peace process. He said that the CCCH and IMT may have delayed the reinforcement as the reinforcing troops were advised to hold ground to give way for the negotiating team. According to him, despite the presence of CCCH and IMT, the attackers continued to fire at the 84<sup>th</sup> and 55<sup>th</sup> SAC. Lastly, he stated that during the planning of the various operations, they received no guidance from higher authorities regarding the operations inspite of the peace process.<sup>87</sup>

**b. PCSupt. Noli G. Taliño**

He is the DDSAF. Part of his duties and responsibilities is to assist the DSAF in overseeing the operations and administrative functions of SAF personnel in directing, commanding and controlling all counter-terrorism and counter-insurgency operations, search and rescue and other high risk police operations.

When Oplan EXODUS was launched on January 24, 2015, they did not coordinate it with their AFP counterparts, CCCH, IMT, Ad Hoc Joint Action Group (AHJAG) and other PNP territorial forces because the arrangement was "Time-On-Target" (TOT). This meant that once the ME1 has reached the target, only then will the other units be informed and necessary coordinations done. The CPNP was also informed during the previous meetings with him about the meaning of TOT, to address operational security and other leakages of information.

As DDSAF, Taliño was tasked to assist the DSAF in controlling, commanding and directing the operating troops and to coordinate with the Army's 1<sup>st</sup> Mechanized Brigade, 6<sup>th</sup> ID upon TOT.

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<sup>87</sup> Sworn Statement PDir Getulio Napeñas dated February 5, 2015.

Pursuant to the said arrangement, he coordinated with Col. Gener Del Rosario on or about 5:00 a.m. of January 25, 2015 through text message, informing the latter of the operation. At around 5:30 a.m., he also called S/Supt Noel Armilla, the OIC of the PNP Police Regional Office-Autonomous Region of Muslim Mindanao (PRO-ARMM). Taliño then texted S/Supt Javier also of PRO-ARMM to inform him of the said operation. After making the coordination, he stayed in the TCP to monitor the events.

At around 6:30 a.m., PSI Pabalinas, team leader of the 55<sup>th</sup> SAC, called and asked for reinforcement and indirect fire support because his team was under heavy enemy gunfire. Pabalinas was instructed by DSAF to maneuver, break the enemy line and to use all their firepower against the enemy. Thereafter, DSAF ordered Taliño to personally see Col. Gener Del Rosario and ask for artillery support. However, Gen. Edmundo Pangilinan, the commanding general of the 6<sup>th</sup> ID did not approve the request for artillery support due to the ongoing peace process. Col Del Rosario instead deployed six (6) armored vehicles with the Division Reconnaissance Company (DRC) as quick reaction force (QRF). P/Supt. Mangahis accompanied the DRC to the Advance Command Post (ACP) and endorsed them to P/Supt Hendrix Mangaldan (ground commander in the ACP) to conduct reinforcement to the 55<sup>th</sup> SAC.

Taliño returned to the TCP and while he was there, he overheard DSAF instructing P/Supt Mangaldan to make a way to reinforce the 55<sup>th</sup> SAC. However, the reinforcements could not further drill their way through the enemy line because of heavy gunfire. Simultaneously, he sent a text message to Col. Del Rosario regarding the location and grid coordinates of the SAF troopers and that of the enemy. He also reiterated the request for fire support but there was no reply.

At around 2:30 p.m., while the SAF troopers and DRC contingents exerted efforts to get closer to the 55<sup>th</sup> SAC, DSAF decided to transfer the TCP to the the 1<sup>st</sup> Mechanized Brigade at the Shariff Aguak Capitol Building. Gen Edmundo Pangilinan and Col. Del Rosario were also there. Taliño noticed that DSAF was busy with his mobile phone, making calls and sending messages. But he was not sure if DSAF called up the CPNP about the situation. There was an instance, however, that DSAF informed DDSAF that OIC, PNP called up in the early morning and congratulated them about the operation.

Taliño was not aware of the coordination made with the CCCH, IMT or AHJAG regarding the on-going firefight between SAF and MILF but he knew that DSAF asked PD Ingking to coordinate with them. According to him, SAF suffered many casualties with Oplan Exodus because the operating teams were not given artillery support on time. Had the first request for artillery fire support in the morning been granted, casualties on the government side could have been minimized.<sup>88</sup>

### c. S/Supt. Richard Dela Rosa

He is the Chief of the Intelligence/Investigation Division of SAF. It is his duty to assist the Director of SAF on intelligence matters pertaining to the SAF mandate. Previously, he was the Chief of the Regional Intelligence Division (RID) of PRO 13.

Dela Rosa was at the TCP in Shariff Aguak together with the DSAF, the operations officer of Rapid Deployment Battalion (RDB) PSI Espe and the OIC of ARMM during the execution of Oplan EXODUS. They monitored the mobilization of the MILF through their operatives and informants as well as through signal intelligence.

On January 25, 2015, at around 5:00 a.m., Dela Rosa called Col. Allan Hambala of the Army's 6<sup>TH</sup> ID, and informed him about the on-going encounter between the SAF members and the enemy. At around 8:00 a.m., Dela Rosa called Hambala again to convey the fact that there is still an on-going battle between the SAF and opposing forces at Mamasapano.

At around 9:30 a.m. of January 25, 2015, the DSAF gave instructions for the 45<sup>th</sup> and the 43<sup>rd</sup> SAC to link up with the 55<sup>th</sup> SAC. He reminded them to maneuver, "*bumutas*" ("to drill") and to fire their 90 mm recoilless rifles (90RR). Moreover, DSAF also constantly updated the higher officials about the situation. After lunch of the same day, the DSAF decided to transfer the TCP to the headquarters of the 1<sup>st</sup> Mechanized Division (Mech Div).

The request for indirect fire support was granted at around 5:00 p.m. Hence, the first round of white phosphorous was fired at around

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<sup>88</sup> Sworn Statement of P/CSuptTaliño dated January 27, 2015, Annex "C-13."

5:30 p.m., landing 700-800 meters south of the position of the 84<sup>th</sup> SAC. The second round of white phosphorous landed 400-500 meters south of 84<sup>th</sup> SAC's location. At around 6:00 p.m., the third and last round of white phosphorous was fired.

At 7:00 p.m., they received reports that the armed groups that engaged the 84<sup>th</sup> SAC have already withdrawn from the area. After the ceasefire, the SAF commandos waited for the casualties to be transported out of the engagement area. One (1) platoon of SAF commandos and the 6<sup>th</sup> ID's DRC linked up to rescue the 84<sup>th</sup> SAC by 11:00 p.m.

Dela Rosa added that ME1 may have reached the target area unnoticed and killed Marwan. But this also led to a heavy loss of forty-four (44) KIPO (killed in police operation) and fifteen (15) WIPO (wounded in police operation) on the side of the SAF with a number of high-powered firearms and crew served weapons missing. More importantly, the ME and support elements were not able to link-up at the desired point and failed to implement their exfiltration plan. Thus, the improvisation to break enemy's engagement position did not successfully work. The ceasefire orders were also not followed and enforced. Meanwhile, there was no indirect fire support to disrupt the armed groups that were firing and advancing towards the 55<sup>th</sup> SAC's position.<sup>89</sup>

#### **d. P/Supt Michael John C. Mangahis**

He is the Battalion Commander of 3<sup>rd</sup> Special Action Battalion based in Camp Bagong Diwa, Bicutan, Taguig City.

Mangahis was at the TCP, which was the headquarters of the 43<sup>rd</sup> SAC, together with Napeñas, Taliño, Dela Rosa, P/Supt Abayari, P/Insp Lyndon Espe, PO2 Belmes, and *six (6) Americans* whom he only met there during the operation.

On January 25, 2015, the 84<sup>th</sup> SAC reached the target area at about 4:00 a.m., instead of 3:00 a.m. as planned. Thereafter, the 4<sup>th</sup> SAB moved to the VDOP after getting clearance from DSAF. On the other hand, while the 55<sup>th</sup> SAC was on its way to Waypoint 12, they

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<sup>89</sup> Sworn Statement of PSSupt Dela Rosa dated February 5, 2015.

noticed the presence of civilians. At this juncture, DSAF directed the 55<sup>th</sup> SAC to monitor and observe the situation before moving. Later on, the 4<sup>th</sup> SAB was instructed by DSAF to move to their designated VDOP. Twenty (20) minutes later, Mangahis heard through the radio the codeword "*Bingo*" which meant that the target has been neutralized. The DSAF then directed the 84<sup>th</sup> SAC to withdraw from the area because it was almost daylight.

At about 5:00 a.m., Mangahis heard via radio that the 55<sup>th</sup> SAC was engaged in a gunfight. At about 6:00 a.m., Mangahis asked for clearance from DSAF for coordination with the Regional Health Office (RHO) of PRO11 and PRO12 to prepare ambulances and medical crews.

At about 7:00 a.m., Mangahis, accompanied by PO2 Belmes, went to the Army's 1<sup>st</sup> Mechanized Brigade at the Maguindanao Capitol in Shariff Aguak to coordinate with Col. Gener Del Rosario for possible reinforcement. Upon their arrival at the 1<sup>st</sup> Mechanized Brigade, Mangahis briefed Col. Del Rosario about the situation of the troops. After the briefing, two (2) options were discussed to wit: *Option 1*-Artillery or indirect fire or *Option 2*-Infantry and Mechanized Reinforcements. However, C/Supt Taliño arrived and informed them that Option 1 is not feasible because of the peace process. Thus, Option 2 was put into place, and at about 8:00 a.m., one (1) section of infantry and six (6) mechanized vehicles (tanks) were assembled. Thereafter, Mangahis accompanied the reinforcement troops to the VDOP/ACP, and turned them over to P/Supt Mangaldan, the ground commander in the area.

At 12:00 p.m. of January 25, 2015, eight (8) members of the CCCH and IMT led by Toks Upam arrived at the designated VDOP, and informed them to cease fire. The CCCH and IMT tried to contact the commanders of the MILF for a ceasefire. The members of the CCCH and IMT later left.

At around 2:00 p.m., the same members of the CCCH and IMT returned with local officials, and informed Mangahis and Mangaldan that they are going to enter the encounter area because of the diminishing gunfire. The CCCH and IMT also informed Mangahis and Mangaldan that there were more than thirty (30) casualties on the part of the SAF at the area of the 55<sup>th</sup> SAC.

By 8:00 p.m., Mangahis was at the ACP to check the preparation and movements of the troops. At about 9:30 p.m., he went back to the VDOP and saw five (5) bodies of members of the 55<sup>th</sup> SAC which were turned over by the local community. Subsequently, this incident was reported to the TCP. The latter also informed him that the rescue team for 84<sup>th</sup> SAC was already on its way.

The rescue team arrived at 5:30 a.m. of January 26, 2015, and the cadavers were loaded on to the vehicles, while the injured were placed in another truck. Afterwards, they went to the TCP, and reached the latter at around 6:30 a.m. of the same date.<sup>90</sup>

**e. P/Supt Abraham D. Abayari**

He is the battalion commander of the Rapid Deployment Battalion (RDB) at Camp Bagong Diwa, Taguig City.

On January 24, 2015, Abayari was supervising the assault team at the TCP, located at the 43<sup>rd</sup> SAC headquarters, Camp Datu Akilan, Shariff Aguak, Maguindanao or 14 kilometers away from the area of operation.

According to Abayari, PSI Gednat Tabdi of the 84<sup>th</sup> SAC gave him the following updates:

- 10:00 p.m. of January 24, 2015, the assault team was at VDOP at Brgy. Tukanalipao, Mamasapano, Maguindanao
- 11:20 p.m., the assault team reached Way Point 8 or two (2) kilometers from the VDOP.
- 1:00 a.m., January 25, 2015, the assault team reached Way Point 13
- 2:00 a.m. the assault team reached Way Point 18.
- 4:00 a.m., the assault team was engaged in a firefight
- 4:30 a.m., the assault team was headed toward the location of the 55<sup>th</sup> SAC
- 7:00 a.m., the assault team was at Way Point 17 trying to link-up with 55<sup>th</sup> SAC but was blocked by huge number of armed groups.

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<sup>90</sup> Sworn Statement of PSupt Mangahis dated February 4, 2015.

By 4:00 p.m., Abayari learned that PSI Tabdi was already killed in action (KIA)

He stated that as early as 6:00 a.m. of January 25, 2015, DSAF requested AFP for support. At 6:00 p.m., three (3) rounds of white phosphorus artillery shells were fired. At around 7:30 p.m., teams from 45<sup>th</sup> SAC and the Army's 6<sup>th</sup> ID's Division DRC penetrated the location of 84<sup>th</sup> SAC. The 84<sup>th</sup> SAC was extracted by 11:30 p.m.<sup>91</sup>

#### **f. PSI Lyndon A. Espe**

He is a member of the 84<sup>th</sup> SAC. During the implementation of Oplan Exodus, he was at the TCP and designated as a map plotter. He was also tasked to relay instructions from the DSAF to the radio operator.

On January 24, 2015, the TCP was established at 43<sup>rd</sup> Special Action Company inside Maguindanao Police Provincial Office. However, on January 25, 2015, the TCP was transferred to 1<sup>st</sup> Mechanized Brigade located at Maguindanao Old Capitol in Shariff Aguak, Maguindanao.

On January 24, 2015, PSI Espe attended a briefing conducted by DSAF at General Santos City. Among the matters discussed were:

- a) the ability of the Main Effort to infiltrate the area incognito;
- b) the contingency plans in the event that, prior to reaching the target, a firefight with the enemy occurs; and
- c) actions on objectives/subjects.

At around 8:30 p.m., PSI Gednat Tabdi informed PSI Espe that the ME1 has already jumped-off from their staging point in Isulan, Sultan Kudarat.

PSI Espe was likewise given updates at to the whereabouts of the ME, to wit:

<b>Time</b>	<b>Location</b>
Jan 24, 2015:	

<sup>91</sup> Sworn Statement of PSupt Abayari dated February 5, 2015

10:50 PM	Waypoint 7
11:20 PM	Waypoint 8
January 25, 2015:	
12:42 AM	Waypoint 13 (approaching)
2:20 AM	Waypoint 19 (GC 51NXH 6885567155)
4:07 AM	Vicinity of GC 51NXH 6934867563); Main Effort assaulted objective, and was engaged in a firefight with terrorist armed group.

Thereafter, P/Supt Train informed PSI Espe through voice call saying "*Bingo, Bingo*", which meant that Marwan has been captured or neutralized.

Train and Tabdi continued to inform PSI Espe about the location of the ME1, to wit:

Time	Location
January 25, 2015:	
6:37 AM	Waypoint 17
11:22 AM	GC 51NXH 6839266339
1:42 PM	GC 51NXH 6835866257
4:00 PM	PSI TABDI and nine (9) others are dead and almost all were wounded
4:31 PM to 7:35 PM	GC 51 NXH 6887765547
11:45 PM	Main Effort joined the composite team of SAF and Army at GC 51NXH 688663

PSI Espe also stated that DSAF instructed him to inform the ME1 that there is a cease fire. He also informed PSupt Train about the instruction.

After the operation, a debriefing was held at the 43<sup>rd</sup> SAC headquarters, which was attended by all TCP personnel.<sup>92</sup>

**g. PO3 Lloyd T. Ensoy**

He is presently assigned at the SAF Communications and Electronics (Commel) office based in Camp Bagong Diwa, Taguig City.

<sup>92</sup> Sworn Statement of PSI Espe dated February 8, 2015, Annex "C-17."

On January 22, 2015, he received instructions from P/Supt Abraham Abayari, battalion commander of the SAF Rapid Deployment Battalion (RDB), to proceed at the 43<sup>rd</sup> SAC in Shariff Aguak, Maguindanao and assigned as Radio Base Operator.

On January 23, 2015, while he was at the 43<sup>rd</sup> SAC office in Shariff Aguak, he checked all the radio communication equipment consisting of two (2) Harris base radios and one (1) Motorola base radio. They were all functional.

During the operation, Ensoy was at the TCP. At the very start of the operation at around 11:00 p.m. of January 24, 2015, he conducted radio checks to all key personnel of the operating units in the field using their respective call signs. The following are the call signs of the respective units:

1. Razor – PSI Eraña of the 55<sup>th</sup> SAC
2. Iron Man – PSI Pabalinas of the 55<sup>th</sup> SAC
3. Predator – PI Gamutan, 55<sup>th</sup> SAC
4. Houston – PSI Anniban, 55<sup>th</sup> SAC
5. ME-1 – 84<sup>th</sup> SAC, Seaborne
6. ME-2 – 55<sup>th</sup> SAC
7. ACP – P/Supt Mangaldan, Ground Commander, ACP
8. 43<sup>rd</sup> SAC – PSI Yparraguirre

He wrote on a piece of paper some of the radio calls he received but the rest of the calls were directly heard and monitored in the TCP. The first who made radio contact among the call signs Ensoy handled was RAZOR (PSI Eraña of the 55<sup>th</sup> SAC). At 4:00 a.m. of January 25, 2015, RAZOR called and reported “*nagkaputukan na ang main effort-1.*”

At 5:00 a.m., RAZOR called again and stated “*may nakita na kaming kalaban.*” Ensoy asked about their location or waypoint and RAZOR replied that his troops were in Waypoints 11 and 12. After a couple of minutes, RAZOR called again, “*palapit na ng palapit ang mga kalaban at parami ng parami.*”

At 6:00 a.m., RAZOR called to report, “*na-engage na kami*”. Ensoy narrated that he could hear successive gunfire in the background. By 7:00 a.m., Razor requested, “*TCP reinforcement,*

*maraming kalaban at may sugatan na sa mga tropa.*" Ensoy was instructed by DSAF to broadcast to all troops on the ground to advance to the location of the 55<sup>th</sup> SAC.

At around 11:20 a.m., DSAF instructed Ensoy to broadcast to the ground troops to hold their fire to pave the way for the incoming CCCH who will intervene on the battle ground. He monitored on the radio that the 43<sup>rd</sup> SAC was calling to the 55<sup>th</sup> SAC that they are on their way to reinforce but they do not know the latter's location. The 55<sup>th</sup> SAC replied that they will make a "lets go" fire for them to be located. Moments later, the 43<sup>rd</sup> SAC radioed that it is impossible for them to proceed since a huge number of armed groups were blocking their way and engaging them in a heavy firefight.

After half an hour, RAZOR called up and was again asking for reinforcement and the location of 84<sup>th</sup> SAC. He repeatedly called and asked desperately for reinforcement. At around 1:00 PM, RAZOR called up saying "*maubos na kami.*" His radio then went silent. Ensoy tried to contact RAZOR again but did not get any reply.<sup>93</sup>

After RAZOR contacted him, he tried to call them and said, "*lahat ng 55<sup>th</sup> pakipindot ng PTT ninyo pag naririnig niyo pa ako*" for several times, but he never received any response.<sup>94</sup>

At around 1:30 p.m., DSAF instructed Ensoy to broadcast to all the troops in the field to cease fire because representatives of the CCCH are on their way for mediation. He also made a broadcast not to use their hand held radios because their communication lines were already compromised.<sup>95</sup>

## **2. The 84<sup>th</sup> SAC's Narrative of the Capture/Kill Plan at Brgy. Pidsandawan, Mamasapano, Maguindanao and its Adjoining Barangays**

The Main Effort 1 (ME1) was tasked as the assault team that will implement the warrant of arrest against Marwan, Usman and Amin Baco. The ME1 was composed of the team of P/Supt Raymond

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<sup>93</sup> Sworn Statement of PO3 Ensoy dated February 5, 2015, Annex "C-18."

<sup>94</sup> Minutes of the Clarificatory Hearing on March 27, 2015, p. 7, par. 3, attached as Annex "I-1"

<sup>95</sup> Sworn Statement of PO3 Lloyd Ensoy dated February 5, 2015.

Train from the Seaborne intelligence unit and the the 84<sup>th</sup> SAC. The following are the SAF members that comprised ME1<sup>96</sup>.

No	Name	Designation	Remarks <sup>97</sup>
<b>84<sup>th</sup> SAC, Rapid Deployment Battalion (ME1)</b>			
<b>Forward Recon Team 84 SAC/FIID</b>			
1	PSupt Raymund A. Train	Over-all Team Leader	
2	PI Recaredo Marasigan	Team Leader	
3	SPO1 Allan L. Franco		
4	SPO4 Bill Fernando P. Jumalon		
5	PO1 John Mariel S. Galvo		
6	PO1 Eugene B. Macasasa		
<b>Team 841</b>			
1	PInsp Gednat G. Tabdi	Team Leader	KIPO
2	PO2 Jovalyn D. Lozano	Pointman/Assaulte r	WIPO
3	PO1 Yaumaldin B. Reniedo	Radioman	WIPO
4	PO2 Adolfo C. Andrada	Medics	WIPO
5	PO2 Dioscoro A. Basañez	Navigator/Assaulte r	WIPO
6	PO3 Juanito A. Yogyog	Gunner	
7	PO2 Jose S. Mana-ar, Jr.	Navigator/Assaulte r	WIPO
8	PO2 Carlos B. Bocaig	Gunner	
<b>Team 842</b>			
1	PInsp Rennie L. Tayrus	Team Leader	KIPO
2	SPO1 Lover L. Inocencio	Asst. Team Leader	KIPO
3	PO3 Rodrigo F. Acob, Jr.		KIPO
4	PO3 Virgel S. Villanueva		KIPO
5	PO2 Peterson I. Carap	Pointman	KIPO
6	PO2 Roger C. Cordero	Medics	KIPO
7	PO2 Nicky D.C. Nacino, Jr.		KIPO

<sup>96</sup> Source: Oplan Exodus

<sup>97</sup> Culled from the list submitted by the Chief of Directorial Staff (CDS), SAF PSSupt Amando Bantas Empiso dated January 26, 2015 which is attached to the Medico-Legal Report submitted by the PNP-Directorate for Investigation and Detective Management (DIDM), Annex "D."

8	PO1 Angel C. Kodiamat		KIPO
<b>Team 843</b>			
1	PInsp Rix S. Villareal	Team Leader	WIPO
2	PO3 Rommel P. Magno	Navigator	WIPO
3	PO3 Samson A. Albinar		WIPO
4	PO3 Ryan J. Temporada		WIPO
5	PO2 Dominick O. Lukingan	Tail Scout	WIPO
6	PO1 Jessie O. Surio		WIPO
7	SPO1 Reynaldo B. Tubog		
8	PO3 Darwin M. Rama		
<b>Team 844</b>			
1	SPO2 Hamidhan B. Tebbeng		
2	PO2 Solomon A. Agayso		
3	PO3 Arnil L. Ruiz		
4	PO2 Ard P. Dulnuan		WIPO <sup>98</sup>
5	PO2 Wharlther Jay T. Rebucas		
6	PO1 Clifford P. Agayyong		
7	PO1 Bembo S. Gumilab		
8	PO1 Victory R. Fernandez		
<b>84<sup>th</sup> SAC, RDB (Driver)</b>			
1	PO2 Edford Ananayo		
2	PO1 Ramon D. Dagle III		
3	PO1 Sergio B. Divinagracia		
4	PO1 Ronaldo M. Isip		
5	PO1 Bembo S. Gumilab		

The 84<sup>th</sup> SAC survivors recall that prior to Oplan EXODUS, they launched a series of operations against the subjects. However, all the previous police operations were aborted for various reasons, ranging from modes of insertion of troops, wrong choice of boats to ferry the assault team, to being compromised when they were engaged by armed men before they reached their targets.

<sup>98</sup> Based from the reading of the affidavits executed by 84<sup>th</sup> SAC, PNP-SAF, PO2 Dulnuan is one of those who were wounded/ sustained injuries during the Mamasapano encounter on January 25, 2015.

The CONOPS of Oplan EXODUS was insertion by foot and without using boats. Instead, forward trucks were to be used in the insertion to the VDOP<sup>99</sup>. The locus of the police operation is the vicinity of Barangay Pidsandawan, Mamasapano. The events that transpired during the actual police operation are contained in the individual narrations of the following survivors:

**a. P/Supt Raymund A. Train**

P/Supt Raymund Train was the designated SAF intelligence officer in the Mindanao area. As such, and as former 84<sup>th</sup> Seaborne commander, he was part of previous operations against Marwan even prior to January 25, 2015.

He stated that Marwan is a high value target (HVT) who is included in the FBI's and DND-DILG's most wanted list. Marwan is an IED specialist responsible for the series of bombings in Mindanao.

He narrated that planning for Oplan EXODUS started at the SAF headquarters at Camp Bagong Diwa right after the second attempt (2<sup>nd</sup> week of December 2014) was aborted. He was with the team who conducted the planning together with DSAF, DDSAF and other relevant officers. The targets were Marwan, Basit Usman, Amin Baco alias "Johan" and Ben Said and Rezza.

On January 12, 2015, Train left Manila for Zamboanga. On January 21, 2015, he, together with the rest of the reconnaissance team went to Central Mindanao and stayed in a safehouse. The rest of the operating troops stayed in Surallah and Isulan in Sultan Kudarat (staging point) while the ISTAR (recon team) was on standby at Shariff Aguak for clear route confirmation. The jump-off from staging point was set for January 24, 2015 at 8:00 p.m.<sup>100</sup>

P/Supt Train stated that he had in his possession a copy of the warrant of arrest for the three HVTs (Marwan, Basit Usman and Amin Baco) whom they were supposed to arrest. There was only one (1) warrant for all the three HVTs, issued in 2007 by a Regional Trial

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<sup>99</sup> Sworn Statement of PSupt Train dated February 4, 2015, p.2, Q&A No. 7.

<sup>100</sup> Id., pp. 1 and 3

Court in Kidapawan City.<sup>101</sup> PSI Gednat Tabdi also had a copy of the warrant in his possession at the time of the operation.<sup>102</sup>

The team started to walk on foot from the VDOP and crossed five (5) rivers until they reached the target area at around 4:14 a.m. of January 25, 2015. They were supposed to hit the target at 3:00 a.m. but was delayed by river fording difficulties.

When they reached the river bank, their AA guides stayed there because the area where the target is located is a known territory of the MILF and BIFF. When he and Capt. Tabdi were able to cross the river, they did a headcount and when from his assessment, they had enough number for the mission, they proceeded to the hut of Marwan.<sup>103</sup> Thirteen (13) members of the team were with him when they assaulted the target because if they waited for the rest of the team, they will lose the element of surprise as it was nearly prayer time at 4:00 a.m.

The plan was for them to serve the warrant using the soft approach.<sup>104</sup> They will serve the warrants on Marwan first then Basit Usman next, since from the river, the hut of Marwan can be found first, then a mosque and three houses, then the house of Basit Usman.<sup>105</sup>

When they reached the target house, one of the SAF commandos tripped an Improvised Explosive Device (EID) trap, which exploded hitting the point man and Train with shrapnel. A burst of gunfire emanated from the target house which prompted Train's team to return fire, until they were able to kill Marwan. According to his men, there were two (2) persons who went out of the hut of Marwan during the firefight.<sup>106</sup>

After taking down Marwan, the SAF commandos conducted Sensitive Site Exploitation (SSE) and took photographs of the target and the target house.

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<sup>101</sup> Minutes of the Hearing by the Joint NBI-NPS SIT on March 27, 2015, p.3, par. 5, Annex "I-1."

<sup>102</sup> Id., p. 3, par. 6

<sup>103</sup> Id., p. 3, par. 8 and p. 4, par. 1

<sup>104</sup> Id.

<sup>105</sup> Id., p. 4, par. 1

<sup>106</sup> Id., p. 3, par. 7

They were supposed to conduct an iris scan for retina recognition on Marwan, however, they were rattled when they were fired upon by the group of Basit Usman. Hence, PSI Tabdi decided to sever the left index finger of Marwan as their DNA sample. The left index finger of Marwan was placed in a SSE pouch and was given to PO2 Dioscoro Basañez.<sup>107</sup> Then they started to extricate. They were moving smoothly, until they were engaged by armed groups about 200 meters away from the target house.

When they were met by gunfire, Train's team took defensive positions and assessed the threat/risk of returning fire. He also informed the TCP that they are under fire. They heard gunfire about 500 meters from their position. The TCP then informed Train that the 55<sup>th</sup> SAC, who were supposed to secure their route during extrication, was also under fire.

The Oplan failed to materialize. The supporting units from the 4<sup>th</sup> SAB were not able to occupy their designated waypoints. The 55<sup>th</sup> SAC was under heavy fire. The TCP then ordered the Train's team to link up with the 55<sup>th</sup> SAC if possible. But every time they moved, they were pinned down by sniper fire that slowed their movements.

When the assault team was under heavy fire, they established a defensive position near a *nipa* hut and radioed for support and reinforcement several times. The TCP then relayed that it already asked for reinforcements.

The gun battle lasted the whole day and ceasefire was attained only at around 6:30 p.m. of January 25, 2015. The assault team also moved from one place to another to confuse the enemy. Nevertheless, the team suffered many casualties from sniper and mortar rounds in the afternoon between 2:00 to 6:00 p.m.

On the issue of coordination, Train averred that the planners agreed to use "Time-on-Target" as basis of coordination to ensure operational security. The plan was to inform the AFP only after Train gave the signal that the target is already taken down by calling the TCP and mentioning the word "*Bingo*". He gave this signal at around 4:15 a.m. of January 25, 2015.

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<sup>107</sup> Id., p. 5, pars. 4-5

P/Supt Train explained that the word “bingo” is a Special Operations Language. “Bingo” is a brevity code to mean that the aim, which is to serve the warrant of Marwan, has been accomplished.<sup>108</sup>

He stated that they did not run out of ammunitions because he instructed his men to have fire discipline and shoot only when they see the enemy. However, he said that many of their M203 grenades were duds when they launched them at the enemy.<sup>109</sup>

#### **b. SPO1 Allan L. Franco**

SPO1 Allan Franco was the reconnaissance operative in the area of operation and in charge of collecting information on the whereabouts and the exact locations of Marwan and Basit Usman. During the operation, he served as the handler of the two (2) Action Agents (AA), [REDACTED] and [REDACTED], who guided them in going to the area of operation.

P/Supt. Train conducted a final briefing before the operation was launched in the evening of January 24, 2015. They jumped-off and proceeded to the VDOP. Franco was with the AAs and the lead team that would guide the troops to the exact location of the targets.

When they reached the VDOP, they immediately disembarked from their vehicle and went to the cornfields and moved toward the targets by crossing rivers. They reached the target house more or less at 4:00 a.m. of January 25, 2015. When they were three (3) to four (4) meters away from the target house, they formed an “L position” and before the arresting team of PSI Tabdi were able to move, an explosion occurred. A firefight then erupted for about five (5) minutes. Thereafter, PSI Tabdi and his men went inside the hut and collected the evidence including the specimen of the subject and took photographs.

They then withdrew from the area and walked toward the river bank to link up with their other companions. They also tried to link-up with the 55<sup>th</sup> SAC. However, when they moved toward the 55<sup>th</sup>

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<sup>108</sup> Id., p. 4, par. 4.

<sup>109</sup> Sworn Statement of P/Supt. Train dated February 4, 2015.

SAC, they saw heavily armed men. They concealed themselves using the thick bushes and observed. Franco and his team saw armed men just five (5) meters away pass by their location.

According to his AAs, the armed men were members of the

While they were in hiding, Franco heard the conversations of these armed men and when he asked his AAs what the topic was, the AAs told him that they were attracted by the SAF's firearms and they called on their other comrades so that they will be among the first to recover the firearms and not another group. They stayed concealed in their position until around 8:00 a.m. They heard the volume of gunfire coming from the 55<sup>th</sup> SAC's location. Franco also states that the 55<sup>th</sup> SAC were attacked by MILF and BIFF members.<sup>110</sup>

The MILF members were engaging the SAF commandos at around 9:00 a.m. of January 25, 2015, when one of the armed men shouted that there are still police officers concealed in the area. According to one of Franco's AAs, he heard that when the armed men proceeded to the area of the 55<sup>th</sup> SAC, they could no longer position themselves to attack the latter because there were already enough MILF attacking and surrounding the said commandos. Thus, the enemy went to the position of the 84<sup>th</sup> SAC and surrounded the place where they were hidden.

P/Supt Train ordered three (3) line formations and, using "bounding over-watch" maneuver toward the enemy with continuous gun fire to prevent being surrounded and elude the attacking force of the MILF. The maneuver afforded them the chance to regroup and to look for another concealment. Later, enemy snipers fired at Franco's team and hit PO1 Reniedo. Mortar fire then hit their position which caused confusion among them.<sup>111</sup>

Subsequently, PSI Tabdi received a text message from PSI Espe who advised them not to use the previous extraction route because the 55<sup>th</sup> SAC was already besieged. PSI Espe gave them the coordinates of the new withdrawal route. Thus, at high noon of January 25, 2015,

<sup>110</sup> Also contained in Page 4, Question and Answer No. 28 of the Sworn Statement of PO2 Carlos B. Bocaig dated February 13, 2015, Annex "C-24."

<sup>111</sup> See also, Sworn Statement of PO2 Carlos B. Bocaig dated February 13, 2015, p.5, Q&A No. 30.

Train ordered them to move following the given directions, crawling inside the cornfields to avoid detection until they reached the place where there are many banana plants and coconut trees. They hid in the area while they engaged in a continuous running battle against the enemy.

At about 5:30 p.m., three (3) successive artillery shells landed near their position. Franco saw that the enemy was withdrawing to unknown locations leaving them behind. They moved to the location of Train and Tabdi. Franco saw his wounded and dead comrades. He applied first aid to the wounded members, including his AA who sustained gunshot wounds on his right arm and chest.

While waiting for reinforcement, they accounted for the dead bodies of their comrades and conducted 360 degree security. At around more or less 10:00 p.m., the Army 6<sup>th</sup> ID DRC and members of the 4<sup>th</sup> SAB arrived and helped them carry their dead and wounded comrades.<sup>112</sup>

### **c. Team 1(841), 84<sup>th</sup> SAC**

The following members of Team 841 of the 84<sup>th</sup> SAC survived and narrated the events from their vantage point: **PO2 Jovalyn D. Lozano, PO2 Adolfo C. Andrada, PO3 Juanito A. Yogyog, PO2 Carlos B. Bocaig, PO2 Jose S. Mana-ar, Jr., PO2 Dioscoro A. Basañez, and PO1 Yaumaldin B. Reniedo**

PO2 Jovalyn Lozano was the designated Point Man of the Forward Recon Team.<sup>113</sup> PO2 Adolfo Andrada was the over-all combat medics of the Assault Team. PO3 Juanito Yogyog was the Assistant Team Leader of Team 1 (841) with Team Leader PSInsp Gednat Tabdi. PO2 Carlos Bocaig was the Gunner of Team 841. PO2 Jose Mana-ar, Jr. was the Navigator and Pointman. PO2 Dioscoro Basañez was the Rifle Man and Navigator. PO1 Yaumaldin Reniedo was designated as the Radio Man responsible for communicating to the other teams in the field and relaying information to the TCP.

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<sup>112</sup> Sworn Statement of SPO1 Franco dated February 13, 2015,

<sup>113</sup> Sworn Statement of PO2 Lozano dated February 3, 2015, p.1.

Oplan EXODUS was launched on January 24, 2015 at around 9:00 PM. At 7:00 p.m., a final briefing was conducted by PSI Tabdi and P/Supt Train.<sup>114</sup> When the Assault Team (ME1) reached the VDOP, they immediately disembarked from their vehicle and inserted themselves in a cornfield moving toward their target.<sup>115</sup> They made their way from the insertion point going to the target by passing along a make-shift bamboo bridge across the river and travelled on foot, passing and crossing rivers six (6) times.

It took them almost six (6) hours before reaching the river near the location of their subject. They placed markers visible only through their Night Vision Goggles (NVG) to guide them during withdrawal and for the arriving support teams.<sup>116</sup> The last river situated near their main target is wide, more or less 30 to 40 meters wide and had a strong current, which almost drowned two (2) SAF commandos. Because of the difficulties of the terrain and in crossing the river, the wrong turns they made, their heavy load and their need to be more careful, the assault team arrived at their target area two (2) hours behind schedule.<sup>117</sup>

When the members of the assault team were crossing the river, Train told PSI Tabdi that they are running out of time and it would be sunrise soon. Train instructed Tabdi to go ahead and pursue the assault with the thirteen (13) commandos who already crossed the river and had finished fixing their armaments. Train ordered the others who were at the riverbank to secure the area and gave specific targets.<sup>118</sup> At that point, PO3 Yogyog joined Team 2 led by PSI Tayrus and secured the left side of the area in case of retaliation from the enemy.<sup>119</sup>

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<sup>114</sup> Sworn Statement of PO2 Andrada dated February 2, 2015, pp. 2-3, Q&A No. 13; Sworn Statement of PO2 Bocaig dated February 13, 2015, p.3, Q&A No. 22.

<sup>115</sup> Sworn Statement of PO2 Bocaig dated February 13, 2015, p.3, Q&A No. 23.

<sup>116</sup> Sworn Statement of PO2 Mana-ar, Jr. dated February 2, 2015, pp. 1-2, Q&A No. 7, attached as Annex "C-25."

<sup>117</sup> Sworn Statement of PO2 Mana-ar, Jr. dated February 2, 2015, p.2, Q&A Nos.7 and 10; Sworn Statement of PO2 Andrada dated February 2, 2015, p.3, Q&A No. 22; Sworn Statement of PO2 Basañez dated February 2, 2015, p.2, Q&A No. 13; Affidavit of PO3 Yogyog dated February 13, 2015, p. 2, par. 16.

<sup>118</sup> Sworn Statement of PO2 Bocaig dated February 13, 2015, p. 3, Q&A No. 23; Sworn Statement of PO2 Mana-ar, Jr. dated February 2, 2015, p.2, Q&A No. 10.

<sup>119</sup> Affidavit of PO3 Yogyog dated February 13, 2015, p. 2, Q&A No. 10.

At around 4:30 a.m. of January 25, 2015, the thirteen (13) SAF commandos, together with Train reached their main target. According to PO2 Bocaig, some of them were PSI Tabdi, PO2 Mana-ar, Jr., PO2 Lozano, PO3 Magno, PO1 Fernandez, PO1 Reniedo and himself.<sup>120</sup>

PO2 Mana-ar, Jr. narrated that when they reached their target, it was still dark and they crawled while in line formation going near the house of the main target. He observed the target's house and saw that behind it was a mosque. He then signaled their pointman, PO2 Lozano, to move forward and closer to the house as he joined him. A silencer/flash suppressor were already mounted on their rifle barrels to silently neutralize the main target as planned and to conceal themselves for the second objective. When he got up into kneeling position and raised his rifle, a light went on inside the house. Mana-ar froze and slowly dropped to assess the situation. He informed his officer on the radio that they might be compromised.

Then the light inside the house went off. At this point, Train ordered "*engage na!*" and immediately the team made an "L" formation to assault the target. When PO2 Lozano stepped closer to the house, there was a loud explosion followed by burst of gunfire that hit Lozano. They swiftly returned fire toward the direction of the house, while PO2 Mana-ar and one of his companion threw grenades inside the house. After the grenades exploded, Train ordered to cease fire and instructed PSI Tabdi to search the house.<sup>121</sup>

Meanwhile, PO2 Bocaig recounted that before the group of PSI Tabdi (who was in charge of carrying out the Sensitive Sight Exploitation) and the arresting team were able to move to arrest Marwan, an explosion occurred behind them prompting the team to retaliate. A firefight ensued between them and Marwan's group for about five (5) minutes.<sup>122</sup>

In his recital, PO2 Andrada stated that when they were about 10-15 meters away from the house of Marwan, an IED exploded hitting PO2 Lozano on his left shoulder while PSupt Train incurred shrapnel wounds on his chest. Thereafter, a burst of fire erupted from

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<sup>120</sup> Sworn Statement of PO2 Bocaig dated February 13, 2015, p. 4, Q&A No. 24.

<sup>121</sup> Sworn Statement of PO2 Mana-ar, Jr. dated February 2, 2015, p. 4, Q&A No. 24.

<sup>122</sup> Sworn Statement of PO2 Bocaig dated February 13, 2015, p. 4, Q&A No. 25.

the enemy side and they retaliated and stated that they were engaged for five (5) to eight (8) minutes.

Afterwards, PSI Tabdi, PO2 Basañez, PO2 Andrada and PO1 Reniedo went inside Marwan's house and conducted Sensitive Sight Exploitation (SSE). PO2 Basañez stated that they conducted documentation and he photographed Marwan and the house. PSI Tabdi had to cut off the little finger on the left hand of Marwan.<sup>123</sup> While P/Supt Train was trying to find the laptop of Marwan, PO2 Andrada administered first aid to PO2 Lozano.<sup>124</sup>

After the SSE, PSI Tabdi shouted "*Bingo, bingo prepare for withdrawal*". The team walked to the riverbank to link-up with their other companions. Upon arrival at the riverbank, P/Supt Train conducted personnel accounting. Train instructed them to move with 360 degrees security and they managed to cross the river<sup>125</sup> at about 5:30 to 6:00 AM. As they were tactically moving towards 55<sup>th</sup> SAC's location, they saw a group of armed men on their left side. Their team leader instructed them to *move by bounce*<sup>126</sup> until they were able to reach a place where they could conceal, rest and communicate with the 55<sup>th</sup> SAC.<sup>127</sup>

At around 6:00 a.m., the team heard a loud explosion and sporadic sounds of gunfire. PO2 Mana-ar heard over the radio that the 55<sup>th</sup> SAC was engaged with armed elements and were asking for help and reinforcement. The team reached a vegetated area that provided cover and concealment. While hiding, they were able to observe the people in a small community getting out of their houses carrying high powered firearms wearing tiger-striped camouflage upper garments and running toward the direction of the sounds of gunfire. The team did not understand what the people were shouting.<sup>128</sup>

While approaching their Last Cover and Concealment (LCC)/Final Assault Position (FAP), they came across a small enemy camp. The enemy open fired toward the SAF commandos. The team

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<sup>123</sup> Sworn Statement of PO2 Basañez dated February 2, 2015, p.2, Q&A No. 14, Annex

<sup>124</sup> Sworn Statement of PO2 Andrada dated February 2, 2015, p. 4, Q&A No. 23.

<sup>125</sup> Sworn Statement of PO2 Bocaig dated February 13, 2015, p. 4, Q&A No. 26.

<sup>126</sup> To move team by team while the other teams are securing the perimeter.

<sup>127</sup> Affidavit of PO3 Yogyog dated February 13, 2015, pag 3, par. 20.

<sup>128</sup> Sworn Statements of PO2 Mana-ar, Jr. dated February 2, 2015, p.3, Q&A No. 15.

assaulted the enemy and killed more or less seven (7) BIFF members who were manning the camp. At about 9:00 to 10:00 a.m., there was another gun battle. PO1 Reniedo was hit in his right arm.<sup>129</sup>

The team also reached a small banana plantation while tactically moving by crawling. They concealed there for more or less one (1) hour. From that position, PO3 Yogyog averred that he saw a wooden bridge which was a possible route to link up with the 55<sup>th</sup> SAC, which, according to PSI Tabdi, was more or less 700 meters from where they were positioned.<sup>130</sup>

In his sworn statement, PO2 Mana-ar stated that they managed to hide their position from the opposing forces. He observed that the enemy strength increased as reinforcements arrived from different directions. The SAF commandos tried to push towards the 55<sup>th</sup> SAC's position by neutralizing selected targets blocking their path. While pushing forward, their positions were becoming vulnerable. They were also experiencing fatigue, hunger and dehydration. When their team came across another armed group, they had no choice but to engage, causing casualties on the enemy side.

