



REPUBLIC OF THE PHILIPPINES

**Department
Of
Justice**

**Department of the
Interior and Local
Government**

**First Report of the
INCIDENT INVESTIGATION
AND REVIEW COMMITTEE**

**on the August 23, 2010,
Rizal Park Hostage Taking Incident**

**SEQUENCE OF EVENTS, EVALUATION
and RECOMMENDATIONS**

IIRC, September 17, 2010

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**First Report of the
INCIDENT INVESTIGATION and REVIEW COMMITTEE on the
August, 23, 2010 Rizal Park Hostage-taking Incident:
SEQUENCE OF EVENTS, EVALUATION and RECOMMENDATIONS**

IIRC, September 16, 2010

“Is that the bus going to the Heroes’ Graveyard?”

- PSInsp Rolando Del Rosario Mendoza, to Ruth Del Castillo, Fort Santiago, August 23, 2010.

BASIS OF AUTHORITY, COMPOSITION and MANDATE of the IIRC

In the aftermath of the Rizal Park Hostage-Taking incident on August 23, 2010 which resulted in the murder of 8 foreign nationals and the injury of 7 others perpetrated by a lone hostage-taker, President Benigno C. Aquino III directed the Department of Justice (DOJ) and the Department of Interior and Local Government (DILG) to conduct a joint thorough investigation of said incident. On August 30, 2010, both Departments, through the Secretaries, issued Joint Department Order No. 01-2010 creating an Incident Investigation and Review Committee (the “Committee” or “IIRC”) with the Secretary of Justice as Chairperson, the Secretary of Interior and Local Government as Vice-Chairperson, and with one representative each from the Filipino-Chinese Community, the Kapisanan ng mga Brodkaster ng Pilipinas (KBP), and a representative from the Integrated Bar of the Philippines (IBP). On August 31, 2010, the Secretaries issued Joint Department Order No. 02-2010 appointing Ms. Teresita Ang-See as the representative of the Filipino-Chinese community, Atty. Roan I. Libarios as the representative of the IBP, and Mr. Herman Basbaño of the KBP.

The Committee’s work consists of two (2) parts or phases.

For the first phase, the Committee was tasked to make a comprehensive account of the sequence of events leading to the killing of the hostages and the hostage-taker, evaluate police action and the response of offices and private entities to the incidents, and recommend the filing of appropriate actions against those found culpable as intermediate actions to focus on the hostage-taking incident.

For the second phase, the Committee was also tasked to review operational plans and procedures, conduct a detailed audit and inventory of the training and equipment of responsible agencies, review the Philippine National Police (PNP) standards and procedures in administrative cases involving police officers and personnel, and recommend comprehensive policies and programs as a final and complete report on institutional recommendations.

This report covers the first phase of the mandate of the Committee, *viz.*, the sequence of events, evaluation of government, police and media actions, and recommendations.

SUMMARY of PROCEEDINGS

The Committee started its clarificatory hearings on the August 23, 2010 Rizal Park Hostage-Taking incident on September 3, 2010. First to be called as resource persons were Undersecretary Rico Puno of the DILG, Director General Jesus Verzosa of PNP, Mayor Alfredo S. Lim of the City of Manila and Chairman of the Crisis Management Committee (CMC) for the Rizal Park hostage-taking incident, and PCSupt. (General) Rodolfo Y. Magtibay, formerly District Director of the Manila Police District (MPD) and ground (on-scene) commander for the Rizal Park Hostage-Taking incident and CMC member.

On the second day, September 4, 2010, the Committee heard the testimonies of Vice-Mayor Francisco “Isko Moreno” Domagoso of the City of Manila and Vice-Chairman of the CMC, PCInsp. (Major) Romeo Salvador, MPD Assistant Negotiator, Police Director (General) Leocadio Santiago Jr. of the National Capital Regional Police Office (NCRPO), SPO3 Alfonso G. Gameng, PO3 Edwin Simacon, and PO2 Francis Benette Ungco, all of MPD-Special Weapons and Tactics (SWAT).

The third day of clarificatory hearings was on September 6, 2010 with PSupt. Orlando Yebra, Chief of MPD-Legal and Chief Negotiator in the hostage-taking, SPO2 Gregorio Mendoza, brother of the hostage-taker, PSInsp. Rolando D. Mendoza, Mr. Roberto Agojo, friend and adviser of Mendoza, and Ms. Lourdes Amansec, Assistant Manager of Direction Travel and Tours which managed the Hong Kong tour group hostaged by Mendoza.

On the fourth day, September 7, 2010, the Committee heard Alberto Lubang, driver of the hostaged Hong Thai tour bus, PCInsp. (Major) Santiago D. Pascual III, Over-all Leader of the MPD-SWAT that assaulted the tour bus, PO2 Leo Sabete and PO2 Alfredo Terrado Jr. of the MPD-SWAT Sniper Team, and Jake Maderazo and Michael Rogas of Radio Mo Network (RMN) which conducted a running live interview of the hostage-taker Mendoza at the height of the hostage crisis. At 4:00 p.m. of the same day, the Committee conducted an Ocular Inspection of Independence Ave. fronting the Quirino Grandstand, scene of the hostage-taking incident, and Police Community Precinct (PCP) 5 at the northern corner of Independence Ave. beside Manila Hotel. At 7:00 p.m., the Committee conducted an unannounced inspection visit of the MPD-District Tactical Operation Center (DTOC) and the MPD-SWAT quarters.

On the fifth day, September 8, 2010, the Committee heard Susan Enriquez of GMA7, Erwin Tulfo of Radio Mo Network (RMN), Diana Chan, tour guide of the Hong Kong tour group, SPO1 Erwin Concepcion of MPD-SWAT, SPO2 Maris Cortes and SPO2 Andres Fernandez De Guzman of the MPD-DTOC, PSupt. (Lt. Col.) Remus Medina of NCRPO-Regional Police Intelligence Office Unit (RPIOU), and Melencia Gonzales, friend of Rolando Mendoza. General Magtibay was also recalled for additional questions that day. The PNP-SOCO also made a presentation on their findings. At 2:00 p.m., the Committee proceeded to Camp BagongDiwa, Bicutan, Taguig City for an ocular inspection of and crime scene re-enactment inside the Hong Thai tour bus.

On September 9, 2010, the Committee viewed the videos of broadcast coverage made by the major TV stations of the hostage-taking incident.

On September 13, 2010, the Committee witnessed another presentation of the NBI and PNP-SOCO. In the evening, PSupt. (Lt. Col.) Orlando Yebra accompanied PCInsp. (Major) Michael Dee for more clarificatory questions.

The Committee also held several executive sessions with some of the resource persons on various dates, usually held right after the main testimony is heard in the public clarificatory hearing. These sessions were held for purposes of hearing sensitive matters

such as operational secrets on planning, equipment, procedure, etc. that, if revealed in public, could endanger the safety and the lives of the officials concerned and their men in future operations.

The Committee also invited as resource persons Tanodbayan (Ombudsman) Merceditas Gutierrez and Deputy Ombudsman for the Military and Other Law Enforcement Agencies Emilio Gonzales III for purposes of shedding light on the root causes of the hostage crisis, *viz.*, the perceived injustice and oppression on the part of the hostage-taker, a bemedaled police official for most of his professional life until he was dismissed in a three-page Decision of the Ombudsman and which also forfeited his retirement benefits. The hostage-taker's dismissal was issued in a relatively short period of time but his motion for reconsideration remained unacted upon until after his death. The Committee also sought to clarify the hostage-taker's supposed statement allegedly implicating Deputy Ombudsman Gonzales as the cause of all his sufferings and the hostage crisis itself when he told him that if anybody dies in the hostage-taking, it is all Gonzales' fault, because he allegedly extorted P150,000 from the hostage-taker for the favorable resolution of his case, which in turn pushed the hostage-taker to his fateful course of action.

Both the Tanodbayan (Ombudsman) and the Deputy Ombudsman declined the invitations of the Committee. The Committee in turn reiterated its invitation in a letter dated September 6, 2010, citing the following reasons:

1. The matter under investigation has acquired international dimensions, and the repercussions of the results of the investigation being undertaken involve diplomatic repercussions in the foreign relations between the People's Republic of China and the Republic of the Philippines;
2. Although the independence of the Ombudsman from the Executive Department remains unquestioned in all matters pertaining to this Committee's investigation, this consideration may not be clear to the Government of the People's Republic of China as well as the Hongkong Special Administrative Region as to be explained why a crucial matter in the hostage-taking incident involving the Office of the Ombudsman was not covered in the investigation ordered by President Benigno Simeon C. Aquino III;
3. The subject-matter under investigation has transcended certain domestic considerations, and the invocation of municipal law in the investigation of an incident involving the country's international obligation to protect foreign nationals in Philippine territory might not sit well with the aggrieved foreign state in its request for a full investigation on the killing of their foreign nationals; and
4. For a full investigation, the Committee would like to, as much as possible, be exhaustive in presenting the different sides of the stories, multi-faceted as they are, including the side of the Office of the Ombudsman regarding its role in resolving the administrative case of the hostage-taker Police Senior Inspector Rolando Del Rosario Mendoza and the discussions that transpired between Ombudsman officials and Vice-Mayor Francisco "Isko" Moreno Domagoso in the afternoon of August 23, 2010.

