Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases
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A Project of
The Inter-Agency Council Against Trafficking in Persons

With the support of the
United States Agency for International Development (USAID)
Rule of Law Effectiveness – Management Systems International (ROLE-MSI) and
The Asia Foundation (TAF)
Message

Fast becoming the major scourge of human rights, trafficking in persons has destroyed the lives of countless individuals worldwide. Filipinos, especially our women and children, are not spared from this curse. In declaring war against trafficking, the Philippines passed Republic Act No. 9208, otherwise known as the “Anti-Trafficking in Persons Act of 2003.”

Notwithstanding the enactment of the law, considered as one of the most comprehensive in the world, and the sizeable efforts made in the area of prevention, protection, recovery and rehabilitation of survivors, trafficking observers continued to lament the failure of the government to prosecute and obtain convictions against traffickers. The dearth of convictions in the past was attributed to weak case build-up that led to the dismissal of a number of complaints due to insufficiency of evidence. While several cases for violation of R.A. No. 9208 have already resulted in conviction, there is still much to be done to secure more convictions against the traffickers.

Realizing the important nexus between law enforcers and the prosecutors towards a successful prosecution, the Inter-Agency Council Against Trafficking (IACAT), with generous support from its partners – the USAID Rule of Law Effectiveness (ROLE) project and The Asia Foundation (TAF) – developed this Manual on Law Enforcement and Prosecution of Trafficking Cases.

The Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases explains the substantive provisions of the law, the evidence required in establishing a trafficking
offense, and a step-by-step guide from surveillance to prosecution of trafficking cases including the protection of trafficked persons. Drafted by law enforcers and prosecutors themselves, with the assistance of a consultant and inputs from the members of IACAT, this manual will be a practical tool to facilitate effective investigation and prosecution of trafficking cases.

May this manual be of great help to our law enforcers and prosecutors in fulfilling their mandate to protect trafficked persons especially women and children and ensure justice is served to everyone.

RAUL M. GONZALEZ
Secretary of Justice
Chairman, Inter-Agency Council Against Trafficking
Message

(USAID)
Message

(USAID-ROLE)
On behalf of The Asia Foundation, I would like to congratulate the Inter-Agency Council Against Trafficking (IACAT) for developing the Manual on Law Enforcement and Prosecution of Trafficking Cases. The IACAT is a valued partner of The Asia Foundation under our regional EAP VAW/Trafficking project supported by the U.S. Department of State.

The Foundation began this phase of its anti-trafficking program in July 2002. Since that time, the Philippines passed laws against trafficking and violence against women, established a government agency to coordinate governmental and nongovernmental anti-trafficking activities, and began prosecuting trafficking and violence against women cases under the new laws. The Foundation’s activities responded to the opportunities presented by these developments. With RA 9208, the new anti-trafficking law in place, the Foundation worked with the Inter-Agency Council Against Trafficking (IACAT), through a grant to the Department of Justice, to support a Strategic Action Planning process which drafted a National Strategic Plan of Action Against Trafficking to help coordinate all activities of governmental and nongovernmental anti-trafficking agencies.

As emphasized by President Arroyo during the signing in Malacañang of the Memorandum of Agreement on Law Enforcement Cooperation and Assistance in Combating Trafficking in Persons, law enforcement and prosecution components of anti-trafficking efforts in the country should be further strengthened. We at The Asia Foundation share the same goal of prosecuting perpetrators and traffickers.
While there have already been notable achievements on the prevention and protection side, a critical indicator of the successful implementation of RA 9208 will be a significant number of prosecutions and convictions related to trafficking cases. The Asia Foundation believes that this manual will have an important role in strengthening the prosecution efforts.

It was our pleasure to have worked with the Department of Justice and Inter-Agency Council Against Trafficking, particularly in developing this manual and in strengthening the capacity of frontline workers for law enforcement.

Once again, congratulations to the IACAT. We wish you good luck in your advocacy work. We remain inspired to work for the protection of women and children’s rights because of valuable partners like you.

STEVEN ROOD, Ph.D.
Country Representative
The Asia Foundation
Message

In an effort to enhance measures to free the Philippines from the shackles of trafficking in persons, the Inter-Agency Council Against Trafficking (IACAT), with generous support from its partner, the USAID Rule of Law Effectiveness project (ROLE) and The Asia Foundation, has developed the Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases.

The need for this Manual stems from the low rate at which the country secures convictions for violation of the anti-trafficking law. In spite of the considerable efforts being made on all fronts to prevent the incidence of trafficking, provide rehabilitative and other services to the victims, and bring the perpetrators to justice, the number of trafficking convictions leaves much to be desired. The number of convictions remains as the yardstick by which the Philippines’ commitment to eradicate trafficking is measured. Indeed, a great burden rests on the shoulders of law enforcers and prosecutors, whose primary duty is to go after these criminals, who spare no scruples in exploiting their fellow men for their selfish interests, and force them to face the consequences of their crimes.

The Manual will be a valuable tool in apprehending traffickers, prosecuting trafficking cases, and securing convictions. It is a practical guide through the process of investigation and prosecution, put together by law enforcers and prosecutors for their fellow law enforcers and prosecutors. It is hoped that the Manual will aid them in the performance of their duty to serve and protect the public especially the victims of trafficking and obtain justice for all.

SEVERINO H. GAÑA, JR.
Assistant Chief State Prosecutor
Chair, DOJ Task Force Against Trafficking
Foreword

Trafficking in persons is a complex problem requiring a comprehensive response. Combating the issue is approached from various perspectives – either within the broader context of labour migration, or as a human rights and gender issue, or as a law enforcement or criminal problem.

Attention to trafficking as a law enforcement problem has, however, intensified over time due to the increased involvement of organized criminal groups. They do not only victimize a large number of persons, especially women and children, but also undermine law enforcement and judicial processes. This approach to combating trafficking has brought to fore the importance of the criminal justice system and criminal law. This is confirmed with the adoption of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime. This approach entails the existence of stringent laws and other measures that criminalize trafficking in persons, strengthen law enforcement efforts, improve inter-agency coordination and increase multi-sectoral cooperation.

The enactment of Republic Act No. 9208, otherwise known as the “Anti-Trafficking in Persons Act of 2003”, has paved the way not only for a more comprehensive assistance and protection to trafficked persons but also for increased law enforcement and prosecution efforts against trafficking in persons. Despite the existence of relevant laws that punish the various illegal processes involved in trafficking in persons, the Philippines has enacted a more stringent and comprehensive statute to combat this serious crime.
Modest yet significant progress has been made to implement RA 9208. However, much still has to be desired in its implementation particularly in terms of law enforcement and prosecution. To date, there are only a few convictions as against the number of reported cases; though, many are pending trial before various courts around the country. This may be attributed, among others, to the relative newness of the law and the need to develop new competencies among law enforcers and prosecutors including the other components of the criminal justice system, particularly in ensuring greater and deeper understanding of trafficking in persons as a crime.

It is along this backdrop that the Inter-Agency Council Against Trafficking (IACAT) came-up with this manual that will aid law enforcement and prosecution authorities in enforcing the law and prosecuting the traffickers. With support from the Asia Foundation and the United States Agency for International Development (USAID) - Rule of Law Effectiveness (ROLE) Project, the work to develop the manual was started and finally completed.

RICARDO V. PARAS, III
Chief State Counsel
Acting Chairperson
Inter-Agency Council Against Trafficking
About the Manual

This Manual on Law Enforcement and Prosecution of Trafficking Cases is intended for use primarily by members of various law enforcement agencies and prosecutors engaged in the suppression, investigation and prosecution of trafficking cases. This manual is designed to provide them with deeper and wider knowledge and understanding of the trafficking law and the procedures involved in the investigation and prosecution of trafficking cases. It is also intended to build upon, supplement or complement, or otherwise harmonize established procedures adopted by law enforcement agencies and prosecution offices. It collates relevant administrative issuances and highlights pertinent judicial decisions that are material to the effective and efficient enforcement of the law.

While the manual is essentially and largely on the investigation and prosecution of trafficking cases, it incorporates human rights perspectives in dealing with victims and brings into consideration the gender dimensions of trafficking in persons. IACAT believes that in combating trafficking in persons, various perspectives and approaches should be brought together to achieve greater and effective responses to the problem.

The manual is divided into five chapters with appendices. The chapters are carefully organized to provide a sequential and logical understanding of the law and the legal processes involved in law enforcement and prosecution. While it has not covered processes during trial and other court procedures, this manual may also be relevant to the bench particularly in understanding the dynamics of trafficking in persons and the need for victim protection and assistance throughout the judicial process.

Chapter 1 introduces concepts and principles of trafficking in persons as a criminal offense. It provides a brief background of trafficking in persons as an international issue. It explains the main elements of trafficking in persons based on its definition under the law. It also distinguishes trafficking in persons from other relevant
and reiterates the roles and responsibilities of particular agencies in the enforcement and prosecution of RA 9208.

Chapter 2 deals with establishing criminal liability. It highlights the connection between the elements of the offense and the evidence to prove criminal liability. It discusses and construes the penal provisions of RA 9208. It provides the elements of the specific offenses punished under RA 9208 and suggests specific evidentiary items to prove the elements of each offense.

Chapter 3 identifies various law enforcement techniques and processes in combating trafficking in persons through counter-intelligence and investigative techniques. It contains some tools or ways in investigating trafficking in persons cases; reviews applicable jurisprudence regarding arrests and seizures; and highlights some principles in dealing with trafficked persons which are important to law enforcers as a point of first contact of a trafficking case or a trafficked person.

Chapter 4 reacquaints prosecutors to the inquest and preliminary investigation proceedings as they apply to trafficking in persons cases. It provides some techniques in preparing a resolution and information, with all the necessary ingredients to facilitate successful prosecution.

Chapter 5 introduces law enforcers and prosecutors to basic considerations in dealing with victims and its importance in ensuring proper investigation and successful prosecution. It highlights various programs and services aimed at providing protection and assistance to trafficked persons. The manual also contains an interview guide, copies of relevant administrative issuances and a directory of relevant agencies as appendices.

Lastly, this manual was developed in accordance with the prevailing principles of law and legal processes at the time of its adoption. Over time, some of these principles and processes may change and may no longer be applicable. Caution is, therefore, given to intended users to keep themselves abreast with legal and operational developments regarding law enforcement and prosecution of trafficking cases.
Acknowledgements

The Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases did not come easily. A lot of processes were undertaken and various levels of review and editing were made to ensure that the manual contains the right, quality information to guide intended users. The development of the manual also involved many individuals whose valuable inputs, comments and recommendations made the manual more comprehensive and interesting.

The Inter-Agency Council Against Trafficking (IACAT), therefore, extends its appreciation to:

Atty. Anjanette Saguisag, consultant and writer, for her perseverance in conducting workshops among various stakeholders and for her excellent work in putting together the draft of this document; Provincial Prosecutor Gregorio Arizala, for lending his legal expertise in the development of the document, for his scholarly articulation of the provisions of RA 9208 and for patiently editing the pre-final draft; the selected men and women from the National Prosecution Service, local prosecution and police offices in Zamboanga City and Cebu City, the Bureau of Immigration, the Philippine Center on Transnational Crime, the Philippine National Police and the National Bureau of Investigation, for sharing their expertise and experiences that brought to fore various issues affecting the investigation and prosecution of trafficking cases; Senior State Prosecutors Deana Perez, Sally Aquino and Aileen Gutierrez for their initial editing; Senior State Counsel Robert Larga for his final editing; and the individual representatives of the member agencies of the Inter-Agency Council Against Trafficking (IACAT) for their comments on the draft manual.

The IACAT further extends its wholehearted thanks to:
The Asia Foundation, whose financial support started the work to develop this manual and the United States Agency for International Development-Rule of Law Effectiveness Project (USAID-ROLE) for their generous support in continuing the work, from hiring a consultant to speed-up the development of the manual to the printing of this manual.

Finally, to the women and children who bravely came forward and sought justice against their traffickers, for the inspiration to improve the investigation and prosecution of trafficking cases.
Republic of the Philippines
INTER-Agency Council Against TRAFFICKING (IACAT)

RESOLUTION NO. 2
Series of 2008

APPROVING AND ADOPTING THE MANUAL ON LAW ENFORCEMENT AND PROSECUTION OF TRAFFICKING IN PERSONS CASES

WHEREAS, Republic Act No. 9208, otherwise known as the "Anti-Trafficking in Persons Act of 2003" established the Inter-Agency Council Against Trafficking (IACAT) which shall, among others, formulate a comprehensive and integrated program to prevent and suppress trafficking in persons, coordinate the programs and projects of the various member agencies to effectively address the issues and problems attendant to trafficking in persons, and develop the mechanism to ensure timely, coordinated, and effective response to cases of trafficking in persons;

WHEREAS, the IACAT, in coordination with other government agencies, non-government organizations (NGOs) and other stakeholders, has drafted a manual on law enforcement and prosecution of trafficking in persons cases;

WHEREAS, the IACAT recognized the importance of assisting trafficking victims, by providing them easy access to the services and programs specified under the law, as an effective means to ensure victim cooperation in the investigation and prosecution of trafficking in persons cases;

WHEREAS, the Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases was created to strengthen law enforcement efforts and the prosecution of trafficking in persons cases by harmonizing substantive provisions of the law and established procedures adopted by law enforcement agencies and prosecution offices;

WHEREAS, the Manual likewise incorporated practical interview guide and copies of relevant administrative issuances to expedite the investigation and prosecution of trafficking cases, and a directory of relevant agencies, to facilitate the delivery of the basic services and programs to trafficked persons;

NOW, THEREFORE, BE IT RESOLVED, by the Inter-Agency Council Against Trafficking, to approve, adopt and implement the Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases.
RESOLVED FURTHER that the Philippine National Police (PNP), the National Bureau of Investigation (NBI) and other relevant law enforcement agencies, and the Department of Justice (DOJ) to separately issue a Memorandum Circular/Department Order to regional and local law enforcement units and national and local prosecution offices, respectively, for their guidance in the adoption and utilization of the Manual on Law Enforcement and Prosecution of Trafficking in Persons Cases.

RESOLVED FINALLY that copies of this resolution and the manual be disseminated to all law enforcement agencies and prosecution offices for their guidance.

Done this 21st day of February in the year of the Lord, Two Thousand and Eight, in Manila.

Hon. RAUL M. GONZALEZ
Secretary, Department of Justice
Chairperson

Hon. ESPERANZA I. CABRAL
Secretary, Department of Social Welfare and Development
Co-Chairperson

Hon. ALBERTO G. ROMULO
Secretary, Department of Foreign Affairs
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Administrator, Philippine Overseas Employment Administration
Member

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Commissioner, Bureau of Immigration
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Hon. AVELINO I. RAZON, JR.  
Director General, Philippine National Police

Hon. AMIHAN V. ABUEVA  
NGO Representative, Children’s Sector Member

Hon. MYRNA T. YAO  
Chairperson, National Commission on the Role of Filipino Women Member

Hon. AURORA JAVATE-DE DIOS  
NGO Representative, Women’s Sector Member

Hon. ISIDRO Q. ALIGADA  
NGO Representative, OFW Sector Member
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Chapter One

Trafficking in Persons

Trafficking in persons (TIP) is a grave violation of human rights. It is a violation of the right of every person to be free from all forms of abuse, exploitation and discrimination.

Trafficked persons are exploited into prostitution, forced labor and services, slavery, slavery-like practices, and removal and sale of organs. They experience abuse that ranges from physical injuries, sexual violence and, sometimes, even death. However, the physical effects are nominal compared to the emotional and psychological trauma. They manifest emotional instability, low self-esteem and behavioral change. Some feel rejected and stigmatized by families and communities, and many are at significant risk of developing health and mental problems, with some suffering post-traumatic stress disorders.

TIP is also a complex problem brought about by inter-related economic, social, cultural, political and personal factors. While men are also victims, more women and children fall prey to traffickers due to these factors that increase their vulnerability to trafficking. Women and children are often treated as non-consumable commodities to be sold and re-sold into prostitution, slavery and other exploitative situations. TIP is an illegal business and a criminal activity. Individuals, informal networks,
organized crime groups and syndicates engage in trafficking because of the high profits. These criminals are, most likely, engaged in other illegal activities like drugs and weapons trafficking and money laundering. Consequently, profits earned in TIP further fuel other illegal activities and vice-versa. Thus, TIP has been also approached from its criminal angle. This approach pays special attention to the role of the criminal justice system and criminal law and procedures.

However, many victims display distrust against the authorities and are fearful of reprisals from their traffickers. Very few victims report and file criminal cases. Even if victims file cases against their traffickers, they subsequently lose interest in pursuing cases due to inadequate support and protection, and the long delays in judicial proceedings.

In the Philippines, the most common purpose of trafficking is for commercial sexual exploitation through prostitution and pornography. Unfortunately, in most law enforcement efforts, the women and children exploited in prostitution are treated as criminals and even prosecuted under the Revised Penal Code for being vagrants. The women and children are detained and traffickers pay the fine to retrieve their confiscated “goods”. There are also cases of trafficking for forced labour or services; however, the forced labour outcomes of trafficking are treated as simple violation of

Very few victims report and file criminal cases. Even if victims file cases against their traffickers, they subsequently lose interest in pursuing cases due to inadequate support and protection, and the long delays in judicial proceedings.
labor standards or viewed as mere contract violation. These approaches to combating trafficking do not reflect the reality of the situation and the seriousness of the offense. These perpetuate the high-profit-low-risk perception, creating a climate conducive for the illegal activity to thrive.

To combat TIP, a comprehensive response ranging from prevention at the community level, advocacy and raising awareness among the general public, effective law enforcement and prosecution, recovery and healing of victims, and social and economic reintegration of survivors must be formulated, developed and implemented. These measures must, first and foremost, be grounded upon upholding the rights and dignity of the victims, especially women and children.

The enforcement and prosecution of TIP in the Philippines is grounded on international commitments and anchored on constitutional policies on the protection of the general welfare, the full respect for dignity and human rights including the fundamental equality of women and men before the law and the right of children to special protection from all forms of abuse and exploitation.¹

**International Commitments**

The Philippines is a State party to a number of international binding agreements² that require the government to adopt measures to combat TIP at the local, national, regional and international level.

On December 12-15, 2000, the UN General Assembly gathered in Palermo, Italy to rally international commitment against transnational organized crime. During the gathering, the UN Convention Against Transnational Organized Crime, and its supplemental protocols namely, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol Against Smuggling of Migrants by Land, Sea and Air were adopted and opened for signature. The Philippines signed and later on ratified the main
Convention and the two Protocols. The Anti-Trafficking Protocol provides for an internationally accepted definition of TIP. It also requires State Parties to adopt legislative and other measures to combat TIP at the national level.

Pursuant to its obligations under the said Anti-Trafficking Protocol, the Philippines enacted Republic Act No. 9208 (RA 9208), otherwise known as the “Anti-Trafficking in Persons Act of 2003” on May 26, 2003. The law lays down policies and procedures for a comprehensive approach to combating TIP. It also adopts the definition under the Protocol and expands it to afford more protection to victims. In the same year, the Implementing Rules and Regulations (IRR) of RA 9208 were promulgated by the Inter-Agency Council Against Trafficking (IACAT), the body created under RA 9208 primarily to coordinate and monitor the implementation of the said law.

**Definition of Trafficking in Persons**

Section 3(a) of RA 9208 provides the following definition:

“**Trafficking in persons** – refers to the recruitment, transportation, transfer or harboring, or receipt of persons, with or without the victim’s consent or knowledge, within or across national borders by means of threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the person, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person for the purpose of exploitation which includes at the minimum, the exploitation or the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery, servitude or the removal or sale of organs.

The recruitment, transportation, transfer, harboring or receipt of a child for the purpose of exploitation shall also be considered as “trafficking in persons” even if it does not involve any of the means set forth in the preceding paragraph.”
Main Elements of Trafficking in Persons

Based on the above definition of trafficking in persons, there are three interrelated and inter-dependent elements that must be present for a situation to come within the purview of RA 9208. These are: *act/s, means* and *exploitative purpose*.

Each of these elements must be present and linked to each other: the *act/s* must be achieved by one of the *means* and both must be linked to achieving the exploitative *purpose*. If any one of the three elements is absent, then the situation may not involve TIP as defined under RA 9208. However, it may still be a criminal violation that can be prosecuted under the applicable provisions of the Revised Penal Code (RPC) and other special penal laws.
Threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the child, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over the child, is not required when the person trafficked is a child.

**Act/s**

TIP involves an act of recruitment, transportation, transfer or harboring, or receipt of persons, which can be performed by one offender or a group of offenders. These acts are independent of one another. A single act, or a series of acts, or a combination of these acts, may constitute the first element of TIP.

However, the list of acts of TIP is by no means complete, since the complete list is found in Sec. 4 of RA 9208. In addition to the acts mentioned in Sec. 3 (a), Sec. 4 also includes as acts of trafficking the following: 1) Introducing or matching any person, or as provided for under RA 6955, any Filipino woman to a foreign national for marriage; 2) Offering or contracting marriage, real or simulated; 3) Undertaking or organizing tours or travel plans under the so-called tourism packages; 4) Maintaining or hiring a person; and, 5) Adopting or facilitating the adoption of persons.³

**Means**

The means employed by the traffickers in the act of recruitment, transportation, transfer, etc., can be any one or a combination of any of the following: threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power
or of position, taking advantage of the vulnerability of the person, or the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.

Particular attention should be drawn to the term “taking advantage of the vulnerability of a person”. This makes it clear that TIP can occur even without the use of force. Many trafficked persons may have no means to refuse an offer owing to their position of vulnerability.

Thus, in essence and by the very nature of the means employed, there can be no free and voluntary consent of the trafficked person.

The second paragraph of Sec. 3(a), however, makes a distinction when the victim is a child. If the trafficked person is a child, the means used to traffic the child is irrelevant. Threat or use of force, or other forms of coercion, abduction, fraud, deception, abuse of power or of position, taking advantage of the vulnerability of the child, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over the child, is not required when the person trafficked is a child. The law defines a child as a person below eighteen (18) years of age, or one who is over eighteen (18) but is unable to fully take care of or protect himself/herself from abuse, neglect, cruelty, exploitation, or discrimination because of a physical or mental disability or condition.\(^4\)

In cases where the victim is 18 years of age or older, consent or knowledge is still not material and not relevant. However, the means used to traffic the adult victim must still be alleged and proven, whenever it is an element of the specific offense charged.

**Exploitative purpose**

In the so called trafficking continuum, the element of exploitative purpose need not be consummated. This element refers to the intention to use the person for an exploitative purpose.
Other considerations

Consent or knowledge of the victim immaterial

The TIP definition is explicit that trafficking may be carried out with or without the consent or knowledge of the victim. As earlier emphasized, it is logically and legally not possible for trafficked persons to “consent” to the act of trafficking or to the intended exploitation because of the deceptive or fraudulent means employed by the traffickers/recruiters. The consent or knowledge of the victim does not exempt or mitigate the offender’s criminal liability. It is not a material fact that can be raised as an issue during prosecution. Thus, the introduction of any evidence during trial that the victim consented or had full knowledge of the trafficking is irrelevant.