At around 2:00 p.m., they came across a small hut and took refuge. There were sugarcanes inside and they nibbled on them. PO2 Mana-ar gave some to PSI Tayrus and P/Supt Train. They were having a light snack when he saw PSI Tabdi move. Mana-ar followed him since he was his buddy. P/Supt Train and the others followed suit. He tried to stop and convince PSI Tabdi to wait and assess their situation but they still attempted another push. They were met by strong resistance forcing them to withdraw into a cornfield where the vegetation was not enough to provide concealment. They were pinned down at that position.

While they were in prone position, somebody shouted "*Sir patay na si Cordero*". They stopped moving because they cannot leave him behind. Then another shouted "*Kodiamat is dead*" and "*Nacino's dead.*" Thereafter, he saw that PO3 Acob had died and he also saw that PSI Tabdi was dead. It was already late afternoon and the sun was setting but the enemy was getting nearer, firing at them in standing

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<sup>129</sup> Sworn Statement of PO1 Reniedo dated February 2, 2015, p.3, Q&A No. 25.

<sup>130</sup> Affidavit of PO3 Yogyog dated February 13, 2015, p.4, par. 26.

position and steadily walking toward them. PO2 Mana-ar's companions threw their grenades at the approaching enemies prompting them to withdraw.<sup>131</sup>

At around 6:00 p.m., three (3) successive fire from a 105 mm artillery were heard and landed near the team's position. They saw a white smoke which they knew as white phosphorus. They then noticed that the enemy withdrew toward unknown directions.

At about 11:30PM, the DRC and members of the 4<sup>th</sup> SAB arrived and helped the team carry the wounded and the cadavers of their companions to the Vehicle Drop-off Point (VDOP). They were then transported to the Maguindanao PPO where a US helicopter was waiting to transport the wounded to Cotabato City for medical treatment.<sup>132</sup>

**d. Team 3 (843), 84<sup>th</sup> SAC - PSInsp Rix S. Villareal, PO3 Ryan J. Temporada, PO3 Arnil L. Ruiz, PO2 Solomon A. Agayso, PO2 Wharlther Jay T. Rebucas, and PO3 Samson A. Albinar.**

PSI Rix Villareal was the designated Team Leader of Team 3(843) of the Main Effort 1 (assault team). PO3 Rodrigo Acob, Jr. was the Assistant Team Leader. PO3 Ryan Temporada was tasked as the navigator. PO2 Peterson Carap was designated as point man. PO2 Wharlther Rebucas was the designated radioman. PO3 Virgel Villanueva was the contact man. PO2 Solomon Agayso was the tail scout and PO3 Arnil Ruiz was the designated medic.<sup>133</sup>

PO3 Temporada narrates that on January 24, 2015, the ME1 jumped-off at around 8:00 p.m. from their staging area in Isulan, Sultan Kudarat. They proceeded to Mamasapano, Maguindanao on board a forward truck. They arrived at the VDOP at around 9:00 p.m. At 9:15 p.m., they proceed to the target area on foot and crossed four to five rivers. The last river they crossed was quite deep and had strong current that they had to use improvised rubber floaters ("salbabida")<sup>134</sup> which can only ferry two persons at a time.<sup>135</sup> Because of the river condition, the operation did not proceed as

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<sup>131</sup> Sworn Statement of PO2 Mana-ar, Jr. dated February 2, 2015, pp. 3-4, Q&A Nos.16-17.

<sup>132</sup> *ibid*, p. 4, Q&A No. 19.

<sup>133</sup> Sworn Statement of PO3 Temporada dated February 2, 2015, p. 1, Q&A No. 4.

<sup>134</sup> *ibid*, p. 1, Q&A Nos. 5 and 8.

<sup>135</sup> Sworn Statement of PSI Villareal dated February 2, 2015, p. 1, Q&A No. 4.

planned. The plan was for Team 3 to back up Team 1 and position themselves ready to hit target 2, the house next to Marwan's house, which was target 1, in case Marwan is not present at the latter location.<sup>136</sup>

After all the teams had crossed the river, PSI Villareal instructed two (2) snipers, one (1) gunner and one (1) back-up to stay behind and position themselves near the riverbank to provide diversion fire in case Team 1 led by PSI Tabdi and P/Supt Train come under heavy fire. When Villareal was going to their location, he heard gunfire coming from the area of Target 1. He immediately contacted the team leader of Team 2, PSI Rennie Tayrus, not to proceed further at the area where there is gunfire. Instead, he advised all teams to secure the area and provide 360 radius security because some of the houses near their location had switched on their lights. The incident happened at around 4:15 a.m. of January 25, 2015 and lasted for 3 to 5 minutes.<sup>137</sup>

At that point, PSI Villareal did not know who fired the shots. He only learned that Team 1 already engaged the target and neutralized Marwan when he heard the codeword "*Bingo*" over the radio, which they use whenever they neutralized their subject. They waited for Team 1 to extricate and at that time he asked PSI Gednat Tabdi this: "*Bingo ba sir, Bingo?*" PSI Tabdi answered "*Bingo*". He then instructed SPO2 Hamidhan Tebbeng and three (3) others to go ahead and secure the rope where their *salbabida* was tied and provide security while the ME1 was crossing the river. At about 5:00 a.m., the ME1 was able to cross the river. They conducted a head count and when all members were accounted for, they immediately left the area and proceeded to their extraction point passing through the same waypoint they used going in.<sup>138</sup>

ME1 was not able to reach the extraction point because they were followed by a large number of armed men while they were on their way to the location of the 55<sup>th</sup> SAC. When PSI Villareal realized that they were being followed, he relayed the information to PSI Tabdi and P/Supt Train. PSI Tabdi reminded him to secure their rear while Train advised them to move by bumps. At around past 6:00 a.m., he

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<sup>136</sup> *ibid*, p. 3, Q&A No. 19.

<sup>137</sup> *ibid*, p. 3, Q&A Nos. 23-25.

<sup>138</sup> *ibid*, p. 4, Q&A Nos. 26-31.

heard gunfire while on their way to the 55<sup>th</sup> SAC's location. He was informed by PSI Tabdi that the 55<sup>th</sup> SAC has been engaged in an enemy firefight. When they tried to proceed to the 55<sup>th</sup> SAC, they ran into an MILF community who open fired at them. As they managed to counter fire, the MILF elements withdrew.<sup>139</sup>

PO3 Ruiz, on the other hand, recalled that after crossing the river and moving to extricate, they heard sporadic burst of gunfire until they reached an area near Waypoint 16. They saw four (4) armed men in civilian attire carrying long firearms. Ruiz and the others concealed themselves to avoid engaging with the civilians. However, at around 7:30 a.m., their team were "burned out". They engaged with the armed men and then withdrew. They reached a place where there are several houses and bananas. PO1 Reniedo was hit by a gun fire hitting his right arm.<sup>140</sup>

At around 10:00 a.m., PO3 Temporada recalled that he heard P/Supt Train contact the TCP and ask for the location of the 55<sup>th</sup> SAC in order to link up and reinforce them. However, they failed due to the heavy volume of gunfire they encountered during the reinforcement. Then a very loud explosion coming from a mortar shell that hit their location caused their team to split up.<sup>141</sup>

At past 11:00 a.m., when they were 700-800 meters away from the location of the 55<sup>th</sup> SAC, they were compromised and met by sniper fire. As they positioned themselves for cover, their lead team was almost hit by a mortar shell. They took cover under the banana trees but were under heavy fire from the enemy positioned along the riverbanks on their right side, and from the pursuing enemy at their rear flank as well. They were also being fired at by the enemy positioned between 55<sup>th</sup> SAC and their position. They engaged the enemy only when they had clear targets.

When the volume of fire increased from the front and rear, Team 1 pulled out from the area and maneuvered to their left toward the cornfields. They did this to avoid being overrun by the huge number of enemy from the front and rear. As Team 1 started to

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<sup>139</sup> *ibid*, pp. 4 and 5, Q&A Nos. 32-39.

<sup>140</sup> Affidavit of PO3 Ruiz dated February 9, 2015, attached as Annex "C-30."

<sup>141</sup> Sworn Statement of PO3 Temporada dated February 2, 2015, p. 2, Q&A No. 13.

maneuver, Teams 2, 3, and 4 provided fire cover, after which Team 2 also maneuvered. Teams 3 and 4 then followed. When they maneuvered toward the cornfield, PSI Tabdi ordered all members with flash suppressors to proceed in front as the lead team in order to find a route to the 55<sup>th</sup> SAC's position. This was done so that when they opened fire at the enemy, the flash suppressors will not give away their location.

Despite the route change, ME1 was not able to link up with the 55<sup>th</sup> SAC because the former was also engaged in enemy fire when they were able to cross the cornfield. They took cover under coconut trees and banana plants. When they realized that the enemy was near, they moved under covering fire toward a dried up creek. When the enemy gained on them, they moved under covering fire toward another cornfield.

At about 1:00 p.m., gunfire from the side of the 55<sup>th</sup> SAC stopped. At this point, the team did not know what happened to them. When they crossed an open terrain cornfield, PO3 Temporada's buddy, SPO1 Lover Inocencio was hit twice on his legs. P/Supt Train again ordered them to hold the line while in 360 degree position. Train then contacted the TCP for reinforcement.<sup>142</sup>

In his affidavit, PO2 Solomon Agayso stated that while holding the line, he saw PSI Tabdi and PO2 Bocaig move forward while a burst of gunfire can be heard coming from their direction. He went to their position since he noticed that the enemy was gaining up on them and were only about 20 meters away. Agayso shouted to PSI Tabdi: "*Sir, maubos tayo dito, takbo tayo doon sa gitna para putukan natin sila at makafoward and ibang tropa*". At this juncture, he saw that PSI Tabdi was hit on his head and had died. He then went to where Tabdi was and collected the latter's magazines and ammunition and distributed them to the other commandos. Upon hearing the news of PSI Tabdi's death, P/Supt Train instructed PO2 Agayso to get Tabdi's backpack.<sup>143</sup> Subsequently, PO2 Agayso heard PO3 Magno saying "*may tama ang paa ko.*" Agayso also helped PO3 Magno and treated his wounds.<sup>144</sup>

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<sup>142</sup> *ibid*, p. 2, Q&A No. 14.

<sup>143</sup> Affidavit executed by PO2 Agayso dated February 2015, p.1, par. 10 and p.2, par.1, Annex "C-31."

<sup>144</sup> *ibid*, p.2, par. 2.

PO3 Samson Alih recalled that during the heavy firefight at around 2:30 p.m., armed men tried to encircle their position and he was hit with a bullet in his right breast. He tried to press on the wound in order to stop the bleeding.<sup>145</sup>

At around 4:00 p.m., PO3 Temporada was hit by sniper fire in the back which exited through his stomach. Temporada gave his cellphone to SPO2 Tebbeng and his remaining ammunitions and tactical equipment to his other colleagues.<sup>146</sup>

When the lead team was engaged from the front, PSI Villareal ordered seven (7) men who were with him, to position and to get ready to engage the enemy from behind, which was only around 30 meters from them. When they were engaged in a firefight, Villareal was hit in the head by a bullet that penetrated his Kevlar helmet. According to PO2 Rebuscas who was at his side during the fight, Villareal was unconscious for almost 30 seconds. When he regained consciousness, Villareal removed his Kevlar and asked PO3 Ruiz to get his medical kit in his bag, to stop the flow of blood.

PO3 Arnil Ruiz averred that at around 4:10 p.m., he sent text messages to PSI Lyndon Espe informing him of their location at Grid Coordinates (GC) 51NXH68880 65733 and their need for reinforcements because many were wounded including PSI Villareal. He again sent a message at around 5:34 p.m. of their updated location at GC 51NXH68889 65679.<sup>147</sup>

At that time, the firefight was still ongoing and PSI Villareal ordered SPO4 Jumalon to throw hand grenades at the enemy's location. He also ordered SPO4 Jumalon to send their grid coordinates to the Advance Command Post (ACP) and to P/Supt Train as they crawled back and linked with another team. He then told his men to hold the ground and wait until nightfall where they will have advantage over the enemy. After 30 to 40 minutes of waiting, he asked PI Marasigan to send their grid coordinates to the ACP and to send a text message to P/Supt Train regarding their location.

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<sup>145</sup> Sworn Statement of PO3 Alih dated February 2, 2015, p. 3, Q&A No. 14.

<sup>146</sup> Sworn Statement of PO3 Temporada dated February 2, 2015, p. 3, Q&A No. 15.

<sup>147</sup> Affidavit of PO3 Ruiz dated February 9, 2015, p. 2, par. 2.

Thereafter, they heard voices of people ahead of them. When they checked it out, these were the voices of the other team members of their company. They linked up with these commandos and PSI Villareal was informed by P/Supt Train that there were nine (9) fatalities, including PSI Tabdi and PSI Taurus.

After twelve (12) hours of continuous heavy fire fight, their team suffered nine (9) dead and fourteen (14) injured. Fortunately, at around 6:00 p.m., a series of artillery shells were dropped on the enemy lines, which prompted the latter to withdraw. Later, the commandos were informed that a team from the Army DRC and two (2) teams of the 4<sup>th</sup> SAB will be arriving to extricate them.<sup>148</sup>

At about 11:30 p.m. of January 25, 2015, PSI Villareal was asked by PI Marasigan to meet up with the rescue team. He gave Marasigan the grid coordinates of their location. He was with PO2 Rama and PO1 Galvo when they met the rescue team, who were more or less one (1) kilometer away. They led the rescue teams composed of one (1) section from the 4<sup>th</sup> SAB led by PSI Cogasi and another section from the Army, to where their company was waiting.

Before they evacuated, they had a short briefing and discussed their order of movement. They started to move out past 1:00 a.m. of January 26, 2015. They reached their VDOP at about 5:10 a.m. of January 26, 2015.<sup>149</sup>

In addition, PO2 Rebucas stated that when they were in a continuous gun battle with the enemy, he heard the sound of motorcycles coming in and out of the encounter site and the sound of a drone with which he is too familiar since their operation in Al-Barka, Basilan against the ASG.<sup>150</sup>

**e. Team 2 (842), 84SAC - SPO1 Reynaldo B. Tubog, PO2 Dominick O. Lukingan, PO2 Ard P. Dulnuan, PO3 Rommel P. Magno, and PO1 Victory R. Fernandez**

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<sup>148</sup> Sworn Statement of PO3 Samson Alih dated February 2, 2015, p. 3, Q&A No. 14.

<sup>149</sup> Sworn Statement of PSI Villareal dated February 2, 2015, pp. 7-8.

<sup>150</sup> Sworn Statement of PO2 Rebucas dated February 9, 2015, p. 7, Q&A No. 35, Annex "C-32."

Teams 1 and 3 of the Main Effort 1 (Assault Team) were tasked to secure Marwan's safehouse and his arrest. Team 2 was tasked to secure the guard post where a caliber .30 machine gun was reportedly mounted. Team 4 was tasked to secure the right side of the perimeter.<sup>151</sup> Team 2 was composed of PSI Renee Tayrus as the team leader. SPO1 Reynaldo B. Tubog as the assistant team leader. PO2 Ard P. Dulnuan was the gunner/M240 cruiser man. PO3 Rommel Magno was the navigator. PO2 Dominick Lukingan was the tail scout. PO1 Victory Fernandez was the lead scout. PO2 Nicky Nacino was the assistant gunner/ammo bearer/radioman. PO2 Angel Kodiamat was the medic.<sup>152</sup>

According to SPO1 Tubog, while they were crossing the river near the target location, his Kevlar helmet got tangled with the rope they used in crossing the river. He almost drowned if not for the help of their team leader, PSI Tayrus. However, his bulletproof vest also fell on the river together with his GPS, handheld radio and six (6) magazines of ammunitions for cal. 5.56 rifle. When he informed PSI Tayrus, he was told to just accompany PO2 Dulnuan. He complied and positioned himself near the riverbank together with PO2 Dulnuan, PO1 Macasasa, SPO4 Jumalon, PO1 Galvo and the action agent (AA).<sup>153</sup>

PSI Tayrus ordered his men to follow the first team, together with P/Supt Train to the target location. However, upon advancing more or less 200 meters, PO2 Lukingan heard gunfire coming from the outpost and he dropped to the ground for cover. PO3 Acob advised them to go back to the riverbank to secure the area for the troops' withdrawal.<sup>154</sup> On the other hand, SPO1 Tubog averred that while they were positioned near the riverbank, they heard an exchange of gunfire. He saw that the gunfire came from the left near the enemy post. SPO4 Jumalon then fired his M203 rifle toward the direction of the enemy post and followed the extraction of the assault team toward their direction.<sup>155</sup>

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<sup>151</sup> Affidavit of SPO1 Tubog dated February 6, 2015, p.2, par. 11.

<sup>152</sup> Affidavit of SPO1 Tubog dated February 6, 2015, p. 2, par. 12; Sworn Statement of PO2 Dulnuan dated February 2, 2015, p. 2, Q&A No. 13.

<sup>153</sup> Affidavit of SPO1 Tubog dated February 6, 2015, p.2, pars. 14 and 15.

<sup>154</sup> *ibid*, pp. 2-3, Q&A No. 19.

<sup>155</sup> *ibid*, p. 2, par. 16.

According to PO2 Lukingan, he stated that at about 5:40 a.m. of January 25, 2015, after crossing the river from the area of operation, he was separated from his team and joined other teams. At about 7:00 a.m., they reached the first harboring area covered with bushes, mahogany and banana trees, and a cornfield near a community. They stayed for an hour. Later on, P/Supt Train decided to cross the trail going to the community to find a safer route for extraction. When P/Supt Train and the other troops were able to cross to the other side, their position were compromised. PO2 Lukingan went back to the harboring area to join the others and at about twenty (20) meters away, he heard people shouting and speaking in their own dialect. He only understood the word "*sundalo*" (soldier). At around 9:00 a.m., they found a second harboring area at the banana field where PO1 Reniedo was hit by a sniper arm on his right arm. Forty five minutes (45) later, they were able to advance about 100 meters from the second harboring area, but they were fired upon by mortar. P/Supt Train decided to go back. When they returned to the second harboring area, PSI Tabdi made contact with the TCP who gave him the grid coordinates for extrication. PO2 Andrada then called the attention of PSI Tabdi and told him that other members were left behind. Andrada and PO2 Nacino were ordered to find the other members. When they did not return, PSI Tabdi decided to go back to find the others.

By 12:00 noon, they were back at the second area. P/Supt Train ordered for recon fire to clear the hut near the cornfield. When they cleared the hut, PO2 Lukingan was given a banana stem and sugarcane to sustain him. The team were again separated into two (2) groups and PO2 Lukingan was left with the group who were at the cornfield, together with PSupt Train, PSI Tabdi, PI Tayrus. At 2:00 p.m., a heavy burst of fire erupted from an almost 360 degree direction. The enemy was about 10 to 15 meters away. The opposing forces were shouting and laughing at the SAF commandos because they were already pinned down. The SAF commandos held the line until the rescue arrived at around 11:00 p.m.<sup>156</sup>

In his narration, SPO1 Tubog asserted that after they crossed the river from the area of operation at around 6:00 a.m. of January 25, 2015, they tactically moved toward the 55<sup>th</sup> SAC's location. PSI Tabdi made contact with PSI Eraña of the 55<sup>th</sup> SAC and learned that the

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<sup>156</sup> Sworn Statement of PO2 Lukingan dated February 2, 2015.

latter was engaged in a fire fight with a huge number of armed elements. As they tried to link up with the 55<sup>th</sup> SAC, they saw numerous fully armed men who were about 20 meters away from them firing toward the location of the former. P/Supt Train directed them to drop to the ground and proceed in a 360 degree security tactical position. Train told them not to fire unless needed to avoid detection. While they were lying on the ground, a young boy suddenly appeared and saw them. The boy shouted in a local dialect which alerted the enemy and compromised the team's cover. The team returned fire and moved in assault formation toward the 55<sup>th</sup> SAC. The team chanced upon a small enemy camp and tactically entered it. They exchanged fire commenced with the enemy forcing the latter to withdraw and leave the camp.

At around 10:00 a.m., they made a quick stop at the said camp then moved out one team at a time. While they were on the move, PO1 Reniedo was hit by a sniper fire on his shoulder. PO1 Reniedo removed his vest and gave it to SPO1 Tubog while they applied first aid on his wound. Thereafter, mortar shells were launched in their direction, hit a coconut palm and exploded in the air before landing in the ground. An hour later, PSI Tabdi tried to communicate with PSI Eraña to verify if they fired mortar. There was no response from PSI Eraña. It then dawned on SPO1 Tubog that the 55<sup>th</sup> SAC might all be dead although they could still hear gunfire from other direction.

The team then continued to move forward despite continuous burst of fire and mortar attack from the enemy. They crawled toward a small corn plantation and at around 2:00 to 3:00 p.m., they managed to reach a small mud-covered irrigation. When they crawled into another corn plantation, they were met by a large number of enemy forces. They held the line and executed a 360 degree assault position. In the midst of the firefight, they can still hear the enemy shouting "*Allahu akhbar*" ("God is great") followed by a burst of fire from their left and rear portions. While on 360 assault position, PSI Villareal was hit in the head penetrating his Kevlar helmet. Luckily, his wounds were not fatal. When the enemy launched a second burst of fire, SPO1 Tubog was hit on his chest. However, he was by then wearing a bulletproof vest. The clash continued until white phosphorus shells were fired.

After they linked up with the other teams, they accounted the members of the ME1. SPO1 Tubog learned that they suffered 7 KIA, 12 WIA and 2 MIA. The two (2) MIA troopers were PSI Renee Tayrus and PO1 Cordero. Their dead bodies were later discovered near a *nipa* house.<sup>157</sup>

PO3 Rommel Magno and PO1 Victory Fernandez were members of Team 2. They were among the thirteen (13) commandos who accompanied P/Supt Train to the target to implement the warrant of arrest. According to them, when they were able to reach the target house undetected at around 5:00 a.m. of January 25, 2015, they formed an "L" position, occupying two sides of the house and they were more or less 3 to 4 meters from the house. As they neared the house of Marwan, an explosion occurred behind them. A firefight ensued between them and Marwan's group for around five (5) minutes. P/Supt Train instructed PSI Tabdi together with his men to collect evidence inside the house including a specimen from Marwan and to take photographs, if possible. While PSI Tabdi and company were inside the house, gunshots were fired from a guard house near a mosque. This prompted the SAF commandos to return fire. Thereafter, they moved towards the direction of the 55<sup>th</sup> SAC to link with them and withdraw from the area for the VDOP where their vehicles were waiting. They were not able to link up with 55<sup>th</sup> SAC because they heard gunfire coming from the former's location.

Knowing that the 55<sup>th</sup> SAC was under attack, they continued moving towards their location. They saw heavily armed men so they concealed in thick bushes and observed. P/Supt Train ordered them not to open fire because the armed men, according to their assets, were MILF members specifically from the 105<sup>th</sup> BC under Commanders Ben and Uztadz Manan. The withdrawing elements of the MILF who came to attack the 55<sup>th</sup> SAC discovered their position and a firefight ensued. The MILF forces withdrew giving the SAF commandos time to look for another concealment area. PSI Tabdi received an SMS and radio call from PSI Espe that the 55<sup>th</sup> SAC was already pinned down. They were given grid coordinates of the route for withdrawal and advised not to use the previous extraction route. During the firefight, PO3 Samson was hit in the upper right chest. While PO2 Cordero was applying first aid to PO3 Samson, PO2 Cordero himself was hit on his

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<sup>157</sup> Affidavit of SPO1 Tubog dated February 6, 2015.

left chest that caused his instantaneous death. PO2 Carap was also hit in the head and died immediately. Thereafter, they employed a 360 degree perimeter security, securing the members who were killed in action and wounded in action at the center until the 4<sup>th</sup> SAB linked up with them at around 11:00 p.m. According to PO3 Magno, they were able to kill more or less three (300) members of MILF & BIFF.<sup>158</sup>

**f. Team 4 (844), 84<sup>th</sup> SAC - SPO2 Tebbeng Bibio Hamidhan, SPO1 Bill Fernando P. Jumalon, PO3 Darwin M. Rama, PO2 Anson O. Posot, PO1 Clifford P. Agayyong, PO1 John Mariel S. Galvo, and PO1 Eugene B. Macasasa**

SPO2 Tebbeng Hamidhan was designated as the team leader of team 4 of the Main Effort 1 (Assault Team).<sup>159</sup> PO3 Darwin Rama was the designated navigator of Team 4.<sup>160</sup> PO2 Anson Posot was the designated machine gunner.<sup>161</sup> PO1 Clifford Agayyong was tasked as the radioman.<sup>162</sup> PO1 John Mariel Galvo<sup>163</sup> and PO1 Eugene Macasasa<sup>164</sup> were intelligence operatives that gathered and collected vital information. SPO1 Bill Jumalon served as intelligence operative and gunner.

SPO1 Jumalon averred that he is an organic member of the SAF's Force Intelligence and Investigation Division (FIID) based in Camp Bagong Diwa, Taguig City. His particular role in the team was that after reaching the Objective Rallying Point (ORP) which is 200 meters away from the target, he was to detach from the assault team together with two (2) snipers and one (1) M240 gunner and take charge of the post near the riverbank and if necessary, engage the guard that served as security of the main target, if they refuse to surrender.

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<sup>158</sup> Sworn Statement of PO3 Rommel Magno dated February 2, 2015; Sworn Statement of PO1 Victory Fernandez dated February 6, 2015, Annex "C-38."

<sup>159</sup> Sworn Statement of SPO2 Tebbeng Hamidhan dated January 28, 2015, attached as Annex "C-39."

<sup>160</sup> Affidavit of PO3 Darwin M. Rama dated February 9, 2015, attached as Annex "C-41."

<sup>161</sup> Sworn Statement of PO2 Anson O. Posot dated February 13, 2015, attached as Annex "C-42."

<sup>162</sup> Sworn Statement of PO1 Clifford P. Agayyong dated February 13, 2015, attached as Annex "C-43."

<sup>163</sup> Sworn Statement of John Mariel S. Galvo dated February 7, 2015.

<sup>164</sup> Sworn Statement of PO1 Eugene B. Macasasa dated February 6, 2015.

launch to the target.

Thereafter, he and two (2) snipers and the M240 gunner detached from the assault team. Teams 1 and 3 went to the house of the Marwan as planned. Teams 2 and 4 proceeded to assault the house/post guarding the target. There was volume of fire where Teams 1 and 3 were positioned so they engaged their target to preempt them from retaliating on Teams 1 and 3.

After a short firefight, the assault teams converged. P/Supt Train confirmed that Marwan was successfully neutralized. SPO1 Jumalon then noticed that PO2 Jovalyn Lozano was wounded. P/Supt Train instructed his men to withdraw and to cross the river to link up with the 55<sup>th</sup> SAC and the rest of the blocking team. Train then called the command post for support/reinforcement.

After walking for more or less a kilometer, they noticed a small number of houses. Upon checking, they saw that it appeared to be a small camp/detachment of the BIFF. They took cover and rested there for an hour. At 8:00 a.m., P/Supt Train decided to re-route to evade encounter. While walking, they saw a boy who noticed their presence and shouted an alert to the BIFF elements. Soon enough, gunfire erupted from the BIFF. The exchange of fire lasted for almost two (2) hours. PO1 Reniedo was hit in the elbow.

P/Supt Train made several calls to the TCP for support/reinforcement through his cellular phone, from the extracting point and up to the time that they were surrounded by the enemy.

At around noontime of January 25, 2015, they held the line and remained in their position despite exhaustion and injuries. At the time, there were already twelve (12) wounded and eight (8) SAF personnel killed in action. It was already 12:00 midnight of January 26, 2015 when the reinforcements from the 45<sup>th</sup> SAC and members of the Army's Division Reconnaissance Company (DRC) arrived.<sup>165</sup>

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<sup>165</sup> Sworn Statement of SPO1 Jumalon dated January 27, 2015, attached as Annex "C-40."

### **3. The 55<sup>th</sup> SAC**

#### **PO2 Christopher I. Lalan**

He is a member of the SAF FIID under the ISTAR team attached to the 5<sup>th</sup> SAB, based in Camp Abendan Mercedes, Zamboanga City. PO2 Lalan was designated as the navigator of the first team led by PSI John Garry Eraña.

In his statement, PO2 Lalan affirms that at around 8:30 p.m. of January 22, 2015, they jumped off and later reached Pagadian City at around 5:00 a.m. They went to Cotabato City on January 23, 2015 and spent the night there. At 8:00 a.m. of January 24, 2015, they continued their trip to General Santos City. At around 9:00 p.m. of the same day, they proceeded to their Vehicle Drop-Off Point (VDOP) and arrived at around 2:00 a.m. of January 25, 2015. They proceeded to the designated Waypoints using Global Positioning System (GPS) and IR Chemlights placed by the ME1 to guide them and visible only through their NVGs.

The 55<sup>th</sup> SAC was composed of thirty six (36) men, comprising of two (2) sections with four (4) teams. PSI Ryan Pabalinas was their over-all Platoon Leader. According to PO2 Lalan, the 55<sup>th</sup> SAC was not able to reach their designated position, Waypoint 19, to support ME1. This was because after crossing a small bamboo/wooden bridge somewhere along Waypoint 11 or 12, they heard a burst of gunfire at the target area at around 4:00 a.m. The heavy load of ammunition and the 90RR rifles carried by the tail portion of their group and the need to frequently halt slowed them all. They returned to the other side of the bridge to block resistance from the community so that ME1 can easily withdraw.

Later on, someone shouted at the SAF commandos so they returned and positioned themselves in line formation in the cornfield facing the other side of the bridge and observed. They heard sounds surrounding them. Using their NVGs, they saw armed men growing in number. They heard gunfire from the location of ME1, and the 55<sup>th</sup> SAC just observed. At this point, they realized that the armed persons were starting to converge in front of them at the other side of the bridge. PO2 Lalan heard his team leader report to the TCP that armed men were increasing in their area. They were instructed to observe but

if fired upon, they should fire back. They formed a box to prepare for firefight and to provide 360 degrees security. The 55<sup>th</sup> SAC stayed in that position for almost an hour and a half even as the armed persons continued to grow in number.

Suddenly, a burst of fire directed at them erupted and PO2 Lalan's team returned fire. From 5:30 to 6:00 a.m., they heard a steady volume of fire from different directions heading towards their location. PO2 Lalan heard PO2 Kiangan shout, "*Sir, Anniban is dead*". PO2 Lalan also heard commands to return fire and maximize ammunition.

At around 7:00 or 8:00 a.m., while they were engaged with the enemy, he heard requests for support from officers/team leaders through their radios or cellular phones.

At about 2:00 p.m., most of his comrades were already dead and they ran out of ammunition. PO2 Lalan also saw some of his comrades crawling towards an area of lesser gun shots. PO2 Lalan asked permission from his senior to extricate hoping that he will be able to survive. His senior let him go.

While he was escaping from the cornfield, PO2 Lalan met two (2) armed men who shot him on the chest. He was wearing bullet proof vest at the time and the bullet did not penetrate. He fired back hitting one of the armed men. When he was about to fire at the other, the ammunition of his M4 assault rifle ran out. PO2 Lalan then drew his Glock pistol and fired at the armed man forcing the latter to drop. PO2 Lalan removed his vest and Kevlar helmet and jumped into the river, all the while being shot at from different directions. Upon reaching the other side of the river, PO2 Lalan saw two (2) armed men standing on the cornfield. He immediately dived for the other side of the river and hid there for almost eleven (11) hours. The two (2) armed men searched for him and strafed the river, but Lalan was not hit.

At around 3:00 p.m., the exchange of gun fire in the area of the 55<sup>th</sup> SAC stopped. By 6:00 p.m., gunfire in other areas tapered off as well.

Confident that there were no more threats, PO2 Lalan came out of the river and tried to find his way out of the cornfield. Everywhere he looked, there were *nipa* huts and trails that made him hesitant to proceed, and so he again hid as daylight was about to break. From where he was hiding, he saw a group of armed men searching the area. They were carrying some of the SAF's special equipment.

At about 1:00 to 2:00 p.m. of January 26, 2015, a group of men with bolos were headed to the place where Lalan was hiding. Lalan pretended to be dead. He suddenly stood up and pointed his gun at the bolo-wielding men. That surprised the men who scampered toward different directions. He followed one of them and reached a house where he saw armed men sitting. One of them pointed his gun at Lalan but the latter also pointed his gun to the said person while saying "*sige sabayan tayo*" ("Okay, let's duel.") The armed man ran towards the cornfield. However, the other men were alerted and were about to open fire at Lalan. With his will to survive, Lalan grabbed one firearm hanging near the door of the house and fired at the armed men causing them to also run towards the cornfield.

He then walked around looking for a way out while being fired upon by armed men who positioned themselves in almost all the houses. Along the way, he saw an old woman and asked from her directions going to the highway. He then saw a bicycle in a nearby house and he used it to flee the area. Lalan reached an Army detachment where he was finally turned over to the SAF.<sup>166</sup>

During the clarificatory hearing on March 27, 2015, PO2 Lalan declared that he was the designated navigator of the team led by PSI John Garry Eraña. Their team was assigned to secure Waypoint 19 for the extrication of the Seaborne Company. They were informed during their briefing that the terrain that they were supposed to traverse was mostly marshland and infested with the enemy.

He stated that they were unable to reach their designated area because some of the members who were carrying the heaviest load often called for a halt since the current in the river they were crossing was strong. When they were about to cross the wooden bridge, they heard burst of gunfire from the north side. The team leaders then

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<sup>166</sup> Sworn Statement of PO2 Christopher Lalan dated February 3, 2015, attached as Annex "C-46."

decided to cross to the other side but when they were about to cross, he heard someone shouted angrily and he retreated. Thereafter, they were commanded to position themselves in line formation and there they saw, through their NVGs, that the enemy were growing in number and appear to surround them, so they formed a box formation. Then PSI Ryan Pabalinas gave specific instructions that they should not fire their weapon unless fired upon.

When daylight came at around 5:00-6:00 a.m., the enemy fired at them and they retaliated. At around 2:00 p.m., while he was crawling for cover and escaping, he saw that his companions were still in the area. He then asked permission from PO3 Golocan who was mortally wounded, to extricate himself from the area. PO3 Golocan held his hand and told him to escape so that he can live to tell what happened to them.

While he was crawling east towards the river, he asked permission from a commissioned officer but they were already unresponsive as they seemed to be in shock. The most senior official whom he saw crawling was P/SInsp. Pabalinas. From the cornfield, he jumped into the river and two armed men ran after him. He attempted to cross but since his war belt had pouches, he was being carried by the current, so he hid in the water lilies and stayed at the river bank. He knew that the two men were shooting at him because he could feel the heat of the bullets as it passed near him. He removed his uniform in the morning of January 26, 2015.

He sustained a blast injury and a ruptured ear drum. Lalan reiterated that they did not get lost as they had NVGs, GPS and their way was marked with tactical infrared chemical light. They were just delayed by the movement of the troops because of the heavy equipment they were carrying as they crossed the rivers. That is why they were in the cornfield, which was somewhere between waypoints 11 and 12, instead of being in waypoint 19, which is about one kilometer away from the cornfield.

He also added that it would have been impossible for the enemy not to recognize them as government troops considering their highly specialized equipment and guns. He believed that the armed men shot

them because they knew that they were from the government.<sup>167</sup>

#### **4. The Blocking and Containment Force's Narrative**

##### **a. 4<sup>th</sup> Special Action Battalion (4<sup>th</sup> SAB)**

##### **1. P/Supt Hendrix B. Mangaldan**

P/Supt Mangaldan is the acting batallion commander of the 4<sup>th</sup> Special Action Battallion (4<sup>th</sup> SAB) of the SAF.

At around 9:30 p.m. of January 24, 2015, Mangaldan and his troops jumped-off from Malalag, Davao del Sur on board nine (9) vehicles. He received instructions from P/Supt Mangahis for regular updates on their location so that the latter can make estimates and consequently update both the 84<sup>th</sup> SAC (Seaborne) and the 55<sup>th</sup> SAC. P/Supt Mangahis was in control of all operating troops. At around 1:20 a.m. of January 25, 2015, while en route, Mangaldan received instructions from Mangahis to slow down because the 84<sup>th</sup> Seaborne and the 55<sup>th</sup> SAC have not yet reached their positions due to the difficult terrain. Mangaldan and his troops pulled over along Esperanza at around 1:30 a.m.

At around 3:00 a.m., P/Supt Mangahis called Mangaldan and instructed the 4<sup>th</sup> SAB to move to the roundball (rotunda) at Shariff Aguak and link up with the V-150 tanks from the Maguindanao Police Provincial Office (MPPO). They were able to link up with the V-150 tanks at Shariff Aguak at around 4:20 a.m. and moved towards the designated area. The target time for them to arrive at the VDOP should not be later than 2:30 a.m. However, they reached VDOP at around 5:30 a.m. because of P/Supt. Mangahis' earlier instruction for them to slow down.

The 44<sup>th</sup> SAC was the first to reach its designated area, which was at Crossing Nabundas at around 4:30 a.m. The next unit was the 43<sup>rd</sup> SAC with one V-150 tank, positioned at Crossing Tuka. The rest of the blocking force reached the VDOP along Tukanalipao Road at about 5:30 a.m.

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<sup>167</sup> Minutes of the Clarificatory Hearing conducted by the Joint NBI-NPS SIT on March 27, 2015, pp. 7-11, Annex "I-1."

At the VDOP, the 41<sup>st</sup> SAC, 42<sup>nd</sup> SAC and 45<sup>th</sup> SAC proceeded to their designated waypoints on foot. The 41<sup>st</sup> SAC was to secure Waypoints 5 to 8; the 42<sup>nd</sup> SAC Waypoints 9 to 12 and the 45<sup>th</sup> SAC Waypoints 13 to 14. The 44<sup>th</sup> SAC, together with one team from the 1<sup>st</sup> SAB, positioned themselves along Nabundas Road to conduct route security and checkpoints/ chokepoints, while half of the 43<sup>rd</sup> with another team from the 1<sup>st</sup> SAB were dropped along Tukanalipao also for route security and checkpoints/chokepoints. The rest of the 43<sup>rd</sup> SAC with one team of the 1<sup>st</sup> SAB advanced 300 to 500 meters from the ACP to secure the Libutan area.

Upon reaching their designated areas, P/Supt Mangaldan observed that contact with the enemy started at 55<sup>th</sup> SAC and 84<sup>th</sup> Seaborne's location because they already heard gunfires from these locations. He immediately secured the ACP. Then, he informed the TCP and PSI Espe that from the ACP, they could hear gunshots from the directions of 55<sup>th</sup> SAC and 84<sup>th</sup> SAC's positions. In reply, the TCP advised him to maintain position and that the 41<sup>st</sup> SAC, 42<sup>nd</sup> SAC and 45<sup>th</sup> SAC must double time to reach their designated waypoints to reinforce the 55<sup>th</sup> SAC and 84<sup>th</sup> SAC. He complied with the directive and monitored the locations of the said companies. By 6:30 a.m., the 41<sup>st</sup> SAC, 42<sup>nd</sup> SAC and 45<sup>th</sup> SAC almost reached their designated waypoints.

P/Supt Mangaldan was informed at around 7:00 a.m. that the 45<sup>th</sup> SAC met a heavy volume of enemy fire while they were en route. He then advised the 45<sup>th</sup> SAC to maximize firepower and execute fire and maneuver techniques to be able to link up with the 55<sup>th</sup> SAC. The 45<sup>th</sup> SAC replied that they cannot reach the position of the 55<sup>th</sup> SAC because they were already pinned down by enemy fire. P/Supt Mangaldan then told 45<sup>th</sup> SAC to exert all efforts to counter enemy fire and secure Waypoint 10. However, the 45<sup>th</sup> SAC failed to execute the order despite efforts, as they were suppressed by the enemy who were positioned in bunkers and concealed vegetated areas while the former was exposed in an open terrain.

The 45<sup>th</sup> SAC requested the ACP for indirect fire at 7:25 a.m., which was relayed by P/Supt Mangaldan to the TCP. TCP replied that the request has been coordinated. Ten (10) minutes later, the 55<sup>th</sup> SAC also requested the TCP for indirect fire support. Reinforcements from

the AFP comprising of elements from the 45<sup>th</sup> IB of the Philippine Army, escorted by six (6) Simba tanks, arrived at the ACP. P/Supt Mangaldan conducted a joint initial briefing with the Army troops informing them that there is already "Pintakasi" against government forces on the ground.

At around 8:30 a.m., section 1 of the 41<sup>st</sup> IB, PA and section 1 of SAF (43<sup>rd</sup> SAC and 1<sup>st</sup> Battalion) inserted at the location of the 45<sup>th</sup> SAC as reinforcement. Later on, at about 9:00 a.m., the ACP came under enemy fire and the blocking force at Crossing Tukanalipao was also under sniper fire.

P/Supt Mangahis arrived at the ACP at 9:45 a.m. and informed P/Supt Mangaldan that he already coordinated with the CCCH-IMT. As per Mangahis' and Mangaldan's assessment at that time, the ACP, 45<sup>th</sup> and 55<sup>th</sup> SAC, and the 84<sup>th</sup> Seaborne, the Crossing Tuka blocking force and the advance perimeter force at the Libutan area were all under enemy fire. Thus, P/Supt Mangaldan radioed the TCP several times and asked for fire or air support. The TCP replied that they were already coordinating it with the AFP.

The 45<sup>th</sup> SAC informed the ACP through cellphone at around 11:00 a.m. that the 41<sup>st</sup>, 42<sup>nd</sup> and 43<sup>rd</sup> SACs and the Division Reconnaissance Company (DRC) linked up and tried to break enemy concentration so that the 45<sup>th</sup> SAC could penetrate to the open terrain towards 55<sup>th</sup> SAC but they were prevented by enemy mortar rounds. At this instance, elements of the 45<sup>th</sup> IB requested for fire support from their headquarters.

Five (5) CCCH-IMT personnel arrived at the ACP at around 12:30 p.m. They were Toks Upam, a certain Mr. William from Norway, Butch Malang and two others whom Mangaldan cannot anymore recall. They assessed the situation and talked to P/Supt Mangahis. They told P/Supt Mangaldan to order a ceasefire to the troops, which the latter immediately did. Despite a ceasefire from government troops and the presence of the CCCH-IMT, the enemy continued firing towards the SAF commandos' position.

Lt. Col. Bautista, Battalion Commander of the 45<sup>th</sup> IB, arrived at the ACP at 2:30 p.m. A situation assessment was conducted while P/Supt Mangaldan showed him a large scale map of the area of

operation. Lt. Col. Bautista decided for a fire mission and advised his S-3 to contact the artillery battalion.