However, despite this second admonition and request, the Tanodbayan (Ombudsman) and the Deputy Ombudsman again denied the Committee's invitation on the ground that the Office of the Ombudsman is an independent constitutional body.

LIMITATIONS of the REPORT

This report is mainly based on the following:

1. Affidavits and testimonies of Government and Police Officials and Personnel;
2. Affidavits and testimonies of the released hostages and survivors;
3. Affidavits and testimonies of the hostage-takers' friends and relatives;
4. Affidavits and testimonies of broadcast news reporters;
5. Documents provided by the resource persons;
6. Documents, Reports and Presentations of the PNP-SOCO, NBI and Hong Kong Police Department; and
7. Ocular Inspections.

The report, for lack of material time, does not incorporate forthcoming findings on ballistic tests on bullet fragments subject to manual testing, including those sent to Hong Kong for the ballistic test assistance provided by the Hong Kong Police Department and other forensic tests. The report is likewise limited to case materials available to the forensic pathologist and as such certain conclusions were there should be some if proper autopsy, scene of the crime, and forensic procedures have been followed and observed by the concerned local government agencies.

Some material affidavits, especially those coming from survivors Ms. LEE Ying-chuen and Ms. NG Yau-woon (Amy Leung) were not integrated in the Sequence of Events portion of the report for lack of material time as the English translations arrived on the fifth day of the drafting of this report. However, the contents of their affidavit were considered in the other material portions of the report especially in the Forensics Pathology portion were a reconstruction of the killing of the hostages by the hostage-taker was attempted based on their eyewitness accounts and that of Alberto L. Lubang and CHAN Kwok-chu together with the forensic findings of the Hong Kong authorities on the cases of the deceased hostages.

Other affidavits and testimonies were also not completely integrated in the narration of the events of the hostage-taking incident for lack of material time. Some of the affidavits would have been supportive of the narrative but are not crucial to the laying down of the critical events that constituted the 11 hour hostage drama.

While pre-mediation was established, the IIRC did not include investigation of persons who could have aided in the planning of the hostage taking or who should have forewarned the authorities, but did not.

The investigation and review focused on the high ranking officials and major players involved in the incident under review but, for lack of material time, the IIRC has not exhausted the determination of possible culpability of other police officials and personnel who were involved and participated in the resolution of the crisis incident. This matter will be the subject of forthcoming proceedings of the IIRC.

The incident under review also encompasses post assault events particularly the forensic investigation, evidence gathering at the scene and the handling thereof to establish accountabilities for omissions or lapses in judgment, and/or mishandling of evidence. However, it is the intention to complete this aspect of the investigation and review.

Some proceedings of the Committee were held in Executive Session to protect operational and tactical sensitive information involving the government's security forces. As such, some information in this report has been withheld without compromising the integrity of the report and has been taken into consideration in the evaluation and recommendation portion of the report.

FACTS and SEQUENCE of EVENTS

The Tour Group

The Hong Kong tour group held hostage by Police Senior Inspector (Captain) Rolando D. Mendoza inside the Hong Thai tour bus on August 23, 2010 in front of the Quirino Grandstand along Independence Ave. of Rizal Park consisted of three families, two couples, a mother and daughter, and the tour leader.

The LEUNG family consisted of the 58 yr. old father LEUNG Kam-wing (Ken), the 43 yr. old mother NG Yau-woon (Amy), a 21 yr. old daughter LEUNG Chung-see, an 18 yr. old son LEUNG Song-xue (Jason), and a 14 yr. old daughter LEUNG Song-yi (Jessie). At the end of the tour, Amy will lose her husband and two daughters, and will be left with a comatose son.

The FU family consisted of the 39 yr. old FU Cheuk-yan, the 40 yr. old mother TSANG Yee-lai, a 10 yr. old son FU Chak-yin, and a 4 yr. old daughter FU Chung-yin. At the end of the tour, every one of the FU family will be released except for the father, who will die trying to save the rest of the tour group from a mad hostage-taker.

The WONG family consisted of the 51 yr. old father WONG Tze-lam, the 44 yr. old mother YEUNG Yee-wa, the 45 yr. old sister-in-law YEUNG Yee-kam, the 15 yr. old daughter WONG Cheuk-yu (Tracey), and the 12 yr. old son WONG Ching-yat (Jason). At the end of the tour, the WONG siblings will be orphans.

The mother and daughter duo of 66 yr. old LO Kam-Fun and 36 yr. old LEE Ying-chuen will both survive.

The elderly LI couple, 72 yr. old LI Yick-biu and 66 yr. old LI TSUI Fung-kwan will be both released.

The couple, 46 yr. old CHAN Kwok-chu (Joe) and 34 yr. old YIK Siu-ling, will both survive but heavily injured.

The tour leader 31 yr. old TSE Ting-chunn (Masa) will receive the first bullet from the hostage-taker.

Arrival

CHAN Kwok-chu, who owns an auto-trading and maintenance business (garage owner), arrived in Manila at 5:30 p.m. with his live-in girlfriend YIK Siu-ling and the Hong Kong tour group on August 20, 2010. The group was led by TSE Ting-chun Masa and included LI Yick-biu and his wife LI TSUI Fung-kwan. Masa led them to the airport carpark to board a bus with the characters "Hong Thai Travel Services Limited." (Masa) introduced to them Diana L. Chan, their tour guide, a Filipino who was called "Sze Shuk Kung" (Danilo L. Nebril) photographer and luggage handler, and a bald driver (Alberto L. Lubang). Their itinerary of travel was followed for the following days accompanied by Chan, Nebril, and Lubang.¹

On August 17, 2010, Alberto Lubang was instructed by Maricon Reyes who was in charge of dispatching tour buses of Direction Travel and Tours Inc. to fetch a Chinese

¹ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX C; Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX B; Statement/Report, LI TSUI Fung-kwan, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX D; Statement/Report, LEE Ying-chuen, September 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX QQQQ.

tour group at the airport and drive them to Philippine tourist spots for four days. Lubang fetched the tour group consisting of twenty one (21) Chinese tourists on the night of August 20, 2010.²

From the airport, the tour group was taken to Macapagal Ave. where they bought fruits, and then to Malate Church. Finally, the tour group was checked in at the Manila Pavilion hotel.³ The tour group proceeded with their itinerary and the tour proved uneventful for the following two days, as they went to Taal Lake, the Bamboo Organ, Binondo, and Pagsanjan Falls, until the 23rd of August, 2010.⁴

Fateful Trips

In the morning of August 23, 2010, at around 6:10 a.m., dismissed Manila Police District Police Senior Inspector (Captain) Rolando Del Rosario Mendoza appeared at the doorsteps of his close friend Melecia B. Gonzales at Barangay VII, Poblacion, Tanauan City, Batangas. Mendoza asked Gonzales if she could accompany him in his trip to Manila because he will be returning the firearms issued to him. Gonzales asked Mendoza why he was dressed in his police camouflage uniform. He responded that he had to be in uniform because he was bringing firearms.⁵ They left Tanauan at around 6:30 a.m.⁶

The two rode in Gonzales' car with Mendoza driving. At Bicutan, they went up the ramp to take the Skyway Expressway to Manila. Gonzales asked Mendoza why they were not going to Bicutan to return the firearms. Mendoza replied that the firearms were issued in Manila so he was returning them in Manila. Once in Manila, they proceeded to Binondo (Chinatown) and ate breakfast at Hap Chan Restaurant at around 7:30 a.m.⁷ They ate for 25 minutes and left Binondo at around 8:00 a.m.⁸ They then proceeded to Intramuros, passed by the Manila Cathedral, and parked the car at Fort Santiago at around 8:10 or 8:15.

At 7:30 a.m. the Hong Kong tour group led by TSE gathered in the hotel for breakfast. After sightseeing, they were to return to Hong Kong at 7:30 p.m. After breakfast, the tour group was met by Diana Chan, Nebril, Lubang, and another young Filipino helper named Egor (Rigor) Cruz. They then boarded the Hong Thai tour bus.⁹

At 7:30 a.m. Diana Chan arrived at the Manila Pavilion Hotel along Manila Bay near Roxas Blvd. to accompany the tour group. They were scheduled to go to Fort Santiago, back to the hotel, then to SM Mall of Asia before proceeding to the airport for their flight back to Hong Kong. With them were the driver, Alberto L. Lubang, the photographer, Danilo L. Nebril, and Nebril's assistant photographer and godson, Egor Cruz (Rigor in other accounts). Lubang arrived with the Hong Thai tour bus with plate number TWU-799 at around 8:00 a.m. Nebril arrived at the Manila Pavilion at 8:30 a.m. They all boarded the Hong Thai tour bus and left the hotel for Fort Santiago at 8:45 a.m.¹⁰

² Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

³ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

⁴ Statement/Report, LEE Ying-chuen, September 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX QQQQ.