RA 9208 and its IRR define the different types of exploitative purposes for TIP. The definition of TIP is also clear that the enumeration of the types of exploitation is not exclusive and merely lists down the minimum. These exploitative purposes include, and are defined as follows:

**Prostitution** refers to any act, transaction, scheme or design involving the use of a person by another, for sexual intercourse or lascivious conduct in exchange for money, profit or any other consideration.\(^5\)

This definition should not be correlated with Article 202 (5) of the Revised Penal Code that penalizes prostitutes, wherein “habituality” is an essential element. A more important distinction is to whom the criminal liability may attach. In cases under Article 202 (5), the woman is considered the offender. Under RA 9208, the women and children exploited in prostitution are the victims. Thus, victims of trafficking should not be prosecuted for violation of Article 202 (5) of the RPC.

**Forced Labor and Slavery** refer to the extraction of work or services from any person by means of enticement, violence, intimidation or threat, use of force or coercion, including deprivation of freedom, abuse of authority or moral ascendancy, debt-bondage or deception.\(^6\)

This may also include cases of child labor. Section 12-D of Republic Act 7610, as amended by Republic Act No. 9231, has a specific reference to RA 9208.
 Trafficking may be within or across national borders

TIP may be committed within, or partly within and partly across the national borders. Thus, the recruitment may be done in the Philippines, but the exploitation may occur in a foreign country. The exploitation aspect of the TIP which occurred in a foreign country may still be proved during the trial before the Philippine Courts.¹²

Principle of territoriality

While the offense of TIP is considered a transnational crime, yet the principle of territoriality applies. This was made clear during the Senate deliberations of the bill. This means that if none of the elements of TIP occurred within the Philippines, Philippine courts may not have jurisdiction over the offense committed.¹³

**Sex Tourism** refers to a program organized by travel and tourism-related establishments and individuals which consists of tourism packages and activities, utilizing and offering escort and sexual services as enticement for tourists. This includes sexual services and practices offered during rest and recreation periods for members of the military.⁸

**Sexual Exploitation** refers to participation by a person in prostitution or the production of pornographic materials as a result of being subjected to a threat, deception, coercion, abduction, force, abuse of authority, debt bondage, fraud or through abuse of a victim’s vulnerability.⁹

**Debt Bondage** refers to the pledging by the debtor of his/her personal services or labor or those of a person under his/her control as security or payment for a debt, when the length and nature of services is not clearly defined or when the value of the services as reasonably assessed is not applied towards the liquidation of the debt.¹⁰

**Pornography** refers to any representation, through publication, exhibition, cinematography, indecent shows, information technology, or by whatever means, of a person engaged in real or simulated explicit sexual activity or any representation of the sexual parts of a person for primarily sexual purposes.¹¹

**Involuntary Servitude** refers to a condition of enforced, compulsory service induced by means of any scheme, plan or pattern, intended to cause a person to believe that, if the person did not enter into or continue in such condition, that person or another would suffer serious harm or other forms of abuse or physical restraint, or the abuse or threatened abuse of the legal process.
TIP is both Mala in se and Mala Prohibita

To be able to successfully prosecute TIP, it is also important to know whether this crime is mala in se or mala prohibita.¹⁴

Ordinarily, crimes mala in se are those covered by the Revised Penal Code. They are mala in se because by they are wrongful by their very nature. They are those so serious in their effects on society as to call for almost unanimous condemnation by its members. Upon the other hand, crimes mala prohibita are wrong merely because they are prohibited by some special statutes; they are violations of mere rules of convenience designed to secure a more orderly regulations of the affairs of society. For instance, the law on illegal possession of firearms is malum prohibitum.¹⁵

In crimes, mala in se, the intent governs; thus, when the accused acted without malice, there is no crime committed. Good faith, therefore, is a defense in crimes mala in se. In contrast, in crimes mala prohibita, intent or malice is immaterial. The only inquiry is, has the law been violated?¹⁶

There are, however, crimes covered by special law which are both mala in se and mala prohibita. This means that there are crimes punished by special laws in which intent or malice is an element.¹⁷

It is submitted that TIP is both mala in se and mala prohibita. It is mala prohibita because the law punishes the acts of recruitment, transportation, transfer, receipt, etc. which, by their nature, are not wrongful. However, they become wrongful and punishable only if the purpose of such recruitment, transportation etc., is for exploitation such as prostitution or other sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage, etc. Thus, if the purpose of recruitment is lawful, no crime of trafficking in persons is committed.¹⁸

Therefore, intent is an element, and good faith or absence of malice is a defense. In that sense, trafficking in persons is mala in se.¹⁹
Thus, when a licensed recruiter recruits a person from Mindanao for deployment as a factory worker in the Calabarzon but the applicant upon arrival in Manila instead voluntarily engages herself in prostitution, then good faith is a defense on the part of the recruiter in case he is charged with trafficking in persons.\textsuperscript{20}

Originally, the crime of trafficking in persons was defined in the Senate Bill as the act of recruitment, etc. “resulting in” exploitation or prostitution etc. But during the period for amendments of the bill, the phrase “resulting in” was deleted. The reason for such deletion is that such phraseology could result in a person completely innocent, being jailed for life, because even if the recruitment was for a legal purpose, if the recruited person, on her own volition becomes a prostitute, the recruiter, who is completely innocent, would be penalized and imprisoned for life, for the simple reason that the recruitment, which was legal from the very start, resulted in prostitution upon the complete volition of the recruited person.\textsuperscript{21}

Thus, the phrase “resulting in” was deleted and substituted by the phrase “for the purpose of exploitation such as prostitution”, etc.\textsuperscript{22} It is, therefore, clear that the crime of Trafficking in Persons was intended to be \textit{mala in se} and not just \textit{mala prohibita}. Hence, intent is an inherent element that should be proven by the prosecution. This means that the prosecution has to prove that the purpose of recruitment, etc., is clearly for prostitution, pornography, etc. Otherwise, there is no crime of Trafficking in Persons.\textsuperscript{23}

\section*{Other Relevant Laws}

There are other laws relevant to the enforcement and prosecution of TIP in the Philippines. Any person charged with violation of RA 9208 can still be charged with violation of other relevant laws. As long as the evidence warrants, the prosecutor must file the corresponding information for all offenses committed.

Table 1 highlights the salient provisions of relevant laws against trafficking in persons and compares them with the pertinent provisions of RA 9208.
Table 1. RA 9208 vis-a-vis other related laws

Revised Penal Code
- In comparison with RA 9208, the penalties for committing related felonies under the Code are generally lower.
- Some of these felonies may constitute any of the three elements of TIP. For example: the felony of inducing a minor to abandon his home is an act similar to recruitment; the felonies of light and grave coercion may be a means used for TIP; the felonies of prostitution and slavery are some of the exploitative purposes for TIP.

Migrant Workers and Overseas Filipinos Act of 1995
Republic Act No. 8042
- Institutes policies on overseas employment and establishes a higher standard of protection and promotion of the welfare of Filipino migrant workers and their families.
- Identifies and criminalizes specific acts that constitute illegal recruitment and provides penalties for the violation that range from a fine of ₱200,000.00 to ₱1,000,000.00 and imprisonment of 6 years and 1 day to life imprisonment.
- A case for illegal recruitment under RA 8042 can be filed when it involves the recruitment, deployment and/or employment outside of the Philippines. RA 9208 penalizes TIP within and across borders. When deployment is done only in the Philippines, there is also illegal recruitment defined under Secs. 12 and 38 and penalized under Sec. 39 of the Labor Code of the Philippines, as amended.

Mail Order Bride Law
Republic Act No. 6955
- Imposes criminal sanctions against the business that engages in the practice of matching Filipino women for marriage to foreign nationals on a mail-order basis and other similar practices, including the advertising of such services.
- Modes of matching are limited to mail, correspondence, postal services. As this was approved in 1990, the law does not address advances in information technology which facilitate faster communication and business transactions.
- Profit or material consideration gained by the accused needs to be proven.
- Provides protection for Filipino women and not for Filipino men.
  The penalties range from a fine of ₱8,000.00 – ₱20,000.00 and imprisonment of 6 years and 1 day to 8 years.
The Inter-country Adoption Act of 1995 Republic Act No. 8043

- Provides for legal requirements and procedure for the adoption of a Filipino child in the Philippines where the prospective adoptive parent is a foreign national or a Filipino who has established permanent residence outside of the Philippines.
- Penalizes the inter-country adoption carried out by any person, private and public officials, in violation of the established procedures with imprisonment of 6 years and 1 day to 12 years and/or a fine of not less than P50,000.00 to P200,000.00.
- If the child is subjected or exposed to danger, abuse and exploitation, it is considered as an indicator of illegal adoption.

Special Protection of Filipino Children against Abuse Exploitation and Discrimination Republic Act No. 7610, as amended by Republic Act No. 9231

- Provides special protection to children from all forms of abuse, neglect, cruelty, exploitation, discrimination and other conditions prejudicial to their development.
- Defines and penalizes child prostitution, child trafficking and other forms of sexual exploitation.
- The customer who uses the prostituted child can be imprisoned for 14 years 8 months and 1 day to 17 years and 4 months (reclusion temporal in its medium period) to reclusion perpetua. If the child is under 12 years old, it is considered statutory rape and the customer can be penalized for violation of the Anti-Rape Law. These penalties are higher compared to the penalty against the user of a trafficked person under Sec. 11 of RA 9208. However, if the child is under 12 years old and only acts of lasciviousness is committed on him/her, the penalty is reclusion temporal in its medium period.
- The offense of child trafficking (Sec. 7) and attempt to commit child trafficking (Sec. 8) are limited to the exploitative purpose of fake or illegal adoption.
- RA 7610 was further amended by RA 9231 wherein the employment of children in prostitution and pornography are classified as worst forms of child labor. The offenses of child labor in prostitution and pornography must still be prosecuted in relation to RA 9208.
- Section 32 of RA 9208 provides that it does not amend or repeal any provision of RA 7610.

Philippine Passport Act of 1996Republic Act No. 8239

- Regulates the constitutional right to travel by imposing requirements and procedures for getting a passport and other travel documents.
- Imposes criminal sanctions on offenses relating to issuance of passports and travel documents; false statements; forgery; improper use; and multiple possession.
- Mere falsification, unauthorized use and tampering of passports are already criminal acts and there is no need to prove the end purpose.
- The maximum penalty is fifteen (15) years imprisonment.
- The person using the falsified or tampered document can be penalized.
Organ Donation Act of 1991
Republic Act No. 7170
- Provides rules that allow a person to execute a legacy or donation of all or any body part that will take effect after death.
- A donor (i.e. spouse, son/daughter of legal age, either parent, brother/sister of legal age, guardian of the decedent) can donate all or any body part of a decedent after or immediately before death.
- The death of a person, for purposes of the Act, must be determined in accordance with the acceptable standards of medical practice and shall be diagnosed separately by the attending physician and consulting physician.
- Authorizes medical practitioners in hospitals to remove and/or transplant organs.
- Does not criminalize the sale of all or any body part or organ.

Anti-Violence Against Women and Their Children Act of 2004
Republic Act No. 9262
- Defines, penalizes and provides protective measures against violence against women and their children.
- Offense may be committed by any person against a woman who is his wife, former wife, with whom the person has or had a sexual or dating relationship, or with whom he has a common child, or against her child whether legitimate or illegitimate, within or without the family abode.
- Includes the prostitution of a woman and her child as a form of sexual violence.
- Imposable penalty is prision mayor or 6 years and 1 day to 12 years.

Roles and Responsibilities in the Enforcement and Prosecution of Violations of RA 9208

RA 9208 and its IRR also identify the various government agencies tasked to enforce the law and prosecute offenders.

Department of Justice (DOJ)

The DOJ is tasked to ensure the prosecution of persons for violation of RA 9208 and to assist the victims in securing legal support services, such as the Witness Protection Program and the Victim’s Compensation Act. To achieve these functions, the DOJ has created a special task force which shall investigate and prosecute cases of trafficking.30
Commission on Human Rights (CHR)

The CHR is mandated to investigate violations of RA 9208 and to recommend such cases for prosecution. It is also tasked to provide free legal aid to victims of trafficking and other assistance under the human rights protection services.\(^\text{31}\)

Philippine National Police (PNP)

The PNP is tasked to conduct surveillance, investigation and arrest of individuals or persons suspected to be engaged in trafficking.\(^\text{32}\)

The PNP has special units which are tasked to detect and investigate suspected trafficking activities at the local airports (PNP-ASG), seaports (PNP-Maritime) and land transportation terminals (PNP-TMG). In fulfilling its mandate, the PNP is tasked to coordinate with the local police station, other government agencies like the Philippine Ports Authority, local government officials and non-government organizations (NGOs) to arrest traffickers. It also maintains over a thousand of Women and Children’s Desks around the country.

Bureau of Immigration (BI)

The BI is primarily mandated to detect, monitor and investigate cases of trafficking in persons occurring at international airports and international seaports within Philippine jurisdiction, whether or not the parties involved in the cases are foreign nationals.\(^\text{33}\)

The BI’s mandate extends to cases beyond Philippine territory where Filipino nationals are victims. Its investigation can be conducted through the establishment of a network with other law enforcement agencies and immigration counterparts of source, transit and destination countries.

National Bureau of Investigation (NBI)

The NBI is tasked to conduct surveillance, monitor and investigate recruiters, travel agencies, hotels and other establishments suspected to be engaged in trafficking in
persons.\textsuperscript{34} It is also mandated to foster cooperation and coordination with other law enforcement agencies of other countries and the Interpol in the investigation and apprehension of suspected traffickers. The NBI has also created a special unit called the Anti-Human Trafficking Division (AHTRAD) to give special focus and attention to TIP cases.

**Philippine Center on Transnational Crime (PCTC)**

The PCTC, being a special agency under the Office of the President, is the policy making body tasked to formulate strategies for the prevention and detection of trafficking in persons and the apprehension of criminal elements involving a transnational dimension.\textsuperscript{35}

**Law Enforcement Task Force Against Trafficking in Persons**

Recognizing the need for inter-agency cooperation and coordination for the effective enforcement and prosecution of TIP cases, the IACAT adopted Resolution No. 2, series of 2004, “Adopting the Guidelines for the Establishment and Operations of the Law Enforcement Task Force Against Trafficking in Persons.”

The Guidelines created the National Inter-Agency Task Force Against Trafficking (NIATFAT) to coordinate, monitor and evaluate law enforcement actions against TIP. It is composed of the following:

- Chairperson of the DOJ Task Force Against Trafficking, to sit as Chairperson of the NIATFAT
- Representative of the Department of Social Welfare and Development (DSWD)
- Representative of Office of the Undersecretary for Migrant Workers’ Affairs under the Department of Foreign Affairs (OUMWA-DFA)
- Chief of the Anti-Fraud Division of the NBI
- Chief of the Anti-Human Trafficking Division of the NBI
The guidelines also provide for the creation of the Local Inter-Agency Task Force Against Trafficking in Persons (LIATFAT) at the airports, seaports and land transportation terminals, composed of the following agencies:

**Airport**
- Representative of the local Prosecution Office
- Head of the Local Immigration Officer or Alien Control Office
- Head of the PNP Aviation Security Group
- Head of the Local or Airport NBI Office

**Seaport**
- Representative of the local Prosecution Office
- Head of the local PPA
- Head of the local PCG
- Head of the local PNP Maritime Group

**Land-based**
- Representative of the local Prosecution Office
- Head of the local Police Office or the Women and Children’s Concerns Desk of the PNP
- Head of the PNP Traffic Management Group
- Head of the local NBI Office
ENDNOTES

1 Article II, Sec. (5), (11) and (14); Article XV, Sec. 3(2), The Constitution
2 These international instruments include: Universal Declaration of Human Rights; Convention for the
   Suppression of the Trafficking in Persons and the Exploitation of the Prostitution of Others; Convention
   on the Elimination of All Forms of Discrimination against Women; Convention on the Rights of the Child
   Convention on the Protection of Migrant Workers and Members of their Family; ILO Convention No.
   182 on the Worst Forms of Child Labor
4 Sec. 3 (d), RA 9208
5 Sec. 3(c), RA 9208 and Sec. 5(e) of the IRR
6 Sec. 3(d), RA 9208 and Sec. 5(f) of the IRR
7 SEC. 12-D. Prohibition Against Worst Forms of Child Labor. — No child shall be engaged in the worst
   forms of child labor. The phrase “worst forms of child labor” shall refer to any of the following: “(1)
   All forms of slavery, as defined under the “Anti-trafficking in Persons Act of 2003”, or practices similar to
   slavery such as sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor,
   including recruitment of children for use in armed conflict; or x x x
8 Sec. 3(e), RA 9208 and Sec. 5(g) of the IRR
9 Sec. 3(f), RA 9208 and Sec. 5(h) of the IRR
10 Sec. 3(g), RA 9208 and Sec. 5(i) of the IRR
11 Sec 3(h), RA 9208 and Sec. 5(j) of the IRR
12 Arizala 2-3
13 Arizala 3
14 Arizala 4
15 Arizala 4
16 Arizala 4
17 Arizala 4
18 Arizala 4
19 Arizala 4
20 Arizala 4
21 Arizala 4
22 Arizala 4
23 Arizala 4-5.
24 These offenses include:
   Art. 201- Obscene publications and indecent shows;
   Art. 202– Vagrancy and Prostitution;
   Art. 267 – Kidnapping/Detention;
   Art. 268 – Slight Illegal Detention;
Art. 270 – Kidnapping and Failure to Return Minor;
Art. 271 – Inducing a Minor to Abandon his home;
Art. 272 – Slavery;
Art. 273 – Exploitation of Child Labor (amended);
Art. 286 – Grave Coercion;
Art. 287 – Light Coercion;
Art. 315 – Estafa;
Art. 316 – Other Forms of Swindling;
Art. 317 – Swindling a Minor;
Art. 340 – Corruption of Minors (amended); Art. 341 – White Slave Trade

25 The pertinent provisions are: Sec. 6 – Definition of Illegal Recruitment Acts; Sec. 7 – Penalties;
Sec. 8 – Prohibition on Officials and Employees

26 The pertinent provisions are:
Sec. 2 – Enumeration of Unlawful Acts;
Sec. 3 – Liability of officers of the association, club, partnership, and corporation;
Sec. 4 – Penalties

27 The pertinent provisions are:
Sec. 16 – Punishable Acts and Penalties;
Sec. 17 – Public Officers as Offenders

28 The pertinent provisions are: Sec. 5 – Child Prostitution and Other Sexual Abuse;
Sec. 6 – Attempt to Commit Prostitution;
Sec. 7 – Child Trafficking;
Sec. 8 – Attempt to Commit Child Trafficking;
Sec. 9 – Obscene Publication and Indecent Shows;
Sec. 10 – Other Acts of Neglect, Abuse, Cruelty or Exploitation and Other Conditions Prejudicial to the
Child’s Developments;
Sec. 12 – Employment of Children;
Sec. 12-A – Hours of Work of a Working Child;
Sec. 12-D (1) and (2) – Prohibition Against Worst Forms of Child Labor;
Sec. 16 (c) – Penalties

29 Sec. 19 – Offenses and Penalties

30 Sec. 17(a), IRR of RA 9208

31 Sec. 18(f), IRR of RA 9208

32 Sec. 17(g), IRR of RA 9208

33 Sec. 17(f), IRR of RA 9208

34 Sec. 18(g), IRR of RA 9208

35 Sec. 18(h), IRR of RA 9208
Chapter Two
Establishing Criminal Liability

The successful prosecution of a case in court to establish criminal liability is only as good as the evidence to establish the elements of the crime.

The task of the law enforcer, as part of his/her function of investigating crimes, is to gather the evidence and present it to the prosecutor. The task of the prosecutor is to determine probable cause, based on the evidence gathered and presented by the law enforcer, and when the evidence warrants, file the corresponding information in court. Thus, every law enforcer and prosecutor must have a common understanding and knowledge of the basic elements of the act/s constituting the offense and the evidence necessary to prove these elements.

In establishing criminal liability for TIP, law enforcers and prosecutors should be guided by the definition of TIP in Sec. 3 (a) of RA 9208. Any evidence to prove the act/s, means and exploitative purpose is relevant in the prosecution of specific offenses.
Evidence

The evidence necessary to establish criminal liability is based on the pertinent provisions of the Constitution, Rule 128 to 133 of the Revised Rules of Court, and relevant decisions of the Supreme Court on the subject. In TIP cases, these sources are supplemented by RA 9208 and its IRR. Proof is the result or effect of the evidence. The required amount of evidence to prove TIP cases is proof beyond reasonable doubt. The rules on evidence will be used to determine:

- The facts to be proven to establish the liability of the trafficker;
- The proof necessary to support these facts; and
- The process necessary to produce the proof.

Again, for purposes of filing the appropriate information in court, the evidence submitted by the law enforcer must establish probable cause, after evaluation by the prosecutor of the evidence on hand. Otherwise, the prosecutor may dismiss the case for insufficiency of evidence. During the trial, the law enforcer and the prosecutor may adduce other evidence to prove the guilt of the accused beyond reasonable doubt. For a more detailed discussion on the evidence needed to establish probable cause and proving guilt, refer to Chapter 4.

The evidence necessary to establish criminal liability depends on the particular elements of the offense charged. The lists of evidence provided in this Chapter are not exclusive and other evidence can be used or presented to establish the culpability of the alleged traffickers. A general checklist is also provided which can be used in testing the relevance of the evidence to establish the elements of TIP.