In preparation for the fire mission, they plotted on the map the location of government troops and possible enemy positions. On the other hand, the CCCH-IMT personnel, together with Mamasapano LGU officials, proceeded to the location of the 55<sup>th</sup> SAC. They came back with the grim news that all the members of the 55<sup>th</sup> SAC were killed and extended their condolences. According to them, "*nakabrief na lang yung iba.*"

By 4:00 p.m., elements of the 45<sup>th</sup> IB and 45<sup>th</sup> SAC tried to recover the 84<sup>th</sup> Seaborne but were met by enemy fire, despite the ceasefire initiated by the CCCH-IMT. Thereafter, the Joint ACP was transferred to Crossing Tuka.

The first round of white phosphorous was fired towards enemy positions at around 6:00 p.m. At 6:30 p.m., the enemy ceased fire and Mamasapano local government officials assisted by some civilians went back to 55<sup>th</sup> SAC's location and started retrieval operations.

At around 9:00 p.m., one (1) platoon from the 45<sup>th</sup> IB and elements of the DRC and SAF, merged and jumped off from the Joint ACP to rescue the 84<sup>th</sup> Seaborne.

The Seaborne company were brought out of the encounter site at about 5:00 a.m. of the following day, January 26, 2015. Later on, P/Supt Mangaldan requested for clearance from the TCP for the pull-out of the blocking and containment forces at around 5:30 p.m. The request was granted, prompting them and the AFP troops to move out of the area. They all arrived at the 43<sup>rd</sup> SAC headquarters at 6:00 p.m. He and his troops stayed there overnight and on the following day, January 27, 2015, he conducted a debriefing on the blocking and containment forces.<sup>168</sup>

## **2. PSI Malvin Q. Medrano**

PSI Malvin Q. Medrano is a member of the SAF and assigned at the 4<sup>th</sup> SAB, 45<sup>th</sup> SAC based in CPPO Compound, Brgy. Amas,

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<sup>168</sup> Sworn Statement of PSupt Mangaldan dated February 4, 2015.

Kidapawan City, North Cotabato. During the operation on January 25, 2015 to arrest Marwan and Basit Usman, PSI Medrano was designated as the Assistant Battalion Commander of the 4<sup>th</sup> SAB.

On January 24, 2015 at 9:30 p.m., all operating troops proceeded to the area of operation along Tukanalipao Road, Barangay Libutan, Mamasapano, Maguindanao to serve as blocking and containment force. They, together with two (2) V-150 armored vehicles arrived in the area at 5:14 a.m. of January 25, 2015 and proceeded to their respective designated locations. The teams from the 41<sup>st</sup>, 42<sup>nd</sup> and 45<sup>th</sup> SACs were supervised by the 4<sup>th</sup> SAB commander for insertion to the designated waypoints.

At around 5:30 a.m., they heard from the ACP that there was heavy gunfire from the location of the 55<sup>th</sup> SAC. This information was confirmed by their radioman when he contacted the troops (41<sup>st</sup>, 42<sup>nd</sup> and 45<sup>th</sup> SACs) on the ground.

PSI Placido, team leader of the 45<sup>th</sup> SAC, called up PSI Medrano at 8:21 a.m. and communicated to him that they are trapped due to enemy fire towards their location. Medrano advised PSI Placido to move towards the area of engagement to reinforce the 55<sup>th</sup> SAC. Placido replied that they cannot move forward because the area is an open terrain and their only covers are rice hays and trees. The signal was later cut.

Placido sent a text message to PSI Medrano at 8:29 a.m. saying "*Habang maaga pa sir air strike natin sir di namin talaga malapitan cila nakaabang at nakapuwesto talaga cila sir, pagtumawid kami sa open area babanatan kami sir may mga sniper pa cila sir*". PSI Medrano relayed the message to his battalion commander who recommended to the TCP for indirect fire support to the position of the 55<sup>th</sup> SAC. PO3 Ensoy replied in the negative on their request but their battalion commander reiterated and strongly recommended indirect fire support because situation then on the ground was "*PINTAKASI*". Still, the request was denied and the firefight continued and even the ACP where they were then staying was fired upon by the MILF 105<sup>th</sup> BC.

At around 8:30 a.m. Simba tanks of the 45<sup>th</sup> IB, PA arrived to support the operating troops. Then a burst of gunfire came from the

MILF 105<sup>th</sup> BC. The Army troops returned fire. This firefight happened while continuous gunfire was likewise erupting in the area of the 55<sup>th</sup> SAC.

P/Supt. Mangahis arrive in the ACP at 9:28 a.m. to assess the prevailing ground threats. At around 10:30 a.m., the battalion commander informed Medrano that twenty-two (22) members of the 55<sup>th</sup> SAC were already wounded.

At around 12:41 p.m., four (4) representatives of the CCCH-IMT headed by Mr. William from Norway and two (2) representatives of the GPH-MILF namely, Aron Arap and Butch Malang, arrived in the ACP and coordinated with P/Supt. Mangahis and P/Supt. Mangaldan. Aron Arap talked to "Code 04" of the MILF in Maguindanaoan dialect through handheld radio. Mangahis and Mangaldan sought the CCCH-IMT's assistance to have the wounded troops withdrawn from the area and to call for a ceasefire. After the conversation, the CCCH-IMT and GPH-MILF representatives left and returned to the Tukanalipao crossing.

CCCH representatives returned to the ACP at 1:35 p.m. and requested for a cease fire. The 4<sup>th</sup> SAB battalion commander advised the troops to cease fire and hold position. While Aron Arap was talking to "Code 04" of the MILF in Maguindanaoan dialect, PSI Medrano heard "Code 04" replied "*naka labi kami*". Then Arap suddenly told him and his companions that there is no signal in the area. A radio man from the 55<sup>th</sup> SAC informed Medrano that the MILF and BIFF fired at them everytime a part of their body is seen and that twenty-two (22) of their men are wounded.

At around 2:00 p.m., the CCCH representatives again arrived at the ACP and advised them to cease fire. Medrano and companions replied that their troops had already observed the earlier request for a cease fire but the MILF continued to fire upon government troops. Arap talked again to "Code 04" of the MILF and again Medrano heard "Code 04" reply, "*naka labi kami*". Yet Arap made the excuse that there was no signal in their post. They again left the ACP.

The CCCH representatives again arrived at their post at 3:00 p.m. together with Mr. William, a person wearing a uniform with word "Brunei" in his name cloth and more or less twenty (20) men who

introduced themselves as barangay captain and kagawads. The said group did not allow the government troops to be with them in evacuating the wounded SAF personnel. The said group proceeded towards the MILF area to talk to an MILF commander and to get the wounded SAC troopers.

At around 4:20 p.m., Lt. Col. Bautista with other officers conducted mission planning. Minutes later, Medrano heard a single and then double shots of gunfire from the location of the 55<sup>th</sup> SAC. Ten (10) minutes later, the CCCH representative informed their battalion commander that there are already twenty seven (27) to thirty (30) SAF troopers from the 55<sup>th</sup> SAC killed in action.

The firefight ended at around 6:00 p.m. and at around 7:30 p.m., the 4<sup>th</sup> SAB battalion commander directed Medrano to prepare a team to rescue the 84<sup>th</sup> SAC. At 8:21 p.m., one (1) section of the 45<sup>th</sup> SAC led by PI Efren Cogasi and one (1) section from the 61st DRC, PA started the rescue operations.

At around 5:30 a.m. of January 26, 2015, the rescuers arrived at Tukanalipao Road together with the wounded and dead members of the 84th Seaborne. They boarded a forward truck and brought the casualties and injured to 43<sup>rd</sup> SAC headquarters at Shariff Aguak, Maguindanao.<sup>169</sup>

**3. PSI Peter C. Aquino, SPO3 Marlon I. Layno, SPO2 Jerry N. Rosales, PO3 Herbert B. Manggad, PO2 Reynaldo A. Aniñon, PO3 Juriejake B. Balaoag, PO3 Arthur P. Saavedra, PO2 Jimmy U. Dalire, Jr., PO2 Jordan A. Binay-an, PO2 Dandy P. Cadurnigara, PO1 Abdulla S. Asiri, and PO1 Ralph A. Balasbas**

The above-named police officers are assigned to the 4<sup>th</sup> SAB headquarters based in CPPO Compound, Brgy. Amas, Kidapawan City, North Cotabato.

For Oplan EXODUS, PSI Aquino was designated as the Assistant Team Leader.<sup>170</sup> SPO2 Rosales was specifically tasked as the EOD Technician responsible for providing technical support to the

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<sup>169</sup> Sworn Statement of PSI Medrano dated February 4, 2015, Annex "C-49."

<sup>170</sup> Affidavit of PSI Aquino dated January 28, 2015, attached as Annex "C-50."

operating troops.<sup>171</sup> PO1 Asiri was tasked to conduct documentation of the operation while at the ACP located in Sitio Libutan-Tukanalipao Road, Mamasapano, Maguindanao.<sup>172</sup> Their team at the 4<sup>th</sup> SAB battalion staff was commissioned as blocking force and perimeter security at the said ACP.

At 9:41 p.m. of January 24, 2015, after the final briefing conducted by P/Supt Hendrix Mangaldan, an order of movement to the drop zone was given. The 4<sup>th</sup> SAB jumped-off from the headquarters of 41<sup>st</sup> SAC at Brgy. Baybay, Malalag, Davao del Sur. At 5:00 a.m., Mangaldan, together with the 4<sup>th</sup> SAB battalion staff arrived and established their ACP. The battalion staff immediately secured the perimeter.

A firefight started at the north side of the ACP at 5:41 a.m. The gunfire emanated from different directions, enveloping the main effort (ME) troops. Even the ACP was fired upon by the enemy, prompting the 4<sup>th</sup> SAB to retaliate. The troops of the 4<sup>th</sup> SAB and 1<sup>st</sup> SAB then dispersed according to plan.

At 8:18 a.m., the 4<sup>th</sup> SAB requested for full support from the Philippine Army (PA). This was granted and elements of the PA 45<sup>th</sup> IB, DRC, and the Mechanized Brigade (Mech Bde) later arrived with six (6) V-150 armored vehicles. They positioned themselves in the area of the Libutan bridge and then proceeded to the VDOP of the operating personnel.<sup>173</sup> According to SPO2 Rosales, PO3 Manggad, PO2 Cadurnigara and PO1 Balasbas, the Army support arrived at around 10:00 a.m.<sup>174</sup>

The link-up plans of the DRC and 41<sup>st</sup> SAC led by PI Reynante Pascua and 42<sup>nd</sup> SAC led by PSI Jess dela Cruz was ironed out at 9 :00 a.m. They were to proceed to the area of the 55<sup>th</sup> SAC at GC 68004 65716. At 9:24 a.m., P/Supt. Mangahis arrived at Sitio Libutan and established a temporary ACP there. At 9:30 a.m., PI Janly Placido, the

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<sup>171</sup> Affidavit of SPO2 Rosales dated January 28, 2015, attached as Annex "C-51."

<sup>172</sup> Affidavit of PO1 Asiri dated January 28, 2015, attached as Annex "C-60."

<sup>173</sup> As contained in the Affidavits of PO1 Asiri, PO2 Dalire, Jr., SPO3 Layno, Annex "C-50"; PO3 Balaoag, Annex "C-54"; PO3 Saavedra, Annex "C-55" and PO2 Binay-an dated January 28, 2015, Annex "C-57".

<sup>174</sup> Affidavits of SPO2 Rosales, PO3 Manggad, PO2 Cadurnigara, and PO1 Balasbas attached as Annexes "C-51", "C-53", "C-59" and "C-61", respectively.

team leader of 451, 45<sup>th</sup> SAC gave them his position at GC 68233 65058. They received a phone call at 9:47 a.m. from the 84<sup>th</sup> Seaborne stating that they figured in an encounter and heavy firefight with the MILF at GC 68106 65775. At that time, 4<sup>th</sup> SAB commanding officer called for indirect artillery fire. The Army DRC asked for verification regarding the latest location of the 55<sup>th</sup> SAC and 84<sup>th</sup> Seaborne. At 9:58 a.m., the Army, 43<sup>rd</sup> SAC and 1<sup>st</sup> SAB personnel aboard a V-150 pursued the location of the 55<sup>th</sup> SAC and 84<sup>th</sup> Seaborne. The ACP kept locating the troops and verified if there are already wounded or killed personnel. It was learned that there were already twenty two (22) wounded and an undetermined number of dead commandos.

At 12:41 p.m., four (4) members of the CCCH/IMT arrived at the ACP for possible negotiations with enemy forces. One (1) personnel from the GPH-MILF talked to Ustadz Wahid at 1:14 p.m. to stop the firefight between the MILF 105<sup>th</sup> BC and 108<sup>th</sup> BC and the SAF commandos.<sup>175</sup>

By 3:00 p.m., the CCCH/IMT members again passed through the ACP and with them were civilians on board motorcycles. The civilians identified themselves as barangay officials and that they will proceed to the encounter site to mediate. At 4:07 p.m., the group of civilians returned. Gunfire rang out from the direction of the encounter site. Despite the IMT's repeated efforts at the encounter site, the burst of fire continued to be heard from the said location until 7:00 p.m. of January 25, 2015.<sup>176</sup>

PSI Medrano, SPO3 Layno, PO2 Aniñon, PO2 Cadurnigara, PO1 Balasbas later received instructions from P/Supt. Mangaldan to proceed to the VDOP to transport the wounded troops to the TCP.<sup>177</sup>

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<sup>175</sup> Affidavit of PO2 Dalire, Jr. and Affidavit of PO1 Asiri both dated January 28, 2015.

<sup>176</sup> Affidavit of PSI Aquino dated January 28, 2015.

<sup>177</sup> Affidavit of SPO3 Layno dated January 28, 2015; Affidavit of PO2 Aniñon dated January 28, 2015, Annex "C-54"; Affidavit of PO2 Cadurnigara dated January 28, 2015; and Affidavit of PO1 Balasbas dated January 28, 2015.

## **b. 41<sup>st</sup> Special Action Company (41<sup>st</sup> SAC)**

### **1. PSI Arquimedes Crosby D. Wesley**

PSI Wesley is the commanding officer of the 41<sup>st</sup> SAC. He was designated as platoon leader of the 41<sup>st</sup> SAC for Oplan EXODUS. The 41<sup>st</sup> SAC is composed of five (5) teams with a total of forty-three (43) SAF personnel. Their mission was to serve as blocking and containment force for the 55<sup>th</sup> SAC and the 84<sup>th</sup> SAC at Mamasapano. His team was designated to cover GC 683646, 862647 and 681649 situated at Barangay Tukanalipao, Mamasapano.

At 9:30 p.m. of January 24, 2015, the 41<sup>st</sup> SAC together with the 42<sup>nd</sup> SAC, 44<sup>th</sup> SAC, 45<sup>th</sup> SAC, the ACP (4<sup>th</sup> SAB) and one (1) platoon from the 1<sup>st</sup> SAB jumped-off from the headquarters of the 41<sup>st</sup> SAC in Malalag, Davao del Sur. When they reached the VDOP, they were advised by P/Supt. Mangaldan of the 4<sup>th</sup> SAB that the 84<sup>th</sup> SAC has not yet reached their target area. They were also advised that they should walk from the VDOP to their designated waypoint as blocking force.

When they reached the bridge, at 6:00 a.m., they heard gun shots. Immediately thereafter, they went to their respective waypoints. At that point, PSI Wesley heard from someone inside the V-150 armored vehicle announce that a police operation is ongoing and that they are going to implement a warrant of arrest. Thirty (30) minutes later, the 42<sup>nd</sup> SAC and 45<sup>th</sup> SAC received orders to move from their designated waypoint to support the 55<sup>th</sup> SAC, which was already heavily engaged with the enemy. However, the 42<sup>nd</sup> and 45<sup>th</sup> SAC were not able to move further because of the open terrain before them.

At 10:30 a.m., one (1) section of the 43<sup>rd</sup> SAC and one (1) squad from the Army DRC arrived to reinforce the beleaguered commandos. A request for artillery or air strike was denied because the IMT and CCCH teams were scheduled to arrive.

By 1:30 p.m., they received an order from the TCP to ceasefire. Despite ceasefire on their part, the enemy continued to fire at them. At 2:30 p.m., they received information that the IMT and CCCH have arrived to negotiate with the MILF. It was only when the artillery support arrived at 6:00 p.m. that the enemy ceased firing. Twenty

minutes later, PSI Wesley's team and that of other troops started their withdrawal.<sup>178</sup>

**2. Team 411 - PO3 Robert A. Abarquez, PO3 Manuel S. Leonor, Jr., PO2 Ishmael N. Nahyahan, PO2 Shane F. Sokoken, PO1 Domingo C. Balintad, PO1 Clark Jarold A. Javier, PO1 Albert Gumilac**

PO3 Abarquez was tasked as the navigator of team 411. PO1 Javier was the assistant navigator. PO3 Leonor, Jr. was the contactman. PO2 Nahyahan was the assigned lead scout. PO2 Sokoken was designated as the radioman. PO1 Balintad was the tail scout. PO1 Gumilac was designated as the sniper of team 411.

**3. Team 412 - PI Neil M. Vistar, PO3 Jasper Van R. Sumugoy, PO2 Brian C Omaña, PO1 Jan Reinz S. Fermin, PO1 Ar-Raffy A. Ganih, PO1 Vincent P. Felix, PO1 Aldrex L. Benny and PO1 Genie T. Tejero**

PI Vistar was designated as team leader of Team 412, while PO3 Sumugoy was the designated assistant team leader. PO2 Omaña was the lead scout. PO1 Fermin was the radioman. PO1 Ganih was the assigned navigator of team 412. In addition, the contactman of the team was PO1 Felix while the snipers of team 412 were PO1 Benny and PO1 Tejero.

**4. Team 413 - PI Reynante C. Pascua, PO3 Leo M. Bagcat, PO2 Joseph S. Rafol, PO1 Mark John C. Caimoso, PO1 Louie L. Tangaro, PO1 Reynante D. Alvis, PO1 Ibarra S. Oribello, PO1 Rolando B. Lumawag, and PO1 Rey A. Arangcana**

PI Pascua was designated as the leader of team 413, while PO3 Bagcat was the assistant team leader. PO2 Rafol was the lead scout. PO1 Caimoso was the navigator. PO1 Tangaro was the contactman. PO1 Alvis was the designated sniper. PO1 Oribello was the radioman. PO1 Lumawag was the tail scout. PO1 Arangcana was the assigned driver.

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<sup>178</sup> Sworn Statement of PSI Arquimedes Crosby D. Wesley dated February 4, 2015, attached as Annex "C-62."

**5. Team 414 - PO3 Ronie R. Inocentes, PO3 Cris J. Gler, PO2 Raymond S. Martinez, PO2 Noel G. Diola, PO2 Frankie S. Eliazo, PO1 Jordan D. Pagnas, and PO1 Israel Bryant M. Lauron**

PO3 Inocentes was designated as team leader of team 414. PO3 Gler was tasked as the contactman. PO2 Martinez was the navigator. PO2 Diola was the driver. PO2 Eliazo was the sniper. PO1 Pagnas was the designated lead scout. PO1 Lauron was assigned as the radioman of team 414.

**6. Team 415 - PO3 Arnel L. Baguio, PO3 Aldrin Tamayo, PO2 Jimmy Brian D. Angeles, PO1 Joedy L. Berbano, PO1 Franklin B. Fernandez, PO1 Benjamin B. Mantilla, PO1 Edwin M. Bowat, PO1 Dominic L. Appi, and PO1 Mark P. Latiga**

PO3 Baguio was assigned as the team leader of team 415 and PO3 Tamayo was the assistant team leader. PO2 Angeles was the contactman. PO1 Berbano was the lead scout. PO1 Appi and PO1 Latiga were the assigned tail scouts. PO1 Mantilla was the radioman. PO1 Fernandez was the assigned navigator of team 415.

The specific responsibility of the 41<sup>st</sup> SAC was to serve as the blocking force for the MEs, namely the 55<sup>th</sup> SAC and 84<sup>th</sup> SAC. The 41<sup>st</sup> SAC's designated area was situated at Barangay Tukanalipao, Mamasapano, beside the river side particularly GC 683646 in the military map.

At 9:50 p.m. of January 24, 2015, the 41<sup>st</sup> SAC, together with the other SAF personnel from the 42<sup>nd</sup>, 44<sup>th</sup>, 45<sup>th</sup> and from the 1<sup>st</sup> SAB were dispatched for Mamasapano, Maguindanao. They boarded a black Hawk truck and proceeded to Mamasapano. At around 5:30 a.m. of January 25, 2015, they reached the VDOP along the road going to Datu Piang in Brgy. Tukanalipao, Mamasapano. From the VDOP, they walked towards their designated way points and upon reaching a bridge at around 6:00 a.m., they heard gunfire. PSI Wesley ordered them to quickly move towards their designated way point. While moving, they heard continuous gunfire coming from a location which was more or less one (1) kilometer away from them. They immediately dropped and occupied their designated way point at around 6:30 a.m.

While the gunfire continued, the 42<sup>nd</sup> and 45<sup>th</sup> SAC advanced and passed by their location. PSI Wesley directed them to advance and support the extraction of the 55<sup>th</sup> SAC at around 7:00 a.m. They tactically moved, crossed the river and was engaged in a heavy firefight. The team, together with the 45<sup>th</sup> and 42<sup>nd</sup> SAC, failed to advance because their position then was an open corn plantation. PSI Wesley instructed them to hold the line in a skirmisher formation, to return fire and conceal themselves in the corn plantation. From their position, they noticed the enemy forming a letter "C" to cordon the area.

At around 11:00 a.m. while the firefight continued, one (1) section of the 43<sup>rd</sup> SAC and one (1) squad from the Army DRC arrived at their location to support and reinforce them.

At around 1:30 p.m., PSI Wesley informed them that there is a ceasefire order from the TCP. They held the line and waited for the negotiating team from the IMT and CCCH to arrive. Despite the ceasefire, the enemy continued to fire towards their direction and they still heard continuous gunfire from the positions of the 55<sup>th</sup> SAC and Seaborne Company. PSI Wesley later informed them that the IMT and CCCH went to the encounter site for negotiation. On the other hand, the enemy still continued to fire upon their position and they still heard gunshots from the location of the 55<sup>th</sup> SAC.

Artillery support arrived at around 6:00 p.m. and they noticed that the enemy stopped firing. At 6:20 p.m., they withdrew from their designated way point and proceeded to ACP.<sup>179</sup>

**c. The 42<sup>nd</sup> Special Action Company (42<sup>nd</sup> SAC)<sup>180</sup>**

**1. PSI Jess U. Dela Cruz, PI Maximo M. Beleo and PSI Ramil B. Salem**

PSI Dela Cruz is the commanding officer of 42<sup>nd</sup> SAC based in PRO 12 Compound, Tambler, General Santos City. On the other hand, PI Beleo is the administrative officer of the 42<sup>nd</sup> SAC. PSI Salem is

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<sup>179</sup> Sworn Statements of the 41<sup>st</sup> SAC members dated January 28, 2015, Annexes "C-63" to "C-102".

<sup>180</sup> The 42SAC personnel's statements were consolidated because of similar averments. Their individual sworn statements/affidavits all dated January 29, 2015 are attached as Annexes "C-103" to "C-146."

the deputy/executive officer.

**2. PO3 Joven G. Campo, PO3 Noel C. Bacanto, PO2 Romel V. Tulio, PO1 Marcelo B. Culhi, PO1 Ariel C. Nobog, PO1 Federico F. Bautista, Jr., PO2 Noel B. Dalasen, PO2 Melvin F. Sagisa, PO1 Danny L. Humpa, PO1 Brian DL Palor, PO1 Fredierick M. Cabrera, PO3 Julius P. Goce, PO2 Jackson L. Basilio, PO1 Richard Y. Wakin, PO1 Nylix B. Angitag, PO1 Rexie C. Bautista, PO3 Rheyman C. Manlangit, PO3 Robert M. Paddanan**

The names listed above are the police non-commissioned officers of 42<sup>nd</sup> SAC.

**3. Team 421 - PO2 Gerald B. Gayaso, PO2 Romulo B. Aresta, PO1 Ramil D. Datul, PO1 Julierto T. Erediano, PO1 Cresenciano B. Elibeto, Jr., PO1 Eugene L. Cayat, and PO1 Audie W. Capan**

The 42<sup>nd</sup> SAC was specifically tasked as blocking and containment force. PO2 Gayaso was the lead scout. PO1 Datul was the tail scout. PO2 Aresta and PO1 Capan were the designated snipers. PO1 Erediano was assigned as the navigator. PO1 Cayat was the designated medic. PO1 Elibeto, Jr. was tasked with carrying the M203 Tube grenade launcher of team 421 for January 25, 2015.

**4. Team 422 - PO2 Oliver B. Catubig, PO3 Matrue G. Traveño, PO2 Aivan G. Gabucayan, PO2 John Rex S. Ungsod, PO1 Joseph G. Bano, PO2 Rodel M. Besmonte, PO1 Anthony A. Caliguia, and PO1 Ranelo R. Reyes**

PO2 Catubig was the team leader. PO3 Traveño was the assistant team leader. PO2 Gabucayan was designated as the lead scout. PO1 Reyes and PO1 Caliguia were the tail scouts. PO2 Besmonte and PO1 Bano were assigned as the navigators. PO2 Ungsod was designated as the radioman of team 422.

**5. Team 423 - PO2 Elorde W. Asim, PO3 Darwin L. Vilorio, and PO1 Arturo A. Pacad**

PO1 Asim and PO3 Viloría were the lead scouts of team 423, while PO1 Pacad was designated as the tail scout.

**6. Team 424 - PO3 Mauro G. Olidan, Jr.**

He is the Investigation PNCO of the 42<sup>nd</sup> SAC and designated as the team leader of team 424.

**7. Team 425 - SPO1 Manuel T. Camayang, PO2 Arnel R. Bolante, PO1 Wiended D. Espina, and PO3 Reynaldo F. Dapilaga**

SPO1 Camayang was the assistant team leader of team 425. PO2 Bolante was the designated lead scout. PO1 Espina was tasked as the tail scout. PO3 Dapilaga was the gunner of team 425.

These police officers narrate that on January 23, 2015, the 42<sup>nd</sup> SAC proceeded to the headquarters of the 41<sup>st</sup> SAC at Malalag, Davao del Sur for final consolidation before jump-off to Mamasapano, Maguindanao. They stayed there for a day. At around 8:00 p.m. of January 24, 2015, the 42<sup>nd</sup> SAC, together with other SAF personnel (ACP personnel, 41<sup>st</sup>, 45<sup>th</sup> and 1<sup>st</sup> SAB elements) jumped-off for the 2:30 a.m. deployment. However, they were advised by the TCP through P/Supt. Mangaldan, to slow down. The SAF personnel then made a stop-over at Esperanza, Sultan Kudarat.

They arrived at the VDOP in Mamasapano at 5:30 a.m. of January 25, 2015. Thereafter, PSI Dela Cruz gave a short briefing and instruction to his forty-four (44) personnel, grouped into five (5) teams and told them that they will proceed to their designated area (way points 9, 10, 11 and 12) as blocking force together with two other companies, the 41<sup>st</sup> SAC and the 45<sup>th</sup> SAC. While they were moving toward their designated area, they heard continuous gunfire. When they were almost 800 meters away from the area, they were confronted with heavy volume of fire from the enemy. Their engagement with the enemy started at around 5:30 a.m.

The TCP commanded them through cellphone to move closer to where the 55<sup>th</sup> SAC is positioned to reinforce them and retrieve the wounded. But since they were under fire by the enemy's snipers, PSI Dela Cruz commanded his men to seek cover and concealment under the banana plants. They exerted all efforts to maneuver but heavy

gunfire prevented them. The team leader of the 45<sup>th</sup> SAC, who was at the front line, ordered his personnel who were carrying M203 grenade launchers and 90 RR, to return fire to suspected enemy locations.

P02 Dalasen used his 40 mm M203 grenade launcher to engage the enemy. However, they were not able to penetrate the area of fire between the other SAF teams and the BIFF and MILF because the latter employed snipers against them.<sup>181</sup> PO1 Caliguia was able to use his M203 launcher, while PO1 Reyes and PO2 Besmonte did not have the chance to fire back because they did not see where there targets were.<sup>182</sup>

#### **d. The 43<sup>rd</sup> Special Action Company (43<sup>rd</sup> SAC)**

##### **1. PSI Norman L. Yparraguirre**

PSI Yparraguirre, the acting company commander of the 43<sup>rd</sup> SAC based at Camp Datu Akilan Ampatuan, Shariff Aguak, states that his company was tasked as blocking and containment force at designated areas on January 25, 2015. He created two (2) sections from his company, each comprised of two (2) teams. The first section was led by him and PI Pajarillo, composed of teams 431 and 433; while the second section was led by PI Keryao and PO3 Cuyahon, composed of teams 432 and 435. The said sections were directed to proceed to Barangay Tukalinapao, Mamasapano, with target time of arrival at 2:30 a.m. of January 25, 2015, to contain and block possible enemy reinforcements.

During the actual operation, the 43<sup>rd</sup> SAC was not able to reach the designated place on time because PSI Yparraguirre was directed by P/Supt. Mangaldan, to stand down as per instructions from the TCP. The reason was that the Main Effort (ME) was still on their way to their target place. PSI Yparraguirre and his troops proceeded to the Shariff Aguak round ball (rotunda) and linked up with the 4<sup>th</sup> SAB together with other companies. They then proceeded to their designated areas. They arrived at their designated area at around 5:30 a.m. with one V-150 armored vehicle and they made a public address in Maguindaoanon local dialect informing the community of the

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<sup>181</sup> Sworn Statement of PO2 Noel Dalasen dated January 29, 2015.

<sup>182</sup> Sworn Statement of PO1 Anthony A. Caliguia dated January 29, 2015.

police operation for the implementation of the warrant of arrest against Marwan and Basit Usman.

Thereafter, PSI Yparraguirre positioned his teams along the stretch of Barangay Tukalinapao to Barangay Libutan Road with grid coordinates 68011 64661. While there, they were engaged by sporadic fire from unknown armed groups coming from the northwest direction of their location approximately 300 meters away.

At around 9:00 a.m. and while the 43<sup>rd</sup> SAC troops were engaged, PSI Yparraguirre received instructions from the 4<sup>th</sup> SAB battalion commander to proceed to the ACP, which was more or less 500 meters away from their location. PSI Dela Cruz and his team were accompanied by one (1) section of the Army DRC and the 45<sup>th</sup> IB, to reinforce the embattled SAF commandos at the northeast direction. From the ACP, PSI Yparraguirre's troops, together with one team from the 1<sup>st</sup> SAB and one section from the 45<sup>th</sup> IB, PA, proceeded to the northeast direction of the ACP. On their way, they were met by heavy gunfire from different directions. At around 10:30 a.m., they were able to reach the position of the 45<sup>th</sup> SAC under the command of PI Efren Cogasi. PI Cogasi informed PSI Yparraguirre that it will be hard for them to proceed to the locations of the 84<sup>th</sup> SAC and 55<sup>th</sup> SAC because they will be exposed in the open terrain and they encounter huge numbers of combined MILF and BIFF forces.

At that juncture, they held the line and took defensive positions, and concealed themselves in the corn field and banana trees without any hard object to cover them. As the gunfire from the enemy became more intense, they requested for artillery support from the TCP. They received an advice to stand by. Unable to do anything but maintain their position and hold the line, they nevertheless tried to contact the 55<sup>th</sup> SAC. Their attempts yielded negative results as their radio and communication equipment bogged down and the cellphone signal was also poor.

At around 2:30 p.m., PSI Yparraguirre received a text message from his battalion commander to cease fire to pave the way for the intervention of the CCCH. On the other hand, elements of the Army DRC and the 45<sup>th</sup> IB moved out from their positions. Despite the enemy's continuous firing at the SAF troopers, PSI Yparraguirre complied with the said order.

At around 5:30 p.m., elements of the Army DRC and the 45<sup>th</sup> IB, linked-up with the SAF commandos. The request to fire phosphorous shells was granted. When these shells landed on enemy positions, their resistance stopped. This prompted the 45<sup>th</sup> IB and the 45<sup>th</sup> SAC to penetrate the location of the 55<sup>th</sup> and 84<sup>th</sup> SACs. PSI Yparraguirre's troops and the 1<sup>st</sup> SAB returned to their previous designated area to link-up with the rest of the teams and to secure their position.<sup>183</sup>

## 2. PO2 Erwin T. Betacura

Betacura narrates that he was tasked as the radioman for the mobile Harris base radio which was placed in a pick-up truck, together with PO2 Ford Ananayo. They oversaw and monitored every communication relative to the operation. They arrived at their designated area at around 5:30 a.m. of January 25, 2015. When they arrived, the ME was already engaged in a firefight, which they could hear from their designated area. They immediately secured tactical positions and monitored the communication from the TCP with their Harris radio.

At around 7:30 a.m., he heard a radio communication coming from the TCP giving orders to P/Supt. Mangaldan to secure the area and if possible to reinforce the 55<sup>th</sup> SAC which was adjacent to 43<sup>rd</sup> SAC's location.

P/Supt. Mangaldan called PI Cogasi, team leader of the 45<sup>th</sup> SAC, whose position was closest to the position of the 55<sup>th</sup> SAC and instructed him to reinforce the latter. PI Cogasi acknowledged but could not do so because they were also under heavy fire from the enemy.

At 8:30 a.m., almost all positions were under heavy fire. At that instance, P/Supt. Mangaldan contacted the TCP through Harris radio and requested for air support or indirect fire support. TCP advised them to standby as request is under coordination. By 9:30 a.m., reinforcement from Army 45<sup>th</sup> IB arrived. They tried to augment 45<sup>th</sup>

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<sup>183</sup> Sworn Statement of PSI Norman L. Yparraguirre dated February 4, 2015, attached as Annex "C-147."

SAC and to rescue 55<sup>th</sup> SAC if possible. Six (6) Simba tanks from the 6<sup>th</sup> Mech Div arrived and provided support to the blocking force protecting the main supply route. They were also advised to hold the line because the CCCH were already on their way. Members of the CCCH arrived after lunch, particularly Toks Upam along with some foreigners.

Three rounds of white phosphorus shells were fired to mark the target but live High Explosives (HE) rounds were no longer fired since there was no longer any gunfire from the enemy positions.

At about 6:30 pm, the CCCH and local government officials of Mamasapano entered the MILF area to retrieve the casualties. At 8:30 p.m., combined SAF and AFP troops were able to link up with the Seaborne Company. They arrived at Crossing Tuka at around 5:00 a.m. of January 26, 2015.<sup>184</sup>

**3. Team 431, Section 1 - PO3 Ernie Garcia Maralit, PO1 Kennedy L. Dawing, PO2 Johnny C. Cunapa, PO2 Joefrey L. Mamauag, PO2 Harold C. Fontanilla, PO1 Richie A. Miana, PO1 Marvin T. Tejero**

Section 1 of team 431 was tasked to serve as blocking force and containment to pre-empt any reinforcement and retaliation from the enemy. Specifically, Section 1 was to serve as the blocking and containment force along Tukanalipao-Libutan road in Mamasapano, Maguindanao.

PO3 Maralit was the designated assistant team leader. PO2 Cunapa was the navigator. PO2 Mamauag was assigned as contactman. PO2 Fontanilla was the sniper. PO1 Dawing was the lead scout. PO1 Miana was the designated radioman. PO1 Tejero was assigned as the tail scout.

According to these police officers, the 43<sup>rd</sup> SAC departed from their headquarters at around 4:45 a.m. of January 25, 2015. They arrived at their designated post at around 5:30 a.m., backed by one (1) V-150 armored vehicle. When they arrived at their position, they

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<sup>184</sup> Sworn Statement of PO2 Erwin T. Betacura dated February 5, 2015, attached as Annex "C-148."

heard a gunfire coming from the location of the extracting team for the 84<sup>th</sup> SAC and the 55<sup>th</sup> SAC, who were engaged by armed groups. The 43<sup>rd</sup> SAC stayed in their place as armed men fired upon them. Nonetheless, they were able to defend their area.

At around 9:00 a.m., PSI Yparraguirre received a call from PSupt. Mangaldan asking them to report at the ACP. They followed the command and upon arriving at the ACP, they were directed to team up with the section of the Division Reconnaissance Company (DRC), PA to reinforce the 45<sup>th</sup> SAC and the 55<sup>th</sup> SAC which was badly attacked and surrounded by armed groups.

Upon reaching the location of the 45<sup>th</sup> SAC at around 10:30 a.m., 45<sup>th</sup> SAC team leader, PI Cogasi, advised them that they might not be able to reinforce the 55<sup>th</sup> and 84<sup>th</sup> SACs because of the very critical situation as the armed groups have converged heavily in the area. The DRC team was likewise hesitant due to the difficulty of the terrain, hence, they decided to hold the line and stayed in their location. They did not receive a call for reinforcement from their comrades because there was no signal and the exact locations of the enemy and 55<sup>th</sup> SAC were unknown.

At around 2:30 p.m., PSI Yparraguirre received a text message from the ground commander, PSupt. Mangaldan, informing them to cease fire because representatives from CCCH will arrive in the area to calm the situation. They followed the instruction and stayed until 6:00 PM. Thereafter, they were directed to withdraw from the area and link up with team 433.<sup>185</sup>

**4. Team 432, Section 2 - PI Irving O. Keryao, PO3 Gary V. Cercado, PO2 Aaron H. Almine, PO1 Noel M. Butala, PO1 Gyver R. Tabbang, PO2 Rudy B. Inomneng, Jr., PO2 Manuel F. Aswit, Jr., and PO2 Michael C. Misa**

On January 25, 2015 at Mamasapano, Maguindanao, Section 2, team 432 was tasked to serve as a blocking force and containment to pre-empt any reinforcement and retaliation from the enemy. Specifically, Section 2 served as the blocking and containment force

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<sup>185</sup> Sworn Statements of the team 431, section 1 of the 43<sup>rd</sup> SAC members dated January 28, 2015, Annexes "C-149" to "C-155."

along the junction of Tukanalipao-Sapkan road, both located at the vicinity of Tukanalipao in Mamasapano.

PI Keryao was the designated team leader. PO3 Cercado was the assistant team leader. PO2 Inomneng, Jr. was the navigator. PO2 Misa was assigned as contactman. PO1 Tabbang was the sniper. PO2 Almine was the lead scout. PO2 Aswit, Jr. was the radioman. PO1 Butala was assigned as the tail scout.

The 43<sup>rd</sup> SAC departed from their headquarters at around 4:45 p.m. of January 25, 2015 and arrived at their designated post at around 5:30 a.m., supported by one (1) V-150 armored vehicle.

While in their said position, they heard gun shots and they were informed that the extracting team, the 84<sup>th</sup> SAC and the 55<sup>th</sup> SAC were engaged or attacked by armed groups. The team stayed in their place. Three (3) armed men who were more or less 200 meters away, fired upon them leaving them no choice but to fire back. They noticed that several men started to regroup towards the southeast direction. Thus, the team leader, PI Omaoeng, instructed the tank commander, PO3 Pawid, to move forward with infantry support. They were able to defend their area.

There was no other significant event that happened in their designated area until 4:00 p.m. of January 26, 2015, when Section 1, led by PSI Yparraguirre and other operating troops withdrew from their location. Thereafter, PSI Wesley, team leader of 411 instructed all operating troops to withdraw from the area. All operating troops were in defensive positions and received fire from different directions. They also had problem with their radio communication as their hand held radios and cellular phones were drenched due to the terrain.<sup>186</sup>

**5. Team 433, Section 1 - PI Bryan Angelo K. Pajarillo, PO3 Beltzasar E. Aporbo, Jr., PO2 Ruel U. Ingcog, PO1 Rogelio B. Javier, PO1 Jaysan A. Basiana, PO1 Neil D. Dabuet, PO1 Johnrey M. Garrido, and PO1 Roberto W. Alberto**

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<sup>186</sup> Sworn Statements of team 432, section 2 of the 43<sup>rd</sup> SAC members dated January 28, 2015, attached as Annexes "C-156" to "C-163."

Section 1 of team 433 was tasked to serve as blocking force and containment to pre-empt any reinforcement and retaliation from the enemy along the Tukanalipao-Libutan road in Mamasapano, Maguindanao.

PI Pajarillo was the designated team leader of Team 433. PO3 Aporbo, Jr. was the assistant team leader. PO1 Basiana was the navigator. PO2 Ingcog was the contactman. PO1 Dabuet was the sniper. PO1 Javier was the lead scout. PO1 Garrido was the radioman. PO1 Alberto was the tail scout.

The 43<sup>rd</sup> SAC departed from their headquarters at around 4:45 a.m. of January 25, 2015 and arrived at their designated post at around 5:30 a.m., reinforced by one (1) V-150 armored vehicle.

As soon as they arrived at their post, they heard gunfire from the location of the 84<sup>th</sup> SAC at Pidsandawan, Mamasapano and from the location of the 55<sup>th</sup> SAC which were engaged by armed groups. As tasked, they stayed in their place and secured the area. While there, armed men at a distance of more or less 200 meters, fired towards their location leaving the police officers no choice but to fire back to defend their position. This prevented them from reinforcing the other SAF commandos who were engaged in the firefight.

At around 9:00 a.m., PSI Yparraguirre received a call from the ground commander, P/Supt. Mangaldan, asking him to report to the ACP. PSI Yparraguirre and team 431 proceeded to the ACP while the other teams stayed and secured their post. At around 3:30 p.m. of January 26, 2015, they were instructed to pull out.<sup>187</sup>

**6. Team 435, Section 2 - PO3 Michael P. Cuyahon, PO2 Richard N. Quiling, PO2 Allen T. Padong, PO1 Jose T. Balogo, PO1 Jeffrey G. Pascual, PO1 Chester M. Beleo, PO1 Elwin R. Baligat, and PO1 Abel R. Ambulario**

Section 2 of team 435 was tasked to serve as the blocking and containment force along the junction of Tukanalipao-Sapkan road,

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<sup>187</sup> Sworn Statements of team 433, section 1 of the 43SAC members dated January 28, 2015, Annexes "C-164" to "C-171."

both located at the vicinity of Tukanalipao in Mamasapano, Maguindanao.

PO3 Cuyahon was the designated team leader. PO2 Quiling was the assistant team leader. PO1 Pascual was the navigator. PO2 Padong was assigned as contactman. PO1 Baligat was the sniper. PO1 Balogo was the lead scout. PO1 Beleo was the designated radioman. PO1 Ambulario was assigned as the tail scout.

The 43<sup>rd</sup> SAC left their headquarters at around 4:45 a.m. of January 25, 2015 and arrived at their designated post at around 5:30 a.m., supported by one (1) V-150 armored vehicle.

When they reached their position, they heard gunfire and were informed that the 84<sup>th</sup> SAC and the 55<sup>th</sup> SAC were in a firefight at Pidsandawan, Mamasapano with separate armed groups. As tasked, the team stayed in their place and secured the area. Armed men at a distance of more or less 200 meters fired towards their location. The team fired back to defend their position. They went forward towards the armed group to observe and prevent them from reinforcing the other armed groups who engaged the 84<sup>th</sup> SAC and 55<sup>th</sup> SAC.