⁵ Sinumpaang Salaysay, Melecia B. Gonzales, August 31, 2010, ANNEX K.

⁶ Executive Session with Melecia B. Gonzales, September 8, 2010.

⁷ Sinumpaang Salaysay, Melecia B. Gonzales, August 31, 2010, ANNEX K.

⁸ Executive Session with Melecia B. Gonzales, September 8, 2010.

⁹ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX C; Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX F; Statement/Report, LI TSUI Fung-kwan, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX D.

¹⁰ Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX B; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I.

Fort Santiago

At Fort Santiago, around 8:15 a.m., Mendoza told Gonzales to get down and see the sights inside Fort Santiago. Gonzales did as she was told and went out of Fort Santiago at around 8:30 to meet up again with Mendoza who was then coming out of the parking area to pick up her up. They left Fort Santiago and drove around Anda Circle about 200 meters away from Fort Santiago where tourist buses going to Fort Santiago usually park while waiting for their passengers tour Fort Santiago. They then went back to Fort Santiago, then drove again to go around Anda Circle for the second time. Finally, they drove back to Fort Santiago and Mendoza parked on the side of the road near a big building (Note: by all indications this building was *Palacio del Gobernador*) and got off. He picked up his things from the car, a backpack and his long firearm, and told Gonzales to drive herself home back to Tanauan, Batangas.¹¹

The Hong Thai tour bus reached Fort Santiago before 9:00 a.m. There were no other tourist buses at Fort Santiago when it arrived. Lubang drove off and parked at nearby Anda Circle outside the walls if Intramuros. Chan guided the tour group inside Fort Santiago. After the tour, she gave instructions to the group to meet up at the gate at 9:40 a.m. At 9:40 a.m. all but two guests and Nebril were at the assembly area and Rigor called Lubang through cellular phone and told him to pick the tour group at the gate of Fort Santiago. When the bus arrived, the tour group boarded the bus except for the two missing guests, LEE Ying-Chuen and LO Kam-Fun, and Nebril who was sent to look for them. The two tourists, with Nebril, were the last in the tour group to board the bus.¹² CHAN Kwok-chu sat on the right third row of the bus with YIK Siu-ling near the window (Seats 3C and 3D) as Diana and Masa counted the number of tour members again.¹³ LI Yik Bui and LI TSUE Fung-kwan sat at Seats 3A and 3B.¹⁴

Between 8:00 and 9:00 a.m., Mendoza was already observed by bystanders around the area of Fort Santiago. Rolando Jara, a security guard, saw Mendoza with his rifle slung on his shoulder pass by the building Jara was guarding and position himself at the gate of Fort Santiago. Later, he also saw Mendoza board the Hong Thai bus. Daryl Sunga, a vendor at Fort Santiago, also saw Mendoza at Fort Santiago with rifle slung on his shoulder but paid no attention because he was used to seeing tourist police watch over tour groups. He also observed three buses: the Hong Thai bus, a Circle bus carrying Japanese tourists, and a Pintakasi bus with Filipinos taping an advertisement scene inside Fort Santiago. Major Geronimo of the Intramuros Fire Station related that one of his men, Sgt. Doria, saw Mendoza pass by the side of the fire station leading to Fort Santiago. Albert Mabanta, a vendor at Fort Santiago, saw Mendoza buy softdrinks from a store near Fort Santiago. Bing Eugenio, another vendor, also saw Mendoza in front of the gate of Fort Santiago. Jaime Mayor, a *karitela* (horse drawn coach) driver, related that while two of the Hong Kong tourists were having pictures taken with him on his *karitela*, he saw Mendoza standing in front of the entrance of Fort Santiago. Later, he also saw Mendoza board the Hong Thai bus.¹⁵

Ruth Del Castillo, a tour guide at Fort Santiago, recounted that while she was standing in front of the entrance gate of Fort Santiago, Mendoza approached her and asked “*Yan ba iyong tourist bus papunta sa Libingan ng Mga Bayani?*” (*Is that the bus going to*

¹¹ Sinumpaang Salaysay, Melecia B. Gonzales, August 31, 2010, ANNEX K; Executive Session, Melecia B. Gonzales, September 8, 2010.

¹² Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B; Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX C.

¹³ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau.

¹⁴ Report, LI Yick-bui, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX F; Statement/Report, LI TSUI Fung-kwan, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX D.

¹⁵ NBI Memorandum for Chief, DID-SIS dated August 25, 2010, ANNEX EEEE.

Libingan ng Mga Bayani? [Note: roughly translated, Heroes' Graveyard]). Del Castillo asked "*Escort po ba kayo?*" (*Are you an escort?*). Mendoza said yes.¹⁶

The Gunman

When the tour group boarded the bus, Lubang noticed a uniformed policeman (Mendoza) talking to a Fort Santiago tour guide (Del Castillo). Mendoza, who was carrying a long firearm, a black backpack, and a pistol on his waist, then approached their bus. He asked Nebril where their bus was going. Nebril said "*Airport.*"¹⁷ (Note: In Lubang's sworn statement before the MPD-Homicide Section, it was him who said "*Airport.*")¹⁸ Mendoza said "*Tamang-tama, sasabay na ako*" (*How fortunate, I will ride with you*). He then got on the bus, said "*Pulis ako*" (*I am a policeman*), and ordered the door of the bus closed.¹⁹ Nebril recalled that Mendoza got on the bus ahead of him and he told Mendoza "*Sir, wala po kaming pulis dito. Tourist po ito.*" (*Sir, we don't have police here. This is tourist.*). Mendoza asked him if the bus was going to Fort Bonifacio and Nebril replied "*Hindi po. Papunta kami ng Pavilion.*" (*No sir. We are going to the Pavilion.*) Mendoza then said "*Makikisabay lang ako!*" (*I will just hitch a ride!*).²⁰

Diana Chan was giving instructions to the tour group inside the bus when she turned around and saw Mendoza wearing military clothes and an inside shirt and carrying a long firearm, a knife, and a bag. Chan asked her colleagues who the man was but no one replied. Mendoza told her that he was hitching a ride to Rizal Park. She told him that outsiders were not allowed inside the bus. She tried to go down to ask for help from the Security at Fort Santiago but Mendoza was blocking the door and did not move when she said "*Excuse me.*" Mendoza shouted "*Close the Door!*"²¹ and instructed the driver to get the bus moving and ordered the tour group members to close the curtains and move to the back of the bus, saying "*Move back!*". He told Lubang "*Dalhin mo sa Luneta*" (*Drive to Luneta*). At this point Mendoza was calm. He was neither angry nor shouting.²² CHAN Kwok-chu asked Diana what it was all about and she said it might be because of illegal parking.²³

Hostage

When the bus neared the archway of Intramuros towards Anda Circle, Mendoza announced "*Sorry, hostage ko na kayo ngayon*" (*Sorry, you are now my hostages*). Chan immediately translated the announcement in Chinese to the tour group. While at the back of the bus, Chan sent a message to Lourdes Amansec, the assistant manager of Direction Travel & Tours who hired her for that tour, telling her they were being held hostage.²⁴ LI Yick-biu observed Mendoza put his bag on the right front row of the bus and took out things to equip himself. The first was a thick leather belt with a handgun

¹⁶ NBI Memorandum for Chief, DID-SIS dated August 25, 2010, ANNEX EEEE.

¹⁷ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

¹⁸ Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

¹⁹ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

²⁰ Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I.

²¹ Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I; Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide); Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX F; Statement/Report, LI TSUI Fung-kwan, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX D.

²² Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I; Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

²³ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX C.

²⁴ Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I; Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

on it and then a sabre and three magazines all of which he attached to the leather belt. He noticed that the rifle already had a magazine attached to it.²⁵

While the bus moved on, Mendoza allowed the tour group to make calls to friends, relatives, and the police. The tour leader, TSE Ting-Chunn Masa, was the only one who used his cellular phone to call someone.²⁶ Mendoza called LI Yick-biu who earlier transferred from Seats 3AB with LI TSUI Fung-kwan to Seats 8CD and ordered him to transfer to Seats 3AB again and seat beside the window. Behind him at Seats 4AB was Mr. FU Cheuk-yan.²⁷ Mendoza then instructed Chan to collect all the cellular phones of the tour group.²⁸ Mendoza also ordered CHAN Kwok-chu and YIK Siu-ling to the back of the bus and the two transferred to the second to the last row of the bus (Seats 10C and 10D).²⁹

Lubang drove to Luneta and when they reached Manila Hotel, Mendoza ordered him to turn towards the Quirino Grandstand.³⁰

At 9:30, while Melecia Gonzales was driving near the Sucat Exit of the South Luzon Expressway, Mendoza called her up and told her that he has taken a bus hostage. She asked why he was doing it. He told her to just watch it on television and then turned off his cellular phone.³¹

Quirino Grandstand

At around 9:50 and 9:55 a.m., the Hong Thai tour bus arrived at Rizal Park near the Quirino Grandstand.³² Lubang was ordered to park the bus facing Kalaw Avenue. Mendoza then handcuffed Lubang's left hand to the steering wheel.³³ After some minutes, Mendoza ordered him to maneuver the bus again to face the Rizal Monument.³⁴ Lubang complained of difficulty in maneuvering the bus so Mendoza helped him maneuver the bus.³⁵

At 9:49 a.m., Lourdes V. Amansec, Assistant Manager of Direction Travel and Tours, received a text message from Chan which said "*Host.ge in mnl rizal park*". Amansec called Chan several times but there was no answer. She then called Lubang who did not answer also. She then called Nebril who answered his phone discreetly. Amansec recalled Nebril saying "*Mam hinostage kami dito sa Grandstand*" (*Mam we are being held hostage here at the Grandstand*). Nebril recalled that he told Amansec "*Mam nandito po kami sa harapan ng Grandstand, na-hostage po kami.*" (*Ma'm we are here in front of the Grandstand. We were taken hostage.*). Nebril told her that he was able to

²⁵ Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX F.