Table 2 presents the kind of evidence, the possible sources of evidence and the requisites for admissibility of the various kinds of evidence.
<table>
<thead>
<tr>
<th>Kind</th>
<th>Evidence and/or Source</th>
<th>Requisite for Admissibility</th>
</tr>
</thead>
</table>
| Testimony or deposition of person with personal knowledge of facts to be proven | • Victim/survivor  
• Family, friends, neighbors, etc.  
• Arresting officers  
• Doctors, dentists and psychiatrists who performed examination on the victims  
• Social workers, counselor or psychologists providing services or assistance to the victim | Witness must be competent, able to perceive and capable of making his perception known |
| Documentary Evidence | • Sworn statement and/or affidavit of victim/complainant, arresting officer, family, friends and other persons who have personal knowledge  
• Birth certificate, baptismal certificate, school and/or employment record, driver’s license or any identification to establish identity and age of victim  
• Documentation relating to the recruitment process, such as copy of advertising, application letters, appointment books, etc.  
• Documentation relating to payments made by the victims to the traffickers, such as daily payment books, handwritten lists of payments, cash vouchers, money transfer forms, etc  
• Documentation relating to financial transactions of any description, irrespective of how small the amounts | Best evidence rule.¹ |
<table>
<thead>
<tr>
<th>Kind</th>
<th>Evidence and/or Source</th>
<th>Requisite for Admissibility</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>• Documentation relating to identification and travel documents such as birth certificates, passports, tickets, boarding cards, etc.</td>
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<td>• Documentation relating to the issue of passports and visas, including overseas employment contracts, sponsorship letters, etc.</td>
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<td></td>
<td>• Documentation relating to the daily management of the illegal business such as daily worksheets, payment schedules, sexual services ‘menu’, price list, etc.</td>
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<td></td>
<td>• Books of accounts, business records, etc. of the employment, recruitment, promotion agency, business establishment, etc.</td>
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<td></td>
<td>• Documentation relating to the renting or leasing of the premises or business establishment and other links to other addresses or locations</td>
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<td></td>
<td>• Case report which includes surveillance report, spot report, initial report, progress report, police blotter, pre-/post operation report</td>
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<td></td>
<td>• Text messages on mobile phones</td>
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<td></td>
<td>• Referrals/transmittals</td>
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<td></td>
<td>• Medical, psychological, psychiatric, dental examination reports</td>
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<td></td>
<td>• Receipt of payment and laboratory report on marked money used for entrapment operations</td>
<td></td>
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<tr>
<td>Kind</td>
<td>Evidence and/or Source</td>
<td>Requisite for Admissibility</td>
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<tr>
<td>Object Evidence</td>
<td>• Scene of the crime through an ocular inspection</td>
<td>• Authenticated and shown that the object offered as evidence is the same object involved in the underlying event</td>
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<tr>
<td></td>
<td>• Vehicles used to transport victims</td>
<td>• Chain of custody is established</td>
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<td>• Money, credit cards, check books</td>
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<td></td>
<td>• Photographs, tape recordings and videotapes</td>
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<td></td>
<td>• DNA</td>
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<tr>
<td></td>
<td>• Semen, hair, cloth fibers</td>
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<tr>
<td></td>
<td>• Fingerprints, foot prints, palm prints</td>
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</tr>
<tr>
<td></td>
<td>• Maps, sketches, diagrams</td>
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<tr>
<td></td>
<td>• Personal appearance of a person</td>
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<tr>
<td></td>
<td>• Any object relating to the provision of prostitution, pornography and other exploitative purposes such as costumes, sex aids, pornographic materials, condoms, pills, medication for sexually transmitted infections, etc.</td>
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<tr>
<td></td>
<td>• All types of communication and information technology equipment such as computers, mobile phones, fax machines, personal organizers, etc.</td>
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<tr>
<td></td>
<td>• Experiments and demonstrations</td>
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</tbody>
</table>
Elements and Evidence of Specific Offenses

The elements of a crime are the specific conditions that constitute the punishable act, which the prosecution must prove beyond reasonable doubt in order to get a conviction. The elements of specific trafficking offenses and how to construe them in relation to other provisions of RA 9208 are discussed in this particular Chapter. Tables containing the elements of the specific prohibited acts under RA 9208 and the specific evidentiary items that may be gathered or presented to prove the offense are likewise provided.

Acts of Trafficking in Persons

A reading of Section 4 (Acts of Trafficking) of RA 9208 would show that there are provisions therein which state the complete elements of TIP. However, there are also provisions therein which do not contain some of the elements.²
For instance, Sections 4(a) and 4(g) contain all the three elements: the acts penalized, the means and the purpose. However, sub-paragraphs (b), (c), (d), (e), (f) and (h) of Sec. 4 mention only two elements: the acts punished and the purpose; there is no mention of the means.³

How then should these provisions in Sec. 4 be construed insofar as the elements of the crime are concerned?

Guided by the deliberations of the Bicameral Conference Committee, it is recommended that Sec. 4 should always be construed in relation to Sec 3 of RA 9208. Even if the provisions of Sec. 4 do not mention an element of TIP, it is understood that the elements of the crime as defined in Sec. 3 should be considered. Therefore, in proving the crimes penalized under Sec 4, the prosecution should always prove the offense, taking into consideration the applicable and pertinent elements of TIP in Sec. 3.⁴

Section 4. Acts of Trafficking in Persons-
It shall be unlawful for any person, natural or juridical, to commit any of the following acts:

(a) To recruit, transport, transfer; harbor, provide, or receive a person by any means, including those done under the pretext of domestic or overseas employment or training or apprenticeship, for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(b) To introduce or match for money, profit, or material, economic or other consideration, any person or, as provided for under Republic Act No. 6955, any Filipino woman to a foreign national, for marriage for the purpose of acquiring, buying, offering, selling or trading him/her to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(c) To offer or contract marriage, real or simulated, for the purpose of acquiring, buying, offering, selling, or trading them to engage in prostitution, pornography, sexual exploitation, forced labor or slavery, involuntary servitude or debt bondage;
For this purpose, therefore, the prosecutors must, in crafting the information, necessarily allege all the elements of TIP as enumerated in Sec. 3(a) of RA 9208. Otherwise, the information for trafficking in persons would be insufficient in substance and may be quashed on the ground that the facts charged do not constitute an offense. Or worse, the accused during trial, may seasonably object to any question or evidence intended to prove any element of TIP not so alleged in the information, on the ground of violation of his/her constitutional right to know the nature of the offense charged.5

Equally, the law enforcement agencies should be mindful of this particular construction in the gathering of appropriate and necessary evidence to establish a trafficking case.

Acts of Trafficking under Sec. 4 are punishable with a penalty of imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00).

Table 3 shows the specific acts of trafficking under Sec. 4 of RA 9208, their specific elements and the suggested specific evidentiary items to establish each specific act of trafficking.

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**Section 4. Acts of Trafficking in Persons...**

(d) To undertake or organize tours and travel plans consisting of tourism packages or activities for the purpose of utilizing and offering persons for prostitution, pornography or sexual exploitation;

(e) To maintain or hire a person to engage in prostitution or pornography;

(f) To adopt or facilitate the adoption of persons for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;

(g) To recruit, hire, adopt, transport or abduct a person, by means of threat or use of force, fraud, deceit, violence, coercion, or intimidation for the purpose of removal or sale of organs of said person; and
### Table 3. Acts of Trafficking (Section 4): Elements and Evidence

<table>
<thead>
<tr>
<th>Designation of Specific Offenses</th>
<th>Elements</th>
<th>Specific Evidentiary Items</th>
</tr>
</thead>
</table>
| Sec. 4 (a) – TIP in the pretext of domestic/overseas employment | 1. The offender recruits, transports, transfers, harbors, provides, or receives a person  
2. The act/s is done by any means, including offer of domestic or overseas employment, training or apprenticeship  
3. The person is intended to be used for prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage | • Certifications about Authority/License to recruit from the POEA for overseas employment or from the DOLE for domestic employment  
• Advertisements, flyers, websites regarding employment opportunities  
• Employment contract, work permits  
• Passports, tickets, travel itinerary and other travel documents  
• Computer, accessories, disks and files  
• Computer forensic examination report and expert testimony of examiner |
| Sec. 4 (b) – TIP in the pretext of mail-order bride scheme | 1. The offender introduces or matches any person to a foreign national under the pretext of marriage  
2. The introduction or matching is for money, profit or material, economic or other consideration | • Advertisements, flyers, brochures, websites regarding the match-making service or business  
• Letters, e-mails and other forms of correspondence, including pictures |
<table>
<thead>
<tr>
<th>Designation of Specific Offenses</th>
<th>Elements</th>
<th>Specific Evidentiary Items</th>
</tr>
</thead>
</table>
| 3. The real purpose of the introduction or matching is to acquire, buy, offer, sell or trade the woman to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage. | | • Passports, tickets, travel itinerary and other travel documents  
• Applications for Marriage License from Civil Registrar, Marriage contract from NSO, Authority to Marry from the Embassy or Consulate of the foreign national |
| Sec. 4 (c) – TIP in the pretext of marriage | 1. The offender proposes marriage or got married to the person, whether real or simulated  
2. The real purpose of the marriage is to acquire, buy, offer, sell or trade the fiancée or spouse to engage in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage. | | • Letters, e-mails and other forms of correspondence, including pictures  
• Applications for Marriage License from Civil Registrar, Marriage contract from NSO, Authority to Marry from the Embassy or Consulate of the foreign national |
| Sec. 4 (d) – TIP involving sex tourism | 1. The offender undertakes or organizes tours or travel plans  
2. The offender’s tours or travel plans are for the purpose of utilizing or offering persons for prostitution, pornography or sexual exploitation | | • Certifications from DOT or PTA regarding the background and status of the Travel and Tour agency  
• Advertisements, flyers, website regarding tourism packages |
<table>
<thead>
<tr>
<th>Designation of Specific Offenses</th>
<th>Elements</th>
<th>Specific Evidentiary Items</th>
</tr>
</thead>
</table>
| Sec. 4 (e) – TIP for prostitution or pornography | 1. The offender maintains or hires a person  
2. The person maintained or hired is engaged in prostitution or pornography | • Birth certificates and other documents to establish identify and age of the victim  
• Records from the City/ Municipal Health Office regarding work permits, hygiene records, etc.  
• Certification regarding the status of the business permit/ license to operate from the City/Municipal Mayor’s Office  
• Books of accounts, business records, list of debts/loans incurred by the victim, etc. of the maintainer or employer  
• Computer, accessories, disks and files  
• Computer forensic examination report and expert testimony of examiner  
• Print-outs of pornographic websites and/or images |
| Sec. 4 (f) – TIP through adoption | 1. The offender adopts or facilitates the adoption of a person  
2. The adopted person is intended to be exploited in prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage | • Certificate of Accreditation of the child-caring agency  
• Court records regarding the adoption proceedings including the Petition for Adoption up to the final Decree of Adoption |
<table>
<thead>
<tr>
<th>Designation of Specific Offenses</th>
<th>Elements</th>
<th>Specific Evidentiary Items</th>
</tr>
</thead>
</table>
| Sec. 4 (g) – TIP for the removal or sale of organs | 1. The offender recruits, hires, adopts, transports or abducts a person  
2. The offender uses threat or force, fraud, deceit, violence, coercion, or intimidation  
3. The offender intends to remove or sell the organs or body parts of the person | • Case Study and Home Visit Reports of the Social Worker |
| Sec. 4 (h) - TIP for the purpose of engaging in armed activities | 1. The offender recruits, transports or adopts a child  
2. The child is intended to be engaged in armed activities in the Philippines or abroad | • Expert testimony from a physician or medico-legal officer  
• Birth certificates, baptismal certificates, school and/or employment records, driver’s license or any identification card to establish identity and age of victim |
Qualified Trafficking in Persons

According to Sec. 6 of RA 9208, the presence of any of the following circumstances in the commission of any of the specific offenses in Sec. 4 will qualify the crime and increase the penalty to life imprisonment and a fine of not less than Two million pesos (P2,000,000.00) but not more than Five million pesos (P5,000,000.00):

1. The trafficked person is a child;
2. The adoption is effected in violation of the Inter-Country Adoption Act of 1995 (Republic Act No. 8043) and the adoption is for the purpose of prostitution, pornography, sexual exploitation, forced labor, slavery, involuntary servitude or debt bondage;
3. The act is committed by a syndicate or in large scale;
4. The offender is an ascendant, parent, sibling, guardian, or a person who exercises authority over the trafficked person, or when the offense is committed by a public officer or employee;
5. The trafficked person is recruited to engage in prostitution with any member of the military or law enforcement agencies;
6. The offender is a member of the military or law enforcement agencies; or
7. By reason or on occasion of the act of trafficking in persons, the offended party dies, becomes insane, suffers mutilation, or is afflicted with HIV or AIDS.

Section 6 merely mentions the qualifying circumstances; the particular acts that constitute the offense of trafficking in persons are not. Thus, Sec. 6 must likewise be construed in relation to Secs. 4 and 3 of RA 9208. This means that for purposes of the sufficiency of the information for the offense of qualified trafficking in persons, in addition to the qualifying elements in Sec. 6, the elements in Sec. 6, the elements in Secs. 4 and 3 must be considered and properly alleged.
As a rule, no person charged with an offense punishable by reclusion perpetua or life imprisonment, shall be admitted to bail when the evidence of guilt is strong, regardless of the stage of the criminal proceeding. Thus, Qualified Trafficking in Persons is a non-bailable offense.

**Acts that Promote Trafficking in Persons**

Section 5 of RA 9208 provides for another set of offenses designated as “Acts That Promote Trafficking in Persons”. There are seven sets of acts covered by sub-paragraphs (a) and (g) of Sec. 5 that constitute the offense. The first five (5) sets of these acts, enumerated in sub-paragraphs (a) to (e), have a common element and that is: that the purpose of the offender is to promote or facilitate TIP. An analysis of these sub-paragraphs would show that these punishable acts generally have two (2) elements, namely, the act punished and the purpose of such act, which is to promote or facilitate trafficking in persons.

**Section 5. Acts that Promote Trafficking in Persons**

The following acts which promote or facilitate trafficking in persons, shall be unlawful:

(a) To knowingly lease or sublease, use or allow to be used any house, building or establishment for the purpose of promoting trafficking in persons;

(b) To produce, print and issue or distribute unissued, tampered or fake counseling certificates, registration stickers and certificates of any government agency which issues these certificates and stickers as proof of compliance with government regulatory and pre-departure requirements for the purpose of promoting trafficking in persons;

(c) To advertise, publish, print, broadcast or distribute, or cause the advertisement, publication, printing, broadcasting or distribution by any means, including the use of information technology and the internet, of any brochure, flyer, or any propaganda material that promotes trafficking in persons;
(d) To assist in the conduct of misrepresentation or fraud for purposes of facilitating the acquisition of clearances and necessary exit documents from government agencies that are mandated to provide pre-departure registration and services for departing persons for the purpose of promoting trafficking in persons;

(e) To facilitate, assist or help in the exit and entry of persons from/to the country at international and local airports, territorial boundaries and seaports who are in possession of unissued, tampered or fraudulent travel documents for the purpose of promoting trafficking in persons;

(f) To confiscate, conceal, or destroy the passport, travel documents, or personal documents or belongings of trafficked persons in furtherance of trafficking or to prevent them from leaving the country or seeking redress from the government or appropriate agencies; and

(g) To knowingly benefit from, financial or otherwise, or make use of, the labor or services of a person held to a condition of involuntary servitude, forced labor, or slavery.

Acts that Promote Trafficking in Persons under Sec. 5 of R.A. 9208 are punishable by imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand (P500,000.00) but not more than One million pesos (P1,000,000.00).

Table 4 shows the specific acts that promote trafficking in persons under Section 5 of RA 9208, their specific elements and the suggested specific evidentiary items to establish each specific act.
### Table 4. Acts That Promote Trafficking (Section 5): Elements and Evidence

<table>
<thead>
<tr>
<th>Designation of Specific Offenses</th>
<th>Elements</th>
<th>Specific Evidentiary Items</th>
</tr>
</thead>
</table>
| Sec. 5 (a) – Knowingly leasing or subleasing an establishment | 1. The offender is the owner, lessor or sub-lessee of any house, building or establishment  
2. The offender knows that the property is being used for the purpose trafficking in persons | • Pictures, video, sketches of establishment  
• Proof of ownership such as OCT, TCT, Deed of Sale, Tax Declarations, Contract of lease, etc., License to Operate, Business Permit  
• Receipt of payment  
• Deposit slips  
• Checks |
| Sec. 5 (b) – Falsifying or tampering of government issued pre-departure documents | 1. The offender produces, prints and issues unissued, tampered or fake counseling certificates, registration stickers and certificates of government agency  
2. The falsified or tampered documents are necessary as proof of compliance with government regulatory and pre-departure requirements  
3. The production, printing and issuance or distribution is for the purpose of promoting trafficking in persons | • Certifications that documents are not genuine  
• Tampered or fake counseling certificates, registration stickers and certificates of any government agency such as those issued by the Philippine Overseas Employment Agency (POEA), Department of Foreign Affairs (DFA), DSWD, etc. |
| Sec. 5 (c) – Advertising to promote trafficking in persons | 1. The offender advertises, publishes, prints, broadcasts or distributes or causes such by any means, including the use of information technology and the internet of any brochure, flyer, or any propaganda material | • Advertisements, flyers, brochures, websites print-out and other propaganda material  
• Computer and computer accessories |
<table>
<thead>
<tr>
<th>Designation of Specific Offenses</th>
<th>Elements</th>
<th>Specific Evidentiary Items</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sec. 5 (d) – Assisting in the conduct of fraud to acquire clearances, etc.</td>
<td>2. The brochure, flyer or propaganda material promotes trafficking in persons</td>
<td>• Computer forensic examination report and expert testimony of examiner</td>
</tr>
<tr>
<td></td>
<td>1. The offender, any public official or private individual, assists in the conduct of misrepresentation or fraud</td>
<td></td>
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<td></td>
<td>2. The misrepresentation or fraud facilitates the acquisition of clearances and necessary exit documents from government agencies that are mandated to provide pre-departure registration and services for departing persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. The misrepresentation or fraud is for the purpose of promoting trafficking in persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Certifications from concerned agencies, i.e., Bangko Sentral ng Pilipinas (BSP), DFA, PNP/NBI, Crime Laboratory</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Copy of clearances and necessary exit documents from government agencies for pre-departure registration and services for departing persons</td>
<td></td>
</tr>
<tr>
<td>Sec. 5 (e) – Facilitating exit or entry of trafficked persons</td>
<td>1. The offender is a public official or private person who facilitates, assists or helps in the exit and entry of persons from/to the country at international and local airports, territorial boundaries and seaports</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2. The person/s assisted is/are in possession of unissued, tampered or fraudulent travel documents</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3. The facilitation, assistance or help is for the purpose of promoting trafficking in persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Certification from concerned agencies, i.e., BSP, DFA, PNP/NBI, Crime Laboratory</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Copy of clearances and exit documents from government agencies for pre-departure registration and services for departing persons</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Passports, tickets, travel itinerary and other travel documents</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• Plane tickets</td>
<td></td>
</tr>
<tr>
<td>Designation of Specific Offenses</td>
<td>Elements</td>
<td>Specific Evidentiary Items</td>
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<td>---------------------------------</td>
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</tr>
</tbody>
</table>
| Sec. 5 (f) – Confiscating, concealing or destroying travel documents and personal belongings of trafficked person | 1. The offender confiscates, conceals, or destroys the passport, travel documents or personal documents or belongings of trafficked persons  
2. The confiscation, concealment or destruction is in furtherance of trafficking, or to prevent them from leaving the country or seeking redress from the government and appropriate agencies | • Passports, tickets, travel itinerary, plane ticket and other travel documents  
• Personal belongings of the trafficked persons |
| Sec. 5 (g) Knowingly benefiting from trafficking in persons | 1. The offender benefits, financially or otherwise, from the use, labor or services of a person  
2. The person is held under a condition of force labor, servitude, slavery.  
3. The offender knows that the persons are held under such conditions of forced labor, servitude, slavery. | • Advertisements, flyers, brochures  
• Employment contracts  
• POEA Certifications |

### Violation of Confidentiality

RA 9208 protects the right to privacy of both the trafficked person and the alleged trafficker. The name and personal circumstances of the trafficked person or of the accused, or any information tending to establish their identities and such circumstances or information should not be disclosed to the public. Causing the undue publicity of a trafficking case is likewise prohibited.
Violation of Confidentiality under Sec. 7 of RA 9208 is punishable by imprisonment of six (6) years and a fine of not less than Five hundred thousand (P500,000.00) but not more than One million pesos (P1,000,000.00).

Table 5 shows the two specific offenses punishable under Section 7 (Violation of Confidentiality), their specific elements and the suggested specific evidentiary items to establish each specific act.

**Table 5. Violation of Confidentiality (Section 7): Elements and Evidence**

<table>
<thead>
<tr>
<th>Designation of Specific Offenses</th>
<th>Elements</th>
<th>Specific Evidentiary Items</th>
</tr>
</thead>
</table>
| Sec. 7, par. 1 Disclosure of victim/offender identity | 1. The offender is a law enforcement officer, prosecutor, judge, court personnel, medical practitioner, or party to the case  
2. The name and personal circumstances of the trafficked person or of the accused, or any information tending to establish their identity and such circumstances or information are disclosed to the public. | Publication, broadcast, website, film, etc. that caused publicity on the trafficking case |
| Sec. 7, par. 2 Causing undue publicity of TIP cases | 1. The offender is the editor, publisher, and reporter or columnist in case of printed materials, announcers or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person using tri-media facilities or information technology  
2. The prosecution or trial is conducted behind closed-doors  
3. There is publicity of the said case of trafficking in persons | Publication, broadcast, website, film, etc. that caused publicity on the trafficking case |
Use of Trafficked Persons

Section 11 of RA 9208 punishes those who buy or procure the services of a trafficked person for prostitution. This particular provision addresses the demand side of trafficking by punishing those who procure the services of a trafficked person for prostitution. In other words, the customers are punished in this particular provision and not the traffickers.

However, if any person benefits from, financial or otherwise, or make use of, the labor or services of a person held to a condition of involuntary servitude, forced labor, or slavery, such person should be prosecuted under Sec. 5 (g) of RA 9208, and not under Sec. 11 thereof.

Use of Trafficked Persons is punishable by six (6) months of community service and a fine of Fifty thousand pesos (P50,000.00) for the first offense and imprisonment of one (1) year and a fine of One hundred thousand pesos (P100,000.00) for second and subsequent offenses.

Table 6 provides the elements and specific evidentiary items of the Use of Trafficked Persons.
Table 6. Use of Trafficked Persons: Elements and Evidence

<table>
<thead>
<tr>
<th>Designation of Specific Offenses</th>
<th>Elements</th>
<th>Specific Evidentiary Items</th>
</tr>
</thead>
</table>
| Sec. 11 Use of Trafficked Persons | 1. The offender (i.e. the buyer, customer, etc.) buys or engages the service of a person for prostitution  
2. The person used in prostitution is a trafficked person | • Testimony of the trafficked person  
• Any evidence that shows the trafficked person was bar fined |

ENDNOTES

1. Original documents must be presented subject to exceptions under Sec. 3, Rule 130 of the Revised Rules of Court.
2. Arizala, Gregorio, Trafficking in Persons: Elements and Evidence, p. 5, undated
3. Arizala 5
4. Arizala 5
5. Arizala 5
6. Arizala 5
7. Arizala 5-6.
Law enforcement agencies (LEA) are generally the first point of contact in a TIP case. According to Section 22 of the IRR of RA 9208, any person who has knowledge or learns of facts or circumstances that give rise to a reasonable belief that a person will be, may be or has been trafficked, can immediately report the same, either orally, in writing or through other means, to any of the following:

- Any member of the IACAT;
- Barangay authorities;
- Local social welfare and development office;
- Local councils for the protection of children; or
- Nearest police or other LEA.
If the report is made to any of the first four agencies, these agencies will forward the information to the appropriate LEA for investigation.

Aside from reports, law enforcement personnel may also come across possible trafficking cases during the investigation or conduct of operations involving a non-trafficking related incident.

**Detection**

The positive identification of a trafficking situation is not an easy task. An assessment of the totality of circumstances and available information will be necessary. This can be done using a three-pronged approach:

- Initial assessment interview of the reporting party
- Use of the indicator checklist
- Review of additional corroborative materials

**Initial assessment interview of reporting party**

An initial assessment interview must be conducted with the person who reported the incident. The person reporting the incident may be a concerned citizen, a friend or neighbor, an immediate family member or loved ones of the victims. The reporting party may also be the victim herself.
The questions set out below are in general terms and are intended to gather preliminary information about the reported incident.

1. What is the name, address and contact number of the reporting party?
2. What is the name, address, age and other personal circumstances of the victim? Describe the physical and mental state of the victim.
3. Where is the victim now? Is the victim in the Philippines or is she outside of the country? Is she/he at the airport, seaport or land transportation terminal?
4. When and where was the last contact with the victim? What transpired during this last contact?
5. Who else was with the victim? Did the victim travel alone or was she accompanied by the recruiter? Were there other possible victims with her?
6. Who are the suspects? Give the name and physical description of the suspects.
7. What happened to the victim? What prompted the person to report the incident?
8. Are there any other persons who know about the incident?