At around 4:00 p.m., PSI Wesley of team 411 instructed the troops to load up and withdraw from the area.<sup>188</sup>

**7. Team 436, Section 1 - PO1 Ben M. Cayasfon, PO1 Ronnie Boots A. Vicente, PO1 Adrik D. Gabreza, PO1 Arsenio L. Pagaddu, Jr., and PO1 Romar B. Baricaua**

Section 1 of team 436 was assigned to serve as the blocking and containment force along Tukanalipao-Libutan road in Mamasapano. PO1 Cayasfon was the designated lead scout with the 90 mm recoilless rifle (90RR). PO1 Vicente was the tail scout with the 90 RR. PO1 Gabreza was designated as the sniper. PO1 Pagaddu, Jr. was the radioman. PO1 Baricaua was assigned as the navigator.

According to these police officers, the 43<sup>rd</sup> SAC departed from their headquarters at around 4:45 a.m. of January 25, 2015. They

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<sup>188</sup> Sworn Statements of team 435, section 2 of the 43SAC members dated January 28, 2015, Annexes "C-172" to "C-179."

arrived at their designated post at around 5:30 a.m. They were backed by one (1) V-150 armored vehicle.

When they reached their designated position, they could hear gunfire from the location of the 84<sup>th</sup> SAC at Pidsandawan, Mamasapano and from the location of the 55<sup>th</sup> SAC. They maintained their position and secured the area. While there, armed men closed up and fired towards their direction. They fired back at the enemy. As a result, the armed groups were not able to pass and reinforce the other armed groups who engaged the 84<sup>th</sup> SAC and the 55<sup>th</sup> SAC.

At around 9:00 a.m. of January 25, 2015, PSI Yparraguirre received a call from P/Supt. Mangaldan asking him to report to the ACP. PSI Yparraguirre obeyed while the others stayed to secure the area.<sup>189</sup>

**8. Team 436, Section 2 - PO3 Sergio M. Pahang, PO3 Erwin M. Asturias, PO2 Levy S. Aliba, PO1 Dennis B. Razos, and PO1 Adonis O. Curambao**

Section 2, team 436 was deployed as the blocking and containment force along the junction of Tukanalipao-Sapkan road, both located at the vicinity of Tukanalipao in Mamasapano, Maguindanao.

PO3 Pahang was the designated team leader. PO3 Asturias was the designated assistant team leader. PO2 Aliba was the lead scout. PO1 Curambao was the radioman. PO1 Razos was the tail scout.

These police officers narrate that the 43<sup>rd</sup> SAC departed from their headquarters at around 4:45 a.m. of January 25, 2015. They reached their designated post at around 5:30 a.m., where they were reinforced by one (1) V-150 armored vehicle.

At their designated area, they could hear gunfire from the location of the 84<sup>th</sup> SAC at Pidsandawan, Mamasapano and from the location of the 55<sup>th</sup> SAC. Because of their orders, they stayed in their position and secured the area. They received fire from several armed

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<sup>189</sup> Sworn Statements of team 436, section 1 of the 43<sup>rd</sup> SAC members dated January 28, 2015, attached as Annexes "C-180" to "C-184."

men. The commandos returned fire. They moved forward to a group of men they believed to be MILF members. They observed and prevented these MILF elements from reinforcing their other members who were engaged in the firefight. The exchange of fire between them and the armed group continued for an hour. They stayed in the area until 6:00 p.m. of January 26, 2015.<sup>190</sup>

### **e. The 44<sup>th</sup> Special Action Company (44<sup>th</sup> SAC)**

#### **1. PSI Erving D. Chan**

He is the commanding officer of the 44<sup>th</sup> SAC stationed at PC Hill, Cotabato City.

PSI Chan narrates that on January 23, 2015, at around 8:30 p.m., their battalion commander, P/Supt. Mangaldan, informed the members of the 4<sup>th</sup> SAB to consolidate at Malalag, Davao del Sur for a briefing about an important mission. As ordered, they arrived at Malalag, Davao del Sur with forty (40) personnel. They were briefed by Mangaldan about their specific task for the operation.

After the briefing, they were again instructed by Mangaldan to secure the area located at crossing Nabundas, all the way to crossing Tukanalipao, and to serve as blocking force. In short, they were tasked to be a blocking force.

On January 25, 2015, at around 5:00 a.m., they arrived at crossing Nabundas, Mamasapano. They then deployed into three (3) different perimeters all the way to crossing Tukanalipao for road blocking, and secure the area for the Main Effort (ME) that will pass on the said road.

PSI Chan led three (3) PCOs and thirty (37) PNCOs, who stayed in the middle of crossing Nabundas and crossing Tukanalipao. As they were in the area, they heard from their companion who had a Harris radio that a heavy gunbattle between the government troops and lawless elements ensued.

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<sup>190</sup> Sworn Statements of team 436, section 2 of the 43<sup>rd</sup> SAC members dated January 28, 2015, attached as Annexes "C-185" to "C-189."

Between 8:00 a.m. to 9:00 a.m., they heard several mortar rounds landing, yet they remained in their post. They simply conducted a checkpoint and did not engage the enemy. Later on, PSI Chan saw several Army armored vehicles pass by towards Tukanalipao.

The twelve (12) PNCOs who were deployed in the area together with their team leader PSI Chan are as follows: PO3 Edgar S. Mabatan, PO3 Peter A. Wong, PO2 Denis B. Cayat, PO2 Gin-mar L. Reyes, PO1 Ericcion A. Salida, PO1 Climson Longtoy, PO1 Norberto M. Nazareno, Jr., PO1 Frederick P. Virrey, PO1 Abdurahman O. Jalil, PO1 Nel G. Ortega, PO1 Harold D. Maraggun, and PO1 Joel J. Balnao.<sup>191</sup>

## **2. PSI Neil Christopher Gaspar**

PSI Gaspar is a platoon leader of the 44<sup>th</sup> SAC stationed at PC Hill, Cotabato City. On January 25, 2015, he led thirteen (13) PNCOs which were positioned in the middle portion between crossing Nabundas and Crossing Tukanalipao, Mamasapano, Maguindanao towards the location of PSI Chan and his men. They were tasked to serve as blocking force at the crossing Nabundas to crossing Tukanalipao. They were not augmented by the Army in their area since his platoon had sufficient numbers to perform the task.

The thirteen PNCOs who were positioned with PSI Gaspar in the middle portion between Crossing Nabundas and Crossing Tukanalipao tasked as the blocking force are as follows: PO3 Julius M. Astrero, PO2 Wellington P. Manganip, PO2 Erico O. Bestid, Jr., PO1 Rolly Boy L. Dalog, PO1 Nasser S. Sailila, PO1 Adonis A. Manudom, PO1 Ariel B. Managtag, PO1 Dexter L. Dalignoc, PO1 Albert Paulo M. Comido, PO1 Walter B. Bustamante, PO1 Genus E. Dominguez, PO1 Jazz R. Dag, and PO1 Gerome Tedoco.<sup>192</sup>

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<sup>191</sup> Sworn Statements of team 442 of the 44<sup>th</sup> SAC dated January 29, 2015, Annexes "C-190" to "C-202."

<sup>192</sup> Sworn Statements of team 443 of the 44<sup>th</sup> SAC dated January 29, 2015, Annexes "C-203" to "C-216."

### **3. PI Mark Kenneth Salvacion**

He is the platoon leader of 44<sup>th</sup> SAC stationed at PC Hill, Cotabato City. They were tasked to serve as blocking force at the crossing Nabundas to crossing Tukanalipao. He led twelve (12) PNCOs which stayed at the middle portion between crossing Naundas and crossing Tukanalipao, after the location of PSI Chan. The twelve (12) PNCOs are as follows: PO3 Gonny C. Lague, PO2 Eliser D. Baltazar, PO2 Kleven Thomas A. Guting, PO1 Joshua T. Pancho PO1 Gerome Q. Laca, PO1 Donato Aguirre, PO1 Ferdinand H. Panhon, PO1 Sukarno D. Adam, Jr., PO1 Danilo P. Panganduyon, PO1 Robert Bagni, Jr., PO1 Alcher L. Dacula, PO1 Robespierre Y. Dulawan, and PO1 Rambo Belingon.<sup>193</sup>

#### **f. The 45<sup>th</sup> Special Action Company (45<sup>th</sup> SAC)**

##### **1. P/Insp. Efren G. Cogasi**

PI Cogasi is the team/platoon leader of the 45<sup>th</sup> SAC composed of five (5) teams – 451, 452, 453, 454, 455. During Oplan EXODUS, the company was tasked as containment and blocking force positioned at waypoints 13, 14 and 15, which were all located at Barangay Tukanalipao, Mamasapano.

According to Cogasi, during the actual encounter, the team tried their best using their crew-served and special weapons such as the 90RR, Savage Light Machine Gun, Barrett, and 40 mm grenade launcher against the enemy. But they were suppressed by the enemy as the latter were positioned in advantaged locations, utilizing bunkers and foxholes.

At 6:30 a.m. of January 25, 2015, Cogasi's team received an order from P/Supt. Mangaldan, to reinforce the 55<sup>th</sup> SAC. While they were on their way to reinforce the 55<sup>th</sup> SAC, they were met by bursts of gunfire from the MILF and BIFF. Cogasi's team was blocked by the enemy. He was then told by P/Supt. Mangaldan to establish a forward observer post because the TCP was requesting for indirect fire support.

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<sup>193</sup> Sworn Statements of team 444 of the 44<sup>th</sup> SAC dated January 29, 2015, Annexes "C-217" to "C-230.

At around 2:00 p.m., Cogasi received a text message from P/Supt. Mangaldan to hold position and desist from firing to give way for the CCCH to negotiate a ceasefire. Two (2) hours later, Mangaldan instructed PI Cogasi to merge with the Army DRC and initiate movement to retrieve the 84<sup>th</sup> SAC, who cannot move from their position because they have members who were wounded (WIPO) and killed (KIPO).

The 45<sup>th</sup> SAC and the Army DRC was able to locate the 84<sup>th</sup> SAC at the encounter site at 11:00 p.m. At around 5:30 a.m. of January 26, 2015, they all arrived at the extraction point at Barangay Tukanalipao, Mamasapano.<sup>194</sup>

## **2. P/Insp. Janly C. Placido**

PI Placido was the team leader of team 451 of the 45<sup>th</sup> SAC under the platoon of P/Insp Efren G. Cogasi. The following are the team members of team 451: PO3 Randi B. Balungayan, PO3 Florentino T. Sibal, PO2 Zulkipar B. Akkuh, PO1 Julius A. Chelnag, PO1 Bernard P. Gaayon, and PO1 Alvin P. Macababbad.

These police officers narrate that while they were on their way to the VDOP, they were advised by P/Supt. Mangaldan to slow down because the 84<sup>th</sup> SAC has not yet reached the target area. They reached the VDOP at around 5:30 a.m of January 25, 2015.

At about 6:45 a.m., they received an order from Mangaldan to move from their designated way point to support the 55<sup>th</sup> SAC at waypoint 11. However, they were not able to move further because of the open terrain before them and they were engaged by the enemy with heavy gunfire. PI Placido called for indirect fire support from the ACP at 7:25 a.m. He also texted PSI Medrano, operations officer of the 4<sup>th</sup> SAB and requested for an airstrike. However, no indirect fire support or airstrike was granted.

At 1:30 p.m., they received an order from P/Supt. Mangaldan to cease firing because members of the CCCH will arrive. Despite the ceasefire on their part, the enemy continued to fire at them.

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<sup>194</sup> Sworn Statement of P/Insp Efren G. Cogasi dated January 28, 2015, attached as Annex "C-231."

Their team, together with one (1) platoon from the Army DRC, were able to locate the members of the 84<sup>th</sup> SAC at 11:00 p.m. They helped the Army troopers carry the casualties and brought them to the extraction point.<sup>195</sup>

**3. Team 452 - P/Insp. John Vincent F. Bravo, PO3 Dexter A. Zamora, PO3 Glenn S. Alcaraz, PO2 Raffy A. Ponpon, PO2 Joker I. Masweng, PO1 Joseph A. Luy-od, Jr., PO1 Bern S. Gumaya, PO1 Richieboy C. Ferrer, PO3 Armand F. Ibañez, and PO1 Rex T. Nomen**

PI Bravo was the designated team leader of team 452 of the 45<sup>th</sup> SAC. PO3 Zamora was the assistant team leader. PO3 Alcaraz was the lead scout. PO2 Ponpon was the navigator. PO2 Masweng was tasked as the contactman. PO1 Luy-od, Jr. and PO1 Gumaya were the snipers. PO1 Ferrer was the gunner. On the other hand, PO3 Ibañez and PO1 Nomen were the 90RR operators.

These police officers narrate that their team was dispatched for Mamasapano, Maguindanao at 9:30 p.m. of January 24, 2015.

At around 5:30 a.m. of January 25, 2015, PI Bravo's team reached the Vehicle Drop-off Point (VDOP) at Barangay Tukanalipao, Mamasapano, and walked towards their designated area (waypoint 9). After they established their tactical positions, their platoon leader instructed them to reinforce the 55<sup>th</sup> SAC. However, they were not able to advance further because of the open terrain before them.

At 2:00 p.m., PI Bravo informed them that there was a ceasefire order and that members of the IMT and CCCH will arrive. Despite the ceasefire on their part, the enemy still fired at them. PI Bravo instructed them at 4:00 p.m. to initiate movement to retrieve their comrades from the 55<sup>th</sup> SAC and 84<sup>th</sup> SAC who were killed in police operation/wounded in police operation (KIPO/WIPO). At 11:00 p.m., their team was able to locate the KIPO/WIPO and brought them to the extraction point.<sup>196</sup>

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<sup>195</sup> Sworn Statement of PI Placido dated February 4, 2015, Annex "C-232"; Affidavits of team 451 of the 45<sup>th</sup> SAC dated January 28, 2015, Annexes "C-233" to "C-238."

<sup>196</sup> Affidavits of team 452 of the 45SAC dated January 28, 2015, Annexes "C-239" to "C-248."

**4. Team 453 - PO3 Gilbert M. Pilapil, PO1 Jerwil B. Payangdo, PO1 Rudy C. Ticangen, PO1 Manuel N. Natino Jr., PO2 Romnick R. Diloy, PO2 Samir P. Mustapha, PO2 Nelson B. Aben and PO3 Norman Tulaban**

PO3 Pilapil is a member of the 45<sup>th</sup> SAC based in CPPO Compound, Brgy. Amas, Kidapawan City, North Cotabato. For Oplan EXODUS, Pilapil was the designated team leader of Team 453 of the 45<sup>th</sup> SAC. His team was tasked as a blocking and containment force.

On the other hand, PO3 Tulaban was the lead scout of team 453. PO1 Payangdo was the tail scout. PO1 Ticangen and PO1 Natino Jr. were the snipers. PO2 Diloy was the radioman. PO2 Mustapha was the contactman, while PO2 Aben was designated as the navigator.

The team jumped-off from the 41<sup>st</sup> SAC HQ at 9:00 p.m. of January 24, 2015 and arrived at the VDOP at Barangay Tukanalipao, Mamasapano at 5:30 a.m. of January 25, 2015. When the team arrived, they heard heavy gunfire from the enemy. At that time, the 55<sup>th</sup> SAC was already compromised and engaged with the enemy. However, Pilapil's team could not contact nor locate the positions of the 55<sup>th</sup> SAC and the 84<sup>th</sup> SAC.

Thereafter, their platoon leader, PI Efren G. Cogasi, instructed them to start moving in line formation and to establish the team's tactical positions as blocking force.

During the actual encounter, PO3 Pilapil intermittently aimed and fired his issued weapon, an FF SOAR, at identified enemy positions. Their team could not execute any tactical movement because the encounter site was an open field. To the right side of the encounter site was a cornfield, without hard objects they could use as cover. Pilapil also noticed that they were outnumbered by the enemy in advantageous positions in bunkers or foxholes. PI Cogasi then instructed them to stay put near the riverbank and maintain tactical line formation.

At 6:30 a.m. of the same day, PO3 Pilapil received another instruction from PI Cogasi to move his team to the location of the 55<sup>th</sup> SAC and reinforce them. They later received instruction to hold their position and cease from firing. After establishing their tactical

positions, their team leader ordered them to reinforce the 55<sup>th</sup> SAC. In their attempt to reinforce the latter, the enemy fired at their direction. Hence, they were not able to reinforce the 55<sup>th</sup> SAC. The enemy was in an advantageous position, while their team only used corn stalks and banana plants to cover themselves. At about 2:00 p.m., their team leader instructed them to cease fire, but their enemy continued to fire at them.

At around 4:00 p.m. of January 25, 2015, PI Cogasi instructed them to move and retrieve the cadavers of the 84<sup>th</sup> SAC commandos. The Army DRC relayed to the team at 7:00 p.m. that they know the whereabouts and exact location of the 84<sup>th</sup> SAC. They started moving to locate the 84<sup>th</sup> SAC and 55<sup>th</sup> SAC.

Their team was able to locate the KIPO/WIPO at 11:00 p.m. They helped the other SAF teams who are involved in the retrieval operation. On January 26, 2015, at around 5:30 a.m., their team arrived at the extraction point, and the WIPO were transported for immediate medical attention.<sup>197</sup>

**5. Team 454 - PO2 Elorde B. Lunas, PO3 Adonis M. Caspe, PO2 Jaike A. Lamusao, PO2 John G. Bilango, PO2 Edgraen A. Mabini, PO1 Rizalde B. Bunay, PO1 Federico F. Maslang, and PO1 Jimmy N. Vicente; Team 455 – PO2 Jup C. Limangan**

PO2 Lunas is a member of the 45<sup>th</sup> SAC based in CPPO Compound, Brgy. Amas, Kidapawan City, North Cotabato. During the police operation on January 25, 2015, he was designated as the team leader of Team 454. His team was tasked as blocking and containment force.

PO3 Caspe was assistant team leader. PO2 Lamusao was the lead scout. PO2 Bilango, PO2 Mabini and PO1 Bunay were contact men. PO1 Maslang was the sniper. PO1 Vicente was the tail scout.

PO2 Limangan was a member of Team 455 and the designated sniper.<sup>198</sup>

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<sup>197</sup> Affidavits of team 453 of the 45<sup>th</sup> SAC dated January 28, 2015, Annexes "C-249" to "C-256."

<sup>198</sup> Sworn Statements of team 454 and 455, 45<sup>th</sup> SAC dated January 28, 2015, Annexes "C-257" to "C-265."

**6. PO2 Samuel T. Tang, PO1 Nixon L. Coseph and PO1 Vincinth Catalbas; PO1 Roland T. Lawig and PO3 Elcid A. Puguon**

PO2 Tang, PO1 Coseph and PO1 Catalbas were designated as snipers during the operation to augment the 43<sup>rd</sup> SAC. They were briefed that their main task was blocking and containment within their respective designated area.

These police officers recall that at 5:30 a.m. of January 25, 2015, the team arrived in Tukanalipao, Mamasapano which was their VDOP. Immediately upon their arrival, they heard heavy gunfire coming from the enemy side.

During the actual encounter, whenever they had a clear shot they used their LAR-15 rifles to fire against identified enemy positions. At around 6:30 a.m., they observed the exchange of gunfire at the encounter site. Thereafter, they received an instruction from the team leader of the 43<sup>rd</sup> SAC to cease from firing. They noticed that despite the peace talks initiated by concerned members of the CCCH and IMT, there were still gunfire coming from the enemy.

PO2 Samuel Tang further stated that after their link-up with the operating SAF teams involved in the said operation, he helped to carry the recovered commandos who were KIPO/WIPO.

On the other hand, Lawig and Puguon were designated as snipers during the operation to augment the 44<sup>th</sup> SAC. They were briefed that their main task is to secure the Nabundas road which served as an exit for all operating troops.

On January 25, 2015, at 4:15 a.m., their team arrived at the Nabundas road crossing. After an hour, their team moved out and upon reaching a kilometer from Nabundas road, they established an observation post in the area. During the actual encounter, they used their SAVAGE rifles to fire against identified enemy positions whenever there was an opportunity.

At about 6:30 a.m., they observed the exchange of gunfire at the encounter site. They later received an instruction from the team leader

of the 43<sup>rd</sup> SAC to desist from firing. Despite the peace talks initiated by concerned members of the CCCH and IMT, there were still gunfire coming from the side of the enemy.<sup>199</sup>

**g. 11<sup>th</sup> SAC, 1<sup>st</sup> Special Action Battalion (1<sup>st</sup> SAB) based in Tagbina, Surigao del Sur: PSI Merben Bryan M. Lago, PO2 Joseph P. Adaya, PO1 Lester S. Molina, PO1 Mergel J. Banac, PO1 Arthur A. Cagurangan, PO2 Allen B. Ricardo, PO3 Felix W. Alistag, PO2 Bobbie L. Elam, PO2 Edwin A. Cinco**

PSI Lago is the company commander of the 11<sup>th</sup> SAC. PO2 Adaya was one of the designated drivers. PO1 Molina was the contactman. PO1 Banac was the sniper. PO1 Cagurangan was the tail scout. PO2 Ricardo was the lead scout. PO3 Alistag was the assistant team leader. PO2 Elam was the navigator while PO2 Cinco was the radioman and medic.

PSI Lago narrated that his team from the 11<sup>th</sup> SAC was tasked to conduct blocking and containment in the vicinity of the National Road going to Datu Piang, Maguindanao, approximately 800 meters away from Crossing Tuka and about 300 meters away from the Advance Command Post (ACP). Together with the 43<sup>rd</sup> SAC led by PSI Norman Yparraguirre, they were supported by one (1) V-150 armored vehicle led by its tank commander P/Insp. Ananayo.

According to Lago, he briefed his team about the details of their task as blocking and containment force. At around 9:00 p.m. of January 24, 2015, their team jumped-off at Malalag, Davao del Sur going to the area of operation at Mamasapano. Before the jump-off, P/Supt. Mangaldan, battalion commander of the 4<sup>th</sup> SAB, conducted a briefing.

At around 5:30 a.m. of January 25, 2015, Lago's team arrived at the VDOP at Barangay Tukanalipao, Mamasapano. They could hear gunfire coming from the north. The team immediately proceeded to their designated area for blocking and containment.

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<sup>199</sup> Sworn Statements of 45<sup>th</sup> SAC snipers PO2 Tang, PO1 Coseph, PO3 Puguon, PO1 Lawig and PO1 Catalbas, dated January 28, 2015, Annexes "C-266" to "C-270."

Thereafter, a member of the Intelligence Surveillance Target Acquisition and Reconnaissance (ISTAR) informed PSI Lago that P/Supt. Mangaldan ordered his team to move near the ACP to stretch the area to be blocked and contained. At around 9:00 a.m. of January 25, 2015, P/Supt. Mangaldan instructed Lago's team to join the Army DRC of the 45<sup>th</sup> IB and the 43<sup>rd</sup> SAC led by PSI Yparraguirre to reinforce the SAF troopers who were attacked and surrounded by armed groups in the area north of the ACP. While they were on their way, they encountered sporadic fire coming from different directions. At around 10:30 a.m. of the same date, they reached the 45<sup>th</sup> SAC led by PI Cogasi and linked up with them.

PI Cogasi informed the team that it is not possible to advance to the location of the 55<sup>th</sup> SAC because it is an open terrain where enemy snipers are already in advantaged positions and that there was heavy firing coming from different directions. They requested for artillery support from the ACP but the latter told them to standby.

PSI Lago's team maintained their positions even under heavy volume of fire from the enemy forces. They tried to contact the 55<sup>th</sup> SAC but were unable to do so because their radio and other communications equipment bogged down and their cellular phones were rendered useless because of poor signal within the area of operation.

At around 1:30 p.m. of the same day, PSI Lago received a text message from P/Supt. Mangaldan to cease from firing and hold their position to give way for the CCCH representatives. His team held their fire for almost five (5) hours even as the enemy continued firing at them.

By 5:30 p.m., elements from the Army DRC and 45<sup>th</sup> IB linked up with the team. A few minutes later, a series of white phosphorus were fired at the enemy locations. Thereafter, the 45<sup>th</sup> SAC and the Army 45<sup>th</sup> IB went to the location of the 55<sup>th</sup> SAC and 84<sup>th</sup> SAC. At this point, PSI Lago's team went back to their original designated area. There were no casualties or injured troopers among Lago's team.<sup>200</sup>

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<sup>200</sup> Affidavits of 11<sup>th</sup> SAC of the 1<sup>st</sup> SAB dated January 30, 2015, Annexes "C-271" to "C-279."

**h. 14<sup>th</sup> SAC, 1<sup>st</sup> Special Action Battalion (1<sup>st</sup> SAB) based in ADS-PPO, Patin-ay, Prosperidad, Agusan del Sur**

**1. P/Insp Denver A. Apola, PO2 Paquito A. Ruiz, PO1 John Steven B. Estrellante, PO1 Yves Rolan O. Dolalas, PO1 Lee C. Kedyam, PO3 Orland S. Juntarciego, PO1 Frederic B. Bucio, PO1 Gerald George P. Agnawa, PO1 Mateo A. Cabingan, Jr., PO1 Arnold Allan B. Felix, PO1 Henry C. Villarba, Jr., PO1 Raymond R. Tabanao, and PO2 Carlos T. Bayeta**

PI Apola was the designated team leader while PO3 Juntarciego was the assistant team leader. PO1 Estrellante was assigned as the primary lead scout and PO1 Villarba, Jr. was the secondary lead scout. On the other hand, PO1 Tabanao was designated as the primary tail scout while PO1 Felix was the secondary tail scout. PO2 Ruiz was the primary contactman whereas PO1 Agnawa was the secondary contactman. PO1 Dolalas was the radioman. PO1 Cabingan, Jr. was the navigator. PO2 Bayeta was the designated sniper. PO1 Kedyam was the assigned spotter and PO1 Bucio was the driver of the team.

In their affidavits, they stated that at around 9:00 p.m. of January 24, 2015, they attended the briefing conducted by P/Supt. Mangaldan, battalion commander of the 4<sup>th</sup> SAB. According to Mangaldan, he was tasked as the ground commander since the area of operation was under his battalion and that he was not part of the mission planning process. Mangaldan then told the team that their task was to serve as blocking and containment force.

At about 9:50 p.m. of January 24, 2015, the team and the rest of the operating troops departed from the 41<sup>st</sup> SAC headquarters at Malalag, Davao del Sur and proceeded to their respective target areas. The team arrived at their target area at Nabundas Crossing at around 5:10 a.m. of January 25, 2015. Later, their team leader, PI Apola, was instructed by PSI Chan, commanding officer of the 44<sup>th</sup> SAC, to position his team. Together with the 44<sup>th</sup> SAC, Apola's team served as the blocking force and route security. Their location was approximately five (5) kilometers away from Crossing Tuka.

On January 25, 2015 at around 9:30 a.m., while the team was on their way to their post, one civilian who identified himself as a barangay captain of a barangay near the operation site, told them

*“your troops cannot get out from the said engagement site not unless they will be rescued for the reason that thousands of my residents in our barangay was MILF and all of them were fully armed.”*

At about 11:30 a.m., passersby approached the team and asked, *“Bakit nagtatagal pa kayo? Dapat umalis na kayo kasi kung magtatagal pa kayo dito, kakatayin na kayo ng mga MILF.”*

Apola’s team and the 44<sup>th</sup> SAC remained in their area of responsibility for the duration of the operation and they observed the reactions and movements of the community. On January 26, 2015 at around 6:30 pm, the patrol convoy of P/Supt. Mangaldan ordered them to follow and they proceeded to the headquarters of the 43<sup>rd</sup> SAC at Camp Datu Akilan, Shariff Aguak, Maguindanao to consolidate.<sup>201</sup>

**2. PI Jayson B. Estillore, PO2 Jefferson C. Labasan, PO1 Joseph L. Macapobre, PO2 Dennis P. Bañaga, PO1 Omarshabieb L. Hatae, and PO2 Reynaldo O. Mendoza, Jr.**

PI Estillore was designated as one of the team leaders of the 14<sup>th</sup> SAC, assigned to augment the 44<sup>th</sup> SAC under Oplan EXODUS. PO2 Labasan was designated as the lead scout. PO1 Macapobre was the radio man. PO2 Bañaga was designated as the navigator. PO1 Hatae was the tail scout and PO2 Mendoza, Jr., was designated as the contactman.

In their affidavits, they stated that at around 9:00 p.m. of January 24, 2015, they attended the briefing conducted by P/Supt. Mangaldan, battalion commander of the 4<sup>th</sup> SAB. According to Mangaldan, Estillore’s team was to serve as the perimeter security of the Tactical Command Post (TCP) located at the junction of Maguindanao Provincial Police Office (PPO) and Maguindanao Provincial Public Safety Company (PPSC) at Camp Datu Akilan, Shariff Aguak, Maguindanao.

At around 9:50 p.m. of January 24, 2015, the team departed from the headquarters of the 41<sup>st</sup> SAC at Malalag, Davao del Sur and proceeded to the TCP. They arrived at 5:15 a.m. of January 25, 2015

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<sup>201</sup> Sworn Statements of the team of PI Apola of 14<sup>th</sup> SAC of the 1SAB dated January 30, 2015, Annexes “C-280” to “C-292.”

and PI Estillore immediately reported to P/Supt. Mangahis. Estillore was instructed to secure the outside perimeter of the 43<sup>rd</sup> SAC headquarters.

Thereafter, PInsp Estillore and his seven (7) man team positioned themselves along the road parallel to the Maguindanao PPO as outside perimeter security of the TCP. They stated that from their posts, they heard several bursts of gunfire and a few explosions.

From 5:15 a.m. until 6:00 a.m. of January 25, 2015, the team noticed at least three (3) ambulances that repeatedly passed by their area transporting children and elderly women. Later on, from 6:00 until 10:00 a.m. of January 26, 2015, cadavers and wounded personnel from the Seaborne Company were transported to the TCP.<sup>202</sup>

**3. PI Edenyl G. Escano, PO2 Dhomer F. Suplaag, PO1 Sirad C. Dimalna, Jr., PO2 Jayson B. Collawit, PO2 Paul C. Ofo-ob, PO2 Alfredo G. Truita, PO2 Leonifer O. Ayodoc, PO1 Noli B. Magayam, and PO2 Felix A. Alcantara**

PI Escano was designated as one of the team leaders of the 14<sup>th</sup> SAC, who were assigned to augment the 44<sup>th</sup> SAC. PO2 Suplaag was the assistant team leader. PO2 Ofo-ob was the lead scout. PO1 Magayam was the tail scout. PO1 Dimalna, Jr. was the contactman. PO2 Truita was the sniper. PO2 Ayodoc was assigned as radioman and medic of the team. PO2 Alcantara was designated as the navigator and PO2 Collawit was the driver.

In their affidavits, these police officers stated that at around 9:00 p.m. of January 24, 2015, they attended the briefing conducted by P/Supt. Mangaldan, battalion commander of the 4<sup>th</sup> SAB and the assigned ground commander (GC). P/Supt. Mangaldan then told the team that their task is to serve as blocking and containment force.

At around 9:50 p.m. of January 24, 2015, the team departed from the headquarters of the 41<sup>st</sup> SAC at Malalag, Davao del Sur and proceeded to their target area. They arrived at the target area at around 5:30 a.m. of January 25, 2015.

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<sup>202</sup> Sworn Statements of the team of PI Estillore of 14<sup>th</sup> SAC of the 1<sup>st</sup> SAB dated January 30, 2015, Annexes "C-293" to "C-298."

Upon their arrival, the team heard a heavy volume of gunfire coming from the east of their position. PI Escano positioned his team near Crossing Tuka, along the national road going to the Municipality of Datu Piang, Maguindanao. Their location, together with the 43<sup>rd</sup> SAC led by PI Keryao and one (1) V-150 armored personnel carrier (APC) led by its tank commander, PO3 Pawid, is about 400 meters away from the ACP and about 100 meters away from Crossing Tuka.

At around 5:45 a.m. of January 25, 2015, the nine-man team and troops from the 43<sup>rd</sup> SAC and the V-150 moved and secured Crossing Tuka to block possible enemy reinforcements and to secure the withdrawal route of the operating troops.

At 7:00 a.m. of January 25, 2015, PSI Aquino requested their Toyota Hilux Patrol to move to the ACP to help pick-up the wounded personnel from the area of operation. When PO2 Collawit, PO2 Suplaag and PO1 Magayam arrived at the ACP, however, no wounded troops arrived.

Two (2) hours later, one (1) team of the Army DRC arrived with six (6) APCs. The team was informed by civilian passersby that a large number of MILF and BIFF are massing up nearby and about to encircle them and that many troops are already wounded.

The team looked for a stronger defensive position when they heard a volume of fire coming from the northwest to the east side of their position. Their handheld radios were not functioning and they were unable to contact all the operating troops behind enemy lines. The only means of communication was through cellular phones, but the signal was very poor. The team feared that all the operating troops had been pinned down and that there was no way out.

By 1:45 p.m., representatives from the CCCH arrived at their post and talked to the ground commander. All the while, the team's position was being fired upon by enemy snipers.

The team later observed the arrival of Army reinforcements and PNP-ARMM Regional Public Safety Battalion (RPSB) troops. The team also received information from the TCP that a number of commandos were killed and many from the Main Effort (ME) were still missing.

At around 5:00 p.m. of the same date, P/SSupt. Armilla, OIC, PRO ARMM arrived at Crossing Tuka and augmented the team's defensive position in the area. A few minutes later, an Army company arrived at the team's position and established their TCP. At this point, the gunfire was slowly tapering off.

On January 26, 2015 at around 4:30 p.m., when it was confirmed that all the remains of their fellow SAF commandos were already recovered, the team left their position and proceeded to the 43<sup>rd</sup> SAC headquarters for consolidation.<sup>203</sup>

**4. PI John Paul S. Bajar, PO1 Rommel E. Baltazar, PO3 Romulo A. Decena, PO3 Dlou G. Espuerta, PO2 Jeffrey S. Ferrer, PO2 Donald A. Santos, and PO3 Wenefredo S. Buntad**

PI Bajar was designated as one of the team leaders of the 14<sup>th</sup> SAC. PO2 Ferrer was designated as lead scout. PO1 Baltazar was assigned as tail scout. PO3 Decena was the sniper. PO3 Espuerta was the radioman. PO2 Santos was designated as the navigator. PO3 Buntad was tasked as the contactman of the team.

In their affidavits, these police officers stated that at around 9:00 p.m. of January 24, 2015, they attended the briefing conducted by P/Supt. Mangaldan who told the team that their task was to serve as the inner perimeter security of the Tactical Command Post (TCP) at the 43<sup>rd</sup> SAC headquarters, situated at the back portion of Camp Datu Akilan, Shariff Aguak, Maguindanao.

A few minutes later, the team departed from Malalag, Davao del Sur and proceeded to the TCP. They arrived at their target area at around 5:00 a.m. of January 25, 2015. PI Bajar immediately reported to P/Supt. Mangahis. Bajar was instructed to secure the inner perimeter of the camp. According to the team, no untoward incident happened within their area of responsibility until the rest of the operating troops returned at around 3:30 p.m. of January 26, 2015.<sup>204</sup>

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<sup>203</sup> Sworn Statements of the team of PI Escano, 14<sup>th</sup> SAC of the 1<sup>st</sup> SAB, dated January 30, 2015, Annexes "C-299" to "C-307."

<sup>204</sup> Sworn Statements of the team of PI Bajar, 14<sup>th</sup> SAC of the 1<sup>st</sup> SAB, dated January 30, 2015, Annexes "C-308" to "C-314."

**i. Force Support Battalion (FSB), Light Armored Units (LAUs): PI Richard B. Ananayo, PO3 Aladin C. Kabuntulan, PO2 Gaudencio L. Liwanon, PO3 Greg B. Lagunero, PO3 Ernie F. Tolentino, PO2 Medina C. Ollasic, PO3 James B. Pawid, and PO2 Norlito C. Rojas**

PI Ananayo was designated as section leader/tank commander of V-150 "Tagapagtanggol". PO3 Kabuntulan was the tank gunner of V-150 "Tagapagtanggol". PO2 Liwanon was the tank commander's assistant gunner of V-150 "Tagapagtanggol". PO3 Lagunero was the tank driver of V-150 "Tagapagtanggol". PO3 Tolentino was assistant gunner of V-150 "Mapitagan". PO2 Ollasic was the tank gunner of V-150 "Mapitagan". PO3 Pawid was the tank commander of V-150 "Mapitagan". PO2 Rojas was the tank driver of V-150 "Mapitagan". Their armored vehicles were detailed with the 43<sup>rd</sup> SAC.

On January 23, 2015, a pre-operational briefing was conducted by their section leader/tank commander, PI Ananayo. Their team and two (2) sections from 43<sup>rd</sup> SAC were tasked to secure the area along the Provincial Road at the vicinity of Tukanalipao, Mamasapano and serve as blocking force. They and their armored vehicles arrived at their post at about 5:00 a.m. of January 25, 2015.

While they were at their designated post in Tukanalipao, Mamasapano, armed men fired shots at them. PI Ananayo ordered the section to locate the enemy positions and return fire.

At around 2:30 p.m., Ananayo received an order from the ground commander, P/Supt. Mangaldan to cease fire because the members of the CCCH will be in the area of operation to negotiate with the BIFF and MILF. At 6:00 p.m., the section received an order from their tank commander to withdraw their armored vehicles from the area.<sup>205</sup>

**j. Intelligence Surveillance Target Acquisition and Reconnaissance (ISTAR) - PCI Larry L. Corales, Jr., PO3 Ronald M. Reyes, PO1 Yasser D. Balabagan, PO3 Roderlito S. Camay, PO3 Alex M. Dela Cruz, PO2 Darvyn E. Celeste, PO3 Ganie A. Solano, PO1 Argeo R. Gerunda, PO2 Marcial D. Inuguidan, PO3**

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<sup>205</sup> Sworn Statements of the FSB-LAUs, SAF dated January 29, 2015, Annexes "C-315" to "C-322."

**Luke B. Velasco, PO1 Abubakar I. Alig, PO3 Victor A. Jardio,  
PO3 Rowen P. Chiva**

PCI Corales, Jr. was the team leader of ISTAR-FIID based in Tambler, General Santos City.

These police officers narrated that at around 5:30 a.m. of January 25, 2015, the 4<sup>th</sup> SAB led by PSupt. Mangaldan arrived at the VDOP and immediately secured a stretch of Tuka Road and established their ACP. PCI Corales' team escorted the 4<sup>th</sup> SAB troops to the nearest bamboo foot bridge and the 4<sup>th</sup> SAB began deploying. He pulled out some of his personnel in their location and redeployed them in the Nabundas area to check for any movements.

When the 4<sup>th</sup> SAB was already deployed, more gunshots were heard, which were aimed at their location. Just by listening, Corales and his team could tell that the shooters were trying to envelop them. He decided to link-up with the ACP personnel to avoid "misencounters", anticipating that the AFP will later reinforce them.

By 9:30 a.m., an Army company led by 2<sup>nd</sup> Lt. Concepcion arrived at the ACP. After a few minutes, P/Supt. Mangahis and his team arrived. P/Supt. Mangaldan and P/Supt. Mangahis conducted a hasty briefing at the ACP. An Army Infantry Fighting Vehicle (IFV) and the SAF's V-150 moved toward the direction near the VDOP. PCI Corales decided to team up with other SAF personnel to secure the western portion of the ACP. At the time, their support elements reported that the enemy groups were massing, one in Barangay Libutan, Shariff Saydona and the other at SK Pendatun municipality. He relayed this to the FIID chief.

PCI Corales instructed his team to gather information from different sources, while others secured their immediate vicinity. All information they gathered were forwarded to the ACP. He also suggested that a request for artillery support be made to help their troops.

As to the rescue and retrieval efforts, PCI Corales stated that they did not participate in the retrieval because they were in plain clothes and that could cause confusion and result in a "misencounter". He stated that there were several attempts from the 4<sup>th</sup> SAB to link up with the 55<sup>th</sup> SAC which were unsuccessful. The ACP, with the help

of Army 45<sup>th</sup> IB, decided to create a strong point at Tuka junction and made it as the planning area for rescue. The search and retrieval effort commenced in the evening of January 25, 2015 with the SAF and AFP personnel.

PCI Corales recalled that out of his own initiative, he ordered his other team members to conduct a thorough check of the stretch of Shariff Aguak to Nabundas Road for IEDs, since the road was where most of the friendly forces would pass during the rescue. He also ordered his men who were deployed in other areas to link up with uniformed personnel.

He alleged that at around 12:00 noon of January 26, 2015, Army troops came to his location and presented a male person who identified himself as PO2 Christopher Lalan, a member of the 55<sup>th</sup> SAC. He was also positively identified by one of his men, his classmate PO2 Marcial Inuguidan.

PCI Corales decided to move PO2 Lalan out of the area and brought him to Maguindanao PPO. PO2 Lalan was debriefed by other ranking officers. Based on the information PO2 Lalan provided to them, he and his team started planning for contingencies. At around 5:00 p.m., Corales decided to withdraw his team and went to Maguindanao PPO for consolidation.

On the other hand, PO3 Solano, PO3 Dela Cruz and PO3 Chiva were left in the office in Tambler, General Santos City and were tasked to monitor the movements of the enemy in the area of SK Pendatun, Maguindanao. At around 8:00 p.m. of January 24, 2015, PO3 Dela Cruz received a text message from his informant in SK Pendatun regarding MILF and BIFF movements in their area. He relayed the information to Corales.

On January 26, 2015, PCI Corales tasked PO3 Dela Cruz and PO3 Chiva to go to General Santos City airport to get the names of the wounded SAF troops. But when a plane arrived, there were no wounded SAF onboard, only a civilian victim named Haji Kamid who was brought to MMC Hospital in General Santos City. They did not meet the victim. They waited for other flights but no wounded SAF troops arrived. At around 8:00 p.m., PO3 Alex Dela Cruz received a text message from an informant in SK Pendatun, Maguindanao

informing him of movements by the MILF and BIFF. PO3 Dela Cruz relayed this to PCI Corales.

Meanwhile, PO2 Celeste narrated that on January 25, 2015 at 5:00 a.m., he received information that the SAF commandos neutralized their target but encountered the enemy in the area.

At around 7:00 a.m., a trooper from the Army 6<sup>th</sup> ID informed PO3 Dela Cruz that their office intercepted a radio communication from an MILF commander that reinforcement of MILF troops will be deployed in the area of Mamasapano.<sup>206</sup>

## **5. Armed Forces of the Philippines' (AFP) Narrative**

### **a. Major General Edmundo R. Pangilinan**

M/Gen. Pangilinan is the division commander of the 6<sup>th</sup> Infantry Division (6<sup>th</sup> ID). He narrated that he first learned of the Mamasapano incident on January 25, 2015, when he received the following text message from the Director of SAF (DSAF), P/Director Getulio Napeñas at 5:06 a.m:

*“Ed good am. For your info, on January 25, 2015 at about 0230H, PNP SAF supported by Mag.PPO, PRO ARMM shall be conducting LEO & serve WA against HVTs in Mamasapano, Mag. Troops are underway. Coordination was also done with CO, 1Mech & 45IB”.*

Pangilinan checked with his field commanders and found out that no coordination was made with them. He then informed Lt. Gen. Rustico O. Guerrero, commander of the AFP's Western Mindanao Command (WESMINCOM), of the text message of PNP-SAF regarding their law enforcement operation.