²⁶ Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I; Statement/Report, LI TSUI Fung-kwan, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX D.

²⁷ Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX F.

²⁸ Sworn Statement, Diana L. Chan, August 26, 2010 ANNEX H; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010 ANNEX I; Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX F; Statement/Report, LI TSUI Fung-kwan, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX D.

²⁹ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX C.

³⁰ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

³¹ Sinumpaang Salaysay, Melecia B. Gonzales, August 31, 2010, ANNEX K.

³² Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H.

³³ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I.

³⁴ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

³⁵ Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H.

answer the phone because he was at the back of the bus. Amansec told him that she will be proceeding to the Grandstand.³⁶

Mendoza then took out some papers from his bag and ordered Chan to post them on the windshield of the bus also helping Chan cut the scotch tape with which to post the papers bearing a case number.³⁷ He then ordered Chan to get back to her seat behind Lubang. Mendoza then faced the tour group and started narrating his story of being dismissed from the police force without getting any benefits and having a criminal case filed against him. He said he is innocent and it was all the fault of his men. He also said *“Just cooperate and no harm.”*³⁸ He also said *“Tho-hostage ko lang kayo hanggang alas tres ng hapon” (I will hold you hostage only until 3:00 p.m.).*³⁹

Mendoza then ordered Chan to call the office of Direction Travel and Tours and tell the office that they were being held hostage. Mendoza then also called someone on his cellular phone. He called the other person on the line “Pare” (Buddy).⁴⁰ Nebril heard him say *“Tingnan mo ang ginawa mo ngayon, ako lang mag-isa dito sa Grandstand... Ang panalo ko, panalo natin.” (Now you see what you did, I am all alone here at the Grandstand... My victory is our victory).*⁴¹ Mendoza then turned off his phone.⁴²

Mendoza then told Lubang that he was brought to Manila by his second wife. Lubang asked *“Dalawa pala ang asawa mo sir?” (You have two wives sir?)*, to which Mendoza replied *“Oo, dalawa ang asawa ko. Hinatid pa nga niya ako sa Intramuros” (Yes, I have two wives. She even brought me to Intramuros).* Mendoza also related the story of his case, that he was innocent and was just implicated. His only fault was that he did not watch over his men. Mendoza said the case hurt him deeply because the penalty was severe.⁴³

Alert

Amansec left for the Quirino Grandstand at Luneta Park in a van with her staff and driver. While passing by in front of the hostaged Hong Thai bus along Independence Avenue, she noticed a paper posted to the windshield and a uniformed Mendoza standing beside Lubang. Amansec proceeded to the Police Community Precinct (PCP) at the northern corner of Independence Avenue near Manila Hotel and reported to the police that tourists were being held hostage in front of the Grandstand. The police did not seem to believe her so she took them to the bus. When they neared the bus, the police told her driver not to go near the bus so they drove straight ahead past the bus to Blue Bay Restaurant at the southern corner of Independence Avenue. One of the policemen then started to report on his radio. The police got off at Blue Bay and Amansec just stayed inside her van.⁴⁴

Amansec called Lubang who said they were alright and handed his phone to Mendoza. Mendoza told Amansec who he was and told her that he will not harm the hostages and

³⁶ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010, ANNEX L; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I.

³⁷ Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I; Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide); Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX F.

³⁸ Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX I; Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

³⁹ Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

⁴⁰ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

⁴¹ Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010, ANNEX.

⁴² Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

⁴³ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

⁴⁴ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010, ANNEX L.

that all he needs is to be reinstated in the service and that all his benefits that were forfeited be restored. Mendoza said that people at the “Camp” already knew what he was doing. Amansec kept on repeating the name of Mendoza loudly so the policemen with her will know who she was talking to.⁴⁵

Mobilization

At around 10:00 a.m., Police Chief Superintendent (General) Rodolfo Y. Magtibay, District Director of the Manila Police District (MPD), was in his office at the Manila Police District Headquarters along U.N. Avenue when he was informed that a hostage-taking incident was taking place at the Quirino Grandstand. He was at the scene of the incident ten minutes later at 10:10 a.m.⁴⁶

Before 10:00 a.m. Police Chief Inspector (Major) Romeo B. Salvador was informed by the District Tactical Operations Center (DTOC) that there was an on-going hostage-taking incident at the Quirino Grandstand and that he was to inform Police Superintendent (Lt. Colonel) Orlando Yebra to act as the negotiator upon orders of Magtibay. He called Yebra and was instructed to go ahead to the scene of the incident and bring the throw phone and other negotiators’ equipment. He arrived at the Quirino Grandstand at around 10:00 a.m. and immediately coordinated with Magtibay at the Luneta Police Community Precinct (PCP) where Magtibay set up the Advanced Command Post (ACP).⁴⁷ Salvador was assisted by PO2 Denison M. Rivera Jr.⁴⁸

At around 10:00 a.m., Police Chief Inspector (Major) Edgar A. Reyes, Chief of the District Mobile Unit of the MPD, monitored that there was an ongoing hostage incident in front of the Luneta Grandstand. He proceeded to Luneta and dispatched more mobile patrols to block the north and south portions fronting the Grandstand to prevent the bus from leaving the area.⁴⁹

Amansec noticed that mobile patrol cars started to come and increase in number around the vicinity. A policeman then approached her and told her to go with him to his superior. The police superior just took her name and cellular phone number. The police superior did not talk to her again. Amansec called Lubang and asked Mendoza if she could approach the bus to read what was posted on the bus windshield. Mendoza allowed her to approach the bus. Amansec told the police superior about her conversation with Mendoza but the police superior did not allow her to approach the bus.⁵⁰

At 10:00 a.m., then PNP Chief, Director General Jesus Versoza, was in his office at Camp Crame when he was informed of the hostage-taking incident. He immediately contacted the Director of the NCRPO, Police Director Leocadio Santiago Jr. and General Magtibay and told them to create the Crisis Management Committee. He also convened the Command Group and monitored at the National Operation Center to supervise and give assistance if necessary.⁵¹

At 10:15 a.m., Police Superintendent (Lt. Col.) Nelson T. Yabut was at the DPSB office at MPD Headquarters when he was informed by the Duty Desk Officer of an on-going

⁴⁵ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010, ANNEX L.

⁴⁶ Sworn Statement, PCSUPT Rodolfo Y. Magtibay, September 1, 2010, ANNEX T.

⁴⁷ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010, ANNEX U; Sworn Statement, PO2 Denison M. Rivera Jr., September 4, 2010, ANNEX BBB.

⁴⁸ Sworn Statement, PO2 Denison M. Rivera Jr., September 4, 2010, ANNEX BBB.

⁴⁹ Affidavit, PCINSP Edgar A. Reyes, August 30, 2010, ANNEX XX.

⁵⁰ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010, ANNEX L.

⁵¹ TSN, IIRC Clarificatory Hearing, Testimony of Director General Jesus Versoza, p. 8-11, ANNEX 2.

hostage-taking incident. He was directed by Col. Posadas to augment Police Station 5 for crowd control.⁵²

At around 10:30 a.m., Police Senior Superintendent (Colonel) Robert G. Po, Chief of the MPD District Directorial Staff, was ordered by Gen. Magtibay to inform Police Senior Superintendent (Colonel) Alex Gutierrez (Deputy District Director for Administration) and Police Senior Superintendent (Colonel) Fidel Posadas (Deputy District Director for Operations) to report to Magtibay at the Luneta PCP because of a hostage-taking incident.⁵³ Magtibay thus activated the Crisis Management Task Group. He also designated Col. Yebra as Chief Negotiator and Major Salvador as Assistant Negotiator.⁵⁴

At past 10:00 a.m., Manila Vice Mayor Francisco “Isko Moreno” Domagoso was with Manila Mayor Alfred Lim in their regular department heads Monday meeting when Col. Alex Gutierrez who was at the meeting announced that there is an ongoing hostage-taking in front of the Grandstand involving foreigners. Mayor Lim immediately gave instructions to Col. Gutierrez to cordon off and proceed to the area. By that time, local and international media were calling City Hall for interview so the Vice Mayor called Magtibay and the General told him that the hostages were Hong Kong (Chinese) nationals and not Koreans and that the hostage-taker was a dismissed police officer, Captain Rolando Mendoza. Moreno was instructed by the Mayor to go ahead to the area and assess everything for any assistance that the City may give.⁵⁵