Indicator checklist

After the initial assessment interview, the investigator can check the preliminary information against the Indicator Checklist below. Table 7 shows some guide posts to indicate whether or not there is a potential TIP case. The presence of the positive indicators should be interpreted as a “red flag”, or signal that the officer or investigator should conduct further investigation and consider it as a potential trafficking case.
### Table 7. Indicator checklist

<table>
<thead>
<tr>
<th>Positive Indicator</th>
<th>Negative Indicator</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Re: Definition of TIP under Sec. 3 (a) of RA 9208</strong></td>
<td></td>
</tr>
<tr>
<td>The situation involves the three inter-related components of act/s, means and</td>
<td>One or more of the three components of act/s, means and exploitative purpose are not present</td>
</tr>
<tr>
<td>exploitative purpose</td>
<td></td>
</tr>
<tr>
<td><strong>Re: Age of the Victim/Survivor</strong></td>
<td></td>
</tr>
<tr>
<td>The younger the victim, the higher the possibility of a trafficking situation.</td>
<td>The older the victim, the less likely it is that the case involves trafficking.</td>
</tr>
<tr>
<td>Traffickers can earn higher profits because their potential to work under</td>
<td></td>
</tr>
<tr>
<td>exploitative conditions is longer.</td>
<td></td>
</tr>
<tr>
<td><strong>Re: Sex of the Victim/Survivor</strong></td>
<td></td>
</tr>
<tr>
<td>Will be indicative of trafficking depending on the exploitative purpose.</td>
<td></td>
</tr>
<tr>
<td>Females are more often the target for prostitution and other forms of sexual</td>
<td></td>
</tr>
<tr>
<td>exploitation. Trafficking for forced labor will depend upon the type of work:</td>
<td></td>
</tr>
<tr>
<td>work in agriculture often involves the trafficking of male persons while work in</td>
<td></td>
</tr>
<tr>
<td>garments usually target female persons.</td>
<td></td>
</tr>
<tr>
<td><strong>Re: Nationality of Victim/Survivor</strong></td>
<td></td>
</tr>
<tr>
<td>Filipinos are more often victims within and across borders</td>
<td>Foreign nationals are less likely to be victims of trafficking within the Philippines.</td>
</tr>
<tr>
<td><strong>Re: Documentation of Victim/Survivor</strong></td>
<td></td>
</tr>
<tr>
<td>Lack of documents to establish identity and lack of travel documents or possession</td>
<td>Possession of proper identification papers and genuine travel documents.</td>
</tr>
<tr>
<td>of tampered or fake travel documents.</td>
<td></td>
</tr>
<tr>
<td><strong>Re: Evidence of Abuse</strong></td>
<td></td>
</tr>
<tr>
<td>Signs of physical injury and psychological and emotional trauma.</td>
<td>Lack of any signs of physical and psychological trauma.</td>
</tr>
</tbody>
</table>
Additional Corroborative Material

Additional supporting materials may also be available to corroborate the report. Documents or other evidence may be available from the reporting party or upon further investigation. For example, if the interview discloses that the victim responded to an advertisement on the newspaper, a copy of the newspaper clipping may be helpful. The officer may refer to the elements and evidence tables in Chapter II.

Identification of a Possible Trafficking Situation

An evaluation of the totality of the circumstances based on the initial assessment interview, indicator checklist, and additional corroborative materials will then make it possible to identify a possible trafficking situation. The key questions that must be answered by the investigator are:

1. Is there any act of recruitment, transportation, transfer, harbour or receipt of a victim involved in the incident?
2. Is the act done by means of threat or use of force, coercion, abduction,
fraud, deception, abuse of power or taking advantage of the vulnerability of the victim, or the giving or receiving of payments or benefits?

3. Does the intended purpose involve exploitation such as prostitution or other forms of sexual exploitation, forced labor or servitude, slavery or slavery-like practices or the removal or sale of organs, or armed activities?

If all of the answers to these questions are positive, then the law enforcer has a potential case for violation of RA 9208.

The next course of action will depend on the assessment of the situation. There will be cases when an immediate arrest and rescue may be necessary, especially when the victims are in immediate danger. However, there will be cases when it will be best to gather more information to build-up the case.

**Counter-trafficking intelligence**

From the detection of a possible trafficking situation, the LEA must develop a counter-intelligence strategy that will determine if there is a strong case that would warrant the possibility of filing a criminal case for violation of a specific provision of RA 9208. The intelligence report on possible human trafficking case will serve as the initial basis for the conduct of investigation.

TIP is an illegal economic activity. It involves commercial transactions between buyers, sellers, middlemen and consumers where the goods sold are human beings. The activity may span from several days to several years, thus resulting in the formation of formal and informal networks of criminal activity. Thus, there is an increased possibility that the illegal activity has generated a large amount of material evidence. Counter-trafficking intelligence is significant in terms of developing a case investigation strategy.
Information to be Gathered

To move the case forward, the LEA must gather the following information:

- Identity and background of all the suspects;
- Age and personal circumstances of the victim/survivor;
- Modus operandi regarding recruitment, transportation, transfer, harbour and receipt of persons which may include the identification of “fronts” for organized crime, such as overseas employment agencies, training centers, promotions and talent agencies, etc.;
- Travel routes and means, including the place of origin, transit and destination and the vehicles used for transportation and travel;
- Type of exploitation such as the kind of work and the conditions of employment;

Counter-trafficking intelligence can be used for the following purposes:

- To strengthen case build-up of reported TIP incident;
- To follow-up other possible reported TIP cases; and
- To uncover other possible TIP cases.
• Details of communication used by the traffickers like snail mail address, e-mail addresses, mobile phone or landline numbers, etc.;
• Financial transactions that support the trafficking business, such as names of the bank, names of the account holders, bank account numbers and transactions, money transfers, modes of payment, etc.; and
• Methods of securing falsified travel documents, certificates, etc.

Sources of Information

The LEA can tap a wide range of sources to gather relevant information. While there is general reliance on the victim to provide the information, the LEA should explore other sources of information, such as the following:

• Inquiry with relevant national and local government agencies, such as the local government unit (LGU) licensing office, POEA, Department of Labor and Employment (DOLE), Commission on Higher Education (CHED), barangay associations, etc.;
• Monitoring of the private business sector, such as overseas employment and recruitment agencies, promotion and talent training centers, airlines, shipping vessels, bus lines, land transportation, adult entertainment establishments like nightclubs, KTV bars, massage parlors, internet cafes, sweatshops, etc.;
• Monitoring of advertisements in tri-media and other inter-active exchange of information like the internet;
• Monitoring of airports, seaports and land transportation terminals; and
• Community, people’s organizations (POs), NGOs, other civil society groups.
What to Do with the Information Gathered

The information gathered must be properly validated, evaluated, analyzed and processed to produce quality intelligence report that can support the prosecution of a TIP case. Some intelligence may be sufficient to establish probable cause; other data may be unreliable, speculative or even bogus.

The information must be properly documented, recorded and reported to the head of office of the LEA concerned. The investigation reports must be filed and kept confidential. If possible, sworn statements, videos and photographs should be taken. These should be maintained with strict confidentiality and secrecy.

After gathering information, it is now incumbent upon the LEA to decide on what to do with the information. If the information gathered shows probable cause that a violation of RA 9208 has been committed, arrest/search and seizure operations may then be possible, subject to the constitutional and procedural requirements regarding arrests and seizures.

Search and Seizure Operations

Search and seizure operations (SSO) are governed by Rule 126 of the Rules of Court. There are two ways of conducting search and seizure operation: first, and the preferred means, is by virtue of a search warrant; and second, is the lawful warrantless search.

As a general rule, SSO must be undertaken by virtue of a valid search warrant. A warrantless search is the exception. This is to comply with the constitutional protection that no person shall be deprived of his or her liberty or property without due process of law, and of the person’s right to privacy. If the SSO violate these constitutional guarantees, the evidence gathered is inadmissible in court, even if patently illegal.
For TIP cases, probable cause for a SSO would mean such facts and circumstances which would lead a sensible person to believe that a specific violation of RA 9208 has been committed and that the items, articles or objects sought in connection with the violation can be found in the place to be searched.

All SSO must be based on the existence of probable cause. In establishing ‘probable cause’, the investigator deals with probabilities. It must be defined in relation to the circumstances of the intended SSO. For TIP cases, probable cause for a SSO would mean such facts and circumstances which would lead a sensible person to believe that a specific violation of RA 9208 has been committed and that the items, articles or objects sought in connection with the violation can be found in the place to be searched. It must point to a specific violation but need not point to a specific offender. Evidence to establish guilt of a specific person is not necessary at this point.

**Search By Virtue of a Warrant**

A search warrant (SW) may be issued for the search and seizure of personal property, including: the subject of the offense, stolen or embezzled and other proceeds or fruits of the offense, and objects used or intended to be used as a means of committing an offense. For TIP cases, the search team should refer to the evidence listed in Chapter II.

A SW is issued upon the existence of probable cause determined by the judge himself based on the examination of the complainant and the witnesses. It is directed to LEA commanding them to search for personal property described in the SW and to bring them before the court.
Application for Search Warrant

An application for a SW must be filed by the LEA before any court within whose territorial jurisdiction the crime was committed. Where compelling reasons exist, the application can be filed within the judicial region where the crime was committed, if the place of commission of the crime is known, or any court within the region where the warrant will be enforced.

Each application for a SW must be in connection with one specific offense, particularly describing the place to be searched and the things to be seized.

In most TIP cases, the scene of the crime is not always evident and distinguishable. It can move from one place to another and may even start in one judicial region and end in another. The crime of TIP involves a place of origin, transit and destination.

Enforcement of the Search Warrant

Once the SW is issued, the LEA must conduct operational planning to enforce the SW. This may begin by constituting the team that will conduct the search and seizure operation. An assessment of the size of the operation, will also determine

A SW may be applied for to search the following premises:

- Place where the victim is currently located or being kept;
- Place where the offender operates his business;
- Place where the offender resides;
- Place of transit like a ‘safe house’ or stopover; and/or
- Vehicles within the place to be searched.
the resources that will be needed. The team should be divided into at least three sub-groups:

- Those who will be tasked to secure the crime scene and direct persons who are not involved to stay away;
- Those who will assist the victims and control the suspects; and
- Those who will conduct the search and collect the evidence.

The number of law enforcement personnel, transport, communication facilities, firearms, etc. should be considered. Whenever the circumstances require and the resource capacity permits, the following persons should be represented in the team:

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**Box 1: PRACTICAL GUIDELINES IN THE ENFORCEMENT OF A SEARCH WARRANT**

1. The search and seizure operation must be conducted during the day unless the search warrant specifically states that it may be done at any time during the day or night.
2. Knock and announce your intention to conduct a search and seizure operation. If refused admittance or if there are grounds to believe that the occupants are attempting to alter or destroy evidence, you may break the door or window to enter the premises and conduct the search.
3. For purposes of the validity of the search, strictly observe the hierarchy of witnesses established under Sec. 8, Rule 126 of the Rules of Court, to wit:
   a. If the suspect or the lawful occupant of the premises to be searched is present, he/she should be the witness to the search;
   b. In the absence of the lawful occupant, any member of his family should be the witness; and
   c. If no member of the family of the suspect or lawful occupant is available, then and only then may two (2) witnesses of sufficient age and discretion residing in the same locality be utilized as witnesses to the search.
4. Non-observance of the said hierarchy of witnesses invalidates the search and renders the property seized inadmissible in evidence.
5. However, for purposes of the security of the implementing law enforcers, even if the lawful occupant or a member of his/her family is utilized as the witness to the search, still, always bring at least two (2) witnesses.

6. The search must be made in the presence of the lawful occupant. If the lawful occupant is absent, the search can be made in the presence of any member of his family with sufficient age and discretion. In the absence of the lawful occupant or any member of his family, you may bring at least two (2) witnesses of sufficient age and discretion residing in the same locality. You may coordinate with and ask the local barangay officials to be witnesses. This will also help you negate charges of planting of evidence.

7. A detailed receipt of the seized property, including an accurate description of the condition and quantity of the items, must be given to the person who witnessed the search. If the lawful occupant or his relatives refuse to receive the receipt, the receipt must be left in the premises in the presence of the two witnesses. This will also help to negate accusations of theft or robbery and civil suit for damages.

8. Immediately deliver the seized property to the judge who issued the warrant, together with the inventory of seized items duly verified under oath. Failure to make a return of a search warrant that was not implemented or failure to deliver the seized items within ten (10) days from issuance of the search warrant constitutes contempt of court.

- Social workers, if there are victims in the premises to be searched;
- Video and still photographers;
- Specialist search team;
- Technical support team, in cases where use of information technology is suspected; and
- If relevant, an interpreter of the language of the suspect and victim.

It is also at this point that the LEA should consider inter-agency cooperation with DOLE and DSWD, and coordination with the local government unit. Consider the possibility of securing barangay officials as witnesses to the SSO.
Documents for Submission as Part of the Evidence

In every case where a search warrant has been issued and implemented, the law enforcement agency concerned must secure certified copies of the following documents for submission as part of the prosecution evidence, to wit:

- Search Warrant;
- Transcript of the Stenographic Notes (TSN) of the searching questions and answers during the examination of the complainant and his/her witnesses conducted by the issuing judge;
- Application for the issuance of warrant of arrest;
- Affidavits of the complainant and his/her witnesses;
- Inventory or detailed receipt of property seized during the implementation of the search warrant;
- Return of the search warrant; and
- Affidavit of orderly search.

Crime Scene Preservation and Evidence Collection

During the enforcement of the SW, the team must first secure the crime scene. Persons other than the lawful occupants and his family members must be removed from the premises because they may accidentally contaminate, tamper or destroy evidence.

The quality of the actual search is measured by the evidence collected and preserved which can be used in linking the suspects to the offense charged. Conviction can be secured as a result of real and documentary evidence found and seized during the SSO.

Be guided by the items listed in the SW. When there is doubt as to whether a particular item is relevant or material to the case and it is not listed, seize it. Be sure that the items seized are listed in the seizure/inventory receipt. If it is determined later that an item is not relevant or material, it can be returned to the owner.
The offense of trafficking is committed through a series of events and processes that spans a relatively long period of time ranging from several weeks, to months and even years. Thus, there is an increased possibility that the event has generated a large amount of evidentiary material. Take time to conduct a comprehensive and thorough search.
Video and photographs

Detailed video and photographs prove valuable points:

- That the search was conducted in a lawful and orderly manner;
- That the objects seized are in the same quality and condition as it was when presented in court; and
- As corroboration to the testimony of the witnesses presented in court.

The video and photographs must be taken prior to the conduct of the search to preserve the layout of the premises and location of the evidence. The position of some items can tell a better story when it is seen on film or picture rather than when it is merely described during testimony.

The person taking the video and/or photograph will need to authenticate the images taken. During the course of the trial, they will be called to testify as to whether or not the images captured on the film or photograph are the true and faithful representation of the actual scene.

Box 2: PRACTICAL GUIDELINES ON EVIDENCE COLLECTION AND PRESERVATION

1. Prepare an evidence collection checklist which must contain, at the minimum, the list of items on the search warrant.
2. Assess the premises vis-à-vis the checklist, including layout of the premises and location of cabinets, document holders, safety vaults, disturbed or disrupted objects or furniture, location and status of computers, computer printouts, etc.
3. Identify if there is a need to involve a special team to collect and preserve evidence. For example, the handling of computers and other technical equipment may need the presence of computer forensics specialists.
4. Photograph or videotape the premises before touching, moving or disrupting potential evidence.
Computers and Information Technology (IT) Equipment

Means of communication and recording business transactions often involve information and communication technology like desktop and laptop computers, small pocket sized personal organizers, mobile phones, pagers, answering machines, etc. These types of evidence require special handling because the evidence is not in the object itself but in the data which the equipment contains. Handle the equipment with caution because some may be sensitive that the data contained may be lost with improper handling.

It is important to note from whom and where these items were seized. For example, if the mobile phone of the owner of the premises search is confiscated, note this in the receipt so that the owner cannot deny possession of the cellular phone.

Where it is not possible to get the assistance of a computer forensic specialist, the search team should preserve the crime scene and equipment found therein.

5. Conduct a comprehensive, non-destructive search.
6. Avoid touching evidence with bare hands. Wear latex gloves. Fingerprints left by the suspect on the piece of evidence must not be contaminated or altered.
7. When in doubt if a particular item is relevant to the case, collect it.
8. Photograph each item as it originally appeared prior to collection of the evidence. Provide an indication of size or scale if appropriate.
9. Collect, properly package and mark all evidence.
10. Ensure the confidentiality of pornographic videos, photographs, negatives, digital recordings, etc. by placing them in a sealed container.
11. Turn-over the seized items to the evidence custodian.
12. Be conscious of the “chain of custody” because it will be necessary in authenticating the evidence in court.
**Box 3: PRACTICAL GUIDELINES ON PRESERVING CRIME SCENE WITH COMPUTERS AND OTHER INFORMATION TECHNOLOGY EQUIPMENT WHEN THE PRESENCE OF A COMPUTER FORENSIC SPECIALIST IS NOT YET POSSIBLE**

- Secure and take control of the area containing the suspected electronic media.
- Move individuals on the scene away from all computer equipment to ensure that no last minute changes or corruption to the data occurs.
- Conduct interviews of either the suspects or potential witnesses on the scene.
- Avoid switching the computer system on if it is turned off upon arrival. If the computer system is blank and the system is turned on, press one of the arrow keys in the keyboard to ensure that a screen saver is not active. If the monitor power is off, turn it on and photograph the monitor to show what was on screen upon arrival.
- Check if the system is connected to the internet or has network capabilities. If the system is networked, capture the volatile data contained in the system’s memory.
- After collection of volatile data, disconnect power from the rear of the machine and NOT from the wall outlet.
- Document the crime scene by taking photographs and drawing a sketch to determine measurements and exact distance of objects found therein.
- Label and tag all evidence found on the crime scene; label all connections to the computer system then place evidence tape over the drive and drive case.
- Package all equipment in anti-static bag and attach label to each piece of evidence.
- Before removing any item from the crime scene, fill out a chain of custody form to ensure that the evidence is properly tracked from one investigator to another.
- Search through all documentation to find passwords or other physical evidence that may pertain to the crime.
Warrantless Search and Seizure

It bears repeating that warrantless search and seizure operations (WSSO) are exceptions to the general rule. Operations falling within this exception will always be subject to more stringent procedures and scrutiny from the courts.

All WSSO must comply with the essential requisite of probable cause. In these instances, probable cause must only be based on reasonable ground of suspicion or belief that a crime is being committed, has been committed or is about to be committed. In several cases, the Supreme Court has held that a tip gathered from an informant has been sufficient to establish probable cause.

In addition to the existence of probable cause, there must be a sense of urgency or lack of reasonable time to apply for a SW. There are several instances when a WSSO may apply to TIP cases.

**Search Incident to a Lawful Arrest**

Under Sec. 13, Rule 126 of the Rules of Court, a person lawfully arrested with or without a warrant of arrest may be searched for dangerous weapons, or anything that may have been used in or that may constitute proof of the commission of an offense. The search must be made during the arrest, as the search is only incidental to the arrest. The search may include the premises or surroundings under his immediate control.

**Search of Moving Motor Vehicle**

A moving vehicle such as an automobile or shipping vessel can be lawfully searched without a warrant because it can easily be moved quickly out of the locality or jurisdiction in which warrant must be sought. However, there must still be probable cause, and an urgency to justify an immediate search.
This also applies to checkpoints. Under this exception, prior to the search, the investigator must have probable cause to believe that the motorist is a law offender or that they would find instruments of the crime or evidence pertaining to the commission of the crime in the vehicle to be searched. Absent such probable cause, search at a checkpoint is limited only to routine checks, which means that vehicle is neither searched nor its occupants subjected to body search and the inspection of the vehicle is merely visual.

Thus, a tipped information that a suspect is carrying or transferring, on board a motor vehicle, some contrabands or young ladies recruited for the purpose of sexual exploitation, forced labor, etc., constitutes sufficient probable cause for a conduct of a warrantless search of that vehicle in a checkpoint set up for the purpose.

**Seizure of Evidence in Plain View**

Objects in the plain view of an officer who has the right to be in a position to have that plain view are subject to seizure and may be presented as evidence. The “plain view” doctrine is applied where the police officer is not searching for evidence against the accused but nonetheless inadvertently comes upon an incriminating object.

The elements of a valid WSSO of evidence in plain view are: (a) a prior valid intrusion in which the police are legally present either in the pursuit of their official duties or any other valid or lawful reason to justify their presence; (b) the evidence was inadvertently discovered by the police who had the right to be where they are; (c) the evidence must be immediately apparent; and (d) “plain view” justified mere seizure of evidence without further search.

**Consented Warrantless Search**

When the investigator conducting the search has no right to do so, but the person subject to the search or occupying the premises to be searched consented, then there is a valid waiver.
However, mere silence or failure to object to the search should not be assumed as consent or waiver. To constitute a valid waiver, it must appear first that the right exists; secondly, that the person had knowledge, actual or constructive, of the existence of such right; and lastly, that said person had an actual intention to relinquish the right.

The person to be searched must be informed of his right and he must have the intention to waive such right. Such waiver may be made in writing by the person searched.

However, consent given under intimidating and coercive circumstances is not consent within the purview of the constitutional guarantee. Thus, the Court said that where the accused allowed members of the military to enter his premises, his consequent silence cannot be construed as voluntary submission or an implied acquiescence to a warrantless search and seizure when the raiding team members were intimidatingly numerous and heavily armed.4

Stop and Frisk

Stop and frisk is an act of a law enforcement officer to stop a person on the street, interrogate him and pat him for weapons or contraband. For this exception to apply, the person must be acting suspiciously.

In doing this search, the police should properly introduce himself and make initial inquiries, approach and restrain a person who manifests unusual and suspicious conduct, in order to check the latter’s outer clothing for possibly concealed weapon.5
In TIP cases, probable cause for an arrest would mean such facts and circumstances which would lead a sensible person to believe that a specific violation under RA 9208 has been committed and that the person to be arrested is probably guilty thereof. It must point to a specific offense and a specific offender.

**Arrest**

Arrest is the taking of a person into custody so he may answer charges for an offense. This may be made by actual restraint of the person or by his voluntary submission to the custody of the arresting officer.

All arrests must be based on probable cause. In establishing ‘probable cause’, the investigator deals with probabilities. It must be defined in relation to the circumstances of the intended arrest operation. In TIP cases, probable cause for an arrest would mean such facts and circumstances which would lead a sensible person to believe that a specific violation under RA 9208 has been committed and that the person to be arrested is probably guilty thereof. It must point to a specific offense and a specific offender.

Rule 113 of the Rules of Court lays down the requisites and procedures for the conduct of an arrest. Arrest may be made in two ways: first, with a warrant of arrest and second, through a valid warrantless arrest. A warrant of arrest (WA) can only be issued by a judge. It is directed to any law enforcement officer commanding him to arrest the accused and deliver the accused to the nearest police station or jail without unnecessary delay. (Rule 112, Sec. 6; Rule 113, Sec. 1 and 3, Rules of Court)
The warrant of arrest must contain the complete name or a particular description of the person to be arrested.