At 6:18 a.m., M/Gen Pangilinan received another text message from DSAF, to wit:

*“FOR CPNP FM DSAF – Na engage SAF troops doon*

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<sup>206</sup> Sworn Statements of ISTAR-FIID members dated February 6, 2015, Annexes “C-323” to “C-335.”

*malapit ilog 2 kms east of Brgy. Tukanalipao GC  
6798365714, bandang gitna going to target Sir."*

He then instructed his ground commanders to monitor the situation and take appropriate action. At about 8:20 a.m., he was informed that the Commander of the 1<sup>st</sup> Mech Bde deployed six (6) armored vehicles from 23<sup>rd</sup> and 14<sup>th</sup> Mech Bde and a Section from 62<sup>nd</sup> DRC to help extricate the SAF troopers. He also called up B/Gen. Galvez, and B/Gen. Orense, Chairmen of the GPH-CCCH and GPH-AHJAG, respectively, to proceed to the headquarters of the 6<sup>th</sup> ID. At 9:20 a.m., the troops 23<sup>rd</sup> and 14<sup>th</sup> Mech Bde and 62<sup>nd</sup> DRC linked up with the SAF troops who were at the vicinity of Brgy. Tukanalipao and they tried to link up with the engaged troops but were unsuccessful. At 10:54 a.m., he forwarded a text message from B/Gen. Galvez to DSAF that CCCH/IMT personnel led by Mr. Butch Malang were on their way to the encounter site to facilitate the withdrawal of MILF forces and extrication of casualties.

In the afternoon, at 1:10 p.m., B/Gen. Galvez, B/Gen. Orense and Director, NICA12 joined him and his battle staff to discuss ways on how to facilitate resolution of the incident. At 1430H (2:30 p.m.), he was informed that 62<sup>nd</sup> DRC and 61<sup>st</sup> DRC left their headquarters to reinforce and link-up with troops in Mamasapano.

At 3:30 p.m., M/Gen. Pangilinan decided to proceed to the TCP at the Old Capitol Site in Shariff Aguak with B/Gen. Galvez and the Director of National Intelligence Coordinating Agency (NICA) 12. At that time, he knew that only the 55<sup>th</sup> SAC was involved in the encounter. However, when he arrived at the TCP, he was informed that there is also another unit involved, the 84<sup>th</sup> SAC. Then, at 5:30 p.m., the joint elements of the 61<sup>st</sup> DRC and one (1) platoon of SAF were deployed to reinforce and link-up with the engaged 84<sup>th</sup> SAC elements.

At 5:35 p.m., Napeñas requested for artillery support. After getting all the necessary information, the firebase at Barangay Nabundas delivered three (3) successive rounds of white phosphorous to the reported position of the armed groups at 5:48 p.m. The Fire Support Officer thereafter advised, "Danger Close", thus High Explosive (HE) rounds were not fired at the reported positions.

At 11:30 p.m., the joint elements of the 61DRC and SAF was able to link-up with the 84<sup>th</sup> SAC at the vicinity of the encounter site. At 4:30 a.m. of January 26, 2015, elements of 84<sup>th</sup> SAC were extricated from encounter site.

According to Pangilinan, he also requested for gunship support at 4:30 p.m., which arrived on *January 27, 2015*. He explained that it was not done earlier because no previous request was made by the ground commander and they did not have a clear picture of the situation<sup>207</sup>.

**b. Lt. Gen. Rustico O. Guerrero**

Lt. Gen. Guerrero is the area commander of the AFP Western Mindanao Command WESMINCOM. He narrated that a meeting was held last December 18, 2014 at Camp Aguinaldo, which was attended by AFP and PNP top brass, the PNP talked about a police operation in Central Mindanao. AFP Chief of Staff Gen. Gregorio Pio Catapang gave them guidance to support the PNP operation. A second meeting was held on December 23, 2014 in Zamboanga City to conceptualize a plan. However, no concrete plan was drafted because the PNP did not present their concept of operations.

On January 25, 2015 at 6:04 a.m., Lt. Gen. Guerrero received a call from Deputy Director General (DDG) Leonardo Espina, OIC PNP, regarding the SAF encounter in Mamasapano. This was the first time he learned of the SAF operation.

At around 6:10 a.m., P/Dir Napeñas called Guerrero about their LEO and told him that their troopers were already engaged. PDir Napeñas asked for support from the AFP units in Mamasapano. Lt. Gen. Guerrero informed him that the commander of the 6<sup>th</sup> ID was already aware and was advised to provide assistance.

DDG Espina then informed Guerrero at 7:58 a.m. through text message of the grid coordinate location of the SAF troopers, and asked for artillery fire support. He replied that infantry, artillery and tank support are available. He forwarded all the information he

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<sup>207</sup> Sworn Statement of M/Gen. Edmundo R. Pangilinan, AFP dated January 27, 2015, Annex "C-336."

received from Espina to M/Gen. Pangilinan, COM6 ID for appropriate action.

He explained that tactical deployment of infantry, tank and artillery units in the area are within the discretion of the ground commander. The deployment of air assets is within the latter's authority as the area commander. But once deployed, the disposition is now vested with the commander in that area, in this case, the commanding general of the 6<sup>th</sup> ID.

At around 8:00 a.m., he ordered the two (2) UH-1H "Huey" helicopters from the headquarters of the 1<sup>st</sup> Infantry Division (1<sup>st</sup> ID) in Pulacan to proceed to the headquarters of the 6th ID in Camp Siongco, Awang, DOS, Maguindanao to support the operation in that area. The Hueys arrived at Awang, Cotabato at around 10:54 a.m. He was later informed by M/Gen. Pangilinan that these helicopter gunships were not deployed. Meanwhile, at around 4:50 p.m., he deployed and prepositioned two (2) SF260 ground attack aircraft from Edwin Andrews Air Base in Zamboanga City for Cotabato City, which arrived at 5:40 p.m.

Lt. Gen. Guerrero continued to communicate with M/Gen. Pangilinan to monitor the situation. At around 11:30 p.m., he learned that the reinforcing army unit with other SAF elements were able to successfully link up with 84<sup>th</sup> SAC, which resulted in the retrieval of eight (8) KIA, eleven (11) WIA and seventeen (17) SAF commandos together with their firearms and equipment. Lt. Gen. Guerrero also stated that he informed Gen. Catapang regarding the incident.<sup>208</sup>

### **c. Col. Robert I. Velasco**

Col. Velasco is the operations officer of the AFP WESMINCOM. He narrated that on January 25, 2015 at around 6:10 a.m., Lt. Gen. Guerrero, area commander of WESMINCOM, informed him about the SAF encounter in Mamasapano, Maguindanao. Lt. Gen. Guerrero asked him if he knew of such operation and he answered no.

He found out later after checking with the operations center, that WESMINCOM had no information either. He also contacted the

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<sup>208</sup> Sworn Statement of Lt. Gen. Rustico O. Guerrero AFP dated February 6, 2015, Annex "C-337."

operations officer of the 6<sup>th</sup> ID, Lt. Col. Hambala, and the latter also knew nothing of the SAF operation. Afterwards, Lt. Col. Hambala informed him that there was already an encounter between the SAF and MILF/BIFF. Col. Velasco immediately informed Lt. Gen. Guerrero about the developing incident.

Col. Velasco claimed that at around 8:00 a.m. of January 25, 2015, Lt. Gen. Guerrero ordered the two (2) UH-1H "Huey" helicopters from Pulacan to proceed to Camp Siongco, Awang, Datu Odin Sinsuat (DOS), Maguindanao to support the operation in that area. Moreover, at around 4:50 p.m. Lt. Gen. Guerrero deployed and prepositioned two (2) SF260 aircraft from Edwin Andrews Air Base for Cotabato City. These aircraft arrived at 5:40 p.m.

Moreover, at around 7:49 p.m., Lt. Gen. Guerrero ordered Col. Velasco to coordinate with the 6<sup>th</sup> ID regarding the rescue and/or resupply the provisions of the beleaguered SAF commandos that night.

At around 11:30 p.m., Lt. Col. Hambala informed him that joint elements of the DRC and one (1) SAF platoon linked up with elements of 84<sup>th</sup> SAC at the encounter site and recovered eight (8) KIA, eleven (11) WIA and seventeen (17) unharmed SAF commandos. On January 26, 2015, at 4:30 a.m., Hambala informed Velasco that elements of 84<sup>th</sup> SAC (including its casualties) were extricated from the encounter site.<sup>209</sup>

#### **d. Lt. Col. Allan Hambala**

Lt. Col. Hambala is the G-3 of the 6<sup>th</sup> ID. His primary task involves orchestrating and formulating sound campaign plans pertaining to operations, including combat operations, organization and force integration to ensure the attainment of the 6<sup>th</sup> ID's mission.

On January 25, 2015, at 5:28 a.m., Lt. Col. Hambala received a phone call from S/Supt Richard Dela Rosa informing him that the SAF had an ongoing operation in Mamasapano, Maguindanao. He immediately called up the battalion commander of the 45<sup>th</sup> IB and the

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<sup>209</sup> Sworn Statement of Col. Robert I. Velasco dated February 6, 2015, Annex "C-338."

S-3 of the 601<sup>st</sup> Bde. Lt. Col. Hambala asked if the SAF coordinated with them. They confirmed that no coordination was made with them.

At around 7:30 a.m., Hambala reported to the commander of the 6<sup>th</sup> ID, M/Gen. Pangilinan, for a Battle Staff Conference (BSC) regarding the SAF operation. He learned that the 45<sup>th</sup> IB had already been directed to establish route security from Shariff Aguak to the vicinity of crossing Tuka, Mamasapano as early as 6:39 a.m. Moreover, at around 8:20 a.m., six (6) armored vehicles from the 1st Mechanized Infantry Brigade (1<sup>st</sup> Mech Bde) were deployed to assist in the extraction of the SAF.

At about 9:30 a.m., M/Gen. Pangilinan requested for an emergency meeting with B/Gen. Galvez and B/Gen. Orense of the GPH-CCCH and the AHJAG to discuss the situation. After the meeting, at around 1430H (2:30 p.m.), Lt. Col. Hambala together with M/Gen. Pangilinan, B/Gen. Galvez and other 6<sup>th</sup> ID staff proceeded to Shariff Aguak at the headquarters of the 1st Mech Bde.

Lt. Col. Hambala explained that there are parameters to be strictly observed before providing artillery support. In this case, they did not have direct contact with the SAF commandos on the ground. They also did not know the exact location of the SAF or their disposition on the ground. They had no forward observer and they had to consider the location whether it was populated by civilians or not. They also thought that it was only the 55<sup>th</sup> SAC which was pinned-down. The SAF did not inform the 6<sup>th</sup> ID of their strength. More importantly, they were not aware that there was another unit under fire, the 84<sup>th</sup> SAC.<sup>210</sup>

#### **e. Colonel Gener P. Del Rosario**

Colonel Del Rosario is the brigade commander of the 1<sup>st</sup> Mech Bde. As such, he is in command of two (2) mechanized infantry battalions and other units of the brigade. Their mission is to conduct support operations in the area of operations (AOR) to ensure the success of the implementation of normalization, defeat the BIFF and lawless/foreign terrorist organizations (L/FTOs) and support law enforcement agencies.

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<sup>210</sup> Sworn Statement of Lt. Col. Allan D. Hambala dated January 28, 2015, Annex "C-339".

In May 2014, Col. Del Rosario attended a coordinating conference at the 6<sup>th</sup> ID headquarters regarding a planned joint operation between the 6<sup>th</sup> ID and the SAF against HVTs in his AOR. However, the planned joint operation did not materialize.

In October 2014, P/Supt Mangahis informed Col. Del Rosario that they might conduct operations in Mamasapano. However, Col. Del Rosario was later informed that the planned operation was aborted.

On January 25, 2015 at 6:12 a.m., Col. Del Rosario received a call from M/Gen. Pangilinan, commander of the 6<sup>th</sup> ID, inquiring if he had knowledge of the PNP operation in the area. This was the first time Col. Del Rosario learned of the Mamasapano incident.

Col. Del Rosario received a text message from C/Supt Taliño (sent at 5:11 a.m.) to wit:

*“Gener good am. Sori to disturb u at ds very early morning. Andto kami ni Gen Napenas sa area. For your info, on 25 January 2015 at about 0230H, PNP SAF supported by Mag. PPO, PRO ARMM shall be conducting LEO & serve WA against HVTs in Mamasapano, Mag. Troops are underway. Coordination is being made with Div Cmdr, 6ID”.*

Col. Del Rosario forwarded the same text message to M/Gen. Pangilinan. He then called up PNP Provincial Director Rodelio Jocson of Maguindanao PNP to inquire if the latter knew of the PNP operation in the area. PD Jocson was also informed only that morning about the SAF operation in Mamasapano. Del Rosario then alerted all units in his brigade to prepare and called all available field commanders for an emergency meeting.

At 6:45 a.m., Del Rosario received a call from P/Supt Mangahis informing him of their operation in the area. He asked Mangahis who authorized them to conduct their operation and if they had clearance from the 6<sup>th</sup> ID. Mangahis was silent and gave no answer.

C/Supt Taliño and P/Supt Mangahis arrived at the brigade headquarters at 7:15 a.m. and gave a briefing on the situation and probable location of their engaged units. They asked for artillery support but could not give the information needed for effective fire support.

At 8:20 a.m., the available troops at the Old Provincial Capitol, Shariff Aguak, Maguindanao composed of one (1) Light Armor Platoon of the 23<sup>rd</sup> Mechanized Company (Mech Coy) (4 AVs), one (1) Mechanized Section (Mech Sec) of 12<sup>th</sup> Mech Coy (2 AVs), one (1) Inf Sec of the 62<sup>nd</sup> DRC and one (1) EODT under Lt. Rivera and Lt. Pañamogan were dispatched for Mamasapano to secure and provide suppressive fires if warranted.

Afterwards, Del Rosario sent a text message to M/Gen. Pangilinan asking for guidance on whether: 1) to move mechanized infantry to control the highway of Mamasapano; 2) insert mechanized infantry and DRC to augment the SAF at the extraction point and provide supporting fires to the SAF; and 3) to utilize 105 mm howitzer. Pangilinan then called him and told him that numbers 1 and 2 are "OK," but number 3 on artillery is "on Hold" until they had complete details of the firefight<sup>211</sup>.

#### **f. Colonel Melquiades L. Feliciano**

Colonel Feliciano is the brigade commander of the 601<sup>st</sup> Brigade, Philippine Army with headquarters at Brgy. Kalandagan, Tacurong City.

Feliciano narrated that there was no coordination with them in regard to the police operation that was executed on January 25, 2015. He only learned of it when Gen. Noli Orense, the assistant division commander of the 6<sup>th</sup> ID and chairman of the Ad Hoc Joint Action Group (AHJAG) called him at around 5:45 a.m. When he learned about the operation, he called up other units but according to them, there was also no coordination with them from the SAF.

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<sup>211</sup> Sworn Statement of Col. Gener P. Del Rosario CAV (GSC) PA dated January 29, 2015, Annex "C-340."

At 6:39 a.m., Col. Feliciano directed Lt. Col. Bautista, the commanding officer of 45<sup>th</sup> IB, to conduct route security from Shariff Aguak to Barangay Tuka. Lt. Col. Bautista complied, utilizing twenty-three (23) mechanized companies and one (1) company from the 62<sup>nd</sup> DRC. At 9:15 a.m., Lt. Col. Hambala, G3 of the 6<sup>th</sup> ID, informed him that Col. Del Rosario is the designated ground commander as per instruction of M/Gen. Pangilinan.

M/Gen. Pangilinan called up Col. Feliciano at 1:30 p.m. and ordered him to take charge as ground commander. He and his personnel jumped-off at 2:15 p.m. He talked to P/Dir. Napeñas and he also requested for additional troops.

When Col. Feliciano and his personnel arrived at the TCP, he asked P/Dir. Napeñas but no detailed information was given to him. Thereafter, P/Dir. Napeñas briefed them that his men were pinned down while some were surrounded and still in a firefight against MILF and BIFF. P/Dir. Napeñas then requested for help for the rescue of his men.

Col. Feliciano called up Lt. Col. Bautista and told him about the concepts of retrieval and rescue operations. He also instructed the 45<sup>th</sup> IB to consolidate with the DRCs and to proceed to the TCP in Tukanalipao. Both teams arrived at the TCP of the 45<sup>th</sup> IB at 4:10 and 4:45 p.m., respectively, of January 25, 2015.

Despite the reported firefight on the ground, joint elements of the DRC, 45<sup>th</sup> IB were ordered to augment the 45<sup>th</sup> SAC. They jumped-off around 5:30 p.m.

At 5:48 p.m., the request for artillery support was granted. White phosphorus round was fired from the firebase at Barangay Nabundas, Mamasapano, followed by a second round at 6:04 p.m. and the third at 6:20 p.m.

After the third round was fired, MILF and BIFF retreated to undetermined locations. Thereafter, the rescue elements proceeded to the location of 84<sup>th</sup> SAC.<sup>212</sup>

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<sup>212</sup> Sworn Statement of Col. Melquiades L. Feliciano dated February 3, 2015, attached as Annex "C-341."

**g. Lt. Col. Gregorio B. Hernandez, Jr.**

Lt. Col. Hernandez, Jr. is a member of the Philippine Marine Corps presently assigned as assistant chief for the Unified Command Staff for Intelligence (U2), WESMINCOM. He is tasked to supervise, direct and coordinate all intelligence and counter-intelligence operations within the AOR of WESMINCOM.

Hernandez narrated that in September 2014, Zulkifli Bin Hir alias Marwan was the subject of an Intel Packet. However, the said plan was aborted due to disagreement on the process of taking the subject down and whether there should be coordination with the CCCH.

Thereafter, in December 2014, P/Dir. Napeñas, P/Dir. Calima, Lt. Gen. Guerrero and M/Gen. Pangilinan attended a conference to present and finalize plans for Marwan's arrest. Just like the previous ones, the plan was aborted.

On January 25, 2015, Hernandez was at the Edwin Andrews Air Base in Zamboanga City waiting for the arrival of the President, and the Secretaries of the DILG, the DND, and the DPWH. He first learned of the Mamasapano operation from the PNP personnel who were also present in Zamboanga City. No one coordinated with his office regarding the Mamasapano operation.<sup>213</sup>

**h. Lt. Col. Romeo N. Bautista**

Lt. Col. Bautista is the battalion commander of 45<sup>th</sup> IB. His primary duty is to oversee combat operations and administrative functions of 45<sup>th</sup> IB within its AOR.

Bautista narrated that he first learned of the Mamasapano operation when his S2 (intelligence) called him at about 5:48 a.m. on January 25, 2015 and informed him that their assets reported sporadic gunfire being heard in Mamasapano. Colonel Feliciano also called to inform him that there was a reported firefight and instructed him to monitor the situation.

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<sup>213</sup> Sworn Statement of Lt. Col. Gregorio B. Hernandez, Jr., PN (M) (GSC), dated February 4, 2015, Annex "C-342."

At 6:13 a.m., M/Gen. Pangilinan, the Commander of the 6<sup>th</sup> ID called him up and asked him if there was coordination made by the PNP regarding their operations in Mamasapano and ordered him to monitor the situation and take appropriate action.

Afterwards, Lt. Col. Bautista tasked the commander of Alpha Company to provide route security at Meta Bridge, Barangay Meta, Datu Unsay; at Roundball, Poblacion, Shariff Aguak; and at Sitio Bagong, Barangay Timbangan, Shariff Aguak. He also instructed another company to deploy a mobile route security at Crossing Kuloy, Shariff Saydona Mustapha and at Tuka Bridge, Barangay Tuka, Mamasapano, Maguindanao.

At 6:39 a.m., the commander of the 601<sup>st</sup> Bde also instructed him to establish route security from Shariff Aguak to the vicinity of Crossing Tuka, Mamasapano.

At about 7:15 a.m. of January 25, 2015, Col. Del Rosario called for an emergency conference at the 1<sup>st</sup> Mech Bde at Shariff Aguak. During the conference they were told that there was an ongoing SAF operation and were instructed to prepare for the extraction of the latter.

At 8:20 a.m., Bautista monitored the deployment of six (6) armored vehicles and a section of DRC and at the same time ordered his Alpha Company commander to deploy additional security at Barangay Maitumaig and Barangay Iganagampong, both at Datu Unsay, Maguindanao. At 9:15 a.m., he ordered the Bravo Company commander to proceed to Crossing Tuka to conduct additional mobile patrol and route security.

Lt. Col. Bautista was ordered by Gen. Pangilinan at 2:12 p.m. to be at the SAF ACP to act as observer, assist the SAF ground commander, and to command and control all AFP troops. At the SAF ACP, Bautista immediately requested the SAF ground commander to establish contact and determine the exact locations of their engaged troops. He also asked for direct radio contact with a forward observer, and information on the enemy locations for possible artillery fire support.

However, the SAF ground commander P/Supt. Mangaldan could not provide Bautista the exact locations of the engaged troops as

well as the enemy locations. P/Supt. Mangaldan later gave the grid coordinates of one of the engaged troops in Tukanalipao. But the said grid coordinates were plotted at 9:00 a.m. and were not updated. Bautista explained that their standard operating procedure (SOP) requires the confirmed and updated location of friendly forces, the location and radio contact with a forward observer, and the location of the enemy must be known first before artillery fire support can be provided.

At 3:30 p.m., members of the CCCH and IMT arrived at the ACP and requested for a ceasefire from the AFP and PNP because they will soon enter the encounter site. Extrication operations started at 7:00 p.m. On January 26, 2015, at 5:30 a.m., the rescue and extrication mission was completed when the joint AFP and PNP elements reached the Tuka-Tukanalipao Road.

Lt. Col. Bautista made several observations at the SAF ACP. He averred that P/Supt. Mangaldan, the SAF ground commander, should have been with his S2 (intelligence) and S3 (plans) for faster decision making. He also noticed that the ground commander was the one texting and reporting to the TCP. He noted that there was no clear ground commander because there were two battalion commanders present, P/Supt Mangaldan and P/Supt Mangahis. The troops had no efficient line of communication. The ACP had no radio contact with their companies particularly with engaged SAF companies and relied on cellular phones for communication. He remarked that the SAF ACP had no map readily available to show current locations of troops, and most importantly, they lacked coordination. He stated that the AFP could have provided better support if SAF properly coordinated with them. Moreover, he noted that there were more than five (5) SAF companies at the Shariff Aguak-Tuka-Tukanalipao Road that were not utilized when the members of the 55<sup>th</sup> SAC were being wiped out by enemy forces. He declared that in the critical hours between 5:00 a.m. to 10:00 a.m., AFP troops were actually not needed as there were sufficient SAF companies in the area to support the 55<sup>th</sup> SAC and 84<sup>th</sup> SAC.<sup>214</sup>

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<sup>214</sup> Sworn Statement of Lt. Col. Romeo N. Bautista dated January 30, 2015, Annex "C-343."

**i. Lt. Col. Danilo D. Benavides**

Lt. Col. Benavides is the assistant chief of staff for intelligence, G2, of the 6<sup>th</sup> ID. As an intelligence officer, he believes that the intelligence build-up for the Mamasapano operation was very comprehensive. They had very detailed information, otherwise according to Benavides, they would not have reached the target.

He stated in his affidavit that most of the MILF, BIFF and private armed groups are within the area of Salvo, Pagatin, Mamasapano and Shariff Aguak. These groups consider government troops as their common enemy.

According to their sources, during the SAF operation on January 25, 2015, there were more movements from the MILF members under the 105<sup>th</sup> and 118<sup>th</sup> Base Commands (BC) but they diffused when the IMT-CCCH entered the area of encounter. The movement of more MILF members to provide reinforcement to the 105<sup>th</sup> and 118<sup>th</sup> BC was only controlled through the efforts of the IMT-CCCH.<sup>215</sup>

**j. Sgt. Whiler D. Jaranilla**

Jaranilla is the platoon sergeant of the 62<sup>nd</sup> DRC, 6<sup>th</sup> ID. On January 25, 2015 at 7:30 a.m., Del Rosario called for a conference together with the EOD, the 12<sup>th</sup> Mechanized Company (12<sup>th</sup> Mech Coy) and 23<sup>rd</sup> Mech Coy and instructed them to provide support for the extraction of the SAF commandos at Mamasapano, Maguindanao.

At 8:20 a.m., they proceeded to Mamasapano. Upon reaching the area, they were given instructions by P/Supt Mangaldan to help in the extraction of the wounded members of the 55<sup>th</sup> SAC. However, they did not reach the location of the 55<sup>th</sup> SAC because there was no contact with its members. Instead, they proceeded to the location of the 45<sup>th</sup> SAC, where they experienced gunfire from the enemy. Retaliation was not possible because the 55<sup>th</sup> SAC was in the line of fire.<sup>216</sup>

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<sup>215</sup> Sworn Statement of Lt. Col. Danilo D. Benavides dated February 1, 2015, Annex "C-344."

<sup>216</sup> Sworn Statement of Sgt. Whiler D. Jaranilla dated January 31, 2015 consisting of two (2) pages, Annex "C-345."

**k. 2<sup>nd</sup> Lt. Lylevan L. Pañamogan and 2<sup>nd</sup> Lt. Rigor Rivera**

Lt. Pañamogan was the platoon leader of the 12<sup>th</sup> Mech Coy, 1<sup>st</sup> Mech IBde while 2<sup>nd</sup> Lt. Rivera is the platoon leader of the 23<sup>rd</sup> Mech Coy.

They narrated that on January 25, 2015 at about 7:30 a.m., Col. Del Rosario called for a conference together with the EOD, 62<sup>nd</sup> DRC and 23<sup>rd</sup> Mech Coy and instructed them to provide support for the extraction of the SAF operatives at Mamasapano, Maguindanao.

At 8:20 a.m., they proceeded to Mamasapano. Upon reaching the area, they were given instructions by P/Supt Mangaldan that their main task was to accompany the DRC troops and the SAF to the insertion point. At 2:00 p.m., 2<sup>nd</sup> Lt. Pañamogan received a call from the company commander, Capt. Altamerano, to ceasefire. Despite a ceasefire on the part of the AFP and PNP, the enemy continued to fire at them. At about 6:30 p.m., he observed that there was total ceasefire.<sup>217</sup>

**6. Office of the Presidential Adviser on the Peace Process (OPAPP)/Coordinating Committee on the Cessation of Hostilities (CCCH)****a. Major Carlos T. Sol, Jr.**

Major Carlos Sol is the director of the combined secretariat of the OPAPP. His primary duties include the implementation of the Ceasefire Agreement between the government and the MILF. He has been involved in the peace process since 2004.

Sol recalled that on January 25, 2015, there was an encounter between members of the SAF and some elements of the 105<sup>th</sup> BC and 118<sup>th</sup> BC of the MILF. He came to know of the incident when Mr. Rashid Ladianan, Chairman of the MILF-CCCH, sent a text message to him at 6:38 a.m. of January 25, 2015. Mr. Ladianan relayed to him that there is an on-going firefight. He called Mr. Ladianan and told him that he will validate first. After that, Sol went to the 601<sup>st</sup> Brigade

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<sup>217</sup> Sworn Statements of 2<sup>nd</sup> Lt. Rigor Rivera and 2<sup>nd</sup> Lt. Lylevan Pañamogan dated January 30, 2015, Annexes "C-346" and "C-347", respectively.

and to other AFP troops. The AFP said to him that "*wala kaming tropa na nag-move, intact ang tropa namin.*" Then S/Supt. Rodelio Jocson, PD of PNP-Maguindanao, called him up around 8:00 a.m. and asked him, "*Alam niyo na ba nangyayari sa Mamasapano?*" Sol told Col. Jocson that the Army said "*negative sa kanila.*" Jocson replied, "*ang alam ko SAF yan, wala akong alam dyan.*"

Thereafter, Sol called up Ladiasan and said, "*we already received information that there are already consolidation/movement of MILF in the vicinity.*" At that time, Sol was still in Iligan. They immediately prepared to move to Cotabato City and arrived there at around 11:48 a.m. General Galvez went to the 6<sup>th</sup> ID while Sol went to North Cotabato to contact other MILF leaders who he believes can diffuse the tension.

Col. Sol was able to talk to Ustadz Faisal Pigkaulan. He also organized a crisis team on the ground composed of GPH-CCCH, MILF-CCCH and IMT. Their mission was to negotiate for a cease fire.

The team consolidated at the IMT headquarters, from where they proceeded to Shariff Aguak to meet Ustadz Wahid Tundok, Ustadz Sakaria Guma of the MILF's 105<sup>th</sup> BC. At 12:18 p.m., they talked about the situation and that the immediate concern was to have a ceasefire. Sakaria Guma called the engaged troops to have a ceasefire. Rashid Ladiasan and Ronnie Arap was supposed to communicate it to the government. The crisis team was divided into two (2) groups: the first group went with Wahid Tundok to the 105<sup>th</sup> BC by foot; and the second group of Dave, Ronnie, Rashid of the IMT went to Tuka, here the TCP of SAF and the 45<sup>th</sup> IB PA was located. Their purpose was to personally relay the agreed ceasefire.

According to Sol, as per information relayed to him, at 4:00 p.m., there would be total cessation of hostilities from the MILF's 105<sup>th</sup> BC, through Wahid. The SAF and AFP then asked if the crisis team can already enter the area of encounter.

Sol stated that there was no coordination at all made by SAF. He said that there is a protocol under the Joint Communique of the AHJAG that when the area of a law enforcement operation is within MILF communities, it should be coordinated with the AHJAG prior to

the operation. He noted that the SAF should have coordinated with Gen. Orense, the AFP Chair of GPH-AHJAG, who will then coordinate with Chair of MILF-AHJAG.

After the cessation of hostilities, members of the crisis team, LGU officials of Mamasapano and Barangay Tukanalipao officials retrieved five (5) casualties from the area. The agreement was for the crisis team to be the one to retrieve the casualties so he asked P/Dir. Napeñas how many casualties the crisis team will look for and that there were news reports that there are thirty-two (32) cadavers in the area.

At around 4:30 p.m., Sol called up S/Supt. Armilla. He then came to know that there are still operating troops within the area. Gen. Galvez called him up and told him that there are still remaining SAF commandos in another group who are still alive. Hence, he instructed the crisis team, as a last effort, to go to Col. Bautista at Tuka and settle the issue on the number of remaining SAF commandos. The 45<sup>th</sup> IB proposed to allow the DRC to proceed to the unknown position of the remaining troops for extrication. He requested Rashid for the MILF to allow the Army to go to the location of the remaining SAF troopers.

Sol remarked that the most significant factor that led to the encounter between the SAF and the MILF was the lack of coordination with the ceasefire mechanism. He claimed that the objective would have been attained had the SAF coordinated with the AHJAG and cited "success stories" of prior police operations where there was coordination.<sup>218</sup>

#### **b. Ronnie L. Arap, Jr.**

Arap is a Peace Program Officer with the GPH-CCCH. He provides technical support to the Joint Peace and Security Committee (JPSC) and the combined secretariat.

He narrated that at 7:02 a.m. of January 25, 2015, Clarisse Torno, the staff secretary of Major Sol, informed him by phone that they needed to go to Mamasapano to settle a conflict. Arap's

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<sup>218</sup> Sworn Statement of Major Carlos T. Sol, Jr. dated January 28, 2015, Annex "C-348."

colleague, Dave Jungco, notified him that there was an ongoing firefight at Mamasapano and they were to proceed to the IMT headquarters.

When they arrived at the IMT HQ, Rashid Ladiasan explained the situation to them. At around 9:00 a.m., they left the IMT HQ and proceeded to Barangay Kuloy, Shariff Aguak, to meet the commanders of the MILF 105<sup>th</sup> and 118<sup>th</sup> BC and discuss a ceasefire. Afterwards, they proceeded to the ACP of SAF at Barangay Tuka and informed PSupt Mangahis that they were there to effect ceasefire.<sup>219</sup>

### c. Dave C. Jungco

Jungco is also a Peace Program Officer with the OPAPP/CCCH. He narrated that on January 25, 2015, at around 7:30 a.m, Clarisse Torno informed him by cellphone that they needed to go to Mamasapano to settle a conflict. He proceeded to the IMT HQ together with Ronnie Arap.

Upon arriving at the IMT HQ, Rashid Ladiasan explained the situation to them. At around 9:00 a.m., they left the IMT HQ and proceeded to Barangay Kuloy, Shariff Aguak, to meet the MILF 105<sup>th</sup> and 118<sup>th</sup> BC to discuss a ceasefire. They then proceeded to the ACP of the SAF at Barangay Tuka and informed P/Supt Mangaldan that they were there to effect a ceasefire. In planning for the retrieval operation, it was agreed that no government troops will help in the said operation.<sup>220</sup>

## 7. The Narrative of the Residents of [REDACTED]

### a. [REDACTED]

[REDACTED] is a resident of [REDACTED] and also serves as the barangay chairman there.

At 4:15 a.m. of January 25, 2015, [REDACTED] heard loud gunshots coming from the adjacent Barangay Pimbalakan, which is almost three

<sup>219</sup> Sworn Statement of Ronnie L. Arap, Jr. dated January 28, 2015, Annex "C-349."

<sup>220</sup> Sworn Statement of Dave C. Jungco dated January 30, 2015, Annex "C-350."

(3) kilometers away. The gunshots stopped but resumed at around 5:00 a.m. this time near their area.

After he heard the gunshots, he called the S2 of the Army's 45<sup>th</sup> IB and asked if their troops entered their area. S2 told him that none of their troops had entered [redacted]. The S2 advised [redacted] to check the area as it might just be a "*rido*." At 5:00 a.m., he advised [redacted] to evacuate and proceed to the national highway where they stayed from 6:30 a.m. to 3:00 p.m.

He went to the [redacted] at 10:00 a.m. [redacted]. They waited for the personnel from the CCCH to arrive and state who will negotiate for a ceasefire.

At around 2:00 p.m., the gunshots ceased. At 3:00 p.m., [redacted] together with the personnel from CCCH, [redacted] to recover possible casualties. Before reaching the bridge at Sitio Amilil in Barangay Tukanalipao, they saw a lot of dead bodies scattered in the cornfield. He saw and confirmed that the casualties were thirty-four (34) SAF and one (1) civilian. They retrieved the cadavers but only five (5) were brought out of the area by 7:00 p.m. The other cadavers were retrieved the following day. The bodies were handed over to members of the SAF present in the highway of Mamasapano. He observed that the cadavers were stripped of their uniforms and there were no firearms or other belongings found in the vicinity of the conflict.

According to [redacted], it was possible that the group of the MILF 105<sup>th</sup> BC under [redacted] was the one which fought with the SAF, as the area where the firefight occurred was under their jurisdiction. There is also a possibility that a group from BIFF was the one that the SAF has encountered as they also pass by the area. As reported in the media, the BIFF have in their possession some of the firearms of the SAF who died, a fact which was acknowledged by Abu Misri, spokesperson of BIFF.

The civilian who was killed was identified as Badrodin Langalen, a resident of Poblacion, Tukanalipao. He was identified by his wife. He was found with his arms tied with a plastic cuff. His

wife told [redacted] that Langalen left the house at around 5:00 a.m. of January 25, 2015, to have his cellular phone charged at the market.<sup>221</sup>

b. [redacted]

[redacted] is the [redacted] of [redacted].

On January 25, 2015, he was with his family inside their house. They woke up at around 3:30 a.m. to prepare for a morning worship which they call "subo." At 4:30 a.m., Agak heard a loud gunshot. He went out and asked [redacted] about the gunfire.

According to [redacted], the sound of gunshots came from Barangay Pimbalakan which was around three (3) kilometers away from their house. After he attended worship, he left his house at around 6:30 a.m. and went to [redacted] house to report about the gunfire and ask what was happening.

On the way to [redacted], he noticed people he thought were from the Army but whom he later found out were members of the SAF. They were positioned on the highway in Barangay Tuka. He estimated that there were around sixty (60) SAF personnel in the area along with a tank that had the same color as their uniform.

As he was nearing the [redacted], he saw an army vehicle and a white police car parked near the bridge. He went inside the [redacted] and saw army soldiers and policemen. From them, he heard that there had been an encounter at Barangays Tuka and Tukanalipao.<sup>222</sup>

c. [redacted]

[redacted] has been working as the [redacted]

<sup>221</sup> Sworn Statement of [redacted] dated February 17, 2015, Annex "C-2".

<sup>222</sup> Sworn Statement of [redacted] dated February 17, 2015, Annex "C-3".

On January 25, 2015, while [redacted] was at home, he received a call [redacted] about an encounter somewhere in Barangay Tukanalipao. He immediately called the [redacted]

At around 12:00 noon, he went to Mamasapano, Maguindanao and tried to contact the [redacted] through cellphone but was unable to do so.

He decided to go to Barangay Tukanalipao, but while at Barangay Tuka, he was prevented by PNP troopers from entering because of the presence of the SAF and military in the highway and that it was still dangerous to go to the area of encounter. By 5:30 p.m., the team of CCCH and the IMT [redacted] to discuss the retrieval operations.

He then made a written report to the [redacted]. A copy of the report<sup>223</sup> was submitted to this investigating body as well as the reports of MLGO Edgardo Padolina and report of the Chief of Police of Mamasapano, PSI Regie G. Abellera.<sup>224</sup>

d. [redacted]

[redacted] is the [redacted], Mamasapano.

He states that he heard gunshots while in the [redacted] [redacted] at 4:30 a.m. of January 25, 2015. Thirty minutes later, he heard loud gunshots again, this time coming from Barangay Tukanalipao. The [redacted] kilometers away from the wooden bridge in Barangay Tukanalipao.

<sup>223</sup> Executive Report dated February 6, 2015 of the Office of the MDRRMC, Municipality of Mamasapano, Maguindanao.

<sup>224</sup> Sworn Statement of [redacted] dated February 17, 2015, Annex "C-4".

Thereafter, [REDACTED]

[REDACTED], they were able to enter the encounter site at 5:00 p.m. and retrieved five (5) cadavers of the SAF commandos. They were only able to retrieve five (5) bodies since it was getting dark and according to him, they feared for their lives. The casualties had only their underwear on and nothing else.

The following day, [REDACTED]

[REDACTED] to get the bodies from Tukanalipao.

According to him, [REDACTED]

[REDACTED], lives in the area though he is not sure because of the proximity of Barangays Pimbalkan, Pidsandawan and Tukanalipao to each other. Other commanders who he knows live in the area are

[REDACTED]. He is not sure if the MILF members he named were the ones who fought with the SAF.

He also mentioned that there are rumors that BIFF had joined the fray, though he did not see any of their members injured or dead. Although he does not know anyone in the BIFF, he has heard of the names [REDACTED] and [REDACTED] in their ranks.<sup>225</sup>

e. [REDACTED]

[REDACTED] is a resident of [REDACTED]

His house is about [REDACTED] kilometers away from the scene of the fighting. He was at home when the fighting occurred. [REDACTED]

[REDACTED] He then went to the [REDACTED]

<sup>225</sup> Sworn Statement of [REDACTED] dated February 17, 2015, Annex "C-5."

At 2:00 p.m., representatives from the CCCH and IMT came and [REDACTED]. At around 5:00 p.m., they were able to retrieve five (5) bodies of the SAF commandos near the wooden bridge in the cornfield. The bodies only had undergarments on them. It was dark so he was not able to see the wounds on their bodies. They placed the bodies on a "kuliglig" and brought them to the highway in Tuka where members of the Army and other SAF troopers were stationed. He was frisked and was asked about the cadavers and the cadavers were searched [REDACTED].

The next day, January 26, 2015, the mayor gave instructions for the CCCH and IMT to continue their retrieval operations.<sup>226</sup>

f. [REDACTED]

He is a resident of [REDACTED]. He states that at around 4:00 a.m. of January 25, 2015, he and his family were awakened by gunfire. They immediately went outside their house to the river side where they felt they would be safe. While there, [REDACTED]

His wife,

was [REDACTED]

At that moment, [REDACTED] crossed the bridge to ask for help from their neighbors but no one was there. However, they were [REDACTED]

[REDACTED] was not able to determine if there were sounds of cannon fire from tanks, helicopters or the like since they were hurrying to get to safety. They also did not notice any armed men since it was still dark when they left. Before the incident, though, they were able to see armed men in the area. He is uncertain to which group these men belonged to. [REDACTED]

<sup>226</sup> Sworn Statement of [REDACTED] dated February 17, 2015, Annex "C-6."

[REDACTED]

g. [REDACTED]

[REDACTED] is a resident of [REDACTED]. At around 3:00 a.m. of January 25, 2015, while they were inside their house, they saw people wearing uniforms and trucks arrive and park near their house. They did not go out but peered through the holes in their walls and saw that the men were armed. They seemed to be waiting for something or someone.

[REDACTED] was able to [REDACTED]  
[REDACTED] In the morning, [REDACTED]. The police told her they were hungry.

[REDACTED] said that the police stayed to wait for their members who were killed in the encounter. [REDACTED] saw the bodies loaded onto the truck, wearing only their shorts without upper garments.<sup>228</sup>

h. [REDACTED]

[REDACTED] is a resident of [REDACTED]. In the morning of January 25, 2015, at around 4:30 am, while he and his family were sleeping in their house, he was awakened by the sound of gunshots. He hid by lying on his stomach near the door and told his wife to do the same. They remained in that position for about thirty (30) minutes and when the firing subsided, they went out of their house and proceeded to the highway. About forty (40) minutes later, he went back to their house.

When he returned to the house, he saw many armed men passing by the side of their house going to the inner areas of the barangay (*looban*). He states that he knew some of the armed men who passed by their house. They were [REDACTED]. He came to know the said private

<sup>227</sup> Sworn Statement of [REDACTED] dated February 17, 2015, Annex "C-7."

<sup>228</sup> Sworn Statement of [REDACTED] dated February 17, 2015, Annex "C-8."

armed groups (PAGs)<sup>229</sup> members because [REDACTED]

He alleged that while the PAGs passed by their house going to the inner vicinity of their area, he laid down on the ground. When the PAGs had returned, they again passed by the side of his house. He observed that the members of the PAGs were carrying more or less ten (10) other firearms aside from those that they were carrying when they entered the area. When [REDACTED] stood up and peeped outside, he saw other armed men carrying their wounded companions.

At around 3:00 pm of the same day, he went back to the highway to be with his family. They stayed at the highway until the next morning. After they got back home, he went with other civilians to the river to help in carrying the dead bodies, but he did not cross the bridge. *While there, he witnessed that some of those persons who helped carry the dead bodies were also the same persons who were with the group of armed men that rushed to the said area.*

He also declared that he knew of the presence of Marwan and Basit Usman in their area. He averred that he had seen Marwan and Usman frequent their place since 2013. According to him, Marwan is known as "Mads" in their place while Basit Usman was known there as "Teng."<sup>230</sup>

i. [REDACTED]

[REDACTED] is a resident of [REDACTED], Mamasapano and lives [REDACTED] from the road going to the highway. In the morning of January 25, 2015 at around 4:30 a.m., he was roused from sleep by the sound of heavy gunfire. Thirty minutes later, he went out of the house to check where the sound of gunfire came from.