First Release

At around 10:30 a.m., a female member of the tour group, LI TSUI Fung-Kwan, wife of LI Yick-biu, who was seated at Seats 8CD raised her hand and said “*Excuse me sir, I have upset stomach.*” Mendoza ordered Chan to accompany LI TSUI to a comfort room and they were allowed to get off the bus.⁵⁶ When they got off the bus, they were met by Amansec and they looked for a toilet.⁵⁷ As they got off the bus, Mendoza told Chan “*Sige baba na kayo, tumawag kayo sa NCRPO at tatawag din ako dun para ipaalam na hostage ko na itong bus nyo.*” (*Alright you get off, call NCRPO and I will also call them to tell them that I have taken this bus hostage.*)⁵⁸ When they went out of the toilet, Chan and Li were met by General Magtibay, whose name Amansec knew because of his nameplate, other policemen, and the media.⁵⁹ Diana and LI TSUI still intended to go back to the bus but were stopped by the police. Diana just told them that LI TSUI’s husband LI Yick-biu was still in the bus.⁶⁰ Magtibay asked Amansec how she was able to communicate with Mendoza and she said through the phone of Lubang whose number she gave to Magtibay.⁶¹

Chan, LI TSUI, and Amansec were then brought to the Luneta Police Community Precinct (PCP) at the northern corner of Independence Avenue beside Manila Hotel. While at the holding area, not a single policeman talked to Amansec and the two

⁵² Affidavit, PSUPT Nelson T. Yabut, August 26, 2010, ANNEX BBB-2.

⁵³ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V.

⁵⁴ Sworn Statement, PCSUPT Rodolfo Y. Magtibay, September 1, 2010, ANNEX T.

⁵⁵ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010, ANNEX W; TSN, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 90-92. ANNEX 3.

⁵⁶ Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B; Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010, ANNEX L; Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX F; Statement/Report, LI TSUI Fung-kwan, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX F.

⁵⁷ Sworn Statement, Diana L. Chan, August 26, 2010, ANNEX H; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

⁵⁸ Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

⁵⁹ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

⁶⁰ Statement/Report, LI TSUI Fung-kwan, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX D.

⁶¹ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

released hostages (Chan and LI TSUI). Only the Red Cross personnel talked to them and asked for the names of the released hostages.⁶² LI TSUI told a Red Cross staff that his husband was sick and might need to take medicine.⁶³ Chan and LI TSUI stayed there and Chan was able to assist six (6) tour group members released by Mendoza back to Manila Pavilion.⁶⁴ Later in the afternoon, the Red Cross brought the released Chinese hostages to the Manila Pavilion.⁶⁵ Aloysius Alvarez was the team leader of the Red Cross who brought the released hostages to the Pavilion.⁶⁶

Initial Contact and Demands

At around 11:00 a.m., Colonels Po and Posadas arrived at the Luneta PCP as instructed by Gen. Magtibay. Colonel Gutierrez was already there when they arrived.⁶⁷

Before 11:00 a.m., Major Salvador contacted Mendoza through the cell phone of Lubang. He introduced himself and Mendoza remembered him as a talking buddy while in floating status at Camp Bagong Diwa, Bicutan. Mendoza allowed Salvador to approach the bus but told him to first remove his bullet proof vest. Major Salvador then approached the driver's window and talked to Mendoza. Mendoza demanded that an Order be issued for his immediate reinstatement to the service. If the same was granted, Mendoza would immediately handcuff himself and surrender. He also said he had two grenades. He then told Salvador to copy what was written on the white cartolina paper on the windshield of the bus. While copying the contents of the paper, Salvador tested the thickness of the windshield and found it very thick. The contents of the paper were criminal case numbers and the names of Deputy Ombudsman Gonzales, Deputy Ombudsman Orlando Casimiro, and Ombudsman Merceditas Gutierrez. After copying the paper, Salvador went back to the driver's window and offered Mendoza food and drinks for the hostages. Mendoza refused, saying the travel agency management has already ordered food for them and that he might be drugged.⁶⁸

At 11:00 a.m., while still talking to Mendoza, Salvador saw Col. Yebra waving at him from 50 meters away. He told Mendoza that Yebra has already arrived and that he was taking over as negotiator. Mendoza said *"Ayoko sa kanya! Ikaw ang gusto kong kausap."* (*I don't want him! I want to deal with you.*) Salvador told Mendoza that he will relay this to Yebra and then went to Yebra. Salvador told Yebra of Mendoza's demands, weapons, attitude and refusal to talk to anyone but Salvador. Yebra called Mendoza through Lubang's cellphone. Yebra asked Mendoza if he could approach the bus and talk to him and Mendoza agreed. When Salvador and Yebra reached the bus, the latter asked Mendoza *"Rol ano ba ang problema?"* (*Rol what is the problem?*) to which Mendoza replied *"Sir, gusto ko lang ng order para maibalik ako sa serbisyo para matapos na ito, bababa na ako"* (*Sir, I just want an order reinstating me in the service so this will end and I will step down from here*). Mendoza then handed a case folder on his dismissal to Yebra and told him to immediately deliver the same to Secretary Leila De Lima of the Department of Justice and for Secretary De Lima to personally call Yebra. Before they left, Lubang asked for a battery for his cellphone. They just gave him the cellphone of PO2 Denison Rivera. Salvador then gave the case folder to PO2 Rivera for delivery to Sec. De Lima. Yebra then relayed Mendoza's demands to the crisis committee composed of Gen. Magtibay, Col. Posadas, Col. Gutierrez and Col. Po.⁶⁹

⁶² Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

⁶³ Statement/Report, LI TSUI Fung-kwan, August 31, 2010 ANNEX D, Hong Kong Police HQ-Organized Crime and Triad Bureau.

⁶⁴ Sworn Statement, Diana L. Chan, August 26, 2010 ANNEX H; Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B.

⁶⁵ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

⁶⁶ Sinumpaang Salaysay, Aloysius Anthony A. Alvarez, September 7, 2010 ANNEX R.

⁶⁷ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010 ANNEX V.

⁶⁸ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

⁶⁹ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

According to Lubang, it was around 12:30 p.m. when Major Salvador, who was wearing an orange shirt, approached the bus and talked to Mendoza through the driver's window.⁷⁰ Salvador asked "*Bok ano ba nais mo at bakit ka nandito?*" (*Bok, what do you want and why are you here?*). Mendoza replied "*Bok yun lang kaso ko sa Ombudsman ang gusto kong madinig dito, wag kayong magalala, wala naman mangyayari pag nasunod ang mga gusto ko, pangako yan*" (*Bok the only thing I want known here is my Ombudsman case, don't worry, nothing will happen if my demands are met, that's a promise*).⁷¹ Mendoza told Salvador to relay his demands written on the paper posted on the bus windshield. Salvador told Mendoza that he will just copy what was written on the paper and Mendoza gave him a pen and paper. Salvador then copied what was posted on the windshield then left. Lubang asked Mendoza who the man in orange shirt was. Mendoza replied that it was Major Salvador.⁷² After 15 minutes, Salvador returned this time with Col. Yebra who was wearing a white long sleeve shirt. Mendoza called Yebra "*Sir*" and Yebra said "*Rol, ano ba ang problema? Baka puwede nating pag-usapan?*" (*Rol, what is the problem? Maybe we can talk about it?*). Mendoza replied "*Sige sir, baka puwedeng maipadala itong mga papeles ko sa Ombudsman at sa DOJ, kay Secretary De Lima, para mamaya lang ay malaman ko ang sagot*" (*Alright sir, maybe you can send these documents to the Ombudsman and to the DOJ, to Secretary De Lima, so that in just a while I will know the answer*). Yebra replied "*Sige padala natin. Baka puwede namang magpalabas ka diyan kahit dalawa?*" (*Alright we will send it. Maybe you can release a couple of hostages?*). Mendoza said "*Sige pag-iisipan ko sir, basta bigayan tayo*" (*Alright I will think about it sir as long as we make fair exchanges*).⁷³

After the exchange, Salvador handed Mendoza's documents to PO2 Rivera and ordered him to photocopy the same in two sets and deliver one set to Secretary De Lima. While having the documents photocopied, he was ordered back to the Luneta PCP. Rivera gave the documents to Magtibay. Vice Mayor Isko Moreno was there and told him that it would be better if the documents be brought to the Ombudsman instead of the Department of Justice since Mendoza's case was an Ombudsman case. Magtibay then ordered Rivera again to photocopy the documents and deliver the same to the DOJ. After photocopying, he was called again to the PCP. He understood the order to mean not to deliver the documents to DOJ anymore. At the PCP, Isko Moreno got one copy and the original was kept by Rivera.⁷⁴

Second Release

At around 11:00 a.m., Mendoza called three children and a female adult hostage and let them get off the bus.⁷⁵ Mrs. FU TSANG Yee-lai told Mendoza in English that her two children were feeling unwell. Mendoza told her to get off with her two children. At this point, a tour member asked Mrs. FU to take along Mrs. WONG's son, WONG Ching-yat. Mendoza did not object and Mrs. FU and the three children got off the bus. (Note: CHAN Kwok-chu's recollection put Mrs. FU's release after that of LI Yick-biu).⁷⁶ Amansec, Chan and Li were at the PCP when the four released hostages arrived.⁷⁷

Salvador saw Yebra approaching the bus and he followed him. Mendoza released four hostages and the negotiators accompanied them to the Control Center located at the

⁷⁰ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B.