**Issuance of a Warrant of Arrest**

Within ten (10) days from filing of the information for violation of RA 9208, the judge will personally evaluate the resolution of the prosecutor and its supporting evidence. The judge may immediately issue the WA if he finds probable cause. If there is doubt as to the existence of probable cause, he may direct the prosecutor to present other additional evidence.

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**Box 4: PRACTICAL GUIDELINES ON SERVING A WARRANT OF ARREST**

1. Arrest may be made at any time of the day or night.
2. The person to be arrested must be informed of the cause of the arrest and the fact that a warrant of arrest has been issued.
3. Give the Miranda Warning at the soonest possible time. This should be included in the affidavit of the arresting officer.
4. Arrest may be made even if you do not have the warrant of arrest in possession at the time of the arrest. But it must be shown later.
5. No unnecessary force must be used upon the accused. Arresting officers must use peaceful means in the intervention, such as megaphones, whistles or other similar means. Warning shots are prohibited.
6. Use of firearms is justifiable only under the following circumstances:
   a. Doctrine of self-defense
   b. Defense of relative
   c. Defense of stranger, if the officer has probable cause to believe that the suspect poses an imminent danger of death or serious physical injury to the police or other persons
Service of the Warrant of Arrest

The warrant of arrest does not expire within ten (10) days from receipt of the apprehending officers. At the lapse of ten (10) days, the judge who issued the warrant of arrest must only be informed that the warrant has not yet been served.

Warrantless Arrest

A valid warrantless arrest (WLA) is the exception to the general rule. Under Section 5 or Rule 113 of the Rules of Court, there are only three exceptions when a peace officer or any private person, may arrest without a warrant, as follows:

• When, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense (arrest *in flagrante delicto*);
• When an offense has just been committed, and he has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it. This is known as the hot pursuit principle; and
• When the person to be arrested is a prisoner who has escaped from a penal establishment or a place where he is serving final judgment or temporarily confined while his case is pending, or has escaped while being transferred from one confinement to another (arrest of escaped prisoner).

According to Sec. 25 of the IRR of RA 9208, if the report of a possible trafficking in persons case involves an incident that is being committed at the local airport, seaport or land transportation terminal, the investigator shall immediately cause the interception and/or arrest of the suspect. These incidents fall within the purview of WLA because there is a high probability that they are in the process of transporting or transferring victims of trafficking.
Probable cause means an actual belief or reasonable grounds of suspicion. The grounds of suspicion are reasonable when, in the absence of actual belief of the arresting officers, the suspicion that the person to be arrested is probably guilty of committing the offense, is based on actual facts, \textit{i.e.}, supported by circumstances sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested.

This is also true of incidents in international airports and seaports. According to Sec. 24 of the said IRR, if the incident involves an offense that has been committed, or is actually being committed in the presence of an Immigration Officer, the officer can immediately effect a valid warrantless arrest. This incident falls within the arrest \textit{in flagrante delicto}.

\textbf{\textit{In flagrante delicto} exception}

The Supreme Court has held that in cases of \textit{in flagrante delicto} arrests, a peace officer or a private person may, without a warrant, arrest a person when, in his presence, the person to be arrested has committed, is actually committing, or is attempting to commit an offense. The arresting officer, therefore, must have personal knowledge of such fact or, as recent case law advertsto, personal knowledge of facts or circumstances convincingly indicative or constitutive of probable cause.\textsuperscript{6}

Probable cause means an actual belief or reasonable grounds of suspicion. The grounds of suspicion are reasonable when, in the absence of actual belief of the arresting officers, the suspicion that the person to be arrested is probably guilty of committing the offense, is based on actual facts, \textit{i.e.}, supported by circumstances
sufficiently strong in themselves to create the probable cause of guilt of the person to be arrested. A reasonable suspicion therefore must be founded on probable cause, coupled with good faith on the part of the peace officers making the arrest.\(^7\)

As applied to *in flagrante delicto* arrests, it is settled that “reliable information” alone, absent any overt act indicative of a felonious enterprise in the presence and within the view of the arresting officers, are not sufficient to constitute probable cause that would justify an *in flagrante delicto* arrest.\(^8\)

The *in flagrante delicto* exception has also been used to justify entrapment operations. The most common example is the buy-bust operation used in drug trafficking cases. The same principles can also apply to TIP cases where investigators can, for instance, act as “poseur customer” in a bar or brothel using trafficked persons for prostitution or other forms of exploitation.

In valid entrapment operations, the criminal intent to commit the offense originates in the mind of the offender. In these cases, a person acts as a decoy and merely furnishes the offender an opportunity to commit the offense, in the presence of the investigators.

While the law has recognized the validity of entrapment operations vis-à-vis the illegality of instigation, entrapment operations must not be violative of the human
Box 5: PRACTICAL GUIDELINES
RE: IN FLAGRANTE DELICTO ARREST

To determine if the case falls within the *in flagrante delicto* rule, answer the following questions:

Q: *Has the suspect done an observable or overt act indicating that he has committed, is actually committing, or is attempting to commit an offense?*

Q: *Is the act done in the presence or within the view of the arresting officer?*

If the answers to these questions are “yes”, then a warrantless arrest may be conducted. However, under this rule, it is not enough that the suspect exhibits unusual or strange acts or simply appears to be suspicious. Overt physical act positively showing that he has just committed, was committing or attempting to commit trafficking in persons must be present. Thus, the Supreme Court in a long line of cases consistently held that constant or rapid movement of the person’s eyes does not justify a warrantless arrest.

For example, if an immigration officer observes that several women are being escorted within the international airport and upon inquiry, they are not in possession of their travel documents, an inquiry as to who possesses the documents and immediate arrest of such person will fall within the *in flagrante delicto* rule.

rights of the trafficked victims. Entrapment operations in TIP cases should not, however, involve the actual/direct use of the trafficked person by the officer, i.e., for actual sexual act to prove that the trafficked person is indeed exploited in prostitution.

It is also advised that prior case build-up or surveillance is made prior to the conduct of an entrapment operation.

**Hot pursuit exception**

The second exception to warrantless arrests is the theory of hot pursuit. This involves an incident where an offense has just been committed, and the arresting officer has probable cause to believe based on personal knowledge of facts or circumstances that the person to be arrested has committed it.
Under the hot pursuit exception, the arresting officer was not present when the offense was committed. Applied to TIP cases, the arresting officer discovers that a violation of RA 9208 has just been committed, and he gains personal knowledge of facts or circumstances that the person to be arrested committed the violation.

“Personal knowledge” of the arresting officer is derived from the sense or perception of the arresting officer.  

However, the Supreme Court has held that an arrest based on the knowledge derived by the arresting officer from his investigation and the testimony of witnesses is valid.

Contact with Victims/Survivors of Trafficking

If the reporting party is a victim, it is crucial for the LEA to determine the appropriate course of action under the circumstances. The victim is the most valuable asset to

Box 6: PRACTICAL GUIDELINES RE: HOT PURSUIT RULE

To determine if the case falls within the hot pursuit rule, answer the following questions:

Q: Has a possible violation of RA 9208 just been committed?
Q: Does the arresting officer have probable cause to believe based on his personal knowledge of facts or circumstances that the person to be arrested committed such violation?

If the answers to these questions are “yes”, warrantless arrest following the hot pursuit rule may be made. The longest that the Supreme Court has allowed under the phrase “has just been committed” is 12 hours after the commission of the crime (People v. Sinoc, 275 SCRA 357, 1997). It nullified an arrest made after
the anti-trafficking investigator. However, the victim cannot be legally required to provide evidence or compelled to become a witness. This can lead to further re-victimization. The investigator must gain the trust of the victim and create conditions wherein the victim feels free to cooperate with the authorities.

Principles in the Treatment of a Victim/Survivor of Trafficking

Investigators should be guided by the following humanitarian principles in the treatment of a victim/survivor of trafficking:

- A trafficked person should be treated as a victim of a serious crime and must not be treated as an offender. He/she should not be penalized for crimes that he/she may have committed that are directly related to the acts of trafficking enumerated in RA 9208 or committed in obedience to the order made by the trafficker in relation thereto. To treat him/her otherwise would be an act of re-victimization that can be detrimental to the recovery of the victim.

19 hours (People v. Manlulu, 231 SCRA 701, 1994). Therefore, a warrantless arrest made within 12 hours is legally permissible under the hot pursuit rule. If the warrantless arrest is made between the 12th and 19th hour, the legality is debatable. However, since TIP is a continuing offense, the “hot pursuit” doctrine could always apply anytime a tip information is received that TIP is being committed or has been committed.

However, as a practical suggestion, an eyewitness or victim must accompany the arresting officer during the arrest. At the very least, material or physical evidence must be found linking the person to be arrested to the crime. This would ensure that the arrest is not based on mere suspicion arising from hearsay evidence. For example, if a victim reports that she had escaped 6 hours ago from a person who is about to traffic other victims to Japan through the NAIA, the officer can coordinate with the Bureau of Immigration to intercept the offenders at the airport with the assistance of the victim to identify the trafficker.
Box 7: PRACTICAL GUIDELINES TO ENSURE AN ATMOSPHERE OF TRUST AND RESPECT WITH VICTIM DURING INITIAL CONTACT OR INTERVIEW

- Talk to her in a place where there is privacy. Make her safety a priority.
- Guard against unnecessary exposure of the victim.
- Make proper introduction of yourself.
- Assure her that any information that she will give will be kept confidential. Respect her if she chooses not to put any information on the record.
- Allow her to tell her story and verbalize her feelings at her own pace.
- Give her your undivided attention and make her feel important.
- Assure her that you believe her. Listen actively to her story.
- Validate her feelings and experience. Let her know that she is not to be blamed for what had happened to her. Help her direct the responsibility to her abuser.
- Keep your message clear and simple.
- Reassure her that seeking help is a positive step she had taken. Respect her timing and ability to digest new information you have provided.
- Help her recognize her inner strength.
- Give her realistic feedback on what she has told you.
- Respect and support whatever actions she will make after the session, depending on your agency’s mandate.
- Avoid sounding judgmental.
- Talk to her and her significant others with sensitivity.
- Share information on the issue.
- Work at reducing her level of anxiety to allow rationale decision.
- Do not try to gain information that is not relevant for the provision of immediate help. Do not open topics that belong to specialists in the field of psychology and psychotherapy.

Sources: Coalition Against Trafficking in Women (CATW), Gender Sensitive and Child friendly Investigation; International Organization for Migration (IOM), Return and Reintegration Programmes for Trafficked Persons.
• The safety of the victim, immediate family and loved ones and their protection against reprisals from the offender are the direct responsibility of the LEA.
• The investigator has a duty to be honest at all times with the victim/survivor so that he/she is made fully aware of the situation and the potential consequences and risks of cooperating with the prosecution of the case.
• The investigator has a duty to inform the victim/survivor of, and refer him/her to, all available support measures and services. This duty is not dependent on the victim/survivor’s willingness to cooperate with the prosecution of the case.
• The investigator has the duty to respect the decision of the victim as to whether or not she will cooperate and become a witness for the prosecution.

These basic human rights principles and responses represent sound common sense and good practices for securing long term cooperation of the victims in the investigation and prosecution of the case. Disregard for these principles can lead to a situation where the victim who initially decides to become a witness would subsequently lose interest in pursuing the case or be uncooperative or alter his/her testimony during trial.

**Victim as a Witness**

There are generally three (3) categories of trafficking victims that LEA may come into contact with:

- **1st category**: Victim who can be a source of intelligence but is not willing to cooperate in prosecution;
- **2nd category**: Victim who is willing to become a witness in the prosecution of the case; and
- **3rd category**: Victim who is hostile and not willing to provide any information or cooperation.
Thus, more efforts should be directed towards encouraging and supporting the first two categories of victims to become witnesses. Guided by the above-stated principles in the treatment of victims of trafficking in persons, the investigator, officer or agent must take the following practical steps:

**Secure the safety of the victim, family and loved ones.**

Honesty, gender-sensitivity, reassurance and explanations are key factors to consider in securing the safety of the victim. The victims know their traffickers and what they are capable of better than anyone else. Do not dismiss or minimize the risks, especially if the LEA cannot guarantee the safety and protection of victims against reprisals.

In cases where threats to the immediate family and loved ones are made, the LEA must ask for local police cooperation. Victims are more willing to cooperate when protection is extended to other persons who may be used as leverage by the trafficker against the victim.

In case of need of protection, LEA should assist the victims in accessing the Witness Protection and Benefits Program under Republic Act No. 6981 of the Department of Justice where under RA 9208, trafficked persons should be given preferential entitlement.\(^2\)

**Protect the victim from public exposure.**

The victim and the offender have the right to privacy.\(^3\) The name and personal circumstances must not be disclosed to the public. This should be respected at all stages of the investigation, prosecution and trial. As a general rule, all efforts must be exerted to conduct closed-door investigations.

In cases where media exposure is likely, it is the duty of the investigator to warn media practitioners, especially reporters, that violation of confidentiality is punishable under Sec. 7, in relation to Sec. 10 (d) of RA 9208.
Provide and assist victims in accessing immediate medical care and other support services, such as temporary shelter, food and clothing

Appropriately addressing the needs of trafficked persons will result in better cooperation of the victims and ultimately improve the quality of information and evidence that may be gathered from them. The investigator should, therefore, get in touch with the relevant government agency or non-government organization operating within the area to provide the necessary support services.

If the victim exhibits any need for immediate medical attention, it is the duty of the investigator to assist her in getting access to medical services. The nearest regional office of the DSWD or the local social welfare office of the city or municipality should be informed about the presence of the victim who may provide the victims the needed assistance. The investigator should provide security advice to the organization or agency that will provide temporary shelter to the victim.

Obtain the victim-witness evidence

Obtaining the testimony of the victim is crucial in trafficking in persons cases. A detailed account relayed by the victim can be the basis of the Sworn Statement and the Complaint-Affidavit. Care must be taken in recording the testimonial evidence. The Interview Guide found in Annex “A” may be used by the investigator to help him/her secure a well-prepared statement of the victim. It should also be borne in mind that the testimony of a child, even if hearsay, is admissible.
The Sworn Statement

The preparation of the sworn statement of the victim and/or witnesses will be based on the interview conducted with them. Bear in mind that the sworn statement must contain the specific elements of the offense committed. The investigator must include as much details in the sworn statement to aid the prosecutor in the determination of the offense/s to be charged in the information.

Every sworn statement must contain the “who”, “what”, “when”, “where” and “how” of the particular event. This basic guide is also used in the preparation of sworn statements for TIP cases.

The “who” is important to determine the parties involved in the reported incident. The sworn statement must include the names including known aliases, description and personal circumstances of the victim, complainant and the alleged offenders, and other parties who may be involved in the trafficking of the victim.

The “what” and “how” are important because it will contain the elements of the specific offenses. In TIP cases, this information can supply the facts to show the punishable act/s, the means of execution and the exploitative purpose.

Ordinarily, the “when” or the time of commission is relevant in determining whether

Every sworn statement must contain the “who”, “what”, “when”, “where” and “how” of the particular event. This basic guide is also used in the preparation of sworn statements for TIP cases.
the offense has prescribed or not. However, in TIP, prescription starts to run after
the trafficked person is delivered or released from the conditions of bondage. Citing the specific dates and time of commission of the offense can also help to
prove the accuracy of the narration of the events by the witness.

The “where” or establishing the place of commission or the actual residence of
the trafficked person at the time of the commission of the crime is important
to determine the jurisdiction of the investigating prosecutor to investigate the
charges and court to try the case, as well as the proper venue for the filing of the
criminal action.

The sworn statement must contain statements of fact/s and not conclusions of law. For example, the statement that “the victim is a minor” is a conclusion of law. It is more proper to state the exact age of the victim because that is a statement of fact.

ENDNOTES

1 People v. Tangliben, 184 SCRA 220 [1990]; People v. Malmstedt 198 SCRA 401 [1991], People v.
Bagista, 214 SCRA 63 [1992]
2 People v Aminnudin, 163 SCRA 402, [1988]; People v. Aruta G.R. No. 120915, [April 3, 1998]
3 Anig v. Disierto, 237 SCRA 424
4 People v. Compacion, 361 SCRA 540
6 People v. Chua Ho San, 308 SCRA 432 [1999]
7 People v. Doria, 301 SCRA668 [1999]
8 People v. Aminnudin, supra
9 People v. Rosario, 305 SCRA 740 [1999]
10 People v. Posadas, 342 SCRA 388 [2000]
11 Sec. 17, RA 9208
12 Sec. 18, RA 9208
13 Sec. 7, RA 9208
The Department of Justice (DOJ) is the national prosecution arm of the government. As such, it is mandated to ensure the prosecution of persons who violate the provisions of RA 9208. In keeping with the said mandate, the Secretary of Justice has created the DOJ Task Force Against Trafficking in Persons composed of prosecutors in the National Capital Region and selected hotspots around the country. The task force is principally tasked to investigate and prosecute TIP cases.

Generally, the tasks of the prosecutors in the investigation and prosecution of TIP cases, just like in other criminal cases, begin from the time a complaint for violation of RA 9208 is filed for inquest or preliminary investigation and end when the Court has promulgated judgment in the said case.
The task is by no means without obstacles. RA 9208 is relatively new. In the absence of applicable jurisprudence, the law is still susceptible to varied interpretations. Moreover, there are basic principles in constitutional and criminal law that work in favor of the accused. For example, in cases where there is ambiguity in the law, penal laws are liberally construed in favor of the offender. However, prosecutors may invoke the spirit and reason of RA 9208 which is to afford special protection for women and children against violence and exploitation.

Prosecutors should also understand that they play a critical role in the protection of the rights and the promotion of the welfare of trafficked persons. They must ensure that the rights of trafficked persons are protected and respected throughout the judicial process. The special considerations required for trafficked persons, especially those established for children victims, should not be seen as diminishing the right of the accused to a fair trial but rather to enhance the overall goal of ensuring justice.

To ensure the effective law enforcement and prosecution of TIP cases, prosecutors have been designated as members of the local law enforcement task forces to be created at airports, seaports and land transportation terminals. The involvement of prosecutors in the said task forces will facilitate healthy exchange of information with law enforcers towards increased and improved investigation of TIP cases. Law enforcers may be able to consult prosecutors on law enforcement issues; on the other hand, prosecutors may provide legal advice on matters regarding the enforcement of RA 9208 to law enforcers so as to facilitate successful prosecution of TIP cases.

The succeeding outlined procedures are based on RA 9208 and its Implementing Rules and Regulations, the Revised Rules of Court and the DOJ National Prosecution Service (NPS) Manual for Prosecutors. Special focus is given to inquest and preliminary investigation proceedings because of the relative novelty of RA 9208 and the crucial role that prosecutors play during this stage of the criminal action.
Institution of the Criminal Action

A criminal action for violation of RA 9208 is generally commenced by the filing of a complaint for the purpose of inquest or preliminary investigation with the National Prosecution Service/City/Provincial Prosecution Office. Under the amended Rule 112 of the Revised Rules of Criminal Procedures, the law enforcer or agent, for purposes of preliminary investigation, may no longer file the complaint with the Municipal Trial Court or Municipal Circuit Trial Court since these courts are no longer authorized to conduct preliminary investigation. The complaint, however, may be filed directly with the Regional Trial Court in inquest cases where no prosecutor is immediately available for the conduct of the inquest proceedings to avoid violation of Article 125 of the Revised Penal Code (RPC).

With the creation of the DOJ Task Force Against Trafficking in Persons, cases involving violations of RA 9208 must be assigned to the members of the Task Force.

Prescription of the Offense

The filing of the complaint has the effect of interrupting the prescriptive period for the prosecution of the criminal action against trafficking in persons. According to Sec. 12 of RA 9208, trafficking cases shall prescribe in ten (10) years. In cases where the offense is qualified because it is committed by a syndicate or in large scale as defined under Sec. 6 thereof, the case shall prescribe in twenty (20) years.

The prescriptive period shall commence to run from the day the trafficked person is delivered or released from the conditions of bondage. It commences to run again when the criminal action terminates with the accused being convicted or acquitted or unjustifiably stopped for any reason not imputable to the accused. Prescription shall not run when the offender is absent from the country.
Jurisdiction Over the Offense of TIP

Except for violations of Sections 7 (Violation of Confidentiality) and 11 (Use of Trafficked Persons) of RA 9208, the jurisdiction to hear and decide criminal actions for violation of the said law lies with the Regional Trial Court.

Venue

In criminal cases, venue is jurisdictional. The complainant and the prosecutors have several options where criminal action for violation of RA 9208 can be filed. The venue for the filing can either be:

- Where the offense was committed;
- Where any of its elements occurred; or
- Where the trafficked person actually resides at the time of the commission of the offense.

The complainant and the prosecutors should exercise prudence and thoroughly consider the choice of venue. Victims are usually trafficked or recruited from their place of origin or residence; pass through a transit area or location or several transit points; and end up in a destination where they are exploited or intended to be exploited. Any of these places may be the venue of the criminal action.

There are some circumstances which may make the prosecution of the case difficult because of the unsuitable choice of venue. Several factors have to be considered in determining the place where the case will be filed, as follows:

- Existence of threat to the safety and security of the victim and witnesses;
- The availability of programs and support services for the victim;
- The availability and accessibility of the witnesses to attend the trial; and
- The availability of resources for incidental expenses to support the trial (i.e. transportation and travel expenses for the witnesses, etc.)
If the investigating prosecutor believes that the case should be filed before a court outside the investigating prosecutor’s jurisdiction, then he/she should, as far as practicable, refrain from making any findings on the merits of the case and refer the case to the particular prosecution office that will handle the trial of the case. In that regard, the prosecutor who will subsequently handle the case will have better appreciation of the facts and circumstances surrounding the case.

The prosecutor who originally received the case should, however, bear in mind that the decision on whether or not the case shall be referred to another prosecution office should be done prior to the filing of the information. Once the criminal action is filed, the court acquires jurisdiction to the exclusion of other courts. Any change in venue of the trial is then a matter that should be addressed before the Supreme Court pursuant to its powers under the Constitution.⁵

**The Complaint**

According to Sec. 8 of RA 9208, a complaint for violation of the Act can be filed by any one of the following:

- Any person who has personal knowledge of the commission of any offense under the Act;
- The trafficked person; or
- The parents, spouse, siblings, children or legal guardian of the trafficked person.

The filing need not follow the hierarchy. If the case is filed in relation to RA 7610, other persons can also initiate the complaint in accordance with Sec. 27, Article XI, thereof.⁶

In addition to the above-mentioned persons, law enforcement agencies tasked to enforce RA 9208 can also file the complaint because the offense is not a private crime but a public crime and, therefore, violation of the said law is a crime against the State.
As long as the law enforcement agencies can produce a witness who has personal knowledge of the commission of any offense under the Act and executes his/her sworn statement or affidavit, the criminal action can already be initiated; as such, the affidavit is legally considered a complaint by itself and is deemed compliance with the requirement under Sec. 8 of RA 9208. Possible witnesses can include:

- The investigator, agent or officer who conducted the surveillance and investigation who gained personal knowledge of the violation;
- A victim, and his or her relative who may be willing to be called as witness for the State; and
- An offender, as a state witness, either under Rule 119 of the Rules of Court or under the Witness Protection and Benefits Program.