While he was outside, he saw that there were armed men coming from the highway going to the direction of the river. He then

<sup>229</sup> The term "PAGs" is a term used to refer to the private army/private armed group of the [REDACTED]

<sup>230</sup> Sworn Statement of [REDACTED] dated April 1, 2015, Annex "C-9."

asked one of those armed men, [redacted], where they are going. He replied: "*diyan sa looban, may pulis na kalaban diyan.*" [redacted] identified [redacted] as one of the commanders of the MILF [redacted].

He also stated that members of the [redacted] and [redacted] BC of the MILF, "Freedom" (BIFF), as well as the PAGs passed by his house and went to the inner area of the barangay to the direction of the river. He also claimed that he knew some of them. He said that some of those armed groups/persons who passed by their house going to the inner area of the barangay to the direction of the river were:

From [redacted] -

[redacted];

From [redacted] -

[redacted]

From [redacted] -

[redacted]

Freedom -

[redacted]

He also stated that he came to know the above-named persons as well as their affiliations because before the incident took place,

those groups of persons frequent their place. They always pass by [REDACTED]. He saw that the armed men carried different types of firearms but most of them have M-16 rifles.

After the armed men passed by their house, [REDACTED] and his family [REDACTED] for safety. Then he went back to their house and stayed there until 3:00 p.m., when the firefight had subsided. While he was at their house, he saw some of the armed men carrying their wounded members, which in his estimate, were about ten (10) men. He also stated that some of those wounded are the men of [REDACTED] while he could not exactly tell to what group the others belong.

At around 3:00 p.m., he went to the [REDACTED] of the next day, January 26, 2015.

At around 9:00 or 10:00 a.m. of January 26, 2015, [REDACTED] called up the [REDACTED] to help in the retrieval of dead bodies. [REDACTED] the team that [REDACTED]

While they were retrieving the cadavers, [REDACTED] noticed that some of those who were helping in the retrieval were also some of the armed men that advanced into the area the day before. According to him, they were:

[REDACTED]

[REDACTED] also came to know during the retrieval operations that the dead bodies were SAF members. They loaded the dead bodies onto a pump boat and carried them to a vehicle which was parked along the highway.

[redacted] further claimed that he knew Marwan and Basit Usman since before the incident. He often saw them pass by their place together with the members of the 105<sup>th</sup> and 118<sup>th</sup> BC of the MILF. He stated that Marwan was known in their area as Mads and Basit Usman is known as Teng.<sup>231</sup>

j. [redacted]

[redacted] is a resident of [redacted]. At around 4:30 a.m. of January 25, 2015, he was at his house together with his family preparing for worship when they heard gunshots. He was alarmed so he went out of his house and hid behind a coconut tree. After a few minutes, he went inside the house and asked his family to lie on the floor. He observed that there were people passing by their house. [redacted] and his family [redacted]. After he had [redacted].

While [redacted] was outside his house watching the armed men pass by, he asked one of the men of [redacted], operations commander of the 118<sup>th</sup> BC of the MILF, what was happening. The man replied, "*may nakapasok na sundalo.*" [redacted] "*diyan sa firing line sa looban.*"

He also claimed that the armed men were members of the different groups from the MILF's 105<sup>th</sup> BC, 118<sup>th</sup> BC, "Freedom" and PAGs. He even claimed that he knew some of them from the 118<sup>th</sup> BC - [redacted]. According to him, there were more than one thousand (1000) armed men. They were carrying M-16 and M-14 rifles.

He maintained that the fight continued until around 2:00 p.m. During that time, there were only sporadic firing and some of the armed men were carrying their wounded members, which numbered more than ten.

<sup>231</sup> Sworn Statement of [redacted] dated April 1, 2015, Annex "C-9."

At around 5:30 p.m., [redacted] went to his family who were [redacted]. Between 9:00 to 10:00 a.m. of January 26, 2015, [redacted] went with the [redacted]. He then observed that some of those who helped retrieve the bodies were also the same armed persons who attacked in the area the previous day. However, he does not know their names and only know them by their faces.

He maintained that he is familiar with Marwan and Basit Usman who are always with the group of the MILF 105<sup>th</sup> and 118<sup>th</sup> BC, and the BIFF. He stated that Marwan is known in their area as Mads and Basit Usman is known as Teng.<sup>232</sup>

### C. Testimony of MARATHON

MARATHON is a resident of the area and a [redacted]. He said that [redacted] prior to the Mamasapano incident. The NBI-NPS SIT interviewed him in secure locations in Mindanao and Manila. He executed three (3) sworn statements based on those interviews.<sup>233</sup>

On January 25, 2015, at about 2:00 a.m., MARATHON was awakened by a burst of gunfire coming from the area where Basit Usman lives in Barangay Pidsandawan, Mamasapano. He knew Basit Usman as an expert bomb maker who taught members of the "Freedom" [BIFF] how to construct bombs. Basit Usman also taught [redacted], how to make bombs.

He immediately got up, and together with his father, went outside the house to check on their carabao. At around 3:00 a.m., he saw MILF [redacted], namely: [redacted], together with their men pass by his house. These MILF men were followed by [redacted], a battalion commander of the BIFF. He was able to see these men, numbering around twenty (24), because of the light coming from his neighbor's house where these

<sup>232</sup> Sworn Statement of [redacted] dated April 1, 2015, Annex "C-11."

<sup>233</sup> Sinumpaang Salaysay of MARATHON dated February 27, 2015, Karagdagang Sinumpaang Salaysay dated March 13, 2015 and Ikalawang Karagdagang Sinumpaang Salaysay dated April 1, 2015, attached as Annexes "C", "C-1" and "C-2", respectively.

men converged. The MILF and BIFF men whom he identified [redacted] [redacted]. He also named [redacted] as the boss of the BIFF member whom he identified.

The men who [redacted] went towards Barangay Pidsandawan and were about to cross the bridge, when armed men in the cornfield right across the bridge started firing at the former. Some MILF and BIFF fighters were hit and a firefight ensued. Subsequently, the combined forces of the MILF, BIFF and the men he labels as Massacre,<sup>234</sup> totaled about two hundred fifty (250) men. They arrived from [redacted] and joined in the fight against the men in the cornfield.

He identified [redacted] [redacted] as among the MILF force. Although he does not know the full names of the other MILF elements who arrived and joined in the firefight, he will be able to remember them if he sees their faces.

Because of the firefight, he hid at [redacted] [redacted] until about 7:00 a.m. Later on, he moved to an area [redacted] [redacted] so that he could see the men in the cornfield. He also transferred to another area [redacted] so that he could see what was happening, and in the hope that he can get guns from the men in the cornfield who were being gunned by the MILF, BIFF and "Massacre" forces.

MARATHON names his other companions at the area as [redacted] [redacted]

At around 8:00 a.m., MARATHON came to know that the ones who were engaged in the encounter against the MILF, BIFF and "Massacre" were police officers because he heard the people of [redacted] say that the men they shot were policemen (who shall

<sup>234</sup> For having participated in what he calls the earlier [redacted] in Maguindanao, and who will be interchangeably referred to in this report also as Private Armed Groups [PAGS]

hereinafter be referred to as SAF).

An hour later, about five (5) SAF members went out of the cornfield and surrendered. However, the SAF men, who were already wounded and whose hands were already raised in surrender and were pleading for their lives were still shot by the MILF, BIFF and PAGs until they died.

The shooting at the cornfield stopped at past 10:00 a.m. But in the area where Basit Usman lives, the volley of fire lasted until 4:00 p.m.

After the shooting stopped, the MILF, BIFF and "Massacre" elements got the watches, wallets, cellphones, bulletproof vests, helmets, boots and uniforms of the dead SAF commandos. Done with collecting the valuables of the dead policemen, the MILF, BIFF and "Massacre" groups dragged the cadavers and kicked them towards the river. He points to [REDACTED] as among those who kicked the dead bodies of the SAF towards the river.

These men left the area as soon as they were able to get guns from the dead SAF. The men of [REDACTED] were the ones who took the guns and valuables from the dead. Among the highest ranking men that he saw were [REDACTED] from MILF and [REDACTED] from BIFF.

MARATHON was unable to get any gun from the dead SAF because by the time he was allowed to get near the bodies, there were no guns anymore. They later left and went to the house of his grandmother.

He recalls that there were plenty of men who shot at the SAF men, and he remembered that they were the combined elements of MILF and BIFF from [REDACTED]. He identifies [REDACTED] from [REDACTED], who was among those who shot the police officers. [REDACTED], whom he knew when he was still with the [REDACTED] Base Command of the MILF, was able to get two (2) Bushmaster rifles.

When MARATHON was shown two (2) video clips which were downloaded from youtube.com, he confirmed that these were taken in Tukanalipao, Mamasapano after the firefight. He also stated that the

two (2) other video clips shown to him were not taken in Tukanalipao.

He cannot identify who took the first video shown to him since there were approximately more than twenty (20) people taking videos with their cellular phones of the site right after the firefight. When the MILF, BIFF and "Massacre" groups left, residents and civilians from the area were able to get near the dead to just observe and to check whether they can get anything from the dead police officers.

MARATHON, together with [REDACTED] was not able to get anything from the police officers because the MILF, BIFF and "Massacre" already took almost anything of value from the dead policemen before he and the other civilians were able to get near the cadavers.

He was likewise unable to take a video [REDACTED]

[REDACTED] He then showed a video clip of the one taken by [REDACTED] at past 10:00 a.m. The video was taken in the cornfield of [REDACTED] in Sitio Amilil, Tukanalipao, Mamasapano.

MARATHON confirmed that the dead bodies in the videos are those of the policemen who were killed in the cornfield.

He surmised that the elements of the MILF, BIFF and "Massacre" were working in unison at that time because they were close and at times, MILF, BIFF and "Massacre" were even borrowing guns from each other, to fire at the SAF.

MARATHON stated that he can identify those who participated in the shooting, namely: [REDACTED]

They each had guns and all fired at the SAF men in the cornfield. These men were from [REDACTED]

[REDACTED]

He lists the following persons as the ones who took the guns of the dead policemen: [REDACTED]

MARATHON alleged that [REDACTED] is a BIFF commander while [REDACTED] are all [REDACTED] of the MILF's 105<sup>th</sup> BC. [REDACTED] is the [REDACTED] of the 105<sup>th</sup> BC while [REDACTED] is a [REDACTED] of the BIFF.

When he was at the cornfield, MARATHON only saw around twenty five (25) casualties from the SAF. He did not see the dead bodies from the side of the MILF, BIFF or "Massacre." He learned that [REDACTED], who is the [REDACTED]. MARWAN, who is known to them as BUDS also died but MARATHON never saw his cadaver.

From among those he knew, the injured ones were [REDACTED]. He heard that BASIT USMAN was grazed in the arms but he did not personally see it.

He also said that the word "Mondragon" heard in the video shown to him referred to known [REDACTED], while the "asset" being mentioned in the video was the [REDACTED].

He came to know the name MARWAN only when the same was mentioned in the news that he was an expert bomb maker. MARWAN, however, was known to them as "BUDS," and they knew BASIT USMAN as "TENG."

MARATHON adds that Marwan and Basit Usman lived before in Barangay Libutan. He saw them when he went to Basit Usman's house during the wedding of [REDACTED]. He also knew that Marwan and Basit Usman were wanted by the government because both of them are experts in bomb making. Many people from the place knew that they were there. In fact, only the children did not know of the presence of Marwan and Usman in the community. They also know that there was a reward for the capture of these two (2) men.

MARATHON remembers Basit Usman from when he (Marathon) was [REDACTED]. Basit taught bomb making to [REDACTED]. To his knowledge, Usman was still residing in Libutan.

He volunteered to the investigators that the person he named as among those who participated in the shooting [REDACTED]

[REDACTED] MARATHON also [REDACTED]

From the printed [REDACTED] he identified [REDACTED] from the [REDACTED] of the MILF as among those who participated in the firefight in Mamasapano. He also identified [REDACTED] and [REDACTED] from the BIFF as among those who shot at the SAF commandos. He stated the affiliation of the other persons in the [REDACTED] but qualified that they did not participate in the firefight. He also stated that he can identify more people who participated in the incident if he can see photographs of these people.

When shown the COMELEC Voter's List of residents of Barangays [REDACTED], MARATHON was asked to recall whether he was familiar with those names of the persons whom he believed participated in the Mamasapano incident. From the names in the Voter's List of Barangay [REDACTED] shown to MARATHON, he identified several people in the list who are known to him and their respective affiliations or civilian status. But he stated that only the following persons participated in the shooting in Mamasapano:

[REDACTED]

MARATHON learned that two (2) Americans died at Mamasapano. According to him, these two (2) cadavers did not look like Filipinos; they had white hair and were "good looking".

When he was shown photographs of five (5) suspected BIFF members, who were arrested by the PNP-Criminal Investigation and Detection Group (CIDG), and subjected to inquest last March 2015, he positively identified [REDACTED] as among those who fired at the SAF commandos.

He named [REDACTED], one of the leaders of the PAGs, as among those who fired at the SAF. He identified [REDACTED], members of the MILF 105<sup>th</sup> BC as among those who shot at the SAF. He also pointed to [REDACTED], as among those that fired at the SAF commandos.

MARATHON also disclosed that [REDACTED], who is a commander of the 105<sup>th</sup> BC, is a medic that “treats” the community and an ally of Basit Usman. He sort of saw [REDACTED] men namely, [REDACTED] shoot the SAF commandos. [REDACTED] was even able to get a bulletproof vest and a magazine from a dead SAF commando.

He clarifies that his timeline on the start of the firefight was just an estimate since he had no watch on at that time. He is, however, sure that the firefight started earlier than their 4:00 a.m. prayer time or “subo,” which is regularly announced by a “bang” coming from the mosque.<sup>235</sup>

But as for the 9:00 a.m. surrender of the 55<sup>th</sup> SAC, and the end of the firefight at Tukanalipao at past 10:00 a.m., he is sure of his timeline of those events because he already had his cellular phone with him and thus had the means to tell time.

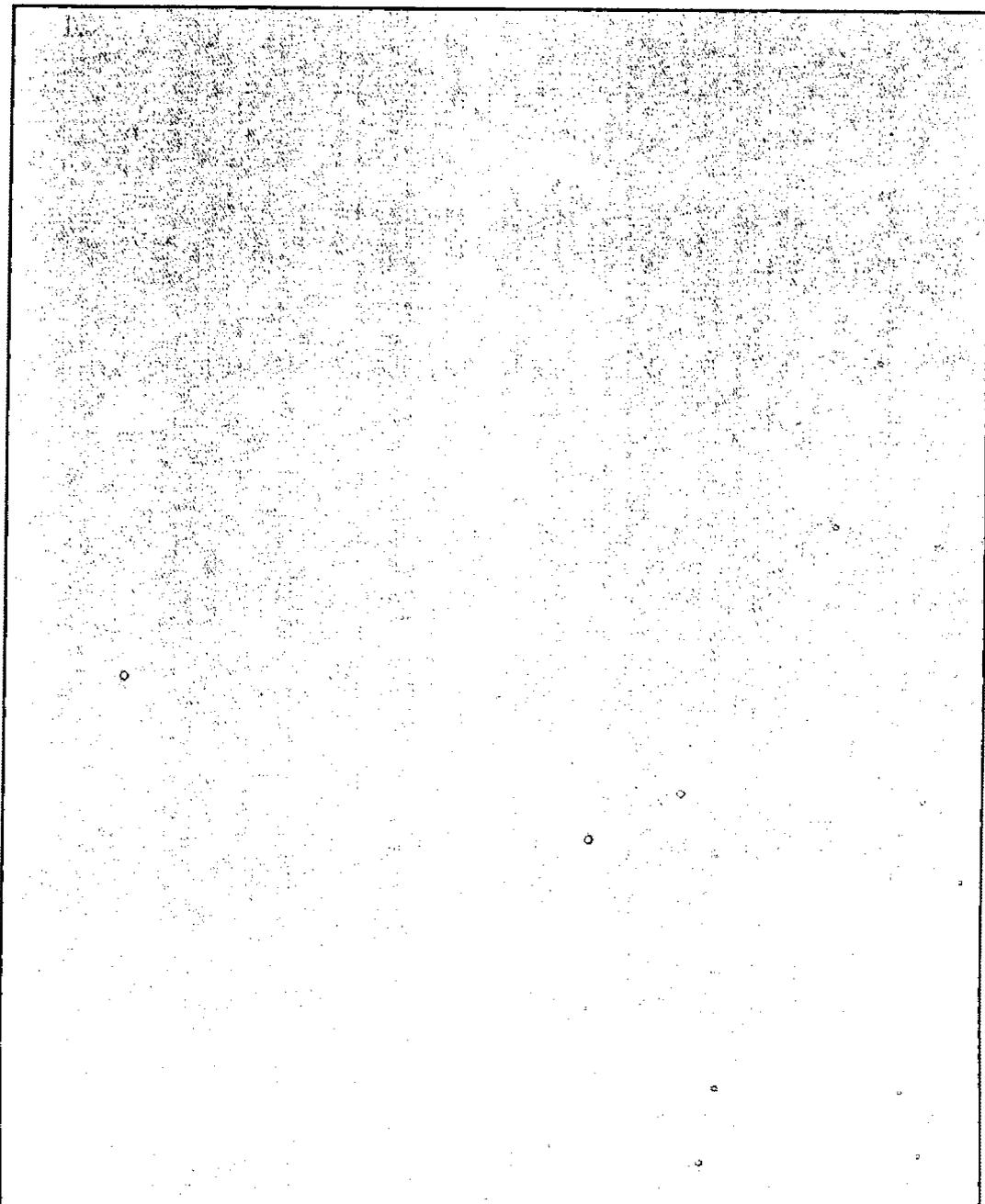
MARATHON reiterates that members of the 55<sup>th</sup> SAC tried to surrender, because he saw them come out of the cornfield with their arms raised. He identified more persons involved in killing members of the 55<sup>th</sup> SAC, through photographs: [REDACTED], leader

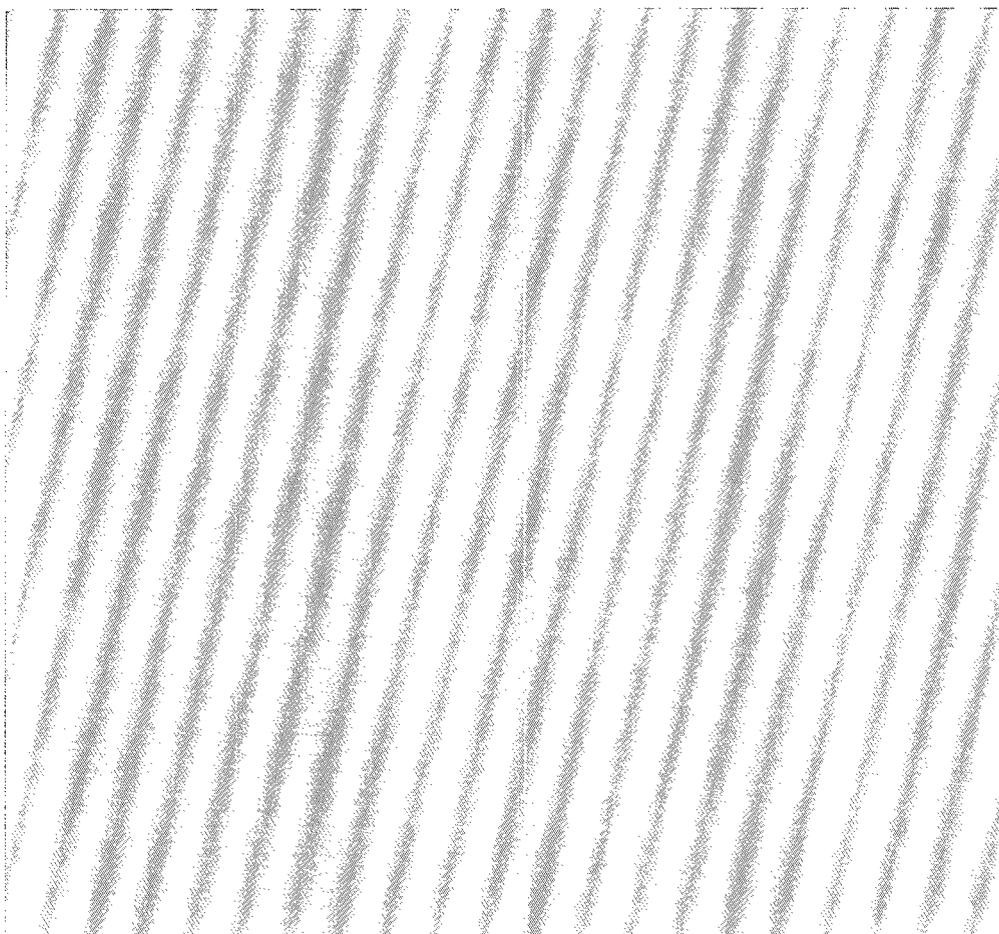
<sup>235</sup> Ikalawang Karagdagang Sinumpaang Salaysay ni MARATHON dated April 1, 2015

of the BIFF; [redacted], BIFF; and [redacted] commander of the MILF [redacted].

## 2. Recapitulation of Suspects Identified by MARATHON

To recapitulate, based on his three (3) sworn statements, MARATHON was able to identify the following MILF, BIFF, "Massacre" or PAGs members and civilians as among those who participated in the killing of the fallen 55<sup>th</sup> SAC commandos, and theft of the latter's firearms and equipment, and personal belongings:





## **D. Forensic Evidence of the Clash at Barangay Tukanalipao**

### **1. Measurements taken at Sitio Amilil, Barangay Tukanalipao**

The NBI-NPS SIT together with its NBI forensic team conducted a site inspection at Sitio Amilil, Barangay Tukanalipao, Mamasapano, Maguindanao on March 11, 2015. This inspection was done forty-four (44) days after the January 25, 2014 incident because of security issues and the military offensive in the area that prevented the team from proceeding much earlier.

The site is a wide tract of land used for agricultural purposes. An outstanding geographical feature of the site is the Kabulnan River which cuts through the area eastwards and westwards. A makeshift footbridge made of bamboo and wood constructed by Tukanalipao residents is the main means of access across the river, to and from the northern portion of the site.

The NBI, using azimuth wheel and triangulation method, took measurements of the site to establish, among others, reference points and angle distances. From the data gathered, the following conclusion was reached:

The topography soil contour in the South View side near the Reference Point No.1, Point No.5, Point No.2 and Point 17-A was 30-40 degrees elevated compare to Point No.8 in West View side the Acacia Tree. From Point No.9 Anahaw Tree to RP3 Jackfruit Tree to Point 17-A Anahaw Trees (Magenta line) and Point No. 5 in Bird's Eye view it is 12 degrees. In this location, it has a vantage point to see the areas in Point 12, Point 13, Point 16, Point 17, Point 11 and even Point 18 during daytime (see reference photos nos. 375, 376 page 16, 377-379 page 168, 380-381 page 169, 386-388 page 171, 497 page 2100.)<sup>236</sup>

In sum, the measurements taken show that the general area to the north of the river can clearly be seen from the area to the south or across the river during daytime. This is because the topography soil contour of the area north of the river is lower in elevation compared to the area south of the river.

A wide angle aerial photograph of Sitio Amilil, Barangay Tukanalipao and its environs was also prepared by the NBI and annotated and labeled with the relevant geographical landmarks, structures and reference points gathered by the forensic team on March 11, 2015.<sup>237</sup>

## **2. Results of the ballistics examination**

During the site inspection at Sitio Amilil, Barangay Tukanalipao, Mamasapano, Maguindanao, the NBI Firearms and Investigation Division examined the bullet holes found on trees in the area and the wooden footbridge to determine bullet trajectory.<sup>238</sup>

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<sup>236</sup> Final Report NBI Artist-Illustrator II, p.10, attached as Annex "E"

<sup>237</sup> Enlarged Aerial Photograph was attached to Final Report of Banawan as Annex "F", a printed copy is attached hereto as Annex "E-2"

<sup>238</sup> FID Report No. 25-16-3-2015, pp. 1-3, attached as Annex "E-3"

To the northeast of the wooden footbridge crossing the Kabulnan River, there are three Caturay trees. From the first Caturay tree, two (2) entrance bullet holes and an equal number of exit bullet holes were found. The direction of the bullets were slightly downward and were fired at an angular direction from the right. The third Caturay tree showed six (6) entrance bullet holes and an equal number of exit bullet holes. The direction of two (2) bullets were slightly upward while the rest were slightly downward. All bullets from the third Caturay tree were fired at an angular direction from the left.

Also to the northeast of the wooden footbridge is an Acacia tree where three (3) entrance bullet holes and two (2) exit bullet holes were found. The bullets were fired slightly upward at an angular direction from the right.

To the north of the wooden footbridge is a Jackfruit tree. On it were found three (3) entry bullet holes with no bullet holes and one (1) bullet entrance hole and one (1) bullet exit hole with a direction that is going upward and slightly inclined to the right.

On the wooden bridge, thirty (30) bullet entrance holes and four (4) bullet exit holes were found. Three (3) of the bullets holes were going upward.

In addition, an examination was also conducted on the forty five (45) Caliber 5.56mm cartridges recovered at Barangay Tukanalipao during the site inspection. The examination showed that forty three (43) of these cartridges were fired from ten (10) different firearms while two (2) did not possess enough individual characteristic markings that could be used as basis for a definite identification.<sup>239</sup>

### **3. Other object evidence collected at Barangay Tukanalipao**

While the NBI forensic team scoured the area for evidence, the barangay chairperson of Tukanalipao informed the former that four (4) civilians died inside a prayer room or *langgal* in Sitio Amilil on January 26, 2015.

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<sup>239</sup> Id., p.4

The NBI forensic team was deployed to the prayer room to conduct an examination thereof. The structure is made of light materials, with an adjoining extension house owned by Faisal Dagadas. The forensic team processed these structure in the presence of NBI agents, the Tukanalipao barangay chairman, and three (3) other officials. They also took photographs of these structures, inside and out.<sup>240</sup> The examination resulted to the recovery of the following:

- a. One (1) piece pillow case with blood taken inside the prayer room;
- b. One (1) piece linoleum cut from the floor taken inside the prayer room; and,
- c. One (1) piece black shoe “5.11” taken from the extension room.<sup>241</sup>

#### **E. Video Evidence of Post Clash Situation at Barangay Tukanalipao, Mamasapano**

In the course of our investigation, four (4) relevant video clips came out in the public domain through the Internet. These video clips uploaded on Youtube raised widespread public indignation for their gruesome and graphically violent quality. The videos depict most of the dead SAF commandos with severe injuries, while others were shown in extreme close up, their heads or legs were almost blown off. These grisly videos solidified the general public’s belief that there was an overkill and that the SAF commandos were finished off at Mamasapano on January 25, 2015.

Aside from these uploaded videos shot in Mamasapano, the panel also reviewed a videotaped interview of PO2 Christopher Lalan by the GMA news team on January 26, 2015, after his escape from Mamasapano.

#### **1. Uploaded video clips and digital forensic examination**

- a. Filename “

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<sup>240</sup> Photographs of the *langgal*/prayer house was referred in the Final Report of Ligaya S. Banawan from the NBI Forensic Investigation Service dated March 25, 2015, p. 8

<sup>241</sup> As of this writing, the foregoing object evidence are still undergoing forensic examination at the NBI.

Our NBI component analyzed one of the video clips,<sup>242</sup> which was uploaded and became viral in the Internet. This was initially traced as having originated from the Facebook account of one [REDACTED]. The clip was then compared with the video clip recorded by the mobile phone of [REDACTED], who was the alleged source of the uploaded video of [REDACTED].

Upon digital forensic examination of the two (2) persons of interest's mobile phones, three (3) related video clips were found in the mobile phone of Suson and one video clip was found in the phone of [REDACTED].<sup>243</sup> The NBI determined that the three (3) videos from the mobile phones and the downloaded video are one and the same. The video clip with filename "[REDACTED]" found in the mobile phone of [REDACTED] appears to be the very first video to be uploaded in the internet.<sup>244</sup>

The video clip lasts for six (6) minutes and ten (10) seconds. From the start up to the 0:18 mark, an injured man in a camouflage uniform lying on the ground appears. He is initially moving but would later be shot twice at close range with a pistol. After being dealt the *coup de grace* by the video taker, the man no longer moves.

Continuous gun shots can be heard in the background while the one holding the camera runs towards the field. Several times in the clip, the video taker can be heard shouting. In several instances, he is heard shouting of "Allahu Akbar" ("God is great!").

At the 0:38 to 0:39 mark, a man can be heard shouting. Then a man holding a long firearm is caught on camera, while gunshots continue to ring out in the background. By the 1:08 to 1:11 marks, another man in camouflage uniform and helmet can be seen lying on the ground while two (2) other men in civilian clothing search his body. At the 1:09 mark, men in civilian attire are seen rummaging through the pockets and uniforms of the dead SAF commandos.

At 1:36, another body is seen on camera. Two (2) more prone bodies are also seen at 1:42. By 2:16, two (2) men in gray uniforms

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<sup>242</sup> DVD containing the videoclip is attached as Annex "F-2"

<sup>243</sup> NBI Memorandum for Chief, CCD from SI Dario v. Sabilano dated February 25, 2012

<sup>244</sup> NBI Memorandum for Director from Chief, CCD dated February 28, 2015, attached as Annex "F"

lying on the ground are also panned by the camera.

As persons continue to walk and inspect more dead bodies in the field, several items, such as the commandos' head gear and tactical magazine vest are taken by unidentified men at 2:24 and 3:40.

At 4:56, a green tube-like device is seen. This item is taken by the video taker. At 5:12, someone steps on the head of a cadaver. From 5:41 to 5:44, the video taker fires four (4) rounds from his firearm.

## 2. Video clips with subtitles

On February 17, 2015, NBI Director Virgilio Mendez turned over to the Anti- Organized and Transnational Crime Division-Death Investigation Unit (AOTCD-DIU) one (1) DVD containing four (4) different cellphone clips taken by unknown persons of the January 25, 2015 incident in Mamasapano, Maguindanao.<sup>245</sup>

The four (4) video clips,<sup>246</sup> with the following filenames:

[REDACTED] were examined. With the assistance of an unofficial Maguindanaoan interpreter, a transcript of the statements being made by the persons in the four (4) videos, was also generated.<sup>251</sup> The NBI-NPS SIT then used the unofficial translation in reviewing the video clips.

### a. Video clip 1 with filename:

[REDACTED] (with transcript)

This video clip lasts six (6) minutes and ten (10) seconds.

The images depicted in this video clip appear to be identical

<sup>245</sup> NBI Memorandum for Acting Chief, AOTCD-DIU from Director dated February 17, 2015, attached as Annex "F-1"

<sup>246</sup> DVD containing the four (4) video clips, attached as Annex "F-3"

[REDACTED]

<sup>249</sup>

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<sup>251</sup> NBI Memorandum from DDROS from Acting Chief-AOTCD-DIU dated February 23, 2015 with attached transcript of Mamasapano Video Clip, attached as Annex F-4"

from the images in the video clip which was submitted for forensic examination, with the filename: [REDACTED] It appears to have been taken by a companion of the person who shot the man twice in the head. On the other hand, using the unofficial transcript provided by the NBI, additional observations were noted.

In the first few seconds when the man on the ground was shot twice, the shooter announces: "Ito yung pumasok dito" ("Here's the one who came here."), "tinapos ko lang" ("I just finished it."). Thus, it would appear that the one who shot this video was either the shooter or was near the shooter at that time. Thereafter, persons are heard in the background saying, "tao, tao" ("a man, a man") as they run along the cornfield littered with dead bodies.

At 0:23, someone shouts, "huwag na kayong pumutok!" (Don't shoot anymore!) Meanwhile, at 0:27, a man shouts, "cellphone ko!" ("My cellphone!") At 2:24, a voice is heard, "kunin mo yung sombrero niya." ("Get his hat.") From 3:10 onwards, someone asks, "wala na bang magazine?" ("Is there a magazine left?") The person holding the camera then rifles through the vest and takes it away.

**b. Video clip 2:** [REDACTED]

[REDACTED] (with transcript)

This video lasts for seven (7) minutes and twenty six (26) seconds.

In this video, more people can be seen running and walking along the cornfield where several dead bodies. The dead in these videos appear to have been stripped of their uniforms, vests, firearms and ammunition, some are just lying in their underwear.

At 0:02, a man lying in a prone position and wearing a blue-checked shorts is shown. The video taker audibly announces that the man was hit in the buttocks. At 0:06, the body of another man wearing a camouflage uniform with a visibly smashed mouth is caught on camera. At 0:07, a third body can be seen. He is half-naked and just wearing his underpants.

At 0:31, someone is heard in the background, "Lumaban sila sa Mondragon pero hindi sila nakalaban." ("They fought with the

Mondragon, but they did not prevail.”)

(N.B.: When we asked MARATHON who or what “Mondragon” is, [REDACTED] [REDACTED].

Several dead bodies are seen at 1:58, 2:20, 2:43, 2:53, 2:55, 3:12, 3:40, 3:53, 4:20, 5:24, 5:31, 5:54, 6:13, 6:37, 7:00, 7:16, 7:19 and 7:26. Most of the bodies were stripped of their pants. A man with a smashed head is caught on camera.

At 3:30, two (2) men can be seen dragging a body. At 4:20, when a man in lying position is caught in the frame, a voice in the background says “nahirapan, tingnan mo. Naputol ang ulo, ito na sila isang platoon.” (Look, he suffered. He is beheaded, this is their platoon.”) At 5:11, the foot of a man stepping on the head of a man lying on the ground is recorded. A dead man lying on the ground is described in the background at 5:31 as an “asset”.

### c. Video Clip from MARATHON

While MARATHON’s statement was being taken, the latter disclosed to the interviewing NBI agent that he has in his possession a video clip taken at Mamasapano on January 25, 2015. MARATHON claimed that this was taken by his companion [REDACTED], after the incident, when he and their other companions were roaming around the area hoping to find a gun or something of value from the dead SAF commandos.

Thereafter, the NBI-AOTCD-DIU generated a transcript of the audio and conversations recorded in the video clip turned over by MARATHON with the [REDACTED] [REDACTED]

The video lasts eight (8) minutes and fifteen (15) seconds. It substantially depicts the same scenes that can be seen in the second video clip with subtitles, with filename: [REDACTED] [REDACTED] The only difference is that

MARATHON can identify the video taker, who was actually with him when they roamed around the corn field.

Dead bodies with severe gaping wounds are seen scattered along the cornfield of Barangay Tukanalipao, Mamasapano. Crucially, the civilians in the area taking videos of their own are also caught on camera. At 4:28 and 5:08 several floating bodies are seen on the other side of the river.

### 3. Identification of the Video Taker

#### a. Video clips with subtitles

1. Video clip 1: [REDACTED]

and Video Clip 2: [REDACTED]

These two (2) video clips last for about six (6) minutes and ten (10) seconds, and seven (7) and twenty six (26) seconds, respectively. These were the ones uploaded in the Internet and later shown to MARATHON by the NBI-NPS SIT.

MARATHON confirmed that these videos were taken in the cornfield of [REDACTED] in Sitio Amilil Tukanalipao, Mamasapano. However, he cannot identify who was the video taker. According to him, at the time, many civilians like him were able to get near the bodies and about twenty people took videos using their cellular phones. He also intended to take videos but was unable to do so as his cellular phone no longer had sufficient data memory.

#### 2. Video clip 3: Videoplayback.mp4 and video clip 4: videoplayback-1.mp4

When these video clips were shown to MARATHON, he said that these videos were not taken in Tukanalipao.<sup>253</sup>

3. Video Clip 4: (5) [REDACTED]

<sup>253</sup> Karagdagang Sinumpaang Salaysay of MARATHON dated March 13, 2015

MARATHON was able to identify [REDACTED] as the video taker of this clip which he also gave to the NBI Investigating Agents when he gave his Karagdagang Sinumpaang Salaysay. He was physically beside [REDACTED] at the time and he asked for a copy from the former. The clip is now saved in MARATHON's cellular phone.

#### 4. Identification of the Video Uploader

Mamasapano incident-related video files were found on the mobile phones owned by [REDACTED]. When compared with the file found on Suson's phone and the downloaded video, the video from the mobile phone of [REDACTED] appears to be the first video to be uploaded in the Internet based on its time stamp. It also appears to be an uncompressed file.

Based on the NBI's forensic investigation, it was also concluded that the three videos (from the two [2] mobile phones and the downloaded video) are one and the same.<sup>254</sup> [REDACTED] were positively found to be the ones who uploaded these videos in the Internet. They face possible charges for violation of Article 201 of the Revised Penal Code in relation to Section 6 of Republic Act 10175.

#### 5. Video footage of GMA News interview of PO2 Christopher Lalan

In the course of our investigation, among the many allegations that surfaced was that the lone survivor from the 55<sup>th</sup> SAC, PO2 Christopher I. Lalan, killed several persons who were sleeping in a mosque in Barangay Tukanalipao. GMA News apparently was able to capture on video some of PO2 Lalan's admissions that he shot and "sprayed" several persons during his escape.

For these reasons, the NBI-NPS SIT issued a subpoena *duces tecum*<sup>255</sup> to GMA News on March 16, 2015, for the production of a duly authenticated video footage in DVD format of the interview of PO2 Christopher Lalan, by a GMA News reporter as shown in various

<sup>254</sup> NBI Memorandum for Director from C, CCD dated February 28, 2015

<sup>255</sup> Subpoena Duces Tecum addressed to Ms. Marissa Flores, through Atty. Jose Vener Ibarra dated March 16, 2015, attached as Annex "I"

news programs of the network.

In compliance with the subpoena, Atty. Jose Vener C. Ibarra, general counsel of GMA Network, Inc. submitted a DVD<sup>256</sup> containing the footage of the said interview. He issued a certification<sup>257</sup> stating that the DVD submitted contains footages found in GMA News central news library and that it contains accurate reproduction of the same footages, except for markings indicating the network's ownership thereof.

During our questioning of PO2 Lalan on March 27, 2015, we showed him the said GMA News video. PO2 Lalan was asked whether he could remember being interviewed by the media after his rescue. He stated that he was not aware that he was being videotaped then. Lalan also said that he came to know of his interview only while he was in the hospital and his sibling informed him of that interview.<sup>258</sup>

After the video footage was shown to PO2 Lalan, he confirmed that he was the one being questioned before the camera. He also identified PCI Corales as among the SAF officers present at that time.

PO2 Lalan then invoked his right to remain silent and refused to answer further questions propounded by the team in relation to the video. He also pleaded that he does not want to recall his time at Mamasapano. His counsel *de parte*, Atty. Mark Julio Abong, also objected to questions regarding the statements made by PO2 Lalan which were recorded on video on the ground that they may incriminate him.

Thereafter, the NBI-AOTCD-DIU, upon instruction of panel member Atty. Edward Villarta, the Deputy Director for Regional Operations Service, provided the panel with a copy of the unofficial transcript of the aforementioned interview.<sup>259</sup> Although the language used by PO2 Lalan in the video was Filipino, the panel referred to the unofficial transcript provided by the NBI-AOTCD-DIU.

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<sup>256</sup> The DVD from GMA News, attached as Annex "F-6"

<sup>257</sup> Certification issued by Atty. Jose Vener Ibarra dated March 18, 2015, attached as Annex "F-7"

<sup>258</sup> Minutes of the NBI-NPS Clarificatory Hearing on March 27, 2015

<sup>259</sup> Memorandum for DDROS from Acting Chief, AOTCD-DIU dated March 20, 2015, attached as Annex "F-8"

The GMA News video footage lasts two (2) minutes and forty two (42) seconds.

A shirtless man can be seen sitting on the ground while several persons are asking him questions. At the start, the man states, "Maraming nakatulog na mga ano.. MI, kinuha ko yung isang ano.. inisprayhan ko silang lahat." ("There were many sleeping...MI, I got the.. I sprayed them all.")

He then discloses that he ran and realized that all the huts in the area were the houses of *MNLF*. He was alone by the time since all his companions were already injured. *MNLF* members aimed and fired at him but he was not hit. At 1:25, the man states that his name is PO2 Lalan.

Lalan narrates that he was able to escape, and reached a hut where there were persons sleeping. He was asked whether he hit the people inside. He replied in the affirmative and said that he left his gun because he had no bullets. At 1:50, Lalan states, "Eight. Parang niratrat ko talaga. Yan na rin ang..." ("Eight. I think I really shot them. That's also..")

At 1:56, Lalan states that he was being fired upon and he went to the cornfield so that he cannot be seen. From 2:02 to 2:04, he discloses that he asked for directions. Lalan also states, "Doon, itinuro. May isang -kukunin ko sana yung isang motor, mang-aagaw ng baril, kaya niratrat ko din." ("There, it was pointed. There was a - I wanted to get a motorcycle, and to get a gun, that's why I also sprayed them.")

The video ends with someone in the background audibly telling Lalan to rest first.

## IV. Board of Inquiry: The Mamasapano Report

### A. Objectives

The defunct BOI was composed of P/Dir. Benjamin Magalong as chairman, and P/Dir. Catalino Rodriguez and C/Supt. John Sosito as members. It was created by the PNP on January 26, 2015 to investigate the facts and circumstances surrounding the Mamasapano encounter, to establish facts regarding Oplan EXODUS, to determine possible lapses in the planning and execution of Oplan EXODUS, and to provide recommendations in order to address such possible lapses.<sup>260</sup> It also aimed to review the efficiency, effectiveness and responsiveness of the GPH and MILF in relation to the Mamasapano incident.<sup>261</sup> The BOI completed its investigation and released its report on March 9, 2015.

### B. Factual Conclusions

On March 10, 2015, the NBI-NPS SIT received its copy of the BOI report, after a previous request from the former to furnish it a copy.<sup>262</sup>

The BOI concluded, *inter alia*, that the President gave the go-signal and allowed the execution of Oplan EXODUS after the concept of operations (CONOPS) was presented to him by the Director of SAF, P/Director Getulio Napeñas. It found that the President allowed the suspended PNP Chief, Director General Alan Purisima to participate in the planning and execution of Oplan EXODUS despite the suspension order of the Ombudsman. The BOI determined that the President bypassed the PNP Chain of Command in dealing directly with Purisima, while the latter also violated the suspension order imposed on him. As for Napeñas, the BOI also found that despite his knowledge of the suspension order, the former followed Purisima's instructions not to inform the Secretary of the Interior and Local Government (SILG) Mar Roxas and OIC-PNP Deputy Director General Leonardo Espina about Oplan EXODUS.