⁷¹ Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

⁷² Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B.

⁷³ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

⁷⁴ Sworn Statement, PO2 Denison M. Rivera Jr., September 4, 2010 ANNEX BBB.

⁷⁵ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX F.

⁷⁶ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX C.

⁷⁷ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

Quirino Grandstand.⁷⁸ (*This hostage release was recounted in the sworn statement of Salvador as having taken place at 12:00 p.m.*)⁷⁹

At this point, Mendoza noticed that CHAN Kwok-chu and YIK Siu-ling were sitting together. He ordered YIK Siu-ling to transfer back to the third row right side in front (Seats 3CD) and told Egor Cruz to sit beside CHAN. While Egor sat beside CHAN, the latter noticed that he was sending and receiving several messages on his cellular phone.⁸⁰

At around 11:30 a.m., while at the holding area for released hostages at the Luneta PCP, Amansec went to Magtibay who was inside a room at the PCP and told him that she will be sending food and water to the hostages. Magtibay replied that it will be allowed but it had to wait. Amansec had someone get the food and water at once.⁸¹

Midday

Before 12:00 p.m., Salvador was approached by a man who introduced himself as Roberto Agojo, an adviser and co-godparent (kumpare) of Mendoza who requested that he be allowed to approach the bus and talk to Mendoza. Salvador denied his request.⁸²

At 12:00, at the National Capital Regional Police Office (NCRPO) in Camp Bagong Diwa, Bicutan, Police Superintendent (Colonel) Remus B. Medina, Chief of the Regional Police Intelligence and Operations Unit of the NCRPO, was instructed by Police Director (General) Leocadio SC Santiago Jr., NCRPO Chief, to proceed to Malacanang Palace and to report to DILG Undersecretary Rico Puno to give the President a briefing and update on the ongoing hostage-taking incident.⁸³

At around noontime, Vice Mayor Isko Moreno arrived at the Quirino Grandstand and met with Magtibay⁸⁴ and Yebra. Moreno recalls that they told him that the hostage-taker wanted a review of his case with the Ombudsman. Mendoza was dismissed from the police service by the Ombudsman and moved for a reconsideration of said dismissal which was pending with the Ombudsman. Magtibay said he intends to talk with Deputy Ombudsman Orlando Casimiro about Mendoza's demand so Moreno volunteered to go to the Office of the Ombudsman in Quezon City about 15 km. from Luneta so as not to diminish the presence of police officials at the crisis area.⁸⁵

At around 12:30 p.m., Mendoza went down the stairs of the bus and looked angry. He complained about what he heard on the radio regarding the false allegations in the "shabu-swallowing" case against him where he and his men allegedly forced a chef to swallow shabu which in turn became the basis for the filing of administrative and criminal complaints against him. Mendoza demanded for a reporter and cameraman. The negotiators agreed to this in exchange for one of the hostages who was a diabetic (LI Yik-biu). Mendoza said he will think about it. He later released the diabetic hostage at 1:40 p.m.⁸⁶

At 12:37 p.m., Yebra and Salvador were at the side of the bus talking to Mendoza when Vice Mayor Isko Moreno called Yebra informing him that he was on his way to the

⁷⁸ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

⁷⁹ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

⁸⁰ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX C.

⁸¹ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

⁸² Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

⁸³ Affidavit, PSUPT Remus B. Medina, September 11, 2010 ANNEX AAA.

⁸⁴ TSN, IIRC Clarificatory Hearing, PCSUPT Rodolfo Y. Magtibay, September 3, 2010 ANNEX 3; Sworn Statement, Francisco Moreno Domagoso, September 1, 2010 ANNEX W.

⁸⁵ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010 ANNEX W.

⁸⁶ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

Ombudsman. Moreno talked with Mendoza who thanked the Vice Mayor.⁸⁷ Yebra and Salvador said that Mendoza's documents have already been sent and that it was Vice-Mayor Isko Moreno himself who was bringing them. Mendoza said "*Pakibilisan lamang sir*" (*Just be quick sir*). Yebra then handed a cellular phone to Mendoza and told him to talk to the Vice Mayor. Mendoza took the phone and talked to the Vice Mayor saying "*Yes sir*" then returned the phone to Yebra.⁸⁸

At 12:30 p.m., the wife of Mendoza came to the house of Melecia Gonzales together with Mendoza's brother, Florencio. Mendoza's wife asked her if she could drive them to Luneta in Manila. She acceded and they left for Manila.⁸⁹

Late Lunch

The food that Amansec ordered arrived at 12:57 p.m. at the Luneta PCP.⁹⁰

At around 1:00 p.m., Col. Medina arrived at Malacanang from the NCRPO and reported to Undersecretary Rico Puno. He then briefed the President on the hostage-taking. During the briefing, the President ordered him that in case of an assault on the bus, the PNP Special Action Force Crisis Response Group (SAF-CRG) be used and that one ambulance per hostage should be readied. Medina sent General Santiago text messages regarding the President's orders and later called him again to repeat the orders of the President. Later, while he was still in the meeting with the President monitoring the hostage-taking on TV, General Magtibay called and Medina relayed to him the orders of the President to use the SAF-CRG in case of an assault on the bus. Magtibay said "*Oo*" (*Yes*) three times.⁹¹

At past 1:00 p.m., Magtibay got in touch for the first time with Mayor Alfredo Lim as head of the Crisis Management Committee and was given instructions.⁹² At 1:30 p.m., Mayor Lim also got a call from the President asking how the negotiations are doing and was instructed to make sure that the hostages are safe.⁹³

Between 1:40 and 1:45 p.m., reporter Erwin Tulfo arrived with a cameraman and went inside the cordoned area. The negotiators approached him and he said that he heard that Mendoza was demanding for a reporter. They told him that Mendoza wanted a female reporter. Salvador also stated that the food for the hostages was delivered around this time.⁹⁴ A van containing some food approached the hostage bus. Salvador handed out the food to the bus. The hostages then started to eat.⁹⁵ Mendoza did not eat.⁹⁶ Lubang recalled that Mendoza did not want to eat because he might make a mess inside the bus.⁹⁷

⁸⁷ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

⁸⁸ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B.

⁸⁹ Executive Session with Melecia B. Gonzales, September 8, 2010 ANNEX 5.

⁹⁰ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

⁹¹ Affidavit, PSUPT Remus B. Medina, September 11, 2010; IIRC TWG with PSUPT Remus B. Medina ANNEX AAA.

⁹² TSN, IIRC Clarificatory Hearing, PCSUPT Rodolfo Y. Magtibay, September 3, 2010 ANNEX 3.

⁹³ TSN, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 101 ANNEX 3.

⁹⁴ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

⁹⁵ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L; Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX F.

⁹⁶ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

⁹⁷ Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

Lubang noted that Mendoza posted white papers on the windows of the bus with the notes “3:00 Dead LOCK” and “MEDIA NOW”. Mendoza told him he wanted the media immediately so he can now voice out what he wanted.⁹⁸

CHAN Kwok-chu recalled that the food arrived at 2:30 p.m. Nebril distributed the food and beverages to the tour members. At this point Mendoza took off his jacket and CHAN noticed that he was carrying a pistol on his right flank and a one-foot long army knife on his left. CHAN further recalled some seating arrangements of the hostages. He was seated on Seats 10CD. LEE Ying-chuen sat on 9CD directly in front of him. LO Kam-fun sat on 10AB across the aisle from CHAN. LEUNG Kam-wing sat on 9AB. LEUNG Song-xue Jason sat on 8AB. CHAN remembered WONG Tze-lam and FU Cheuk-yan seated in front of LEUNG Song-xue Jason but cannot tell exactly where.⁹⁹ He later determined that FU was seated at either 3AB or 4AB.¹⁰⁰

Shortly after the meal, Mendoza gave his phone to a female tour member in front who answered in Putonghua. CHAN heard her say “*Understand*” and “*Got it*”. Later, the tour members in front said that transport would be available at 3:00 p.m. to pick up the hostages. The atmosphere remained tranquil. CHAN discussed with TSE Ting-chunn Masa, who was then still seated behind him at Seats 11CD, the possibility of fleeing through the emergency exit located between their seats but gave up the idea to avoid harm to other hostages if they escape.¹⁰¹

Third and Fourth Releases

At 2:00 p.m., Lubang got a call on his cellular phone from Yebra who told him to hand over his phone to Mendoza. Lubang just heard Mendoza say “*Yes sir*”. Mendoza then returned the phone to Lubang. After several minutes, Mendoza called an old male hostage (LI Yick-biu) and let him get off the bus,¹⁰² asking “*Diabetic? Who’s diabetic?*” LI stood up. Mendoza waved at LI and signaled him to go to the front and took him to the door. However, LI left his handbag and asked Mendoza if LI can get his bag. LI got his bag and Mendoza then led LI again to the entrance of the bus, put his hand on LI’s shoulder and waved to Yebra signaling him to take LI off the bus.¹⁰³ The elderly Ms. LAW Kam-fun also got up to follow and help LI Yick-biu but Mendoza shouted and waved his hand telling her to go back to her seat.¹⁰⁴ After the elderly LI got off the bus, Mendoza smiled saying that now they might send him a reporter and Lubang will be famous.¹⁰⁵ (Note: Salvador estimated the release to have taken place at 1:40 p.m.)