**Sufficiency of complaint or information**

A complaint or information for violation of RA 9208 is considered sufficient if it states:

- The full and complete name and exact home, office or postal addresses of the complainant and his/her witnesses
- The full and complete name and exact home, office or postal addresses of respondents, including any nickname by which he/she is known; if the name is not known, the fictitious name of “Jane Doe” or “John Doe” may be used
- A reference of the section or subsection of RA 9208 violated (e.g. Violation of Section 4(a) of RA 9208)
- The act or omission complained of which will correspond to the elements of the specific violation charged
- The approximate date and time of the commission of the offense
- The place where the offense was committed which must be adequate to show that the violation was committed or some of the acts constituting the violation occurred at some place within the jurisdiction of the court
The prosecutor may or may not specify the amount of damages suffered and/or incurred by the victim in the information. Thus, the phrase “to the damage and prejudice” of the complainant may suffice to indicate that the prosecution will prove the civil aspect of the case.

- All qualifying circumstances that may be present as enumerated in Sec. 6 of RA 9208
- Allegations of conspiracy, whenever applicable

**Institution of Civil Action**

The civil action arising from the offense is deemed impliedly instituted with the filing of the criminal action. The prosecutor should endeavor to inform the victims and their family about it. The prosecutor should likewise explain other legal options to prosecute the civil aspect of the case including their consequences. These options include waiving the civil action, or reserving the right to institute it separately, or instituting the civil action prior to the criminal action. Sec. 13 of RA 9208 exempts the trafficked persons from the payment of filing fees when the recovery of civil damages is separately instituted from the criminal action.

The victims should also be informed that they have the option to engage the services of a private counsel to prove the civil aspects of the case simultaneously with the criminal action.
The prosecutor may or may not specify the amount of damages suffered and/or incurred by the victim in the information. Thus, the phrase “to the damage and prejudice” of the complainant may suffice to indicate that the prosecution will prove the civil aspect of the case.

Inquest

In cases where an accused is validly arrested without a warrant, an inquest proceeding will be conducted by the prosecutor to determine whether the detained person should remain under custody and correspondingly be charged in court.

Commencement and Termination

The inquest proceedings begin from the moment the inquest officer receives the complaint or referral documents from the law enforcement authorities. The following documents must accompany the complaint/referral document:

- Affidavit of the arresting officers;
- Investigation report;
- Sworn statement of the complainant and/or witnesses; and
- Other supporting pieces of evidence gathered by the police in the course of the law enforcement agencies’ investigation of the violation of RA 9208.

The inquest officer must require the presence of the arresting officers and the arrested/detained person during the proceedings.

Depending upon the offense charged and the imposable penalty attached thereto, the inquest must be terminated and the information filed within the periods indicated in Table 8 below.
### Table 7. Period of Inquest vis-à-vis specific trafficking offense

<table>
<thead>
<tr>
<th>Offense Charged</th>
<th>Imposable Penalty</th>
<th>Period for Inquest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sec. 4 - Acts of trafficking in persons</td>
<td>Imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00)</td>
<td>36 hours</td>
</tr>
<tr>
<td>Sec. 5 – Acts that promote trafficking in persons Imprisonment of fifteen</td>
<td>(15) years and a fine of not less than Five hundred thousand (P500,000.00) but not more than One million pesos (P1,000,000.00).</td>
<td>36 hours</td>
</tr>
<tr>
<td>Sec. 6 – Qualified trafficking in persons Life imprisonment</td>
<td>and a fine of not less than Two million pesos (P2,000,000.00) but not more than Five million pesos (P5,000,000.00)</td>
<td>36 hours</td>
</tr>
<tr>
<td>Sec. 7 – Violation of confidentiality</td>
<td>Imprisonment of six (6) years and a fine of not less than Five hundred thousand (P500,000.00) but not more than One million pesos (P1,000,000.00)</td>
<td>18 hours</td>
</tr>
<tr>
<td>Sec. 11 – Use of trafficked persons</td>
<td>Six (6) months of community service and a fine of Fifty thousand pesos (P50,000.00) for the first offense. Imprisonment of one (1) year and a fine of One hundred thousand pesos (P100,000.00) for second and subsequent offenses</td>
<td>12 hours 18 hours</td>
</tr>
</tbody>
</table>
Initial duty of Inquest officer

The inquest officer must first determine if the WARRANTLESS ARREST was properly conducted or made in accordance with Sec. 5 (a) and (b) of Rule 113 of the Rules of Court.

When the arrest is not properly effected, the inquest officer will:

• Recommend the release of the person arrested or detained;
• Note down the disposition on the referral document;
• Prepare a brief memorandum indicating the reasons for the action taken; and
• Forward the memorandum, together with the records of the case, to the Chief State Prosecutor or City/Provincial Prosecutor, as the case may be, for appropriate action.

Where the recommendation for the release of the detained person is approved by the Chief State Prosecutor or City/Provincial Prosecutor but the evidence on hand warrants the conduct of a regular preliminary investigation, the inquest officer shall:

• Cause the Order of Release to be served upon the law enforcement officer having custody of the arrested person; and
• Direct the said officer to serve upon the detainee the subpoena or notice of preliminary investigation, together with the copies of the charge sheet or complaint, affidavits or sworn statements of the complainants and his witnesses and other supporting documents.

When the arrest is properly effected, the inquest officer will ask the detained person if he wants to avail of a preliminary investigation. If the detained person chooses to avail himself/herself of the preliminary investigation, he/she shall execute a waiver of the provisions of Article 125 of the RPC. During the execution of the waiver, the detained person must be assisted by counsel and, in case of non-availability of counsel, a responsible person of his/her choice. The preliminary investigation must be terminated within fifteen (15) days.
Inquest proper

Where the detained person does not opt for a preliminary investigation or refuses to execute the waiver, the inquest officer will proceed to determine the existence of probable cause for the filing of information in the court.

In determining probable cause, the inquest officer will conduct a summary and informal investigation to determine if a violation of RA 9208 has been committed and whether the detained person is probably guilty thereof. If there is a finding of probable cause, the inquest officer will:

- Prepare the information with the recommendation that the same be filed in court;
- Recommend the amount for bail, if any; and
- Forward the records of the case and the prepared information to the Chief State Prosecutor or City/Provincial Prosecutor, as the case may be, for appropriate action.

If the Chief State Prosecutor or City/Provincial Prosecutor approves the recommendation for the filing of the information in court, the information may be filed by the inquest officer himself or by any Assistant Prosecutor to whom the case may be assigned by the Chief State Prosecutor or City/Provincial Prosecutor. If there is no finding of probable cause, the inquest officer will:

- Recommend the release of the person arrested or detained;
- Note down the disposition on the referral document;
- Prepare a brief memorandum indicating the reasons for the action taken; and
- Forward the memorandum, together with the records of the case, to the Chief State Prosecutor or City/Provincial Prosecutor, as the case may be, for appropriate action.
Where the recommendation of the inquest officer for the release of the detained person is approved by the Chief State Prosecutor or City/Provincial Prosecutor, he shall cause the Order of Release to be served upon the law enforcement officer having custody of the arrested person.

Where the recommendation of the inquest officer for the release of the detained person is disapproved, the detained person will remain in custody and the prosecutor assigned to the case shall file the corresponding information for violation of RA 9208.

**Recovered Evidence**

The inquest officer must also see to it that the evidence recovered by the law enforcement officers at the time of the arrest are inventoried, checked and accounted for with the issuance of corresponding receipts.

The inquest officer must direct the law enforcement officer to deposit the same with the evidence custodian and ensure that the chain of custody is properly recorded.

**Preliminary Investigation**

Preliminary investigation proceedings for violation of RA 9208 may be conducted by the City or Provincial Prosecutor and their assistants, National and Regional State Prosecutors and members of the DOJ Task Force Against Trafficking. As a general rule, a person accused of any violation of RA 9208 is entitled to a preliminary investigation, as a matter of right, prior to or at least at the time of plea. The exception is when the offense charged is for violation of Sec. 11 or Use of Trafficked Persons. In this case, the detained person cannot invoke the right to a preliminary investigation. If the complaint is filed directly with the Prosecutor, the Prosecutor will act on the complaint based on the affidavits and supporting
documents submitted by the complainant within 10 days from its filing and determine the existence of probable cause.

**Commencement and Termination**

A preliminary investigation for violation of RA 9208 is commenced through any of the following processes:

- The filing of the complaint, accompanied by affidavits of the complainant and witnesses;
- Request of the person detained pursuant to a warrantless arrest who executes a waiver of the provisions of Article 125 of the RPC; or
- By order or upon directive of the Court.

Cases of RA 9208 under preliminary investigation must be terminated and resolved within 60-90 days from commencement of the preliminary investigation. Pursuant to DOJ Circular No. 18, dated April 12, 2005, cases of trafficking in persons shall be given preferential attention, and should, therefore, be investigated and resolved within the periods indicated in the Revised Rules of Criminal Procedures (see Annex B).

Within ten (10) days from the filing of the complaint, the Investigating Prosecutor shall either dismiss the same if he finds no ground to continue with the inquiry. The Investigating Prosecutor can dismiss the complaint on the following grounds:

- The offense has prescribed;
- The acts and/or omissions alleged in the complaint and/or the supporting affidavits do not sufficiently show that a violation of RA 9208 or any other violation of a penal law has been committed; or
- The complaint and supporting affidavits are not duly subscribed and sworn to, despite due notices to affiants for the purpose.
If the offense is committed outside the territorial jurisdiction of the office of the investigating prosecutor, the prosecutor should not dismiss the complaint but refer it to the proper prosecution office.

If grounds exist to continue with the inquiry, the Investigating Prosecutor shall issue a subpoena to the alleged offender, attaching a copy of the complaint together with affidavits of witnesses and other supporting documents that will require the respondent to file within ten (10) days from receipt of the subpoena, his counter-affidavit and other supporting documents which shall be sworn to and/or certified. The counter-affidavit and other supporting documents must be furnished by the respondent to the complainant.

To dispute the allegations in the complaint, the counter-affidavit must be personally subscribed and sworn to by the respondent. A memorandum, manifestation or motion to dismiss signed by respondent’s counsel cannot take the place of a counter-affidavit.

Where the offender cannot be subpoenaed, as, for instance, he cannot be located because he moved to another address and did not leave any forwarding address, the Investigating Prosecutor can base his resolution on the evidence presented by the complainant.

**Clarificatory Hearing**

The Investigating Prosecutor can conduct a clarificatory hearing and require the parties and their witnesses to attend. During the hearing, the parties will be required to be present but will not be allowed to propound questions directed to the other party. However, either party can submit written questions to the Investigating Prosecutor who can propound the questions to the other party and its witnesses. During the clarificatory hearing, the prosecutor must clarify the full story. He/she may use the Interview Guide in Annex “A” for possible clarificatory questions.
FLOWCHART 1:
INQUEST PROCEEDINGS

The presence of the Arresting Officers and the arrested person must be required.

A Complaint/Referral document is filed involving a person arrested without a warrant.

Other documents:
- Affidavit of Arresting Officer
- Investigation report
- Statement of Complainant/Witnesses
- Other supporting evidence gathered during investigation

Order release of detained person but if evidence warrants the conduct of a regular preliminary investigation, prepare subpoena and notice of preliminary investigation.

Is the arrest a valid warrantless arrest?

Order the release of the detained person

Is there probable cause?

YES

YES

Prepare the information for filing in the Court

NO

NO

YES

Does the detained person desire to avail of a preliminary investigation and execute waiver of the provisions of Art.125, RPC?

YES

NO

YES

NO

Conduct regular preliminary investigation within 15 days

YES

NO
The Investigating Prosecutor shall make a record of the questions asked and answers given during the clarificatory hearing. The records will be signed by the parties and their respective counsels. The notes shall form part of the official records of the case. Parties who desire to file a petition for review of the Investigating Prosecutor’s resolution may cite specific portions of the oral testimony by the transcript of stenographic notes. Said notes shall only be transcribed in cases of appeal and shall be obtained at the expense of the interested party.

During the clarificatory hearing, the Investigating Prosecutor, whenever necessary to ensure a fair and impartial proceeding and after considering all circumstances for the best interest of the parties, order a closed-door investigation or hearing. The prosecutor should not disclose to the public the names and personal circumstances of the trafficked person or of the accused, or any other information tending to establish the identities of the parties.” The prosecutor should also endeavor to prevent any undue harassment of the victim by the respondent.

Pursuant to DOJ Circular No. 18, dated April 12, 2005, cases of trafficking in persons shall be given preferential attention, and should, therefore, be investigated and resolved within the periods indicated in the Revised Rules of Criminal Procedures.
Resolution

The case is deemed submitted for resolution, under the following circumstances:

- Where the offender cannot be subpoenaed, as, for instance, he cannot be located because he moved to another address and did not leave any forwarding address, the Investigating Prosecutor can base his resolution on the evidence presented by the complainant; or
- Upon submission by the parties of their respective affidavits and supporting documents and evidence.

The Investigating Prosecutor will then determine the existence of probable cause. If there is no probable cause, the Investigating Prosecutor will prepare the resolution recommending the dismissal of the complaint. If there is a finding of probable cause, the Investigating Prosecutor will prepare the resolution and the corresponding information.

The Investigating Prosecutor should include a detailed discussion, analysis and evaluation of the existence or non-existence of the elements of TIP, the qualifying circumstances and imposable penalties. Furthermore, if the case involves a juridical person, the prosecutor’s resolution may include discussion on and recommendation for the cancellation and/or revocation of the license to operate. It may also include a discussion on the possible dismissal and permanent disqualification to hold public office in cases where the alleged offender is an employee or official of a government agency; or if the alleged offender is a foreigner, that he/she can be deported after serving sentence and permanently barred from entering the Philippines. Mention of these matters in the prosecutor’s resolution could help remind the court to include them in its decision in case of conviction of the offender. The resolution should also include a discussion on the jurisdiction and venue.
Information

The information shall be directly prepared by the Investigating Prosecutor and should state and contain the following:

- The given name and surname of the respondents, including any nickname by which he/she is known. If the name is not known, the fictitious name of “Jane Doe” or “John Doe” may be used, and the address/es;
- A specific reference of the paragraph, section or subsection of the RA 9208 violated, including the qualifying circumstances;
- The act or omission complained of which will correspond to the elements of the specific violation charged;
- The approximate time of the commission of the offense to include date of release from bondage;
- The place where the offense was committed, where any of its elements occurred, and in a proper case, where the trafficked person actually resides at the time of the commission of the offense which must be adequate to show that the court has jurisdiction to try the case;
- The name and addresses of the complainant and witnesses, and if a child, the name and address of the parents or legal guardian of the child;
- The name and address of the evidence custodian; and
- The amount of bail recommended.

The information can be filed only against natural persons. Thus, if the offender is a corporation, partnership, association, club, establishment or any juridical person, the information should charge against the owner, president, partner, manager and any responsible officer who participated in the commission of the crime or who knowingly permitted or failed to prevent its commission.

The Information should be accompanied by the resolution of the Investigating Prosecutor and the complainant’s affidavit, the sworn statement of the prosecution’s witnesses, the respondent’s counter-affidavit and the sworn statement of his witnesses.
and other pieces of evidence taken into account in arriving at a determination of the existence of probable cause. To avoid any technicality which may become a ground for a Motion for Bill of Particulars, the Investigating Prosecutor should also cite in the caption and preamble of the information the specific paragraph and/or provision of RA 9208 under which the accused is being charged.

**Affidavit of Desistance**

The execution of an Affidavit of Desistance by the victim or the relatives is a common tactical defense employed by traffickers. In a number of cases, money is offered to the victim and the relatives in exchange for a withdrawal of the complaint.

Pursuant to DOJ Department Circular No. 18, series of 2005, cases involving the violation of RA 9208 shall not be dismissed on the mere account of an Affidavit of Desistance executed by the victim/s, parents or legal guardians. In cases where there are other pieces of evidence to establish probable cause, the Prosecutor must proceed accordingly.

In cases where the defense seeks the dismissal of the criminal action on the ground of the Affidavit of Desistance, the prosecutor must oppose and/or manifest a strong objection to the motion for dismissal. Neither shall a motion to dismiss on account of such Affidavit of Desistance be initiated by the prosecution.

The Investigating Prosecutor should include a detailed discussion, analysis and evaluation of the existence or non-existence of the elements of TIP, the qualifying circumstances and imposable penalties.
FLOWSHEET 2: PRELIMINARY INVESTIGATION

Issue a Subpoena to the respondent requiring respondent to file a Counter-affidavit within 10 days from receipt of the subpoena.

Was the respondent subpoenaed?

YES

A complaint if filed before the Prosecutor’s Office

Resolve the complaint

NO

Respondent cannot be subpoenaed because he moved residence, and did not leave forwarding address.

Resolve the case based on evidence presented by complainant.

Did the respondent file a Counter-affidavit?

YES

If he did not file a counter-affidavit, resolve the case based on evidence presented by complainant.

Resolve the case based on evidence presented by both parties.

NO

Is there a need to personally examine the parties for clarification?

YES

Conduct Clarificatory Hearing with both parties.

NO
Box 8. SAMPLE INFORMATION

REPUBLIC OF THE PHILIPPINES
NATIONAL CAPITAL JUDICIAL REGION
REGIONAL TRIAL COURT
BRANCH _____
MANILA

PEOPLE OF THE PHILIPPINES

CRIM. CASE NO. ___________
(I.S. NO. ________________)

- versus -

FOR: QUALIFIED TRAFFICKING IN PERSONS
[Sec. 6 (a) and (c) in rel. to Secs. 4(a), 3 and 10 (c)
of RA 9208 and to Sec. 5(a) of RA 8369
(FamilyCourts)]

ANTONIO CRUZ y SANTOS
(Brgy. Prinza, Teresa, Rizal)
JOSE LIM y CINCO
(Brgy. Prinza, Teresa, Rizal)
CARLOS TIROL y PARDO
(No. 4, Bonifacio St., Tondo, Manila)

- Accused.

x—x

INFORMATION

The Undersigned Assistant City Prosecutor accuses ANTONIO CRUZ y SANTOS, JOSE LIM y CINCO and CARLOS TIROL y PARDO of the crime of Qualified Trafficking in Persons penalized under Section 6 (a) and (c) in relation to Sections 4 (a), 3 and 10 (a) and (c) of RA 9208 and in further relation to Section 5 (a) of RA 8369 (Family Courts), committed as follows:

That on or about the 3rd of June 2004 in the Municipality of Binangonan, Province of Rizal, the above named accused ANTONIO CRUZ y SANTOS, JOSE LIM y CINCO and CARLOS TIROL y PARDO, in conspiracy with one another, and by means of force, threats and coercion, and for the purpose of exploitation, such as prostitution and other forms of sexual exploitation, but under the pretext of domestic employment, did then and there willfully, unlawfully and knowingly RECRUIT ROSA SANTOS, and thereafter did then and there willfully, unlawfully and knowingly, TRANSPORT and TRANSFER her to a house belonging to or managed by accused CARLOS TIROL y PARDO located in Tondo, Manila, which is within the jurisdiction of this Honorable Court. And in pursuit of the aforesaid conspiracy, said accused CARLOS TIROL y PARDO, did then and there willfully, unlawfully and knowingly RECEIVE, HARBOR and EMPLOY said ROSA SANTOS as a prostitute in the said house, to her damage and prejudice.

That the crime was attended by the qualifying circumstances of minority, complainant ROSA SANTOS, being 16 years of age, and that the crime was committed by a syndicate of three (3) persons.

CONTRARY TO LAW.
Bail

Pursuant to DOJ Department Circular No. 18, series of 2005, no bail will be recommended for cases involving violations of Sec. 4 in relation to Sec. 6 or cases involving Qualified Trafficking in Persons. These cases are punishable with life imprisonment and a fine of not less than Two million pesos (P2,000,000.00) but not more than Five million pesos (P5,000,000.00).

In all other cases, the amount of bail to be recommended will be computed and based on the number of years of the imposable penalty, multiplied by Ten thousand pesos (P10,000.00). Table 9 below shows the amount of bail that shall be recommended by the prosecutor vis-à-vis the imposable penalty for each trafficking offense.

### Table 9. Recommended bail for Specific Trafficking Offense

<table>
<thead>
<tr>
<th>Offense Charged</th>
<th>Imposable Penalty</th>
<th>Recommended Bail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sec. 4 - Acts of trafficking in Persons</td>
<td>Imprisonment of twenty (20) years and a fine of not less than One million pesos (P1,000,000.00) but not more than Two million pesos (P2,000,000.00)</td>
<td>P200,000.00</td>
</tr>
<tr>
<td>Sec. 5 – Acts that promote trafficking in persons</td>
<td>Imprisonment of fifteen (15) years and a fine of not less than Five hundred thousand (P500,000.00) but not more than One million pesos (P1,000,000.00).</td>
<td>P150,000.00</td>
</tr>
<tr>
<td>Sec. 6 – Qualified trafficking in persons</td>
<td>Life imprisonment and a fine of not less than Two million pesos (P2,000,000.00) but not more than Five million pesos (P5,000,000.00)</td>
<td>No bail</td>
</tr>
</tbody>
</table>
Hold Departure Order

In cases where the accused is a foreigner, or where the accused is a flight-risk, the Prosecutor must move for the issuance by the court of a Hold Departure Order against the accused. The Bureau of Immigration shall implement the same upon issuance.
ENDNOTES

1 Sec. 16 (d), RA 9208
2 IACAT Resolution No. 2, series of 2004 adopting the Guidelines for the Establishment and Operation of the Law Enforcement Task Force Against Trafficking in Persons
3 Sec. 38, IRR, RA 9208
4 Art. 91, par. 2, Revised Penal Code
5 Sec. 5(4), Article VIII
   (g) At least three (3) concerned responsible citizens where the violation occurred.
6 Sec. 27, Article X of RA 7610 reads:
   ARTICILE XI
   Remedial Procedures
   Sec. 27. Who May File a Complaint. - Complaints on cases of unlawful acts committed against the children as enumerated herein may be filed by the following:
   (a) Offended party;
   (b) Parents or guardians;
   (c) Ascendant or collateral relative within the third degree of consanguinity;
   (d) Officer, social worker or representative of a licensed child-caring institution;
   (e) Officer or social worker of the Department of Social Welfare and Development;
   (f) Barangay chairman; or
   (g) At least three (3) concerned responsible citizens where the violation occurred.
7 Sec. 7, RA 9208
8 In preparing the Information for TIP, care should be given to the specific provision applicable. This is specially so in cases of qualified trafficking in which the prescribed penalty is life imprisonment. While the caption and the preamble of the information are not controlling, yet the Supreme Court has admonished the prosecution to be very specific in citing the law applicable to avoid technicalities that would result in the violation of the right of the accused to know the nature of the offense charged, especially in cases where the accused pleads guilty to the charge. (Arizala 12)
   An allegation that the accused is, for instance, being accused of “Trafficking in Persons under Section 4” is not specific enough, as there are eight (8) sets of acts penalized under Section 4. If the accused is charged with qualified trafficking under Sec. 6 and the information makes no mention as to what particular paragraph under Sec. 6 and Sec. 4 he is being charged with, then he pleads guilty as charged, he might later change his mind after promulgation and question the penalty of life imprisonment alleging he was not properly informed. (Arizala 12)
9 Section 9 of Rule 110 of the Revised Rules of Criminal Procedure provides that the aggravating and qualifying circumstances must be stated in ordinary and concise language. It was held in People v. Suela, G.R. No. 133570-71, January 15, 2002, that the use of the word “must” indicates that the requirement
is mandatory. Therefore, failure to comply with Section 9 of Rule 110; meaning, when the qualifying or aggravating circumstances are not alleged in the information, such circumstance cannot be appreciated against the accused, even if proven during the trial. (Arizala 13)

10 Needless to state, the information for TIP must allege all the elements of the crime the accused is being charged with; otherwise, the information may be quashed on the ground that the facts alleged do not constitute an offense. (Arizala 12)

11 To avoid problem during the trial of the TIP case, the dates of the commission, inclusive of the duration thereof from recruitment up to the rescue of the victim, as well as all the different places of the occurrence of the different elements of the crime, must be alleged in the information. This is to ensure that all acts or elements of TIP committed within the entire period including those committed abroad may be allowed by the court to be proved during trial. (Arizala 13)
The welfare and protection of trafficked persons is a primary consideration in handling TIP cases. While law enforcement agents and prosecutors are not tasked to provide welfare services, experience has proven that where the victims/survivors’ psychosocial needs are met, their level of cooperation increases. Law enforcers and prosecutors should therefore familiarize themselves with services available to trafficked persons. They should ensure that the response to trafficked persons is coordinated and effective. They should, at all stages of the investigation and prosecution, consider the special needs of the trafficked persons and facilitate contact with and make use of relevant agencies.
Mandatory and Other Services Available for Trafficked Persons

RA 9208 provides protection of and assistance to trafficked persons to ensure their recovery, rehabilitation and reintegration into the mainstream of society. Under Sec. 23 thereof, concerned government agencies are tasked to make the following services available to trafficked persons:

• Emergency shelter or appropriate housing;
• Counseling;
• Free legal services which shall include information about the victim’s rights and the procedure for filing complaints, claiming compensation and such other legal remedies available to them, in a language understood by the trafficked person;
• Medical or psychological service;
• Livelihood and skills training; and
• Educational assistance to a trafficked child.