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<sup>260</sup> Board of Inquiry Report, pp. 1-2

<sup>261</sup> *Id*

<sup>262</sup> Letter of SOJ to BOI dated February 12, 2015

According to the BOI, Purisima sent inaccurate information through text messages to the President about the real situation at Mamasapano, such as the supposed pull-out of the SAF commandos and that they were supported by mechanized or artillery support. Meanwhile, Napeñas allegedly failed to effectively supervise, control and direct personnel, which resulted in heavy casualties of the SAF commandos. He was held accountable under the doctrine of command responsibility, where the commander is responsible for what his unit does or fails to do. Napeñas likewise followed his "Time-on-Target" (TOT) coordination concept despite the President's directive to coordinate with the AFP before the execution of Oplan EXODUS. The BOI held that the TOT concept does not conform to the established operational concepts and protocol of the PNP. It similarly concluded that the established peace mechanisms and protocols, through the CCCH and AHJAG were not observed during the planning and execution of Oplan EXODUS.

The BOI determined that the mission planning of Oplan EXODUS was defective because of poor analysis of the area of operation, unrealistic assumptions, poor intelligence estimates, the absence of an abort criteria, the lack of CONOPS flexibility, the misapplied TOT concept and the lack of coordination with the AFP and AHJAG. It continued that the needed artillery support from the Army 6<sup>th</sup> ID was not delivered because the division commander, Major General Edmundo Pangilinan considered the peace process and protocols in the use of artillery. The lack of situational awareness, limited cover and concealment, ineffective communications and sustained enemy fire prevented the 1<sup>st</sup> Special Action Battalion (1<sup>st</sup> SAB) and (4<sup>th</sup> SAB) containment forces from reinforcing the pinned down 55<sup>th</sup> SAC commandos.

It was also found that the indigenous "Pintakasi" tradition in Maguindanao, which was defined as "a conglomeration of just about any armed malefactor, immaterial of group affiliation, and united by religion, blood ties and the singular goal of annihilating a common enemy, usually an outsider or intruder,"<sup>263</sup> and the loose command and control of MILF leaders over their elements contributed to CCCH's difficulty in reinstating the ceasefire. The BOI held that the United

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<sup>263</sup> BOI Report, p. 11

States involvement was "limited" to intelligence sharing and medical evacuation and that only SAF commandos were involved in the actual execution of Oplan EXODUS.

Lastly, the BOI cited the fact that the autopsy reports showed that four (4) SAF commandos were shot at close range while they were still alive. It also found that some SAF commandos were divested of their protective vests prior to being shot at close range.

### **C. Recommendations**

The BOI's most important recommendation was for appropriate government agencies to investigate the Mamasapano incident to determine the criminal and/or administrative liabilities of relevant government officials, the MILF and other individuals.

It likewise recommended the AFP and PNP jointly review the Joint AFP/PNP Operational Guidelines for Ad Hoc Joint Action Group (AHJAG) for coordinated law enforcement operations (LEO) against HVTs, their respective written annuals and protocols on interoperability, with the National Management Core Manual (NCCM Manual). The institutionalization of a permanent office to synchronize institutional responses to various situations such as the peace process in Mindanao was similarly pushed by the BOI. *Inter alia*, it suggested the review of police operational procedures to cover operations similar to Oplan EXODUS, and to craft its own Mission Planning Manual.

Improvements and enhancements to SAF capabilities to move, shoot, protect, communicate and for close air support (CAS) were similarly recommended, along with institutionalized cross-training with AFP units for management and execution of military-type tactical operations. Lastly, the BOI recommended that the PNP grant a one (1) rank promotion to all surviving members of the 84<sup>th</sup> Seaborne and PO2 Christopher Lalan for heroism and gallantry in action, posthumous promotion to the fallen forty four (44) SAF commandos, and appropriate recognition to all other participating elements.

## V. The Senate Committee Report No. 120

### A. Legal Basis

Senators Sotto, Ejercito-Estrada, Poe, Guingona, Ejercito, Defensor-Santiago and Legarda each called for an investigation regarding the Mamasapano incident on January 25, 2015.<sup>264</sup> Meanwhile, Senate Bill No. 2603 was introduced by Senators Guingona, Aquino, Pimentel and Villar; it called for the creation of a "Mamasapano Truth Commission." The Senate's Committees on Public Order and Dangerous Drugs, Peace and Unification and Reconciliation, and Finance jointly held five (5) public hearings and five (5) executive sessions over a span of three (3) weeks. A total of thirty seven (37) resource persons and/or witnesses appeared before these committees and testified under oath.<sup>265</sup>

On March 25, 2015, the NBI-NPS SIT received a copy of the Senate Committee Report No. 120, submitted jointly by the said Senate committees on March 10, 2015.

### B. Observations/Findings

After gathering the testimonies of the resource persons and considering all the evidence submitted before the committees regarding events that transpired before, during and after the Mamasapano incident, the joint Senate committees made several observations/findings.

#### 1. Inadequate intelligence, poor planning and lack of coordination with AFP were fatal mistakes.

The joint Senate committees concluded that there was inadequate intelligence and poor planning on the part of the planners of OPLAN EXODUS because they failed to adequately consider topography of the area of operations. This was evident in the fact that less than half of the 84th Seaborne was able to reach the target area. It was also not explained why the 55<sup>th</sup>, 45<sup>th</sup> and 42<sup>nd</sup> SAC were unable to

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<sup>264</sup> Proposed Senate Resolution Nos. 1133, 1134, 1135, 1136, 1137, 1138, and 1146.

<sup>265</sup> Senate Committee Report No. 120, pp. 1-2

reach their respective waypoints.<sup>266</sup>

The joint committees also noted that the SAF' leadership failed to prepare accordingly because despite the information that there were more than one thousand (1,000) hostile troops in the area and the possibility of a "pintakasi," the SAF deployed only three hundred ninety two (392) personnel for the whole operation. The SAF was mistakenly unaware that the MILF had mortar capability.<sup>267</sup>

The most fatal mistake of the mission planners of Oplan EXODUS, specifically suspended Director General Purisima and P/Dir. Napeñas, according to the Senate committees, was their decision not to have prior coordination with the AFP and the concept of "Time on Target". In fact, the AFP was informed of the operation only after Marwan was killed and both the 55<sup>th</sup> SAC and the 84<sup>th</sup> Seaborne were already under heavy fire from hostile forces.<sup>268</sup> Thus, the AFP was unable to have their reinforcing elements on stand-by who could have been ready to assist the SAF when needed.

## **2. What happened in Mamasapano was a massacre, not a misencounter.**

The joint Senate committees considered the Mamasapano incident as a massacre and not a misencounter. It deplored the massive and heavy firing of the combined groups of the MILF, BIFF and PAGs on the 55<sup>th</sup> SAC and the 84<sup>th</sup> Seaborne. It cited the autopsy reports on the forty-four (44) SAF commandos that reveal that thirty (30) of them bore gunshot wounds to the head. The Senate report also referred to the uploaded video of the commando who was shot while he was lying on the ground, injured and unable to move, and who was identified by a SAF officer as one of his comrades.<sup>269</sup>

## **3. MILF and BIFF fighters and members of other PAGs committed murder, robbery; no self-defense.**

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<sup>266</sup> Id., p.49

<sup>267</sup> Id., pp. 50-51

<sup>268</sup> Id., pp. 52-56

<sup>269</sup> Id., pp. 57-58

According to the Senate report, the MILF cannot claim that its fighters acted in self-defense because of the absence of the element of unlawful aggression on the part of the 55<sup>th</sup> SAC commandos, who remained stationary in the cornfield. The report concluded that it was the combined elements of the MILF, BIFF and the PAGs who approached and surrounded the 55<sup>th</sup> SAC.<sup>270</sup>

The Senate report recommends the filing of murder charges against the MILF, the BIFF and the other PAGs fighters, who participated in the Mamasapano incident.<sup>271</sup>

#### **4. The MILF leadership does not have absolute control over their ground troops.**

It has been established that no prior coordination was made by the SAF with the AHJAG or the CCCH. On the other hand, the MILF was informed of the operation on the day that it was being executed. At that point, the MILF forces knew that the SAF, who were in uniform, were conducting a legitimate law enforcement in the area and should have ended the firefight. While it is true that the de-escalation of hostilities was hard to do once the firefight started, there were no attempts to diminish it at all. Instead, the MILF fighters continued on firing at the outnumbered and even injured SAF forces. Thus, it is evident that the MILF leadership does not exercise a strong command over its Bangsamoro Islamic Armed Forces (BIAF).<sup>272</sup>

The Senate report also found that the MILF failed to show good faith in returning the rest of the firearms, equipment, uniforms and personal effects taken by MILF fighters from the dead SAF troopers. The sincerity of the MILF's proclaimed quest for peace is in serious doubt. The lack of coordination cannot justify the killing of the policemen who were conducting a legitimate law enforcement operation.<sup>273</sup>

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<sup>270</sup> Id., p. 59

<sup>271</sup> Id., p. 60

<sup>272</sup> Id., pp. 61-64

<sup>273</sup> Id., p. 64

**5. The Ceasefire Mechanism between the GPH and MILF was ineffective to end the firefight involving the 55<sup>th</sup> SAC but was successful in containing the firefight at the Tukanalipao area.**

The ceasefire mechanism failed to end the firefight involving the 55<sup>th</sup> SAC because of the delay in the information given to the GPH and MILF CCCH and the intensity of the firefight. The intentional withholding of information on the actual situation on the ground by the SAF and the presence of other parties and lawless elements like the BIFF, PAGs, lawless and Armed Civilians contributed to the mediation and negotiation efforts by the ceasefire mechanism.<sup>274</sup>

**6. The International Criminal Court (ICC) has no jurisdiction over the crimes committed by MILF members against the SAF troopers.**

The Senate report found that the criminal acts committed by the MILF fighters cannot be considered war crimes, in which the ICC can take cognizance of. The MILF leadership has claimed that the MILF fighters who participated in the killing of the 55<sup>th</sup> SAF were acting in their individual capacities, and not as part of an MILF operation.<sup>275</sup>

**7. There was no need for PNP to engage in prior coordination with the AHJAG, but guidelines on this matter should be reviewed.**

Oplan EXODUS was executed by the SAF against Marwan and Basit Usman who are both categorized as high value targets (HVTs). Thus, their case would appear to fall under the exception requiring the PNP to inform the officers of the ceasefire mechanisms, at least 24 hours prior to the launch of law enforcement operations.<sup>276</sup> According to the Senate report, strictly speaking, the houses of Marwan and Basit Usman were outside the MILF area, and as such the Implementing Guidelines on the Communique would not be applicable.<sup>277</sup>

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<sup>274</sup> Id., pp. pp. 65-66

<sup>275</sup> Id., p. 72

<sup>276</sup> Id., pp. 77

<sup>277</sup> Id., p. 78

However, inasmuch as the planned point of entry and exit of the SAF forces were close to the MILF areas/communities, the Senate committees gave weight to the opinion of Gen. Galvez of the CCCH that prior coordination could have mitigated the loss of lives for the government forces. The SAF's tactical plan to act autonomously was detrimental to the Government's strategic plans and protocol for the conduct of law enforcement operations, with repercussions on the peace process.

### **8. The applicability of the chain of command principle to the PNP**

The Senate committees maintained that while the term "chain of command" is often associated with the military, it has been applied to the hierarchical structures in the civilian government agencies and private enterprises. They added that in accordance with a Supreme Court ruling, there is a chain of command at the PNP. They also said that when there is a chain of command, the doctrine of command responsibility generally applies.<sup>278</sup>

### **9. The PNP Chain of Command was violated.**

According to the Senate committees, the PNP Chain of Command was violated because while he was preventively suspended by the Ombudsman, Director General Purisima continued to participate in Oplan EXODUS. Purisima was present when P/Dir. Napenas gave a briefing and mission update on Oplan EXODUS to the President on January 9, 2015 and even inquired on the status of the operation on January 19, 2015. Purisima even instructed P/Dir. Napeñas: "Huwag mo munang sabihan iyong dalawa. Saka na pag nandoon na. Ako na bahala kay General Catapang." Even assuming that the same was just an advice, as claimed by Purisima, it was because of this specific instruction that the Secretary of Interior and Local Government and the OIC, PNP were deliberately not informed about Oplan EXODUS until the morning of January 25, 2015.<sup>279</sup>

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<sup>278</sup> Id., p. 81

<sup>279</sup> Id., pp. 84-85

## **10. Criminal and administrative liabilities of suspended PNP Chief Purisima and P/Director Napeñas**

The Senate committees found that because of the intervention and participation of Director General Purisima in a highly classified police operation despite his preventive suspension, the filing of criminal and administrative charges are proper.<sup>280</sup> They also found that P/Dir. Napeñas should be held administratively liable because he continued to take orders from Director General Purisima despite knowing that he was preventively suspended.<sup>281</sup>

## **11. The President failed to prevent Purisima from violating Article 177 of the Revised Penal Code.**

According to the Senate report, the President allowed suspended PNP Chief Purisima to be present in a meeting where a sensitive and classified PNP operation was being discussed on January 9, 2015. He also communicated exclusively and gave Purisima specific instructions about Oplan EXODUS. Consequently, the President should bear the responsibility for failing to prevent PDG Purisima's unlawful exercise of official functions.<sup>282</sup>

## **12. The President and the principles of supervision and control.**

Under the principle of "supervision and control" which the President exercises over all the executive departments, bureaus and offices and the fact that it was the President who gave the policy direction to arrest Marwan and Usman and approved OPLAN EXODUS, the Senate committees concluded that the President is ultimately responsible for the success or failure of the mission.<sup>283</sup>

**13. The roles of Americans who were present during the operation cannot be readily dismissed as those of mere observers. Their investment in this operation is evidenced by the equipment and the training they supplied.**

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<sup>280</sup> Id., P. 86-87

<sup>281</sup> Id., pp. 88-89

<sup>282</sup> Id., pp. 90-91

<sup>283</sup> Id., p. 93

While it has been claimed by the Department of Foreign Affairs (DFA) that Americans were not involved in the planning and execution of Oplan EXODUS, the testimonies of various resource persons, including Napeñas', prove otherwise.<sup>284</sup> Napeñas himself admitted that their U.S. counterparts were involved in at least three aspects of Oplan EXODUS, that is, the intelligence cooperation, training and equipment provision.<sup>285</sup> According to the Senate committees, this American involvement should be viewed in the context of cooperation between the Philippines and the U.S. to fight terrorism.

Despite the permissible extent of U.S. involvement in domestic anti-terrorism operations, the Senate committees felt the need to refine and delineate the defense relationship between the Philippines and the U.S. including the cooperation to combat terrorism.<sup>286</sup>

**14. Should the AFP have fired the white phosphorus or artillery rounds much earlier? Did the strategy to promote the peace process hinder the AFP from engaging in a more aggressive response?**

The Senate committees held that though they support the primacy of peace process, the realities on the ground may have to be addressed so that the AFP and PNP can effectively and with flexibility conduct law enforcement operations even during the peace process.<sup>287</sup> They also stated that there is no doubt that the support AFP gave to the PNP in the Mamasapano incident was instrumental in the rescue of the beleaguered members of the 84<sup>th</sup> SAC.<sup>288</sup>

**15. The Anti-Terrorism Council (ATC) and the National Intelligence Coordinating Agency (NICA) were left out.**

According to the Senate report, Oplan EXODUS should have been brought to the official attention of the ATC and NICA

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<sup>284</sup> Id., p. 94

<sup>285</sup> Id., p. 96

<sup>286</sup> Id., 99-100

<sup>287</sup> Id., p. 106

<sup>288</sup> Id.

considering that the aim of the operation was to arrest Marwan and Usman, who are both international terrorists.<sup>289</sup>

**16. The Government peace panel should stand for the interests of the Government and not that of the MILF.**

The Senate committees questioned the acts of Presidential Adviser on the Peace Process Teresita Deles and government peace panel chief negotiator Miriam Coronel-Ferrer in defending the MILF. In the process of conducting peace talks, the government should not overlook the seeming lack of control of MILF of their ground forces and its disrespect for legitimate law enforcement operations.<sup>290</sup>

**C. Recommendations**

The Senate committees made the following recommendations:

1. The appointment of a permanent Director-General of the PNP<sup>291</sup>.
2. Congress must immediately consider the PNP Modernization Program.<sup>292</sup>
3. The guidelines, policies and issuances governing hazard pay and combat pay of the members of the PNP and AFP must be immediately updated.<sup>293</sup>
4. The early passage of legislation aimed at eradicating mobile phone-aided terrorism and criminal activities.<sup>294</sup>
5. To make permanent the establishment of a One-Stop Shop for Claims and Benefits of killed or injured policemen.<sup>295</sup>
6. The National Security Council should be convened for the coordination between and among security government agencies.<sup>296</sup>
7. The joint Committees should review the Human Security Act.<sup>297</sup>

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<sup>289</sup> Id., p. 107

<sup>290</sup> Id., p.109-110

<sup>291</sup> Id., p. 111

<sup>292</sup> Id., p. 112

<sup>293</sup> Id., p. 112

<sup>294</sup> Id

<sup>295</sup> Id., p.113

<sup>296</sup> Id

<sup>297</sup> Id. p. 114

8. A more responsive coordinating mechanism with explicit rules between and among the armed forces, the PNP and other law enforcement groups must be established.<sup>298</sup>
9. A more responsive set of guidelines for the mechanism on the cessation of hostilities with explicit rules between GPH and the MILF must be created.<sup>299</sup>
10. The interest of the government to abide by its international commitment and the interest or welfare of the police officers who must carry out the mission must be balanced.<sup>300</sup>
11. The full force of the law must be applied against those found liable for criminal, civil and administrative liabilities.<sup>301</sup>
12. The adoption of Senate Resolutions authored by various senators honoring the bravery and heroism of the PNP SAF-Troopers who were killed and wounded in Mamasapano, Maguindanano.<sup>302</sup>

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<sup>298</sup> Id., p. 115

<sup>299</sup> Id., p. 116

<sup>300</sup> Id.

<sup>301</sup> Id., p. 117

<sup>302</sup> Id. p. 118

## VI. The MILF Special Investigative Commission Report

### A. Objectives

The MILF leadership organized the Special Investigative Commission (SIC) on January 26, 2015. Its members were composed of the following:

1. Ustadz Said Abdulsalam - Chairman
2. Hussein "Sonny" Munoz - Member
3. Toks Ebrahim - Member
4. Von Al Haq - Member
5. Ustadz Abu Ubaidah Angkong - Member

The objectives of the probe were: "1) to shed light on what happened on January 25 and 26, 2015 in Mamasapano, Maguindanao; 2) to assess the conduct of the BIAF in relation to the Code of Conduct for BIAF, also known as General Order One (G.O. 1); and to propose action points to the leadership of the MILF."<sup>303</sup>

### B. Narrative

Based on its interview with MILF members, the SIC narrates that at around 4:30 a.m. of January 25, 2015, Bangsamoro Islamic Armed Forces (BIAF) members residing in Barangay Tukanalipao, Mamasapano, heard gunfire and learned of the presence and movement of government forces at nearby Barangay Tuka. They immediately set out for Sitio Amilil, where elements of the BIAF's 105<sup>th</sup> Base Command (105<sup>th</sup> BC) assemble whenever they learn of an impending attack against their community. This is supposedly to keep the firefight away from the community and prevent civilian casualties. Sitio Amilil is estimated to be 825 meters away from their community, but still a part of Barangay Tukanalipao.

On their way to Sitio Amilil, BIAF members heard gunfire from the direction of Barangay Pembalkan, around 2 to 3 kilometers to the northwest. When they reached the now famous wooden footbridge of Tukanalipao, they were fired upon from across the river. Two of them,

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<sup>303</sup> MILF SIC Report, p. 1

Omar Dagasdas and Ali Esmael, were hit and died. BIAF forces immediately fell back and took position at the cornfield behind them and returned fire. It was still dark at that time, so they could not tell what group they were shooting it out with. But they were certain that this group was not composed of friendly forces. The BIAF did not know then that they were up against the 55<sup>th</sup> Special Action Company (55<sup>th</sup> SAC), the designated blocking force under Oplan EXODUS.

As the gunfire escalated, more BIAF members living in the area came and joined in the fighting. Most of them were from the 105<sup>th</sup> BC, but a few were from 118<sup>th</sup> Base Command (118<sup>th</sup> BC).

The firefight was at its heaviest between 9:00 a.m. to 1:00 p.m. More or less one hundred (100) BIAF men were involved, but there was *no* organized central command for the entire duration of the firefight. BIAF forces surrounded the 55<sup>th</sup> SAC and some of the former jumped into the river and fought from there. Before long, BIAF men forded the river to the 55<sup>th</sup> SAC's positions in the cornfield and engaged the latter in close-quarters combat.

In the aftermath, thirteen (13) BIAF members died. The bodies of three (3) dead BIAF members namely, Sueb Kamod, Nasrudin Saptula and Abdulrahman Abdullah, were found in the cornfield. The remains of Kaharodin Baluno and Mahmud Saga were also found near the cornfield. Another BIAF member, Salahudin S. Carmin, was later found in the river. The SIC listed the rest of BIAF's casualties as Esmail Abid, Ali Esmail, Omar Dagasdas, Paglas A. Kamidon, Tanto A. Bulao, Rahman Duma; and Samsudin Guiapar.

According to the SIC, there were twenty-five (25) MILF members wounded during the firefight, namely:

1. Zainudin Lampak;
2. Zumaidi Untong;
3. Jomar Zailun;
4. Hamsa Lampak;
5. Nanang Ebrahim;
6. Patayan Abdulrahman;
7. Yasser Ulama;
8. Alinader Dicolano;
9. Said Sanggutin;

10. Norhak Iskak;
11. Mahmud Lumbatan;
12. Mustapha Kindi;
13. Abdulmaguid Kindi;
14. Alizandro Sandigan;
15. Mahdi Abdulmutalib;
16. Abdulrahman Abdulkahar;
17. Budzal Abdulrahman;
18. Mega Binito;
19. Haron Ali;
20. Abdulgani Ramos;
21. Salahudin Kunakon;
22. Joel Naser;
23. Boy Daladap;
24. Zukarno Ahmad; and
25. Hamid Ali

The SIC observes that the BIAF got the upper hand in that firefight because they outnumbered and outgunned the 55<sup>th</sup> SAC and they knew the terrain well.

At around 1:00 p.m., BIAF men went into the cornfield to collect their dead, who, by Islamic tradition, must be buried within twenty-four hours. They then took the opportunity to collect war booties. After about twenty minutes of collecting these war booties, Ustadz Zacaria Goma, 105<sup>th</sup> BC commander, called one of his men in the area and instructed them to withdraw because the MILF issued a ceasefire order and that a group composed of members of the International Monitoring Team (IMT) and the CCCH was on its way to the site of the encounter. As they were withdrawing, BIAF members saw other armed men coming in, and they recognized some of them to be BIFF members. The BIAF members noticed that the dead bodies of the 55<sup>th</sup> SAC were piled on top of each other, an indication that they were used as shields by their companions during the firefight.

The following day, January 26, 2015, at about 1:00 p.m., Melgar Sailala was in a *langal* (a small mosque) beside his house in the vicinity of Sitio Amilil and was taking a nap on the floor with four (4) members of 105<sup>th</sup> BC. He awakened to the sound of a gunshot and saw a man standing at one of the doors of the *langal* with a pistol

leveled at Musib Kasim, who appeared to have been shot dead while asleep. The armed man shot Rasul Kamsa and Norhamid Angkay next and both died instantaneously. Mamarisa Sandigan, the fourth 105<sup>th</sup> BC member, tried to get up but the man shot him as well. Sailila made a run for it by jumping out of the *langal* through an opening in the wall. The armed man ran after him, but Sailila was able to escape. Sailila later identified the armed man through photographs shown to him during MILF's investigation as PO2 Christopher Lalan.

In all, BIAF casualties reached seventeen (17), including four (4) whose deaths are being attributed to PO2 Lalan.

At around 2:00 p.m., or an hour after the incident in the *langal*, the group of Sheik Abdullah Abad, Mohammad Ambilang, Kapital Jainal and Mataya Sangki saw PO2 Lalan near the wooden bridge shirtless, holding an armalite, and coming towards them. As PO2 Lalan neared, Sheik Abdullah Abad shouted, "civilian kami, wag ka magpapatok!" ("We are civilians! Don't shoot!") The latter and Ambilang raised their hands to show that they were not armed, but PO2 Lalan leveled his long firearm at Ambilang, who turned and ran away. PO2 Lalan shot Ambilang. The rest of the group fled. PO2 Lalan chased them, but gave up after several meters. The group later came back for Ambilang and they found him dead at the place where he was shot by PO2 Lalan.

PO2 Lalan was identified by Ambilang's companions through the former's photographs shown to them during the investigation. The SIC listed the names of the three (3) civilian casualties as Badrudin Langalen, Sarah Tot and Mohammad Ambilang.

### **C. Findings**

The SIC described the MILF's decision to proceed to Sitio Amilil as justified and that the BIAF did not purposely engage the SAF. It also found that SAF violated the Ceasefire Agreement as no prior coordination was made with the MILF prior to the operation.

According to the SIC, no unnecessary force or method of warfare that violated international humanitarian law was used by the BIAF forces. Reports about mutilation, beheading and willful killing were found to be unfounded. It observed that the video of an armed

man finishing off a 55<sup>th</sup> SAC commando does not clearly show that the BIAF was responsible since there were other armed groups in the area. Moreover, the BIAF did not desecrate bodies of 55<sup>th</sup> SAC, and they moved only to get the latter's firearms. Other armed men came into the area after BIAF left, while civilians helped during the cadaver retrieval operation by the municipal and barangay officials. The SIC opined that civilian volunteers or the other armed men may have taken the personal belongings of the 55<sup>th</sup> SAC.

It was also determined by the SIC that BIAF's taking of the SAF firearms and personal effects was justified or recognized as an acceptable behavior of armed non-state actors under Rule 49 of customary International Humanitarian Law, based on a study conducted by the International Committee on the Red Cross (set forth in the so-called "Lieber Code").

The SIC maintained that the MILF did not coddle Basit Usman and Marwan. The MILF did not know that the two (2) wanted suspects were in their community and that they were not informed that these men have moved into Barangay Pembalkan, Mamsapano, which is three (3) kilometers from where the MILF combatants were living in Barangay Tukanalipao, and an area where the MILF has no presence and control. The SIC noted that Marwan and other individuals with terrorist tags have been ordered to leave MILF camps and communities since 2005.

The SIC held that MILF members involved in the incident were not liable, as they were justified in fighting back. It likewise found that it was MILF forces which were attacked first by the SAF and that the latter's incursion into their territory without coordination is a violation of the ceasefire agreement. Assuming that there was any liability, the Ceasefire Agreement between the GPH and the MILF provides that each party will discipline their respective forces.

## VII. The NBI-NPS SIT's Factual Findings

The aim of this Report is to recite the facts – and just the cold facts – of how the Mamasapano incident unraveled based solely on the evidence gathered, devoid of emotional and cultural biases that will obscure, if not distort, the narration thereof.

Under this framework, the Mamasapano incident was earlier narrated through the vantage points of the SAF leadership and officers who executed Oplan EXODUS, the deadly response of the MILF, BIFF and PAGs, and the effects on civilians residing in the area. The following discussions will outline the findings of significant facts and then proceed to an analysis of the penal laws applicable to the identified suspects, as well as those who remain unidentified and unaccounted for.

### A. Mamasapano at a Glance

Mamasapano is a fifth class municipality in the Province of Maguindanao. It has a population of 22,354 persons in 4,724 households.<sup>304</sup> It is populated predominantly by members of the MILF, BIFF and PAGs. Mamasapano is the northwest corner of what the AFP calls the Salibo-Pagatin-Mamasapano-Shariff Aguak (SPMS) Box, where there is likewise a very strong MILF and BIFF presence.

The SPMS Box is the perennial site of many clashes between the AFP and rebel groups. PAGs likewise operate in some of the areas in the SPMS Box. Data obtained through our interviews with residents and relevant employees of the local government of Mamasapano reveal that MILF, BIFF, and PAGs in the area are mostly related to one another either by blood or by marriage. The MILF's 105<sup>th</sup> BC and 118<sup>th</sup> BC are permanently bivouacked in the area<sup>305</sup>.

The cornfield where almost all of the 55<sup>th</sup> SAC members were killed is a short ten (10) minute walk from the center of population in Barangay Tukanalipao.

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<sup>304</sup> 2010 Census of Population and Housing, National Statistics Office

<sup>305</sup> MILF Report

## **B. Significant Facts**

The following are our findings of significant facts based on the testimonial, documentary and object evidence gathered so far:

1. On January 24-25, 2015, the SAF executed Oplan EXODUS in order to serve a Warrant of Arrest against Marwan, Usman and Baco who were earlier classified as HVTs by the DILG and the DND;
2. The SAF's area of operations was near AFP-identified MILF, BIFF, and PAGs communities and these groups intermingle because most of them are related either by blood or marriage;
3. The 55<sup>th</sup> SAC fired the first shot that started the firefight at the cornfield in Barangay Tukanalipao, Mamasapano;
4. The MILF, BIFF and PAGs united themselves through Pintakasi against the 55<sup>th</sup> SAC;
5. By 8:00 a.m. of January 25, 2015, the MILF, BIFF and PAGs who were fighting the 55<sup>th</sup> SAC already knew that they were police officers;
6. Some 55<sup>th</sup> SAC members tried to surrender but the MILF, BIFF and PAGs continued firing at them until the entire 55<sup>th</sup> SAC in the cornfield could no longer fight back because many of them were already dead and those still alive were severely wounded;
7. After the firefight, MILF, BIFF and PAGs forces crossed the Kabulnan River into the cornfield to finish off dying members the 55<sup>th</sup> SAC and to divest them of their firearms, special equipment and personal belongings;
8. There were a total of forty four (44) SAF casualties; thirty five (35) from the 55<sup>th</sup> SAC at Barangay

Tukanalipao and nine (9) from the 84<sup>th</sup> Seaborne at Barangay Pidsandawan.

### **C. Sequence of Events**

The factual findings above slightly differ with that of the Senate's. Meanwhile, the findings of the MILF starkly differ with ours. The incident was not a "massacre" of the 55<sup>th</sup> SAC, as graphically described by the Senate<sup>306</sup>, nor a simple "misencounter" as clinically suggested by the MILF<sup>307</sup>. The complicated truth is somewhat in between these two extremes.

To the NBI-NPS SIT, the testimonial, documentary and object evidence gathered show that what happened on January 25, 2015, at the cornfield area around the now famous Tukanalipao wooden footbridge crossing the river was a firefight that degenerated into direct assault with murder, which in turn ignominiously deteriorated further to theft of both Government and personal property.

#### **1. Warrant of Arrest against High Value Targets (HVTs)**

On January 24 to 25, 2015, the SAF deployed to Mamasapano to execute Oplan EXODUS and implement a warrant of arrest against Zulkifli Bin Hir alias "Marwan" and Ahmad Akmad Batabol Usman alias "Basit Usman issued by the Regional Trial Court of Kidapawan City, Branch 27, in Criminal Case No. 552-2007, for murder and frustrated murder.

Marwan and Basit Usman were classified as HVTs by the PNP and the Department of National Defense (DND), for their role in a number of bombing incidents in Mindanao that resulted to many civilian fatalities. Marwan is also in the most wanted list of the United States Federal Bureau of Investigation (FBI) for his role in the especially destructive bombing in Bali, Indonesia in 2002 that killed 202 people and wounded 209, including Australians and Americans.

Another target of Oplan EXODUS was HVT Amin Baco alias "Jihad/"Johan," who is included in both the Philippines' and the

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<sup>306</sup> Senate Committee Report No. 120, p. 57

<sup>307</sup> MILF Report

United States' "Most Wanted" lists for his involvement in several bombing and kidnapping incidents.

Oplan EXODUS was the sixth such attempt to capture Marwan. Previous operations were, for one reason or another, botched. These failed operations were Oplan CYCLOPS, Oplan CYCLOPS 2, Oplan WOLVERINE 2, Oplan WOLVERINE 3, Oplan TERMINATOR, and Oplan TERMINATOR 2.

Based on the written Oplan EXODUS itself and our interview with P/Supt. Raymond Train, team leader of the 84<sup>th</sup> SAC (also known as "Seaborne"), the latter unit was the Main Effort (ME) tasked with arresting the HVTs at Barangay Pidsandawan, Mamasapano. The ME was supposed to be augmented/reinforced by other SAF units, which will take their respective positions at designated Waypoints to cover the ME's exfiltration from the area of operation. The Vehicle Drop Off Area (VDOP) was Waypoint 1 and Marwan's hut in Barangay Pinsandawan was Waypoint 22. The plan was for the SAF to increase their numbers as they fall back from the assigned Waypoints and regroup to the VDOP.

## **2. Marwan resisted and was killed.**

According to Train, at around 4:00 a.m., as they were on approach to Marwan's hut, one of his men tripped on a booby trap and an Improvised Explosive Device (IED) exploded. The noise woke up Marwan who turned off the light in his house, and started shooting at the 84<sup>th</sup> Seaborne. A firefight ensued and ended fifteen (15) minutes later when Marwan was shot on the chest and died.

The 84<sup>th</sup> Seaborne brought with them a retinal scan device donated by the United States to identify the individual features of a retina, and thus ascertain the identity of the target. But when it was taking too long to use it on Marwan, the commandos decided to sever his left index finger instead for DNA testing. They needed to get out of the house fast because the explosion already awakened opposing forces in the area.

Meanwhile, the 55<sup>th</sup> SAC, which was supposed to take its position at Waypoint 19 to block forces that might go after the 84<sup>th</sup> Seaborne on its way out of the area, was still at Waypoint 12 when the

firefight at Marwan's hut erupted.

**3. The 55<sup>th</sup> SAC was not supposed to be at the Tukanalipao cornfield.**

Waypoint 12 is at least a kilometer away from Waypoint 19. Waypoint 12 is located at the cornfield near the wooden footbridge in Barangay Tukanalipao, where the 55<sup>th</sup> SAC made its last stand.

According to the lone survivor of the 55<sup>th</sup> SAC, PO2 Christopher Lalan, commandos at the rear end of the group, who were carrying heavy ammunition and the 90 mm recoilless rifle (90RR), slowed the main body because they kept stopping to rest. They forded the Kabulnan river (which runs under the Tukanalipao footbridge) at three different locations. When the firefight broke out at Marwan's hut, 55<sup>th</sup> SAC's overall platoon leader, PSI Ryan Pabalinas, ordered his men to stay put at the cornfield.

When we inspected the battle site at Tukanalipao, what immediately caught our attention was that the location where the 55<sup>th</sup> SAC chose to hold the line held no tactical advantage whatsoever. The 55<sup>th</sup> SAC's only means of concealment were the yet to be harvested cornstalks. According to residents in the area, the cornstalks only rose up to the chest level of an average man in January 2015. There was no effective cover available for the 55<sup>th</sup> SAC because bullets, especially those fired from high powered firearms, could easily penetrate the low lying cornstalks.

When our NBI forensic investigators processed the area, they found large bullet holes on trees with trajectory originating from across the 55<sup>th</sup> SAC's position indicating that firearms with .50 caliber ammunition were used against the latter<sup>308</sup>.

The 55<sup>th</sup> SAC's opposing forces had all the tactical advantages. An Azimuth wheel rendition of the entire Tukanalipao and river area done by our NBI forensic component shows that the rebel forces on the other side of Kabulnan River had elevation, concealment, cover, and shade.<sup>309</sup>

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<sup>308</sup> Ballistics Report of Hiyasmin Abarrientos, Annex "E-3"

<sup>309</sup> Report of Ligaya Banawan, Annex "E"

Resupply and reinforcement were also crucial advantages that the 55<sup>th</sup> SAC's opposing forces had monopoly of.

During the clarificatory interview with Train, he was asked if he were the team leader of 55<sup>th</sup> SAC, would he have made the same call as Pabalinas to stay at the cornfield under those conditions? Train tellingly declined to comment.

#### **4. The 55<sup>th</sup> SAC fired first.**

MARATHON states that it was the 55<sup>th</sup> SAC that started the firefight. MILF fighters who were crossing the Tukanalipao bridge, not knowing that 55<sup>th</sup> SAC was already in the cornfield across, were immediately shot. The MILF corroborates this fact and its report gives the names of those who died from being shot at while crossing the Tukanalipao Bridge<sup>310</sup> as Ali Esmail and Omar Dagadas.

PO2 Lalan estimates the earliest start of the firefight at the cornfield at about 5:30 a.m. However, there is evidence that it happened earlier. MARATHON places the start of the Tukanalipao firefight closer to the start of the firefight at Marwan's hut in Barangay Pidsandawan. Thus, if the Pidsandawan firefight started at 4:00 a.m., then the 55<sup>th</sup> SAC's contact with the opposing forces at the Tukanalipao cornfield may have happened not long after.

This timeline is confirmed by the text message sent by SAF director Napenas to Deputy Director General Leonardo Espina at 4:38 a.m., when he texted to wit:

“For: OIC-PNP from DSAF: update re opns against HVTs. Based on the report of the ME, JI @ Marwan was neutralized but the body was left behind due to heavy volume of fire and 1 wounded SAF trooper. The containment blocking force was engaged 2 kms east of Tukanalipao & SAF troops suffered casualties. Extraction is on-going & support from the AFP was requested.”<sup>311</sup>

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<sup>310</sup> MILF SIC Report, Annex “J-1”

<sup>311</sup> BOI Report, p. 25

Most residents in the area, regardless of affiliation, have been raised in an environment surrounded by weapons and warfare, even in their youth. The sound of gunfire elicits a certain set of responses imbibed through years of repetition and conditioning. The MILF confirms this in its report. Whenever they fear or learn of an impending attack on their community, the MILF forces gather at Sitio Amilil to keep the firefight away from their community and prevent civilians from being directly affected.<sup>312</sup>

There is no reason to assume that only the MILF practiced this tactical formation at Sitio Amilil in order to steer the battle away from Barangay Tukanalipao and the other adjoining barangays. The same could be said for the BIFF and PAGs as well. Most of them are related after all. The MILF's reasons for bringing the firefight outside their community hold true for the BIFF and PAGs residing in the area.

When they heard gunfire, the residents of Tukanalipao made for Sitio Amilil via the wooden footbridge at Tukanalipao.

Recall that the 55<sup>th</sup> SAC was already in the cornfield when the firefight at Marwan's house started, and with their night vision goggles (NVGs), they could see in the dark and initially "owned the night." The 55<sup>th</sup> SAC saw armed men coming towards them and about to cross the wooden footbridge. The commandos radioed TCP about this. TCP then radioed back its order to engage the enemy. The BOI noted this:

"Eventually, they noticed armed men moving towards them. They observed that the enemy forces were growing in number. The 55<sup>th</sup> SAC immediately informed the Tactical Command Post (TCP) of their situation. Napenas overheard the information from the radio and directed PO3 Lloyd Tano Ensoy, the radio operator, to broadcast: "Pag na-identify na kalaban at may dalang baril, huwag na palapitin at i-engage na."<sup>313</sup>

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<sup>312</sup> MILF SIC Report, Annex "J-1"

<sup>313</sup> BOI Report, p.23

### **5. There was “Pintakasi” by members of the MILF, BIFF, and PAGs against the 55<sup>th</sup> SAC.**

Although the MILF and the BIFF publicly project themselves as two distinct revolutionary organization, in reality these distinctions easily blur and merge because of blood, marriage and a common religion. Thus, when dealing with an outsider, their formal guerilla affiliations become irrelevant and they all band together.

MARATHON narrated that after the residents of Tukanalipao who went on the wooden footbridge were fired upon and hit by forces at the other side, the firefight started and the residents of adjoining barangays joined in against the 55<sup>th</sup> SAC. There were MILF, BIFF and PAGs involved; but since it was still dark at that time and the 55<sup>th</sup> SAC were concealed in the cornfield, the former did not know yet that they were battling it out with police officers. This was also confirmed by residents in the area we interviewed, but who declined to give their names.

MILF’s report suggests that only its members were involved during the firefight. This is *incredible*, considering that residents in the area count MILF, BIFF, and PAGs among their number. This conclusion also fully contradicts MARATHON’s and the other witnesses’ positive allegations that the “free for all” Pintakasi included not only MILF members, but also known BIFF and PAGs members.

According to a peace studies scholar, “pintakasi” is a “centuries old indigenous community activity.”<sup>314</sup> Community members help each other for the benefit of all members of the community.<sup>315</sup> While generally a positive force to bring people together in times of weddings, farming and church activities, “pintakasi” is also applicable in times of threat, where the enemy of one becomes the enemy of all.<sup>316</sup> As found by terrorism studies scholars Peter Chalk and Angel Rabasa<sup>317</sup>, “pintakasi” (literally, “a fight that everyone joins”) is a

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<sup>314</sup> Noguera, Rhodius T., “Pintakasi: When A Poor Community Empowers Itself to Deal with Peace and Security Issues, Implications for the Practice of Psychology.” *Peace Studies Journal* 4.3 (2011) pp. 16-36

<sup>315</sup> *Id.*, p. 22

<sup>316</sup> Senate Committee Report No. 120, p. 51

<sup>317</sup> Non-Traditional Threats and Maritime Domain Awareness in the Tri-Border Area of Southeast Asia: The Coast Watch System of the Philippines, Chalk, Peter and Rabasa, Angel; RAND

principle that dictates reciprocal obligations of communal assistance whenever a group is engaged by the military.

Conversely, the “pintakasi” that ensued in order to repel outsiders, was not a preconceived guerilla offensive of these MILF, BIFF, PAGs and armed unaffiliated civilians against the SAF (or other GPH forces) in Mamasapano. Consequently, the resulting “pintakasi” was something that those involved did *not* undertake as an exclusively organized group of *only* MILF members, or *only* BIFF members, or *only* PAGs or *only* armed unaffiliated civilians. Therefore, there was no organized “armed conflict,” as the term is defined and used under Republic Act No. 9851, otherwise known as the “Philippine Act on Crimes Against International Humanitarian Law, Genocide, and other Crimes Against Humanity,” for the latter to apply to the Mamasapano incident.

**6. By 8:00 a.m., the MILF, BIFF, and PAGs involved in the “Pintakasi” against the 55<sup>th</sup> SAC already knew that they were fighting against police officers.**

In his sworn statement, MARATHON revealed that by 8 a.m., the MILF, BIFF and PAGs who engaged the 55<sup>th</sup> SAC already knew that their opponents at the cornfield were police officers. But they nevertheless still continued firing at them. In his sworn statement, when MARATHON was asked how he came to know that the MILF, BIFF and PAGs were fighting with the police, he said: “Narinig ko doon sa mga MI at freedom na mga pulis pala ang kalaban nila”<sup>318</sup>

**7. Some wounded 55<sup>TH</sup> SAC members came out of the cornfield with their hands raised but were still killed.**

MARATHON also narrated that at around 9 a.m., some members of the 55<sup>th</sup> SAC who were already wounded came out of the cornfield to surrender. These SAF commandos raised their hands. However, despite seeing that the commandos’ arms were raised and begging, the MILF, BIFF, and PAGs continued firing at the 55<sup>th</sup> SAC, killing even those who wanted to surrender.<sup>319</sup>

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National Defense Research Institute, 2012, p. 16, citing Chalk, et. al., *The Evolving Terrorist Threat to South East Asia*, pp.47-49; ICG “The Philippines,” *Asia Report No. 152*, pp.6-7.

<sup>318</sup> Sinumpaang Salaysay of MARATHON dated February 27, 2015, p.5, answer to question 63.