At around 2:00 p.m., Vice Mayor Isko Moreno left for the Ombudsman to relay the demand of Mendoza regarding his Motion for Reconsideration pending with said office.¹⁰⁶

At 2:16 p.m., Amansec got a text from Lubang asking for diesel for the bus. She went to Magtibay and showed her the text message and Magtibay ordered diesel fuel to be

⁹⁸ Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

⁹⁹ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX C.

¹⁰⁰ Statement/Report, CHAN Kwok-chu, September 8, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, taken before Philippine Police and DOJ Officials ANNEX 000-1.

¹⁰¹ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX C.

¹⁰² Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX F.

¹⁰³ Statement/Report, LI Yick-biu, August 31, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX F.

¹⁰⁴ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX C.

¹⁰⁵ Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

¹⁰⁶ TSN, IIRC Clarificatory Hearing, PCSUPT Rodolfo Y. Magtibay, September 3, 2010 ANNEX 3 .

brought to the bus. Amansec then sent a text message to Lubang that the diesel fuel was on the way.¹⁰⁷ This request for diesel fuel was recounted by Salvador to have taken place at 1:50 p.m. Yebra asked for another hostage in exchange for the diesel. Mendoza replied that he will think about it.¹⁰⁸ After several minutes again, Mendoza called Rigor (Egor Cruz) to the front and let him get off the bus also.¹⁰⁹

People from the British Embassy, the Hong Kong press, the Department of Tourism descended upon the holding area. British Embassy people asked if there were British citizens among the hostages. Upon learning that there were indeed British citizens, the Red Cross accompanied them to the Manila Pavilion.¹¹⁰

At 2:30 p.m., PNP Chief Jesus Versoza left Manila for Cagayan de Oro City to attend a multi-sector forum and to meet with the Regional Law Enforcement Coordinating Committee. With him was the 3rd in rank, Police Deputy General for Operations Bacalzo. The 2nd in rank, Police Deputy Director General Perfecto Palad was in La Union. The 4th in rank in the PNP hierarchy, Police Deputy General Benjamin Belarmino, Jr., was left at the National Operation Center.¹¹¹

Gregorio

After the request for diesel fuel was made, Salvador felt dizzy and went to an ambulance to have his blood pressure checked. He was then informed that a man, who later turned out to be SPO2 Gregorio Mendoza, was approaching the bus. He ran after Gregorio and stopped him. Gregorio said he was going to his brother. He said he was the only one who can persuade his brother to surrender. Salvador noticed a bulk on his right waist and told him that he was carrying a firearm and Gregorio replied that he was a policeman. Salvador then disarmed him. Mendoza shouted from the bus *“Kapatid ko yan! Bakit mo kinuha ang baril niya e pulis yan!”* (*That’s my brother! Why did you take his gun when he’s a policeman!*). Salvador replied *“Ah kapatid mo siya, bok wala pang clearance! Pag meron na samahan ko siya dito uli!”* (*He’s your brother but he has no clearance yet. When he has one I will come back here with him.*) Mendoza replied *“Sige bok, basta ibalik mo ang baril niya dahil pulis din yan”* (*Alright, just return his gun because he is also a policeman.*) It was past 2:00 p.m. when Salvador turned over Gregorio and his gun to the Crisis Committee. He then went to get a working throw phone and placed it on the bus.¹¹²

Lubang recounted that it was at past 3:00 p.m. when Gregorio approached the bus and Mendoza told Lubang that the man walking towards them was his brother. Mendoza told Lubang to call Gregorio and the latter approached the bus with Salvador and another uniformed policeman. Mendoza told Salvador that Gregorio was his brother and that he was also a policeman. Salvador replied that he didn’t know who Gregorio was. Mendoza was not able to talk to Gregorio because he just returned to the police post with Salvador.¹¹³

At 2:30 p.m., the diesel fuel arrived and Salvador refueled the bus. He again tested the thickness of the glass. At 3:00 p.m., Mendoza called the negotiators and demanded for a lady reporter and a cameraman. Yebra asked if Mendoza had any particular reporter in mind. Mendoza replied that he wanted Susan Enriquez of GMA 7. The two then went to the Crisis Committee and relayed the demand for a lady reporter and cameraman.¹¹⁴

¹⁰⁷ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

¹⁰⁸ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹⁰⁹ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX C.

¹¹⁰ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

¹¹¹ TSN, IIRC Clarificatory Hearing, Testimony of Director General Jesus Versoza, p. 13-17 ANNEX 2.

¹¹² Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹¹³ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B.

¹¹⁴ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

Yebra recalled it was at this point when Mendoza's demand for a reporter was denied that he first attempted a warning shot but his rifle jammed.¹¹⁵

Calls from the Ombudsman

At the Ombudsman, Vice Mayor Isko Moreno met with Tanodbayan (Ombudsman) Merceditas Gutierrez, Overall Deputy Ombudsman Orlando Casimiro, Deputy Ombudsman for Luzon Mark Jalandoni, Deputy Ombudsman for the Military and Other Law Enforcement Agencies Emilio Gonzales III, and Special Prosecutor Wendell Sulit. During their meeting, Moreno called Yebra.¹¹⁶

Salvador and Yebra were at the driver's side of the bus when Moreno called asking if he could talk to Mendoza.¹¹⁷

The Vice Mayor told Mendoza that he was already at the Ombudsman and asked him if there is anyone he wanted to talk to at the Ombudsman.¹¹⁸ Mendoza was very thankful to Moreno and requested if he could talk to a certain Director Gonzales of the Ombudsman.¹¹⁹ Mendoza talked with Deputy Ombudsman Gonzales¹²⁰ and Salvador overheard Mendoza shouting and uttering invectives "*Putang ina mo, humihingi ka pa ng P150,000 para sa kaso ko, kung may mamamatay dito kasalanan mo lahat!*" (*You son of a bitch, you are asking for P150,000 for my case, if anyone dies here it's all your fault!*).¹²¹ Moreno overheard Gonzalez say "*O wala akong alam diyan*" (*I don't know anything about that*).¹²² Mendoza then talked with Tanodbayan (Ombudsman) Gutierrez who assured him that they will review his case.¹²³ Mendoza's voice mellowed and said "*Mam salamat po, antayin ko na lang ang Order dito*" (*Mam thank you, I will just wait for the Order here*).¹²⁴ Moreno then asked Mendoza for the release of five hostages. Mendoza said he will think about it.¹²⁵ After the conversation, Mendoza asked for food and water again.¹²⁶

Past the 3:00 deadline, Mendoza was at the back of the bus talking to his brother and telling him that he wanted the media.¹²⁷

The letter to Mendoza was drafted on paper in front of the group meeting at the Ombudsman. The unwritten agreement was for Mendoza's case to be reviewed by the Ombudsman in ten days. Moreno's travel and the Ombudsman meeting took three hours.¹²⁸

Melecia Gonzales arrived at Luneta with Mendoza's wife at around 3:00 p.m. Once in Luneta near the Grandstand, Gonzales texted Mendoza that Agojo was working things out with the police. She then waved to Mendoza inside the bus.¹²⁹

¹¹⁵ Testimony of PSUPT Orlando Yebra, IIRC Hearing, September 2, 2010 ANNEX 9.

¹¹⁶ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010 ANNEX W.

¹¹⁷ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹¹⁸ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010 ANNEX W.

¹¹⁹ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹²⁰ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010 ANNEX W.

¹²¹ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹²² TSN, IIRC Clarificatory Hearing, Testimony of Vice Mayor Francisco Moreno Domagoso ANNEX 4;

¹²³ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010 ANNEX W.

¹²⁴ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹²⁵ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010 ANNEX W.

¹²⁶ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹²⁷ Sinumpaang Salaysay, Alberto L. Lubang, August 23, 2010 (MPD-Homicide).

¹²⁸ TSN, IIRC Clarificatory Hearing, Testimony of Vice Mayor Francisco Moreno Domagoso ANNEX 4;

¹²⁹ Executive Session with Melecia B. Gonzales, September 8, 2010 ANNEX 5.