Sections 24 and 25 of RA 9208 also provide for other services for trafficked persons, particularly to victims/survivors of cross-border trafficking. Under these

For more information, have the contact details of the following agencies handy:

• Office of the Undersecretary for Migrant Worker’s Affairs (OUMWA), Department of Foreign Affairs, 2330 Roxas Boulevard, Pasay City, Philippines 1300; Trunkline: (+632)8343000/8344000; Fax: (+632)8320683; Website: www.dfa.gov.ph

• Philippine Overseas Employment Administration (POEA) – Information and Assistance Center, 24-Hour Hotlines: (632) 7221144, (632) 7221155; Website: www.poea.gov.ph

Contact details of the regional offices of the DSWD are also found in Annex C.
circumstances, coordination and referral to the Department of Foreign Affairs (DFA), Overseas Worker’s Welfare Administration (OWWA) and/or the Philippine Overseas Employment Administration (POEA) may be necessary.

- The services available to overseas Filipino workers as provided for by Republic Act 8042, otherwise known as “The Migrant Worker’s Act”, shall also be extended to trafficked persons regardless of their immigration status in the host country.
- Trafficked persons are considered “Overseas Filipinos in Distress” and may avail of the legal assistance created under Republic Act No. 8042.
- Repatriation, regardless of whether the trafficked person is documented or undocumented.

**Legal Protection**

Section 17 of RA 9208 provides legal protection to trafficked persons. They are recognized as victims of the act/s of trafficking and shall not be penalized for crimes directly related to the acts of trafficking enumerated in RA 9208 or in obedience to the order made by the traffickers in relation thereto. In this regard, the consent of the trafficked person to the intended exploitation is irrelevant.

Law enforcement agents and prosecutors should not file or threaten to file criminal charges for specific violation of law (i.e., Art 202[5] of the Revised Penal Code for vagrancy/prostitution or other criminal charges for those trafficked for prostitution and other sexual exploitation) against victims to achieve their cooperation. Otherwise, this is an act of re-victimization and a violation of the legal protection afforded to trafficked persons.

In cases where counter-suits or harassment suits are filed against the victims, the prosecutors should endeavor to dismiss the cases immediately.
Confidentiality of Proceedings

Section 7 of RA 9208 provides that at any stage of the investigation, prosecution and trial of an offense under RA 9208, the law enforcement officers, prosecutors, judges, court personnel and medical practitioners, as well as parties to the case, shall recognize the right to privacy of the trafficked person and the accused. The privacy protection extends to the identity and personal circumstances of both parties.

Closed-door investigations, prosecution and trial are encouraged in trafficking cases. In these cases, it shall be unlawful for any editor, publisher, and reporter or columnist in cases of printed materials, announcer or producer in case of television and radio, producer and director of a film in case of the movie industry, or any person utilizing tri-media facilities or information technology to cause publicity of any case of trafficking in persons.

Witness Protection

Section 18 of RA 9208 also provides that a trafficked person is also entitled to preferential entitlement under the Witness Protection and Benefits Program established under Republic Act No.6981.

Trafficked persons who have witnessed or have knowledge of the crime of trafficking committed against them are qualified to benefit from RA 6981. If they have testified or are testifying or about to testify before any judicial or quasi-judicial body, or before any investigating authority, they may be admitted to the Program. Additional qualifications include the following circumstances:

- The testimony will be used in the trafficking in persons case or a criminal offense related thereto;
- The testimony can be substantially corroborated on its material points; and
The trafficked person or any member of the family is subjected to threats or injury or there is likelihood that he/she will be killed, forced, intimidated, harassed or corrupted to prevent him/her from testifying.

The trafficked person or persons acting in her behalf may get an application form from the Secretariat of the Witness Protection Security and Benefit Program located at the Department of Justice Building, Padre Faura, Manila. Application forms are also available at the nearest Office of the Regional State Prosecutor.

The proceedings involving the application for admission, the action taken thereon and the information or documents submitted in support of the application are confidential. They cannot be released without the written order of the Department of Justice or the proper court.

If the trafficked person is qualified, he/she shall be required to execute a Memorandum of Agreement with the government. The benefits may include any or all of the following:

- Security protection and escort services;
- Immunity from criminal prosecution and not to be subjected to any penalty or forfeiture for any transaction, matter or thing concerning his compelled testimony or books, documents or writings produced;
- Secure housing facility;
- Assistance in obtaining a means of livelihood;
- Reasonable traveling expenses and subsistence allowance while acting as a witness;
- Free medical treatment, hospitalization and medicine for any injury or illness incurred or suffered while acting as a witness;
- Burial benefits of not less than Ten Thousand pesos (P10,000.00) if the witness is killed because of his participation in the Program;
- Free education from primary to college level for the minor or dependent children of a witness who dies or is permanently incapacitated; and/or
- Non-removal or demotion in work because of absences due to his being a witness and payment of full salary or wage while acting as witness.

**Victim Compensation**

Republic Act No. 7309 establishes the Victim Compensation Program. The program provides compensation to victims of unjust imprisonment or detention and victims of violent crimes. A Board of Claims under the Department of Justice is created under the said law to evaluate and process claims application.
More often than not, a trafficked person is also a victim of a violent crime which includes rape and offenses committed with malice which resulted in death or serious physical and/or psychological injuries, permanent incapacity or disability, insanity, abortion, serious trauma, or committed with torture, cruelty or barbarity. Thus, a trafficked person who suffered any of the conditions thus mentioned is entitled to avail of the benefits of the Victim Compensation Program.

The trafficked person or his/her family may file a claim with the Board by filling up an application form provided for the purpose. The forms are available at the Secretariat of the Board of Claims, Department of Justice, Padre Faura Street, Ermita, Manila or the Office of the Regional State Prosecutor. Thereafter, the applicant will be interviewed and his/her claim evaluated and processed. The applicant will be duly notified of the action taken by the Board.

The claim should be filed with the Board by the person entitled to compensation under this Act within six (6) months after being released from imprisonment or detention or from the date he/she suffered damage or injury; otherwise he is deemed to have waived his claim. If the trafficked person has died, the family can claim the benefits.

The victim/survivor and/or his/her family should be advised to attach to the accomplished application form the following documents: police report; blotter; certificate of death; if necessary, certificate or proof of filiation of claimant to the victim, i.e., birth certificates; sworn statements; resolution of the investigating prosecutor; medical certificates; marriage certificate; and copies of receipts of medical expenses in case of serious physical injuries.

The maximum amount of a claim for which the Board may approve shall not exceed ten thousand pesos (P10,000.00) or the amount necessary to reimburse the claimant of the expenses incurred for hospitalization, medical treatment, loss of wage, loss of support or other expenses directly related to the injury, whichever is lower, to be determined by the Board.
Free Legal Assistance

Victims/survivors are also entitled to free legal services which shall include information about the victim’s rights and procedure for filing of the complaint, claiming compensation and such other legal remedies and options available to them.

The Department of Justice has a special project called the DOJ Action Center, otherwise known as the DOJAC, where a trafficked person may request for legal and other forms of assistance. Such a request may be done in writing or through phone calls. Walk-in clients are likewise entertained.

The DOJAC is found at the DOJ national office and at various Regional State Prosecutor’s offices. The DOJAC Regional Office is headed by the regional or provincial prosecutors. He/she is assisted by the regional and district public attorneys and personnel of the National Prosecution Service who attend to written and phone-in queries and walk-in clients.

Prosecutors and law enforcement officers can also direct victims/survivors to the Commission on Human Rights (CHR) or the Integrated Bar of the Philippines (IBP) for free legal assistance.

Protective Custody

Victims/survivors of trafficking who are below 18 years of age at the time of rescue can be placed under the protective custody of the DSWD, pursuant to Executive Order No. 56, series of 1986. EO 56 can be invoked in cases where children are trafficked for prostitution and other forms of sexual exploitation.

The rescued children will be committed to a DSWD or DSWD-accredited and/or licensed child-caring center/institution. A directory of DSWD faculties is found in Annex D.
Annexes
Annex A
Interview Guide

This interview guide has been developed to assist law enforcement agents and prosecutors in gathering relevant information about a trafficking in persons (TIP) case. While it was primarily developed with the victim/survivors as the interviewee in mind, this guide can also be used to interview other key informants (i.e. family members, co-workers, accused, etc.). This attempts to help the interviewee recount the details of the TIP event. Caution, sensitivity and conscientious use should be exercised by the interviewer. Not all questions need to be asked and answered.

Part A – The Full Story

Place of Origin - Recruitment Phase, Means and Departure

1. What are the name, age, civil status and other personal circumstances of the victim? Was the recruiter aware of these facts, especially the age?
2. Did the traffickers know her home address or any of her family or other loved ones; did they claim to know such details before she was trafficked?
3. Where and when did the victim first make contact with the recruiter/trafficker?
4. Was the initial contact between victim and trafficker voluntary? If so, who initiated the contact? How was contact made between the victim and the traffickers; postal service, PO Boxes, landline phone, mobile phone, fax, or e-mail? What were the numbers and/or addresses?
5. What was the means of communications used? Did the recruiter or trafficker communicate with the victim through letters, landline telephone, cellular phone, e-mail, etc.?
6. What was the method of contact – was it by advertisement or personal contact direct with a trafficker or through a third party?

7. Where did she see the advertisement? Was it in a newspaper, magazine, contact directory, professional publication, website, chatroom or newsroom? Does she have a copy of the advertisement? What was the exact wording of the advertisement? What was it offering and did it name a specific individual to contact?

8. Did it relate to well-paid overseas or domestic work or did it relate to bridal or escort agencies? How was contact with the advertiser to be made? Was it by personal visit, telephone, fax, e-mail or correspondence to an address or accommodation address such as a PO Box? If so, what were the numbers and details etc.?

9. Was the victim deceived to get her consent? What did the victim think she was going to be involved in? What exactly was she told? By whom?

10. Was she deceived as to the real purpose? If so, what was she told she was going to do? Was it legitimate employment such as office or factory work or was it peripheral to the sex industry such as escort services, waitress, dancing or guest relations officer, hostess work?

11. Was the victim aware that prostitution was intended and, if so, what form of prostitution was discussed – was it street walking or within brothels or call girl agencies?

12. What were the proposed logistical arrangements? Where was she told she was going to live in the destination country and with whom? Who will arrange travel and pay for the costs? Was she told for how long she was going and the route to be taken?

13. What were the proposed financial arrangements? Did the victim pay any money in advance or was there an agreed ‘debt bond’ arrangement? If so, how much was the debt bond for and for how long was she being given to repay it? How were payments to be made? Direct to the recruiter or to some other person in the destination, bank transfer, money transfer? Was any sum of money or other goods of value exchanged for her with a
member of her family or other individual having some degree of control over her?

14. If not voluntary, what were the means of coercion; was she threatened, physical or sexually assaulted or abducted? Was she sexually, physically or psychologically abused or unlawfully imprisoned before she was trafficked – if so, obtain full details as per Checklist C.

15. Did she stay at any address other than her own prior to leaving her place of origin country?

16. In relation to all of the above points, were there any witnesses to any of the events; if so – obtain full details.

17. Obtain full descriptions of each of the suspects in the recruitment phase.

**Place of Transit – Transportation, Transfer, Harbouring; Means**

1. Where and what time did the victim depart from her place of origin?

2. What mode of transport was used? Land-based vehicles, shipping vessels or aircrafts? Please describe the vehicle used.

3. Did the victim depart through the use of public or private transport? Did she depart from an airport, seaport or land transportation terminal?

4. Did the victim travel openly or secretly?

5. If openly, what identity and/or travel documents was she using? Were the documents genuine or forged? Who committed and how was the forgery and/or tampering perpetrated? Were there any other documents used to support the forgery or tampering, such as false birth or marriage certificates, employment contracts, work permits, visa applications, sponsorship letters, employments offers etc.? If so, what were the details and does she have copies?

6. If secretly, describe the travel procedure and situation. Who were the people involved and how did these people participate in the travel process?

7. Were any persons traveling with her? Who were they and where are they now?
8. Did the victim stop at any place prior to her arrival in the place of destination? If yes, where was she kept and by whom – obtain full descriptions. How long was she in the transit place and what was the nature of the conditions in which she was kept? Was she physically, sexually or psychologically abused whilst in the transit phase? Was she unlawfully imprisoned during this period; if so, obtain full description of the method and the perpetrators.

9. Was she required to engage in any exploitative work whilst in the place of transit; if so, obtain full details of the type of exploitation, venues, financial arrangements etc.

10. What were the date, time, location of the departure point and means of travel from the transit place?

11. Are there any witnesses to any of the events; if so – obtain full details.

12. Obtain full detailed description of any additional suspects, premises and vehicles appearing in the transit phase.

Place of destination – Receipt; Means, Exploitative Purpose and Actual Working Conditions

1. What are the date, time and location of entry point into the place of destination?

2. Was the entry into the destination done openly or secretly? If secretly, what was the method used; who was she with; what was the mode of transport and where was the entry point and who met her? If openly, what was the mode of transport? What identity and/or travel documents did she use and where are they and what are the full details? Did she complete any documentation such as disembarkation cards, customs declarations etc?

3. Were any persons entering the place of destination with her?

4. Was she met by anybody at the entry point: if so, by whom and obtain full description.

5. Was she allowed to keep her identity and/or travel documents upon arrival or were they taken from her; if so, by whom and when was this done; where were the documents then kept?
6. What was the first address she was taken to; who took her there and how did she travel there?

7. On arrival, were other persons/victims present; what did the premises consist of; was the address a ‘safe house’ or the actual place where she worked in; can she describe the premises in detail?

8. What form did the exploitation take: prostitution, pornography, forced labor or slavery, servitude, armed conflict, sale or removal of organs, etc.?

9. At what point did the exploitation begin? Did she know that she was going to be exploited? If not, at what point did she discover the truth and from whom?

10. If for purposes of sexual exploitation, what type of prostitution was she required to engage in; street-based prostitution, casa- or bar-based, sauna or massage parlor, escort or ‘call-girl’ services? What is the location of her place of work? Was she supervised when she worked? Who supervised her? How did she get to her work place? Which of the traffickers were aware that she was working as a prostitute and how did they know; were they present or closely monitoring the bar, casa, massage parlor brothel or on the street? Was her work discussed? If so, with whom?

11. Was she supervised and if so, by whom; what degree of liberty did she have; could she leave the casa, bar or agency un-supervised? If there was supervision, who was involved and how did it work?

12. Has the victim ever been arrested or detained for engaging in prostitution or prostitution related activities?

13. Did she work with other victims of trafficking as prostitutes and/or maids or receptionists? If so, can she name and describe them?

14. Was the brothel, bar or agency ever visited by law enforcement or other agency officials? Can she provide names and descriptions of the law enforcement or other agency officials?

15. What hours did she work and what service was she required to provide to the clients? Was she allowed any degree of choice as to which clients she entertained or which services she provided? Was she required to
provide sexual services without contraceptive protection? If she refused, what were the consequences?

16. Who determines the price for her services? Who negotiates the payment and services? What is the price for the services? What is the average daily earnings and estimate of the total earnings? Was it handed over to her by the client or did someone else collect the payment? Were any records kept? Did she sign any document to record these transactions?

17. What happened to her earnings? Was there a percentage split of her earnings between herself and the trafficker or was all the money handed over? Was there a debt-bond arrangement? If so, how much did she owe and at what rate was she required to repay the debt? How was it paid? By whom and by what means? To whose account was the money credited? Were any records kept of the repayments?

18. Was she required to pay for any additional costs such as daily rental, food, clothing, medical expenses? Did she know of these additional costs?

19. At the conclusion of the shift, was she taken back to the ‘safe house’ or did she remain in the brothel premises; if she went to a safe house, how did she get there and who took her?

20. What means were used to coerce her into exploitation? Was she threatened with or subjected to violent and/or sexual abuse? Was she threatened with reprisals against her family or loved ones? Were there any other control mechanisms such as cultural or religious points of coercion? Were the same control mechanisms used to ensure that she complied with the instructions given to her by her traffickers? Did she believe that her traffickers would implement any of the control mechanisms outlined above?

21. What was her general degree of liberty; could she move about freely and what was her state of mind? Was it possible for her to escape or seek assistance from law enforcement agencies? If so, did she attempt to do so? If not, why not; what was her state of mind on these points? Was she
sexually, physically or psychologically abused or unlawfully imprisoned on any additional occasions – if so, obtain full details as per Checklist C.

22. Did the trafficker use any kind of communication equipment? If it was a mobile phone, what was the make and does she know the network provider? Does she know the number? Did the trafficker use a desk top or laptop computer or personal organizer? If so, what make were they and did she know any detail such as access codes, email service providers etc?

23. Is the victim aware of how the trafficker maintained his financial transactions such as the name of banks, personal or business accounts and numbers, the location of the branch concerned? Were bank cards, credit cards, travellers cheques or store charge cards used by traffickers? If so, where, when and for what purpose, i.e., to pay for the travel tickets; visa application; duty free goods etc?

24. Were there witnesses to any of the events; if so –obtain full details.

25. Obtain full description as to any persons, premises and vehicles that are part of the destination country phase and that are additional to those already mentioned in the origin and transit phases. A final summary as to the circumstances in which she is making the statement should be prepared. Has she been rescued or did she escape by herself?

**Threat or Use of Force, Abduction, Other Forms of Coercion**

1. Where, when and how?
2. Was violence used or was she threatened: if so, how was it inflicted and what were her injuries?
3. Were weapons used: if so, obtain full description.
4. Was she drugged in any way – if so, obtain details such as method of administration - injection, liquid, inhalation?
5. Was she told of the consequences for her if she tried to escape? If so, obtain full details concerning the nature of the threat and who issued it.
6. Was anything said: if so, what was said, by whom and in what language, dialect or accent; any names or nicknames used?
7. Obtain full description of the place of detention; surroundings, could she hear voices or noises such as nearby trains or aircraft; any other detail to identify the location.

8. How was she imprisoned; was she physically restrained and if so, obtain details of restraints, locks, means of access and egress, keys and who had them?

9. If she was guarded, obtain full description of the guards and any conversation that took place.

10. What was the extent of the imprisonment; was she confined in one space or could she move around freely within a specified area?

11. Was she told of the consequences for her if she tried to escape: if so, obtain full details of the nature of the threat and who issued it.

12. Was freedom or liberty restricted (even if not imprisoned)? E.g. was she allowed access to medical care? Could she go shopping? Was she escorted or supervised when she left the premises?

13. As stated above, obtain full detailed description of the suspects, vehicles and premises

Part B – Specific Detail Regarding General Corroborative Points

General Points

- Full, detailed physical description of each named and unnamed suspect.
- Full description of any premises in that she encountered as part of the trafficking process, such as recruitment and promotions agencies, talent agencies, lending institutions, embassy visa sections, government buildings, hospitals, clinics, language schools, boarding houses, casa, KTV bars and night clubs, etc. This can include details of the interior of any premises such as entrances, layout, locks, furnishings, ornaments or pictures, damage, window location, furniture patterns or any other peculiar features about the premises which may later prove to be important.
• Full description of any vehicle used as part of the trafficking process, such as cars, vans, train, shipping vessels, airlines, private planes, etc. This can include details of the exterior and interior of the vehicle, color, model, make, damage, window stickers, seat cover color and patterns or any other peculiar features about the premises which may later prove to be important.
• The victim can be asked if she has retained any documentary evidence such as receipts or copies of advertisements etc. If she has, they should be immediately seized, secured and sealed in evidence bags. The exhibits should be described in detail and exhibited by her in the statement.
• Trafficking victims should always be asked whether they have kept a diary of the events that have happened to them because they often do so. These diaries often include a detailed record of the money that has been earned in prostitution or other forms of exploitation and other vital evidential data. The interviewer will have to approach the issue sensitively because if one does exist, the victim may be reluctant to disclose it, because it is likely to contain intimate and, as far as the witness is concerned, embarrassing material. If the victim has kept a diary, it should be seized, secured and exhibited in the usual way after the victim has been allowed to refer to it during the making of the statement.

Part C – The Abuse Experienced by and Impact on the Victim

General Points

• Trafficked victims may be physically, sexually and psychologically abused in a number of ways and all three types of abuse may have occurred in each of the origin, transit and destination phases.
• Kidnapping, unlawful imprisonment, rape, indecent assault, physical assault and threats to kill the victim or her family are all common
characteristics of trafficking crime and need to be sequentially addressed at each phase of the story.

- In the vast majority of trafficking cases, this type of allegation will be historic and is unlikely to require an immediate reaction by the investigator in respect of medical examination, forensic samples, crime scene security etc. However, it needs to be borne in mind, it may well become an issue in respect of any victim who is still under the control of traffickers and who might be rescued as a result of police action based upon the statement that is being taken.

**Physical and sexual assault**

1. When did the abuse take place and on how many occasions? Exact dates where possible.

2. Where did it take place? Obtain full description of the venues as outlined above: layout of the room, the bed, sofa, furnishings, ornaments, etc.

3. What was the exact nature and extent of the assault? Obtain full description of the injuries caused. Was the sexual assault vaginal or anal rape or forced oral or manual indecent assault? Obtain exact description of the state of penile erection, of the extent of penetration and whether ejaculation took place. Were condoms or any weapon or other implements used?