<sup>319</sup> Id., answers to questions 63 to 67

**8. After the firefight, the MILF, BIFF, and PAGs involved crossed over to the cornfield to finish off dying 55<sup>th</sup> SAC members.**

According to MARATHON, when the 55<sup>th</sup> SAC was no longer returning fire, MILF fighters crossed over to the cornfield to finish off some of the dying members of the 55<sup>th</sup> SAC, in order to get their firearms, other fighting equipment, and even personal belongings.

This fact is confirmed by post mortem reports showing that some of the dead 55<sup>th</sup> SAC members had gunshot wounds (GSW) on the head and chest consistent with short firearm fired at close range. It should be noted that a GSW on the chest from a short firearm is possible only if the bullet proof vests of the victims were removed first. The now infamous video footage<sup>320</sup> uploaded on YouTube showing a man finishing off a wounded SAF commando<sup>321</sup> lying in the cornfield from close range supports this conclusion.

When the remains of the thirty five (35) SAF commandos at Barangay Tukanalipao were retrieved by the AFP and other SAF units the following day, January 26, 2015, most of them no longer wore the upper blouse and pants of their regulation battle dress attire. Most of the bodies were stripped up to their underwear. Their individual protective vests were missing. All were shorn of their combat boots. No one among the dead still had firearms on their persons. The surviving families complained that the wallets and cellular phones of their dead were among the items missing.

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<sup>320</sup> Video file subjected to NBI forensic examination with filename 

<sup>321</sup> Later identified as PO1 Joseph G. Sagonoy

## **VIII. Criminal Liabilities of Persons Involved in the Mamasapano Incident**

### **A. Framework**

As previously indicated in the scope and limitations section of this report, this inquiry was approached from one immovable standpoint: the State has sovereignty over *all* its territory, and that the areas militarily occupied by the MILF in Maguindanao and elsewhere in the Philippines are part of it.

The Ceasefire Agreement between the GPH and the MILF, despite its laudable purpose of laying the groundwork for eventual autonomy of certain Muslim areas in Mindanao, does not remove these parts from Philippine territory, nor divest the State of its power to exact punishment for violations of its penal laws. The State's ability to exercise such power is deemed read into any agreement it enters into.

Being an inseparable part of the Philippines, Maguindanao or any other place physically occupied by the MILF for that matter, should be accessible to GPH forces whenever the latter discharges its duty to protect the State from groups who threaten its very existence. If the residents in that area, whether MILF, BIFF, PAGs, or even civilians, stand in the way of law enforcement operations with no legal justification, they should expect that the two (2) volumes of the Revised Penal Code and/or a host of other special penal laws will be thrown at them, so to speak—no different if the same set of facts happened in a cornfield or riverbank in another part of the country. Conversely, PNP or AFP forces do not have a license for excessive conduct whether in Maguindanao or in Manila. In short, Philippine penal laws that apply elsewhere, must apply perforce in Maguindanao. They must apply to ordinary civilians, MILF, BIFF, PAGs, and to SAF commandos *equally* in Maguindanao.

### **B. The Ceasefire Agreement and its Effects on the Enforcement of Penal Laws at Mamasapano**

For the reasons discussed above, we do not subscribe to the view expressed by the MILF in its report that the Ceasefire Agreement governs the rights and responsibilities of the parties thereto in regard

to the Mamasapano incident. As shown by the results of our investigation, the SAF was *not* in breach of the Ceasefire Agreement. It was in Mamasapano to implement a warrant of arrest against HVTs, and that kind of police action can be done even without coordination with the MILF.

The MILF's position is that Article II of the Implementing Operational Guidelines of the GPH-MILF Agreement on the General Cessation of Hostilities requires the GPH to avoid confrontational situations with the MILF through prior coordination of its military and police actions, to include arrests. For HVTs, the MILF argues that the Revised Joint AFP/PNP AHJAG Operational Guidelines for the Ad Hoc Joint Action Group does not do away with coordination altogether; it only allows lesser coordination time than the required twenty four (24) hours before actual operation against non-HVTs, thus:

“f. Except for operations against high priority targets, a list of which shall be provided by the GPH Panel to the MILF Panel, the AHJAG shall inform the GPH and the MILF CCCH at least 24 hours prior to the conduct of the AFP/PNP operations in order to allow time for the evacuation of civilians and to avoid armed confrontation between the GPH and MILF forces.”

However, given the very real possibility (or certainty, as proven by the five (5) failed Oplans before EXODUS) that operations against HVTs may be compromised if coordinated with MILF, the cited provision can admit to no other meaning than one consistent with the State being able to implement the lawful orders of its courts of justice, especially as the people involved are not ordinary criminals, but terrorists, and in the case of Marwan -- an internationally wanted terrorist. HVTs, by their unique criminal category, are clearly exempt from the cited coordination protocol.

The ability of the State to exercise its inherent power to police its territory is deemed read into any peace agreement the latter enters into. A contrary view would mean that the State can bargain away such inherent sovereign power through a mere ceasefire agreement.

There is no dispute that the fact that Marwan successfully established residence in Mamasapano with impunity was the very *raison d'être* of Oplan EXODUS. Marwan's resettlement in Mamasapano was also the starting point of Oplan EXODUS' unraveling. The MILF insists it did not coddle Marwan, but residents in the area say otherwise. Witnesses confirm that Marwan was regularly seen in Mamasapano in the company of some members of the MILF. If true, and the MILF or BIFF use the twenty four (24) hour lead time for coordination as a window to tip-off the HVTs they gave refuge and sanctuary to, then the Ceasefire Agreement, in its present form, is clearly disadvantageous to the Government's law enforcement operations in the area. It would even be the height of cruel irony if under a subsequent peace agreement, HVTs will have a safe haven from where they can launch terror attacks and the PNP or AFP can just helplessly look on from outside of that immune sanctuary.

More importantly, the Mamasapano incident has clearly exposed how unworkable and unwieldy the mechanisms in the ceasefire agreement are with respect to redress for violations thereof, given the MILF's stance of not fully cooperating with Government investigations, including ours. This is shown by the MILF's premature absolution of its forces post January 25, 2015, when it immediately cleared BIAF members of *any* liability for the killing of the SAF commandos even before the release of its SIC report that eventually (if not predictably) absolved all of its members.<sup>322</sup>

Case in point is the NBI-NPS SIT investigation with respect to the probable criminal liability of PO2 Christopher Lalan for the deaths of MILF members and civilians. Had we been allowed access to documents or persons that would prove the actual death of the MILF members and civilians that Lalan is being accused of killing, that phase of our investigation would have been complete by now. As will be discussed later, any determination as to the liability of PO2 Lalan had to be deferred because of the MILF's failure to cooperate with the NBI-NPS SIT in this regard.

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<sup>322</sup> GMA News Report of an interview with Mohagher Iqbal on January 26, 2015, who claimed self-defense pointing to the PNP-SAF members as the ones who fired first and emphasized that: "Ang importante, hindi kagagawan ng MILF yung Nangyari" ([www.gmanetwork.com/news/story/417179/news/nation/milf-official-on-maguindanao-clash-it-was-self-defense](http://www.gmanetwork.com/news/story/417179/news/nation/milf-official-on-maguindanao-clash-it-was-self-defense))

## **C. Penal Laws Relevant to the Events at Barangay Pinsandawan and Tukanalipao.**

### **1. International Humanitarian Law (IHL)**

#### **a. Republic Act No. 9851 (the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity)**

A special law that is relevant to study in relation to the facts and evidence gathered at Mamasapano is Republic Act No. 9851 also known as “the Philippine Act on Crimes Against International Humanitarian Law, Genocide, and Other Crimes Against Humanity.” For our purposes we will refer to this law as International Humanitarian Law (IHL).

Whether the IHL applies in the Mamasapano case is determined by the existence of an armed conflict between the GPH and the MILF in an IHL context, as viewed from the standpoint that there is a ceasefire agreement in effect between the parties, and that there has been *no clash since 2011*.<sup>323</sup>

Under Section 3 of the IHL:

(d) “Armed Conflict” means any use of force or armed violence between States or a protracted armed violence between governmental authorities and organized armed groups or between such groups within the State; provided, that such force or armed violence gives rise to a situation to which the Geneva Conventions of 12 August 1949, including their common Article 3, apply. Armed conflict may be international, that is, between two (2) or more States, including a belligerent occupation; or non-international, that is, between government authorities and organized armed groups or between such groups within a state. It does not cover internal disturbances or tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar

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<sup>323</sup> Senate Committee Report No. 120, p. 7

nature.

On the other hand, Section 4 of the IHL defines war crimes by listing a number of offenses that are characterized as such:

Section 4. War Crimes. – For the purpose of this Act, “war crimes” or “Crimes against International Humanitarian Law” means:

(a) In case of an international armed conflict, grave breaches of the Geneva Convention of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

1. Willful killing;
2. Torture and inhuman treatment, including biological experiments;
3. Willfully causing great suffering or serious injury to body or health;
4. Extensive destruction and appropriation of property not justified by military necessity and carried out unlawfully and wantonly;
5. Willfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
6. Arbitrary deportation or forcible transfer of population or unlawful confinement;
7. Taking of hostages;
8. Compelling a prisoner of war or other protected person to serve in the forces of the hostile power; and
9. Unjustifiable delay in the repatriation of prisoners of war or other protected persons.

(b) In case of non-international armed conflict, serious violations of the common Article 3 to the four (4) Geneva Conventions of 12 August 1949, namely, any of

the following acts committed against persons taking no active part in the hostilities, including member of the armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause.

1. Violence to the life and person, in particular, willful killings, mutilation, cruel treatment and torture;
2. Committing outrages upon personal dignity, in particular, humiliating and degrading treatment;
3. Taking hostages; and
4. The passing of sentences and the carrying out of the executions without previous judgments by a regularly constituted court, affording all judicial guarantees, which are generally recognized as indispensable.

It is important to emphasize how the term “Armed Conflict” in the IHL signifies the use of force or violence of the kind that is intentional and actual or *protracted* between State and organized armed groups, or between such armed groups within a state. As to non-state actors, IHL refers not just to any ordinary group or groups but to “organized” group or groups. Thus, the existence of a ceasefire agreement also ends the application of IHL<sup>324</sup>.

Besides, given the fact that the 55<sup>th</sup> SAC started the firefight at Tukanalipao, can the GPH invoke the provisions of the IHL by saying that armed conflict continues between it and the MILF?

Even assuming that there is an existing state of armed conflict between the State and the Muslim rebels involved in Mamasapano, still the IHL expressly removes from its coverage isolated and sporadic acts of violence. That there was a firefight between the SAF, MILF, BIFF and PAGs is not disputed. But as discussed in the previous chapters, it is clear that the firefight in Barangays Pidsandawan and Tukanalipao, Mamasapano resulted not from any

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<sup>324</sup> See Commentaries on Protocol II of the Geneva Conventions of 12 August 1949 by the International Committee of the Red Cross (<https://www.icrc.org>)

preconceived plan of either the SAF or the MILF, BIFF or PAGS to engage each other intentionally. To recall, Oplan EXODUS precisely targeted, *not* the MILF, BIFF, PAGs, or armed unaffiliated civilians, but the HVTs Marwan, Usman and Baco. Parenthetically, there was no such oplan by the SAF (or other GPH forces) for a general military offensive or law enforcement operation against the entire individual structures or orders of battle of either the MILF, BIFF or PAGs.

The firefight between the SAF and the MILF, BIFF and PAGs at Barangay Tukanalipao erupted because of the successful neutralization of Marwan and the foiled attempt to arrest Usman and Baco at Barangay Pidsandawan. The firefight erupted because the MILF, BIFF, PAGs and armed unaffiliated civilians, who are residents of Tukanalipao saw that there were armed *outsiders* inside their communities that they instinctively had to repel.

To recapitulate, section 3(d) of the IHL expressly removes from its coverage isolated and sporadic acts of violence or other acts of a similar nature, to wit:

(d). "Armed Conflict" means any use of force or armed violence between States or a protracted armed violence between governmental authorities and organized armed groups or between such groups within the State; provided, that such force or armed violence gives rise to a situation to which the Geneva Conventions of 12 August 1949, including their common Article 3, apply. Armed conflict may be international, that is, between two (2) or more States, including a belligerent occupation; or non-international, that is, between government authorities and organized armed groups or between such groups within a state. **It does not cover internal disturbances or tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.** (Emphasis supplied)

Since it was a "pintakasi," the Mamasapano incident, albeit violent, was clearly an isolated case. This is in stark contrast with the other phenomenon of clan feuding or "rido," which is heavily concentrated in the mainland provinces of Lanao Sur and Maguindanao. From the total of 152 "rido"-related incidents gathered

by a World Bank study, shadow economies in illicit drugs and guns, political competition during the elections and unresolved disputes related to land stood out as the major causes.<sup>325</sup>

While a “rido” or retaliation attack between and among families or clans is a common occurrence, it is not every day that there is an armed “pintakasi” in Mamasapano, or any other town in Maguindanao. Therefore, the “pintakasi” that resulted in the deaths of the forty-four (44) SAF commandos cannot be covered and penalized by the IHL but by a more basic set of penal laws.

## 2. Revised Penal Code

Among the first investigative actions of the NBI-NPS SIT was to review the chronology of events before, during and after the attempted arrest of Marwan at Barangay Pidsandawan. Unfortunately, despite due diligence, the NBI-NPS SIT was unable to gather other independent testimonial or documentary evidence with which to test the sworn statements of the 84<sup>th</sup> Seaborne who survived. The area where Marwan’s hut was is in an isolated place, and the hut was burned down before the NBI forensics team could process the site. No third party eyewitness has come forward as of this writing to tell what actually happened there.

But as the incident in Tukanalipao, though related to that in Pidsandawan, happened independently of the former, it is possible to determine the relevant penal laws violated by the parties involved only in Tukanalipao, and leave the events at Pidsandawan to be the subject of a further fact finding investigation.

In Tukanalipao, the firefight started when the 55<sup>th</sup> SAC fired first at the MILF members who tried to cross the wooden footbridge. But to determine who among the members of the 55<sup>th</sup> SAC did it and their possible liability has no benefit to this investigation since all of them, with the exception of PO2 Lalan, died at the cornfield. Criminal liability is extinguished by death.<sup>326</sup>

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<sup>325</sup> Rebellion, Political Violence and Shadow Crimes in the Bangsamoro: The Bangsamoro Conflict Monitoring System (BCMS) 2011-2013, World Bank Report, August 2014, pp.27-28.

<sup>326</sup> REVISED PENAL CODE, Article 89. 1

The firefight that ensued also cannot be a clear basis of criminal liability even for the MILF, BIFF, and PAGs involved, who returned fire, because at that early juncture, they still did not know that the people concealed in the cornfield and shooting at them were police officers.

**a. Complex Crime of Direct Assault with Murder**

The point where criminal liability clearly attached for the MILF, BIFF, and PAGs involved in the “pintakasi” was when they learned that they were shooting it out with police officers. At that point they became liable for direct assault.

Article 148 of the RPC provides:

Article 148. *Direct Assault* - Any person or persons who, without a public uprising, shall employ force or intimidation for the attainment of any of the purpose enumerated in defining the crimes of rebellion and sedition, or **shall attack, employ force, or seriously intimidate or resist any person in authority or any of his agents, while engaged in the performance of official duties, or on occasion of such performance.** (Emphasis added.)

But when the firefight deteriorated still into the killing of 55<sup>th</sup> SAC members even as the latter already raised their arms in surrender, the perpetrators became liable for the complex crime of direct assault with murder. Treachery and abuse of superior strength are easily two (2) qualifying circumstances that attended the killing of the 55<sup>th</sup> SAC members at that point, who, according to witnesses, number to a thousand.

Article 248 of the Revised Penal Code provides:

“Article 248. Murder. –Any person who, not falling within the provisions of Article 246 shall kill another, shall be guilty of murder and shall be punished by reclusion *perpetua* to death if committed with any of the following attendant circumstances:

1. With treachery, taking advantage of superior strength, with the aid or armed men, or employing means to weaken the defense or to insure or afford impunity;”

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“6. With cruelty, by deliberately and inhumanly augmenting the suffering of the victim, or outraging or scoffing at his person or corpse.”

It was murder all the way and around when the MILF, BIFF, and PAGs forces crossed the river over to the cornfield and through close range pistol shots, dealt ignominious *coup de grace* to each of the dying 55<sup>th</sup> SAC commandos.

In *People v. Abalos*<sup>327</sup>, the Supreme Court held:

“The appellant committed the second form of assault, the elements of which are that there must be an attack, use of force, or serious intimidation or resistance upon a person in authority or his agent; the assault was made when the said person was performing his duties or on the occasion of such performance; and the accused knew that the victim is a person in authority or his agent, that is, that the accused must have the intention to offend, injure or assault the offended party as a person in authority or an agent of a person in authority.

Here, Labine was a duly appointed member of the then INP in Catbalogan, Samar and, thus, was an agent of a person in authority pursuant to Article 152 of the Revised Penal Code, as amended. There is also no dispute that he was in the actual performance of his duties when assaulted by appellant, that is, he was maintaining peace and order during the fiesta in Barangay Canlapwas. Appellant himself testified that he personally knew Labine to be a policeman and, in fact, Labine was then wearing his uniform. These facts should have sufficiently deterred appellant from attacking him, and his defiant conduct clearly demonstrates that he really

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<sup>327</sup> GR. No.88189, July 9, 1996

had the criminal intent to assault and injure an agent of the law.

When the assault results in the killing of that agent or of a person in authority for that matter, there arises the complex crime of direct assault with murder or homicide.”

#### **b. Theft**

Theft of government property was also committed by those involved when they took the firearms and other fighting equipment issued to the fallen SAF. Theft was also committed when those involved made away with the personal property of the fallen SAF.

Article 308 of the RPC provides:

ART. 308. Who are liable for theft.—Theft is committed by any person who, with intent to gain but without violence against or intimidation of persons nor force upon things, shall take personal property of another with the latter’s consent.

If the original criminal design does not clearly comprehend robbery, but robbery follows the homicide as an afterthought or as a minor incident of the homicide, the criminal act should be viewed as constitutive of two offenses and not a single complex crime. Robbery with homicide arises only when there is a direct relation, an intimate connection, between the robbery and the killing, even if the killing is prior to, concurrent with, or subsequent to robbery.<sup>328</sup>

Although the crimes of robbery and theft under the Revised Penal Code have in common the elements of (a) unlawful taking; (b) with intent to gain; (c) taking of personal property; and (d) the property taken belongs to another, they differ in the manner in which they are asported.

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<sup>328</sup> People vs. Salazar, 277 SCRA [1997] citing Aquino, the Revised Penal Code. Vol. III, 1998 ed., pp. 113-117

In *People v. Basao and Iligan*,<sup>329</sup> the Supreme Court ruled that:

“Considering that the victim was already heavily wounded when his personal properties were taken, there was no need to employ violence against or intimidation upon his person. Thus, in Criminal Case No. C-14, accused-appellant can only be held guilty of the separate offense of theft under Article 308, penalized under Article 309 of the Revised Penal Code.”

In its report, the MILF admits that its forces took the firearms of the fallen 55<sup>th</sup> SAC commandos, but justifies its action as acceptable behavior among parties to a conflict. According to the MILF, its members' seizure of military equipment belonging to the other is supposedly justified under the Lieber Code, which was adopted during the American Civil War.

We note that under the 1949 Geneva Convention III, war booty is property of the belligerent, not the personal property of the individual combatants. Based on eyewitness accounts, after the 55<sup>th</sup> SAC commandos lay dead, MILF elements behaved like mercenaries when they treated captured military equipment as individual personal property with no intention of turning them over to the MILF's central command. As a matter of fact, it was the MILF leadership who had to plead to its individual elements to return the SAF's firearms, ammunition and special equipment. Apparently, not all MILF elements complied because not all of the long firearms of the 55<sup>th</sup> SAC were returned. It should be stressed that SAF standard equipment include a sidearm, a 9 mm pistol. Interestingly, no short firearm was returned by the MILF to the government. Even assuming that these special government issued equipment are returned (as in fact, a paltry number of rifles were returned with ceremony), the liability of the MILF, BIFF and PAGs for theft was already a *fait accompli*.

Consistent with our findings that the IHL does not apply to the Mamasapano incident, it follows that the “war booty” concept under

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<sup>329</sup> *People vs. Basao and Iligan*, G.R. No. 128286. July 20, 1999

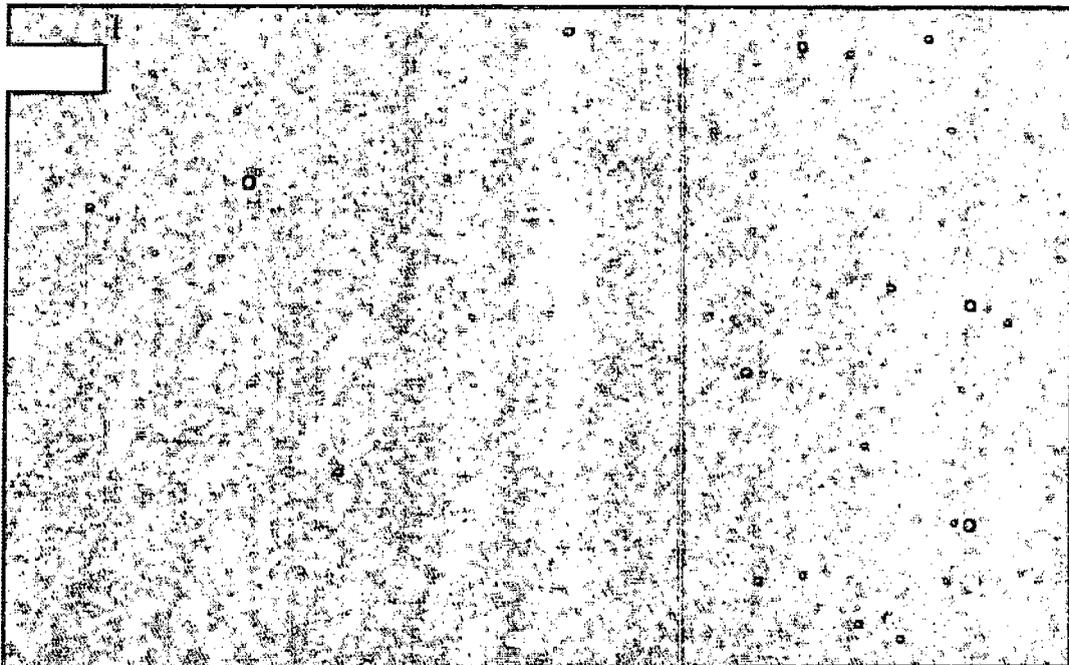
customary international humanitarian law also does not cover the 55<sup>th</sup> SAC's firearms and other equipment.

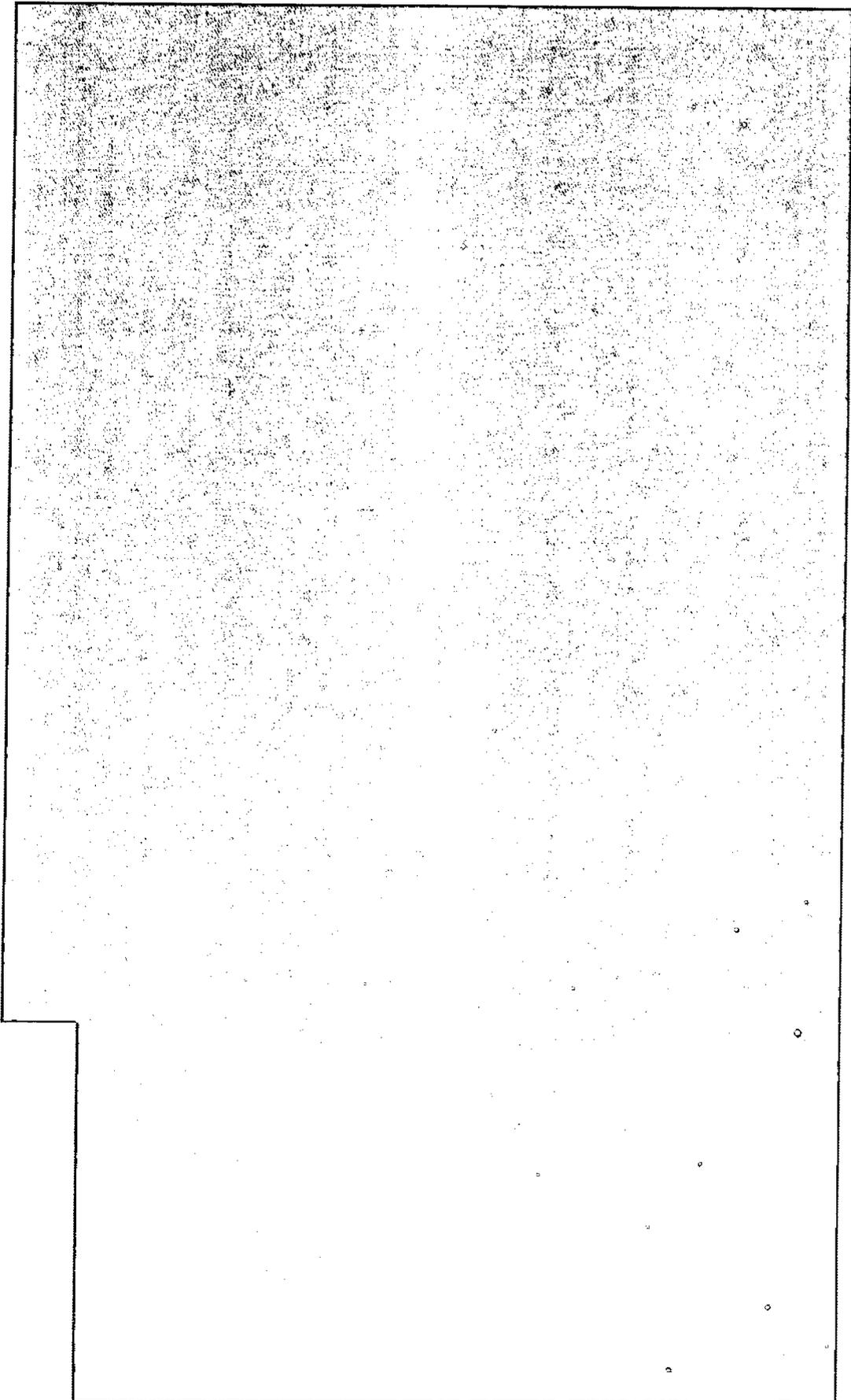
As to the theft of personal belongings of the SAF commandos, such as watches, wallets, cellphones and other personal property, which remain in the possession of MILF, BIFF and PAGs elements and have not been returned, it is beyond doubt that the latter are all liable for theft of personal property.

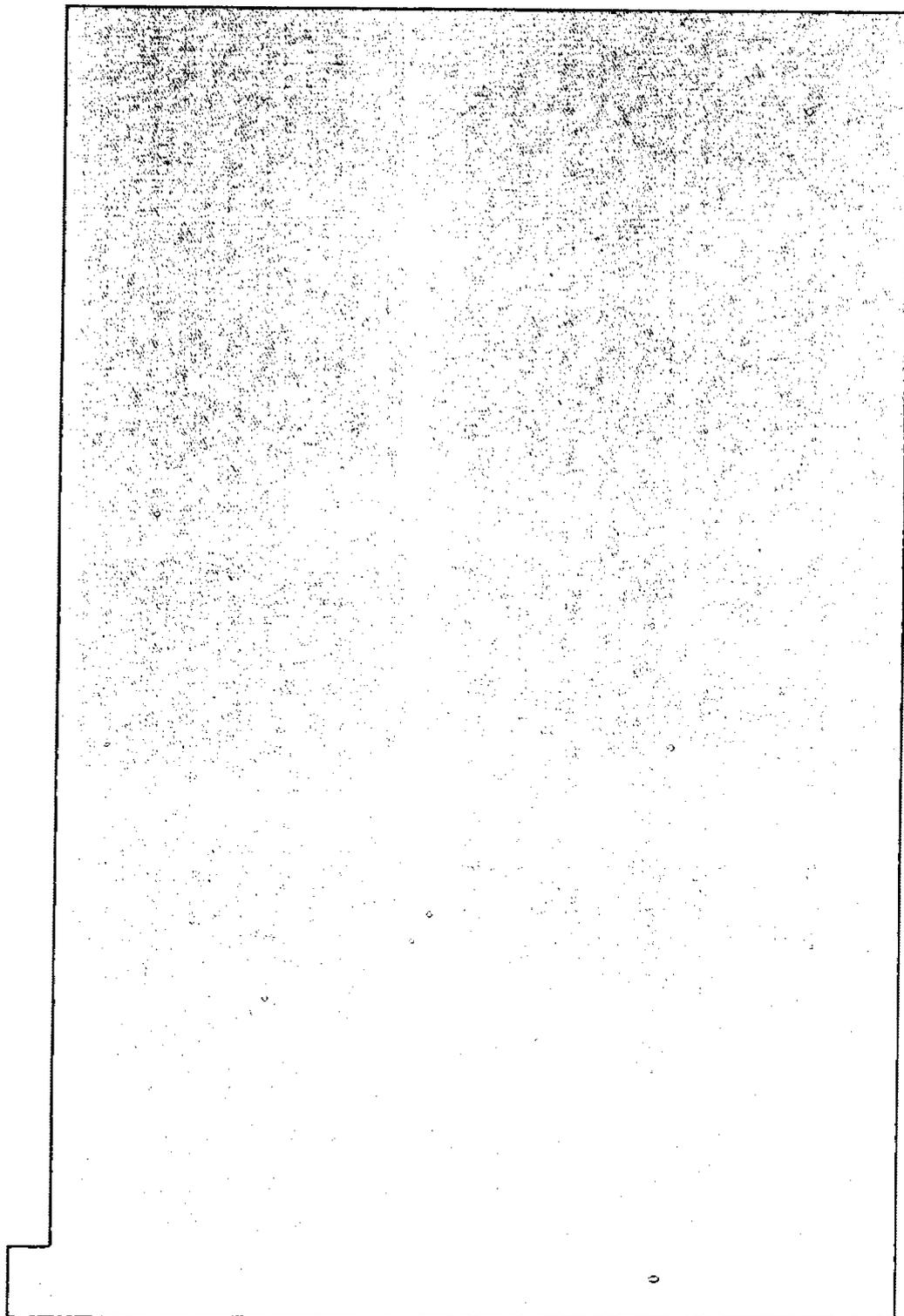
#### **D. Conspiracy between and among the Armed Groups and the "Pintakasi" Phenomenon**

The conspiracy to kill members of the 55<sup>th</sup> SAC by those involved was present, and took the conceptual form of the phenomenon that is "Pintakasi." The MILF, BIFF, and PAGs elements banded against the 55<sup>th</sup> SAC, and they were impelled by a common intention of killing the former. Each of those involved in the "pintakasi" contributed his deadly part by shooting the SAF commandos in Barangay Tukanalipao regardless of their individual affiliation or fealty to either the MILF, BIFF or PAGs.

To recapitulate, based on the four (4) witnesses who were interviewed by the NBI agents, the following were the ones identified as among those who participated in the killing of, and the theft of the firearms, equipment and personal belongings of the SAF commandos:







## **IX. Recommendations**

### **A. Filing of Complaints for Complex Crime of Direct Assault with Murder against Identified Suspects**

Based on the foregoing discussions on the probable criminal liabilities of the MILF, BIFF and PAGs suspects, the NBI-NPS SIT recommends the filing of a complaint for direct assault complexed with murder against the above ninety (90) positively identified by MARATHON and several other witnesses at Barangay Tukanalipao as among those who were present and who participated in the killing of the SAF commandos there on January 25, 2015 for preliminary investigation.

The complaint against the ninety (90) respondents covers the thirty five (35) SAF commandos-victims at Barangay Tukanalipao. It is recommended that the complaint be filed with either of the DOJ's existing Task Force on Special Cases or its Anti-Terrorism and National Security Cases Task Force. Assuming that the preliminary investigation panel finds probable cause against these ninety (90) respondents, an option is later available for it to file thirty five (35) separate Informations with the Regional Trial Court of Cotabato City against the ninety (90) respondents collectively, corresponding to the number of victims they killed through their conspiracy.

### **B. Temporary Non-Disclosure of the Suspects' Identity**

The suspects identified by MARATHON are all presently at large in Maguindanao and may well be considered armed and dangerous. To prematurely identify these suspects<sup>330</sup> before the charges against them are filed, gives these suspects all the more reason to evade the law and will make it difficult for law enforcement agencies to arrest them, perhaps requiring another Oplan EXODUS type of operation for their capture.

In order to avoid these practical challenges in the future, it is therefore recommended that the names of these suspects and their affiliations be temporarily kept secret until after the complaint for direct assault complexed with murder has been filed with the

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<sup>330</sup> GMA News in fact on March 20, 2015 reported a partial list of names of suspects

preliminary investigation panel.<sup>331</sup>

### **C. Temporary Non-Disclosure of MARATHON's Identity**

MARATHON is presently under the custody of the Witness Protection Program (WPP) and temporarily sheltered in one of its safe houses. The series of speculative news reports<sup>332</sup> on the identities and number of witnesses already being processed by the NBI-NPS SIT, already places MARATHON under considerable security risk from the armed groups and the suspects he has so far identified. Despite the enormous risks, he informs the NBI-NPS SIT that he is ready to attest to his sworn statements, to testify in court and to identify these suspects when presented to him. The NBI-NPS SIT therefore recommends that his identity be kept secret until after the complaint for direct assault complexed with murder has been filed with another set of prosecutors that will compose the preliminary investigation panel.<sup>333</sup>

### **D. More Facts versus Slight Delay: The Need to Continue the Investigation**

As indicated in the previous discussion on the scope and limitation of this report, there were a number of factors that challenged the capacity of the NBI-NPS SIT to fully gather all the facts and evidence in order to bring out the whole picture of what actually happened at Mamasapano on January 25, 2015 and to draw up a comprehensive list of all suspects in the killing of the forty four (44) SAF commandos. Chief of these is the general breakdown of law and order at Mamasapano<sup>334</sup> that did not afford the NBI-NPS SIT an open-ended opportunity to freely interview witnesses and process physical and other object evidence there, as is normally done in most cases. Another factor was the self-imposed albeit understandable two (2) month deadline on the NBI-NPS SIT to complete and submit this report.

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<sup>331</sup> The President and the Secretary of Justice have the need to know the names of these suspects

<sup>332</sup> As well as the leak of MARATHON's sworn statement to GMA News

<sup>333</sup> The President and the Secretary of Justice have the need to know MARATHON's identity

<sup>334</sup> Including the area within and around the SPMS Box

As prosecutors and investigators, the NBI-NPS SIT understands the adage, "justice delayed is justice denied", being professionally at the receiving end of such criticisms. Yet, it must be stressed that the Mamasapano incident happened at such a wide and broad area, covering at least two (2) barangays, that it could perhaps be the largest crime scene in the annals of Philippine law enforcement. The Kabulnan River bisecting Mamasapano and the rickety wooden footbridge there graphically symbolize the objectives of the investigation and the gap between the aim and the evidence gathered because of these limitations. To successfully bridge this gap, the NBI-NPS SIT must be allowed to continue to gather more testimonial, documentary and object evidence. Considering the complexity of this case, the slight delay will enable the NBI-NPS SIT to gather more facts that could lead to a fuller resolution. The NBI-NPS SIT recommends an additional two (2) months to cover the following crucial issues.

### **1. Third Party Eyewitnesses at Barangay Pidsandawan**

As noted above, the recommendation to charge ninety (90) respondents merely pertain to those at the crime scene at Barangay Tukanalipao. This limits the number of victims known to have been killed by the said suspects to only thirty five (35) SAF commandos, leaving a deficit of nine (9) dead SAF commandos, whose killers will not yet be accounted for in the recommended complaint. There are no third party eyewitnesses so far regarding the assault by the 84<sup>th</sup> SAC on the house of Marwan and its consequences. The NBI-NPS SIT has been constrained to solely rely on the sworn statements of the members of the 84<sup>th</sup> SAC. While there is no reason to doubt the veracity of the 84<sup>th</sup> SAC narration of what happened at Barangay Pidsandawan and that MILF and BIFF forces clashed with them, their respective affidavits, while credible as to Oplan EXODUS and its execution, *do not* identify the particular persons belonging to either, or whether these persons actually *knew* at the time that they were resisting and fighting police officers.

What the probe therefore needs are more eyewitnesses, who are neither SAF, MILF, BIFF or PAGs members who can give the NBI-NPS SIT first-hand accounts of what happened at Barangay Pidsandawan. These ideal eyewitnesses must be along the likes of MARATHON, who will be able to give another perspective on what

happened immediately before, during and after Marwan was killed by the SAF commandos at Barangay Pidsandawan.

## **2. Establishment of an Approximate Sequence of SAF Commandos' Deaths at Barangay Tukanalipao**

Thus far, there have been no timelines or sequence of the deaths of the members of the 55<sup>th</sup> SAC at Barangay Tukanalipao. As earlier discussed, an accurate timeline will place the particular juncture when the MILF, BIFF and PAGs elements were fighting the SAF commandos with the *actual knowledge* that their targets were police officers. This actual knowledge will totally negate the claim of self-defense by the MILF, BIFF or PAGs elements.

One way to indirectly establish the timeline of SAF deaths at Tukanalipao is to gather the very last call or short message service (SMS) log recorded in the cellular phones of the next of kin or families of the SAF commandos from the latter's individual cellular phone numbers. Because of its limited period to investigate and the need to prioritize and allocate scarce investigative manpower and resources, the NBI-NPS SIT was unable to obtain, list and identify these cellular phone numbers along with the call and SMS logs. Through an extended investigation, data from the telecommunications companies may be obtained to accurately verify the actual time SMS messages were sent, or calls made, by the SAF commandos versus the exact time these were received by their families.

## **3. PO2 Lalan and Proof of Death of His Alleged Victims at Barangay Tukanalipao**

At present, the NBI-NPS SIT will refrain from making any recommendation on what crimes or offenses PO2 Lalan may have committed at Barangay Tukanalipao on January 25, 2015. Further investigation should be conducted in order to address the MILF's claim that PO2 Lalan was responsible for the deaths of Mohamad Ambilang, Norhamid Angkay, Mamarisa Sandigan, Rasul Kamsa and Musib Kasim at a *langgal* or small mosque at Sitito Amilil in Barangay Tukanalipao. Despite prior requests by the NBI-NPS SIT, the MILF was unable to give testimonial or documentary proof of the identities and deaths of these persons.

Even if it were to be assumed, for the sake of argument, that PO2 Lalan killed several persons at Mamasapano, he cannot be charged for homicide or murder because there is *no corpus delicti* yet to prove the fact of the killings. The MILF's enumeration of the Barangay Tukanalipao victims and their individual photographs have yet to be independently authenticated. It must be stressed that even as the MILF SIC Report identified the alleged witnesses against Lalan, the MILF did not grant access to the NBI-NPS SIT to interview these witnesses and assess their testimonies. An investigation may only be restarted once the alleged Tukanalipao victims' families provide the necessary proof of death and their respective testimonies as to how these persons were killed and by whom.

#### 4. The American Involvement in Oplan EXODUS

The limited time period and manpower as well as the need to prioritize prevented the NBI-NPS SIT from early on pursuing this issue. The BOI simply concluded that the United States involvement at Mamasapano was limited to intelligence support and medical evacuation.<sup>335</sup> A description of the Americans' role in the previous Oplans whose mission, just like Oplan EXODUS, was the capture of Marwan, Usman and Baco was likewise not established.

The NBI-NPS SIT is fully aware of the need for secrecy in intelligence and anti-terrorism operations and to maintain it for future Philippine-United States partnership in this regard. But criminal investigations and national security are not mutually exclusive. One only needs to frame the issue and ask the *relevant* questions.

The facts are not clear on whether the six (6) Americans at Tactical Command Post<sup>336</sup> violated Philippine penal laws. On the other hand, as the investigative and prosecutorial arm of the Government, the NBI-NPS SIT cannot, under the convenient mantra of national security, just dismiss the presence of foreigners, however limited, at or near a crime scene or at the first instance refrain from investigating them without even a sketch of what they were doing there in the first place.

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<sup>335</sup> The BOI also did not indicate whether the Americans involved were military personnel or civilians or the kind of intelligence support provided.

<sup>336</sup> Sworn Statement of P/Supt. Mangahis dated February 4, 2015

What is clear is that a lot of questions were not asked and they clearly need to be answered. For instance, in his affidavit, PO2 Wharlther Jay T. Rebucas of the 84<sup>th</sup> SAC stated that he heard the sound of a drone or unmanned aerial vehicle (UAV) which he believed came from their US counterparts.<sup>337</sup> Real-time video or photographic intelligence from that UAV<sup>338</sup> could tell us the actual situation at Barangays Pidsandawan and Tukanalipao, the probable positions of the 84<sup>th</sup> SAC and 55<sup>th</sup> SAC relative to the MILF, BIFF and PAGs elements in those two barangays, and real-time information on the atrocities committed against the dying SAF commandos. Meanwhile, MARATHON learned at Barangay Tukanalipao that two (2) "Americans" supposedly died at Mamasapano. According to him, the two (2) cadavers "did not look like Filipinos"<sup>339</sup>. If Americans were engaged in combat in Mamasapano, not only would they have violated the Constitution,<sup>340</sup> they could have even theoretically committed, at the very least, the crime of usurpation of authority.<sup>341</sup> Lastly, the FBI confirmed that it has analysed Marwan's detached index finger for DNA sampling and identification and concluded that the tissue was indeed Marwan's. Yet, the sequence of how the finger actually reached the FBI was not pursued in detail.

Thus, it is further recommended that the investigation be continued as to the American participation in Oplan EXODUS, where the interests of national security can be properly balanced with the national demand for justice and to know what truly happened on January 25, 2015 at Mamasapano.

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<sup>337</sup> Sworn Statement of PO2 Wharlther Jay T. Rebucas dated February 9, 2015, p. 7, Annex "C-33"

<sup>338</sup> UAVs can be armed with missiles or bombs. Malenic, M. (2014, September 7). DoD Reports advances in unmanned aircraft sense-and-avoid capabilities. Retrieved from <http://www.janes.com/article>; "Predator RQ-1/MQ-1/MQ-9 Reaper UAV, United States of America." Retrieved from <http://www.airforce-technology.com>.

<sup>339</sup> Karagdagang Sinumpaang Salaysay ni MARATHON dated March 13, 2015, p.10, Annex "C-1"

<sup>340</sup> 1987 Constitution, Article XVIII, Section 25

<sup>341</sup> Revised Penal Code, Article 177

**RESPECTFULLY SUBMITTED.**

Manila, Philippines, April 16, 2015.

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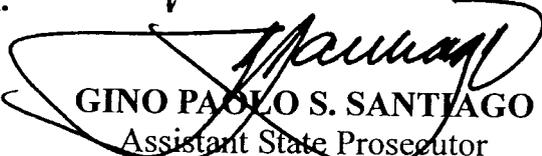
  
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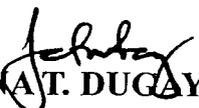
  
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