4. What was said to her during the abuse or threatened violence and by whom?

5. What was the context of the abuse – was it simply sexual gratification or was she physically or sexually assaulted in order to intimidate, coerce or train her; was it punishment because she had disobeyed instructions or attempted to escape?

6. Did she demonstrate physically or verbally her refusal or lack of consent and if so, exactly how did she do so? Did she inflict any injury on her abuser during the assault? If so, describe the injury. (NOTE: With sexual assaults, trafficked victims often report that they neither said or did
anything to resist and that they simply submitted to the abuse in order to avoid a physical assault in addition to the sexual one – it is vitally important to record this condition, not only because the assault can amount to rape notwithstanding that refusal or lack of consent was not demonstrated, but because it illustrates the complete subjugation and enslavement of the victim.)

7. What was her physical condition afterwards; concussion, continuous internal or external bleeding, vomiting and nausea etc?
8. Did she tell any other person about what had happened to her? If so, obtain the full details of that person and what was said.
9. Did she require or receive any medical treatment for her injuries? If yes, obtain details of doctor, hospital clinic, record made etc.
10. What was her state of mind and fear, both at the time and afterwards?
11. What was said or done afterwards? Was she threatened with further abuse and, if so, in what context? Did her abuser(s) express regret?
12. Obtain exact physical description of the attacker; any physical peculiarities such as tattoos, pierced ears, scars or marks, genital description and peculiarities, distinguishing voice or language or accent, odour or perfume, the condition of his teeth and nails etc.
13. In relation to any of the above points, were there witnesses to any of the events; if so – obtain full details.

Final points – Impact of the crime
• As trafficking is a grave crime against the physical, psychological and human rights of the victim, it is important to include subjective details from the victim of the impact that the crime has had upon the victim.
• the conclusion of the statement, the interviewer should include an account from the victim as to the physical and psychological damage that the crime has inflicted upon her.
• This impact statement should include details of her reaction to the crime itself: the abuse, the deception, the enslavement, the prostitution and the exploitation.
• She should be encouraged to state the impact upon her quality of life since the crime; her level of fear both for herself and her loved ones; whether she feels she is able to conduct her life freely like any other citizen; whether she feels that she can safely go back home and her own feelings of self-esteem and worth.
To: All Regional State Prosecutors, Provincial and City Prosecutors and Their Assistants, State Prosecutors and Prosecution Attorneys

Subject: Guidelines in the investigation and prosecution of cases involving the violations of Republic Act No. 9208, otherwise known as the “Anti-Trafficking in Persons Act of 2003”

In Pursuit of the government’s policy to protect the people especially women and children from any threat of violence and exploitation and eliminate trafficking in persons, and in order not to frustrate the ends of justice, the following are hereby issued to guide all concerned in the investigation and prosecution of cases involving violations of R.A. No. 9208:

1. All cases involving violations of R.A. No. 9208 shall be given and preferential attention, and therefore, should be investigated and resolved within the periods indicated in the Revised Rules of Criminal Procedure. All pending cases as of this issuance shall be resolved immediately.

2. Cases involving such violations shall not be dismissed on the mere account of an Affidavit of Desistance executed by either the victim/s or their parents of legal guardians, especially when there are other evidence to establish probable cause. All are, therefore, directed to relentlessly prosecute the offenders and vigorously oppose and/or manifest strong
objection to motions for dismissal despite the desistance of the victim/s or their parents or legal guardians; neither shall a motion to dismiss on account of such desistance be initiated by the prosecution.

3. No bail shall be recommended for cases involving violations of Section 4 (Acts of Trafficking) in relation to Section 6 (Qualified Trafficking) of R.A. No. 9208. In all other cases, the amount of bail to be recommended shall be based on the number of years of the imposable penalty, multiplied by Ten Thousand Pesos (Php 10,000.00)

Strict Compliance herewith is enjoined.

RAUL M. GONZALES
Secretary
## Annex C

### DSWD Directory

<table>
<thead>
<tr>
<th>Name</th>
<th>Designation</th>
<th>Tel/Fax</th>
<th>Direct Line</th>
<th>E-mail</th>
</tr>
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<tbody>
<tr>
<td>Thelsa P. Biolena</td>
<td>Director IV, National Capital Region</td>
<td>(02) 734-86-46</td>
<td>(02) 734-86-47/49</td>
<td><a href="mailto:foncr@dswd.gov.ph">foncr@dswd.gov.ph</a></td>
</tr>
<tr>
<td>Patricia Luna</td>
<td>Director III for Admin, National Capital Region</td>
<td>7348652</td>
<td>7348652</td>
<td><a href="mailto:dswd-ncr@psdn.org.ph">dswd-ncr@psdn.org.ph</a></td>
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<tr>
<td>Delia Bawan</td>
<td>Director III for Operations, National Capital Region</td>
<td>7348641</td>
<td>7348641</td>
<td><a href="mailto:ncr_ard2@tri-isys.com">ncr_ard2@tri-isys.com</a></td>
</tr>
<tr>
<td>Margarita V. Sampang</td>
<td>Director IV, Field Office I</td>
<td>(072)888-21-84</td>
<td>(072)888-41-80</td>
<td><a href="mailto:fo1@dswd.gov.ph">fo1@dswd.gov.ph</a></td>
</tr>
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<tr>
<td><strong>Marlene Febes D. Peralta</strong></td>
<td>Director III, Field Office I</td>
<td>(072) 888-21-84, 888-41-84</td>
<td>(072) 888-61-96</td>
<td><a href="mailto:dswdrfo1@lu.csi.com.ph">dswdrfo1@lu.csi.com.ph</a></td>
</tr>
<tr>
<td><strong>Leonardo C. Reynoso</strong></td>
<td>OIC-Director III, Field Office II</td>
<td>(078) 844-54-82</td>
<td>(078) 846-75-32</td>
<td><a href="mailto:fo2@dsdw.gov.ph">fo2@dsdw.gov.ph</a></td>
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<tr>
<td><strong>Minda B. Brigoli</strong></td>
<td>Director IV, Field Office III</td>
<td>(045) 860-56-31</td>
<td>(045) 961-21-43</td>
<td><a href="mailto:fo3@dsdw.gov.ph">fo3@dsdw.gov.ph</a></td>
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<tr>
<td><strong>Adelina S. Apostol</strong></td>
<td>Director III, Field Office III</td>
<td>(045) 961-13-46</td>
<td>(045) 961-21-43</td>
<td><a href="mailto:dswd3@meganet.iphil.net">dswd3@meganet.iphil.net</a></td>
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<tr>
<td><strong>Honorita B. Bayudan</strong></td>
<td>Director IV, Field Office IV-A (CALABARZON)</td>
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<td>(02) 807-71-02</td>
<td><a href="mailto:fo4a@dsdw.gov.ph">fo4a@dsdw.gov.ph</a></td>
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<tr>
<td><strong>Wilma Naviamos</strong></td>
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</tbody>
</table>
Name: Remia T. Tapispisan
Designation: OIC-Director, Field Office IV-B (MIMAROPA)
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E-mail: fo10@dswd.gov.ph
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Direct Line: (088) 858-81-34  
E-mail: fo10@dswd.gov.ph

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Direct Line: (082) 227-14-35  
E-mail: fo11@dswd.gov.ph

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Direct Line: (082) 227-14-35  
E-mail: fo11@dswd.gov.ph

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Direct Line: (083) 228-36-07, 226-30-60  
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Designation: Director IV, CARAGA
Name:        Mita G. Lim  
Designation: Director III, CARAGA  
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Direct Line: (085) 342-56-19  
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E-mail:      focar@dswd.gov.ph 

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Direct Line: (074) 442-86-19  
E-mail:      dswdcar@bgo.csi.com.ph
# Annex D

## DSWD Residential and Non-residential Centers

<table>
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<tr>
<th>Region</th>
<th>Name of Center/Institute</th>
<th>Tel. No.</th>
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<tr>
<td>NCR</td>
<td><strong>Haven for Women</strong></td>
<td>(02)807-15-90</td>
<td>Elizabeth Panambo</td>
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<td></td>
<td>Northgate Ave., FilInvest, Muntinlupa City</td>
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<td><strong>Center Head</strong></td>
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<td><strong>Marillac Hills</strong></td>
<td>(02)807-15-92</td>
<td>Asuncion Flores</td>
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<td>Northgate Ave., FilInvest, Muntinlupa City</td>
<td>(02)807-15-89</td>
<td><strong>Center Head</strong></td>
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<tr>
<td></td>
<td><strong>Nayon ng Kabataan</strong></td>
<td>(02)807-15-87</td>
<td>Evangelina Lawas</td>
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<tr>
<td></td>
<td>Weltarville Compound, Brgy. Addition Hills, Mandaluyong City</td>
<td>(02)533-17-01</td>
<td><strong>Center Head</strong></td>
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<tr>
<td></td>
<td><strong>Reception and Study Center for Children</strong></td>
<td>(02)531-25-82</td>
<td>Florcelia Rosas</td>
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<tr>
<td></td>
<td>#4 Misamis St., Bagong Bantay, Quezon City</td>
<td>(02)927-42-44</td>
<td><strong>Center Head</strong></td>
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<td><strong>Elizabeth Panambo Center Head</strong></td>
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<td><strong>Libertine A. Balicdang SWD III</strong></td>
<td>(074)444-32-09</td>
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<td><strong>Haven Substitute Home Care for Women</strong></td>
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<td>III</td>
<td>Haven Pampanga</td>
<td>((045) 965-10-50</td>
<td>Priscila C. Tiopengco</td>
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<td>0912-856-38-16</td>
<td>Emelita C. Bolivar</td>
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<td>(044) 958-15-08</td>
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<td>Reception and Study Center for Children</td>
<td>0919-456-15-05</td>
<td>Mila Corazon</td>
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<td>(045) 963-57-88</td>
<td>P. Fronda</td>
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<td>Tarlac Home for Girls</td>
<td>0918-550-26-20</td>
<td>Melba T. Vinluan</td>
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<td>(045) 982-31-95</td>
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<td>IV</td>
<td><strong>Bahay Tuluyan Home for Girls</strong></td>
<td>(046)415-05-79</td>
<td>Brenia B. Sotto  &lt;br&gt; <em>OIC-Center Head</em></td>
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<td><strong>Crisis Intervention Unit</strong></td>
<td>(02)735-54-12</td>
<td>Primitiva A. Silapan &lt;br&gt; <em>Center Head</em></td>
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<tr>
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<td>Gastambide St. Sampaloc, Manila</td>
<td>(02)735-54-13</td>
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<td></td>
<td><strong>Regional Haven</strong></td>
<td>(043)321-22-76</td>
<td>Florita M.  &lt;br&gt; Herminigildo  &lt;br&gt; <em>OIC-Center Head</em></td>
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<td>V</td>
<td><strong>Haven-Substitute Home Case for Women</strong></td>
<td>(052)837-01-72</td>
<td>Marvie C. Pedro  &lt;br&gt; <em>OIC-Center Head</em></td>
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<td>DSWD Complex, Nasisi, Ligao City</td>
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<td><strong>Haven for Girls</strong></td>
<td>(056)211-21-93</td>
<td>Lyndra Villareal  &lt;br&gt; <em>OIC-Center Head</em></td>
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<td>Our Lady’s Village, Pangpang, Sorsogon City</td>
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<td><strong>Reception and Study Center for Children</strong></td>
<td>(052)837-01-47</td>
<td>Cresencia P. Deri &lt;br&gt; <em>Center Head</em></td>
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<td>DSWD Complex, Nasisi, Ligao City</td>
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<td>VI</td>
<td><strong>Home for Girls</strong></td>
<td>(033)522-89-41</td>
<td>Susan F. Mogato  &lt;br&gt; <em>OIC-Center Head</em></td>
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<td>Lluva R. Gallofin  &lt;br&gt; <em>OIC-Center Head</em></td>
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<td>VII</td>
<td>Crisis Intervention Unit</td>
<td>(032)416-76-46</td>
<td>Edna Regudo</td>
</tr>
<tr>
<td></td>
<td>Haven-Regional Center for Women</td>
<td>(032)261-81-06</td>
<td>Luz T. Barbon</td>
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<tr>
<td></td>
<td>A. Lopez St., Labangon, Cebu City</td>
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<td>Social Welfare III</td>
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<td>Home for Girls</td>
<td>(032)416-75-16</td>
<td>Artemia Degamo</td>
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<td>Reception and Study Center for Children</td>
<td>(032)233-87-79</td>
<td>Leah L. Colis</td>
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<td>VIII</td>
<td>Home for Girls</td>
<td>(053-323-31-45</td>
<td>Alicia Bolante</td>
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<td>Pawing, Palo, Leyte</td>
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<td>Reception and Study Center for Youth</td>
<td>(053)323-26-66</td>
<td>Lucia Balantad</td>
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<td>Sto. Niño, Tanauan, Leyte</td>
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<td>Regional Haven</td>
<td>(032)323-28-72</td>
<td>Luzvisminda Davis</td>
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<tr>
<td>IX</td>
<td>Balay Dangpanan Para sa Kabataan</td>
<td>(062)212-62-65</td>
<td>Arlene Jatico</td>
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<td>Crisis Intervention Unit</td>
<td>(062)991-41-13</td>
<td>Nadzma Hussein</td>
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<td>Sta. Barbara, Zamboanga City</td>
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<td>Processing Center for Deportees and Displaced Persons</td>
<td>(082)991-13-26</td>
<td>Agapita Bendoy Center Head</td>
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<td>(062)991-42-79</td>
<td>Marilyn D. Fabian Center Head</td>
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<td>Talon-Talon, Zamboanga City</td>
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<td><strong>X</strong> Crisis Intervention Unit</td>
<td>(088)853-24-54</td>
<td>Romeo R. Fernandez Center Head</td>
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<td>Haven for Women</td>
<td>(088)727-344</td>
<td>Portia G. Roldan Center Head</td>
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<td>Masterson Ave., Upper Carmen, Cagayan de Oro City</td>
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<td>Home for Girls</td>
<td>(088)833-24-39</td>
<td>Ma. Elena A. Palma Center Head</td>
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<td>Reception and Study Center for Children</td>
<td>(08822)728-429</td>
<td>Monavic M. Budiongan Center Head</td>
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<td><strong>XI</strong> Group Home for Girls</td>
<td>(082)244-05-76</td>
<td>Annie L. Rosalinda Center Head</td>
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<td>Gail Rd. Maa, Davao City</td>
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<td>Reception and Study Center for Children</td>
<td>(082)721-14-92</td>
<td>Alfredo M. Sy Center Head</td>
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<tr>
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<td>Friendship Rd., Bajada, Davao City</td>
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<td>(082)244-05-62</td>
<td>Norma T. Andayan</td>
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<td>Jail Rd. Maa, Davao City</td>
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<td><strong>Home for Girls</strong></td>
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<td>Nelia Ignacio</td>
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<td>Arellano St., Koronadal City</td>
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<td><strong>Reception and Study Center for Children</strong></td>
<td>(085)228-82-11</td>
<td>Nanig Sanoy</td>
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<td>Amtipolo St., Koronadal City</td>
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<td>Nobleta S.Sumaylo</td>
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<td>CARAGA</td>
<td><strong>Home for Girls</strong></td>
<td>(085)226-51-23</td>
<td>Center Head</td>
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<td>Purok 4, Brgy. Bonbon, Butuan City</td>
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Annex E

INTER-AGENCY COUNCIL AGAINST TRAFFICKING COUNCIL MEMBERS

Department of Justice (DOJ)  RAUL M. GONZALEZ
Secretary, Chairperson

RICARDO R. BLANCAFLOR
Undersecretary
Acting Chairperson

Department of Social Welfare and Development (DSWD)  ESPERANZA I. CABRAL
Secretary
Co-Chairperson

Permanent Representative:  ALICIA R. BALA
Undersecretary for Policy and Programs

Alternate Representative:  FINARDO G. CABILAO
Director, Social Technology Bureau

Department of Foreign Affairs (DFA)  ALBERTO G. ROMULO
Secretary
<table>
<thead>
<tr>
<th>Department of Labor and Employment (DOLE)</th>
<th>ARTURO D. BRION</th>
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<tr>
<td>Permanent Representative:</td>
<td>LUZVIMINDA G. PADILLA</td>
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<td>Alternate Representative:</td>
<td>VICTOR B. OLIVER</td>
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<th>Bureau of Immigration (BI)</th>
<th>MARCELINO C. LIBANAN</th>
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<tr>
<td>Permanent Representative:</td>
<td>SIMEON C. VALLADA</td>
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Permanent Representative: ESTEBAN B. CONEJOS, JR.  
*Undersecretary for Migrant Workers' Affairs*

Alternate Representatives: ESTRELLA LAJOM-ROMAN  
*Special Assistant, Office of the Undersecretary for Migrant Workers' Affairs*

PABLITO MENDOZA  
*Special Assistant, Office of the Undersecretary for Migrant Workers' Affairs*
Philippine National Police (PNP)

Permanent Representative: YOLANDA G. TANIGUE
Chief, Women and Children’s Protection Center

Alternate Representative: PCI ALFREDO OPRIASA
Chief, Anti-Trafficking in Persons Division

Philippine Overseas Employment Administration (POEA)

Permanent Representative: Atty. MELCHOR B. DIZON
Director IV, Licensing and Regulation Office

Alternate Representative: Atty. ALEJANDRE DIAZ
Director II, Anti-Illegal Recruitment Branch

National Commission on the Role of Filipino Women (NCRFW)

Permanent Representative: ATTY. EVELYN S. DUNUAN
Commissioner

Alternate Representatives: EMMELINE S. VERZOSA
Executive Director
MARY ALICE G. ROSERO
Chief, Policy Analysis Division
End Child Prostitution and Trafficking (ECPAT Philippines)  
Children’s Sector 
NGO Representative  

MA. AMIHAN V. ABUEVA  
President

Coalition Against Trafficking of Women – Asia-Pacific (CATW-AP) Women’s Sector 
NGO Representative  

AURORA JAVATE DE DIOS  
Chairperson

OFW Sector Representative  

ISIDRO Q. ALIGADA

Department of Interior and Local Government (DILG)  

RONALDO V. PUNO  
Secretary

Permanent Representative: MELCHOR I. ROSALES  
Undersecretary for Transnational Crimes

Alternate Representative: ENRIQUE GARCIA

National Bureau of Investigation (NBI)  

NESTOR M. MANTARING  
Director

Permanent Representative: Atty. FERDINAND M. LAVIN  
Chief, Anti-Human Trafficking Division

Alternate Representatives: Agent ROLAND B. DEMETRIA  
Agent REYNALDO M. REMO

National Prosecution Service (NPS)  

SEVERINO H. GANA, JR.  
Assistant Chief State Prosecutor
Chair, National Law Enforcement Task Force Against Trafficking

SECRETARIAT

ROBERT L. LARGA
Senior State Counsel

DEANA P. PEREZ
Senior State Prosecutor

MARY GRACE R. QUINTANA
State Counsel

NANCY G. LOZANO
State Counsel
## Annex F

**WOMEN AND CHILDREN PROTECTION DESKS**

<table>
<thead>
<tr>
<th>Region</th>
<th>Rank/Name</th>
<th>Office Address</th>
<th>Tel. No.</th>
<th>Mobile No.</th>
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<tr>
<td>WCPC-DIDM</td>
<td>PCSUPT YOLANDA G. TANIGUE, RSW, PHD</td>
<td>Violet Salakot Building, Camp Crame, Quezon City</td>
<td>723-0401 loc. 3480 / 3561 / 3691</td>
<td>0917-7777377</td>
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<tr>
<td>WCPD-CIDG</td>
<td>PSUPT SOTERA MACATANGAY</td>
<td>CIDG, Camp Crame, Quezon City</td>
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<tr>
<td>PRO1</td>
<td>PSINSP SHARON RAMOS TUNGPALAN</td>
<td>Camp Brig. Gen. Oscar M. Florendo, La Union</td>
<td>072- 2427398</td>
<td>0921-9846826</td>
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<tr>
<td>PRO2</td>
<td>PSINSP MINA B AGBISIT</td>
<td>Camp Adduru, Tuguegarao City, Cagayan</td>
<td>078- 8441830</td>
<td>0906-7206207/0910-5238465</td>
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<tr>
<td>PRO3</td>
<td>PSINSP NILDA AGNES</td>
<td>Camp Olivas, San Fernando, Pampanga</td>
<td></td>
<td>0928-4164075</td>
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<tr>
<td>PRO4-A</td>
<td>PINSP GRACE YERRO NAPARATO</td>
<td>Camp Vicente Lim, Calamba City, Laguna</td>
<td>049- 8341601-20 6112</td>
<td>0916-6178578</td>
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<td>PRO4-B</td>
<td>PSINSP IMELDA V. TOLENTINO</td>
<td>Camp Vicente Lim, Calamba City, Laguna</td>
<td>049- 8346008</td>
<td>0919-6481864</td>
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<td>PRO5</td>
<td>PSINSP MARLYN S ABAH</td>
<td>Camp Gen. Simeon A. Ola, Legaspi City</td>
<td>052- 8202811</td>
<td>0917-5588150</td>
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<td>PRO6</td>
<td>PSINSP MA. CECILIA R. DETABLAN</td>
<td>Camp Martin Delgado, Iloilo City</td>
<td>033- 3360054</td>
<td>0920-9013483</td>
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<td>PRO7</td>
<td>PSINSP ASTERIA H. KYAMKO</td>
<td>Camp Sergio Osrna Sr., Cebu City</td>
<td>032- 4165259</td>
<td>0918-2755855</td>
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<td>PRO8</td>
<td>PINSP EDNALYN BUNCAD-PAMOR</td>
<td>Camp Kangleon, Palo, Leyte</td>
<td>053- 3239037</td>
<td>0905-8650217</td>
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<td>PRO9</td>
<td>PO1 SHELLAMIE Q TUBO</td>
<td>Camp Bgen Eduardo B. Batalla, Justice R. T. Lim Blvd</td>
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<td>PRO10</td>
<td>PINSP ROSALINDA E BAUTISTA</td>
<td>Camp Alagan, Cagayan de Oro City</td>
<td>088- 8565084</td>
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<td>PRO11</td>
<td>PINSP Verna L. CABUHAT</td>
<td>Camp Catitipan, Davao City</td>
<td>082- 2331368 2331085</td>
<td>0918-6366321</td>
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<td>PRO12</td>
<td>PSINSP FELY S PAZZIUAGAN</td>
<td>Tambler, General Santos city</td>
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<td>PRO13</td>
<td>PSUPT CRISTETA DELA CRUZ</td>
<td>Camp Rodriguez, Libertad, Butuan City</td>
<td>085- 8150297</td>
<td>0921-4483917</td>
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<td>COR</td>
<td>PSINSP TESSIE B. SARMIENTO</td>
<td>Camp Bado Dangwa, La Trinidad, Benguet</td>
<td>072- 4224212 4227278</td>
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<td>NCRPO</td>
<td>PINSO LERMA TIRANA</td>
<td>Camp Bagond Diwa, Bicutan, Taguig, M. Mla.</td>
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<td>0928-7581765</td>
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<td>ARMM</td>
<td>PSINSP SHIRLEY ANTONIO</td>
<td>Camp Bgen. Salipada, Pendatum, Parang, Maguindanao</td>
<td>7230401 3914</td>
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