Fifth Release

Food was delivered for the second time at 3:30 p.m.¹³⁰ CHAN Kwok-chu recalled that it was around the time when the food was delivered that Nebril was released from the bus by Mendoza.¹³¹

At around or before 4:00 p.m., Mendoza called Nebril “*Bumaba ka na, tawag ka ni General.*” (*You go down now. The General is asking for you.*)¹³² and let him get off the bus (Note: Salvador’s account put Nebril’s release at 4:30 p.m.).¹³³ Nebril was supposed to have been among the hostages released earlier but refused telling Mendoza “*Trabaho lang po sir, binabantayan ko ang mga guests ko po.*” (*It’s just my job sir to look after my guests.*) to which Mendoza replied “*Matigas ka*” (*You are bold*). Two policemen escorted him to the back of the Grandstand and they took a mobile patrol to the PCP where he was questioned and investigated by the police. He was also interviewed by Susan Enriquez.¹³⁴ Amansec claims that not a single policeman interviewed or asked questions from Nebril while he was at the holding area.¹³⁵

At the Ombudsman, Vice Mayor Isko Moreno learned that a hostage was released so he asked Yebra if he could talk with Mendoza again. Moreno told Mendoza “*Pare thank you ha kaya lang ang hina ko sa iyo, eh, lima ang hinihingi ko, isa lang ang binigay mo. Huwag ka lang mag-alala, we are now tackling your issue.*” (*Buddy thank you but it appears I am not in your good grace, I was asking for five you gave me only one. Do not worry we are now tackling your issue.*). Mendoza replied in a polite manner.¹³⁶

Susan Enriquez

At 4:22 p.m., Lubang texted Amansec saying that Mendoza was requesting for a female reporter. Amansec showed the text message to Magtibay and Magtibay called Susan Enriquez of GMA 7.¹³⁷ Between 4:30 and 5:00 p.m., Yebra called Mendoza and told him that his request for a lady reporter and cameraman was approved on the condition that the interview will be conducted with the reporter outside the bus. Mendoza refused the condition since he wanted the interview conducted inside the bus. Yebra told Mendoza that if he insists in his demand, clearance has to be acquired from the Crisis Committee. No reply was heard by the negotiators from Mendoza.¹³⁸

Magtibay did not want Enriquez to go to the bus so he asked Amansec to call Lubang’s phone and Enriquez talked with the hostage-taker for about twenty (20) minutes. Magtibay then told Enriquez to leave the PCP without asking her what she and Mendoza talked about over the phone.¹³⁹

At around 5:00 p.m., Col. Medina was told by the President that they will just see each other later. He then left Malacanang and proceeded to the MPD Headquarters with Usec. Puno at 5:30 p.m. They arrived at MPD at 5:45 and met Gen. Santiago who ordered Medina to proceed to Quirino Grandstand to link up with the SAF team

¹³⁰ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹³¹ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX C.

¹³² Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010 ANNEX I.

¹³³ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX L; Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010 ANNEX I; Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹³⁴ Sinumpaang Salaysay, Danilo L. Nebril, August 31, 2010 ANNEX I.

¹³⁵ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

¹³⁶ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010 ANNEX W.

¹³⁷ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L; Sworn Statement, PCSUPT Rodolfo Y. Magtibay, September 1, 2010 ANNEX T.

¹³⁸ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹³⁹ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010 ANNEX L.

consisting of 16 men including snipers which was already deployed at the southern end of the Grandstand at 5:30 p.m. upon the orders of Gen. Santiago.¹⁴⁰

At around past 5:00 p.m., Mendoza talked to someone over the phone whom he called “Tol” (brother). Mendoza was then positioned at the other end of the bus and Lubang could only hear him say “*Tol ‘wag kang papayag ‘tol’ (Brother don’t agree to them).*”¹⁴¹

At 5:10 p.m., Mayor Lim also arrived at the Luneta PCP for the first time that day.¹⁴² He saw Gregorio and asked him why his brother hostaged a bus. Gregorio replied that what happened to Mendoza was wrong, that he was dismissed even when there was a motion for reconsideration. Lim asked why they did not write to the Ombudsman. Gregorio replied that the Ombudsman is in hot water so they agreed to come out with it already. He continued that what they wanted was the vindication of his name and the restoration of his honor and to see to it that reinstatement is made.¹⁴³

Ombudsman Letter

Vice Mayor Isko Moreno arrived at the Luneta PCP from the Ombudsman between 5:30 and 6:00 p.m. He saw Mayor Lim with the police generals and officials and handed the letter to him. The letter to Mendoza from the Ombudsman was read in the presence of Gregorio and he was asked if the letter will help Mendoza and is the means for his situation to improve. Gregorio said yes. The negotiators then proceeded with Gregorio to the bus.¹⁴⁴

Lubang recalled that before 6:00 p.m. Mendoza called the tour group leader (TSE Ting-chunn Masa) who was seated at the back of the bus to the front and handcuffed him to the handlebar of the refrigerator near the door of the bus.¹⁴⁵ According to CHAN, Mendoza pointed at TSE Ting-chunn Masa who was seating behind CHAN at Seats 11CD and signaled him to go to the front near the door of the bus.¹⁴⁶

At 6:03 p.m., Michael Rogas of Radio Mo Network (RMN) started his live interview with Mendoza. In the interview Mendoza expressed hope on the outcome of the Ombudsman negotiations of the Vice Mayor, expecting a reversal of his dismissal. He also expressed reservations on releasing the hostages if the decision of the Ombudsman is not in his favor. He then recited the facts of his administrative case live on radio.¹⁴⁷

At 6:12 p.m., Mendoza announced live on air over RMN the approach of the negotiators and Gregorio and handed over the phone to Lubang. Rogas talked to Lubang and listened in on the conversation at the other end of the line as his broadcast continued. At 6:14 p.m., Yebra handed the Ombudsman letter to Mendoza and the latter started to read its contents over live radio at the request of Rogas. After reading the letter, Mendoza said that the letter was garbage and that what he needed was a decision reversing or sustaining the decision, and that he would have even preferred a decision dismissing his reconsideration rather than a letter promising another delay in the resolution of his case. All the while that Mendoza was talking to Yebra, Rogas kept on calling his attention to continue their live interview in the middle of the hostage negotiations. Mendoza then threatened to make an example out of one of the hostages

¹⁴⁰ Affidavit, PSUPT Remus B. Medina, September 11, 2010; IIRC TWG with PSUPT Remus B. Medina ANEX AAA.

¹⁴¹ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B.

¹⁴² TSN, IIRC Clarificatory Hearing, PCSUPT Rodolfo Y. Magtibay, September 3, 2010, p. 45 ANNEX 3; TSN, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 93 ANNEX 3.

¹⁴³ TSN, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 90-92 ANNEX 3.

¹⁴⁴ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010 ANNEX W; TSN, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 94 ANNEX E.

¹⁴⁵ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B.

¹⁴⁶ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau ANNEX C.

¹⁴⁷ RMN Coverage, Live Interview of Michael Rogas with PSINSP Rolando Mendoza, August 23, 2010 ANNEX HHH.

and told people to step aside. Rogas continued his live interview asking Mendoza questions for five minutes as the negotiators waited outside for him to finish. Yebra then asked if it is alright with Mendoza if his dismissal is recalled and Mendoza is reinstated, pending the resolution of his motion for reconsideration with the Ombudsman. Mendoza said *“Alright, alright”*. Yebra asked if the hostage-taking will then end, Mendoza said they will talk again. At 6:20, Mendoza fired a shot.¹⁴⁸

At 6:17 p.m., Salvador saw Gregorio and Yebra approach the bus so he ran to join them. When they reached the driver’s window of the bus, Yebra handed a brown envelope to Mendoza. Mendoza was talking on the phone when he opened and read the contents of the envelope. Mendoza then said *“Basura yan sir! Niloloko nyo lang ako! Hindi ito ang hinahanap ko, Order and kailangan ko!”* (*That is garbage sir! You are just fooling me! This is not what I am looking for, what I need is an Order!*). Mendoza returned the envelope to Yebra who proposed *“What if mapapayag ko ang boss ko sa PNP giving an Order temporarily suspending the implementation of your dismissal [and] reinstating you to police service, matatapos na ba ito? Titigilan na ba natin ito?”* (*What if I am able to convince my boss in the PNP to give an Order temporarily suspending the implementation of your dismissal [and] reinstating you to police service, will this end? Will we put an end to this?*). Mendoza’s reply was *“Sige pag-usapan natin uli mamaya”* (*Alright let’s talk about it again later*). They were about to leave when Gregorio told Mendoza *“Tol, hindi pa nito ibinabalik ang baril ko”* (*Brother, this one has not returned my gun yet*) while pointing at Salvador. Mendoza told Salvador *“Bakit hindi mo pa ibinabalik ang baril niya, ibalik mo na!”* (*Why haven’t you returned his gun yet, you return it now!*). Yebra replied that Mendoza’s gun was at the ACP and that it would be returned once the hostage-taking is over. Gregorio told Mendoza *“Tol pag hindi ibinalik and baril ko, wag ka ng pumayag sa usapan!”* (*Brother if they do not return my gun, do not abide by the agreement!*)¹⁴⁹

Yebra then pulled Gregorio and said *“Halika na nga”* (*Let’s go now*). Salvador looked back and saw Mendoza aiming his rifle at Salvador and said *“Putang ina mo!”* (*You son of a bitch!*). Mendoza fired a shot and Yebra said it was just a warning shot. Salvador said the shot was directed at him and it just missed. As they walked back to the negotiators’ post, Yebra asked Gregorio *“Bakit mo ginawa yun, inuuna mo pa baril mo, ang sabi mo makakatulong ka, yun pala ikaw ang magpapagulo.”* (*Why did you do that, your first concern is for your gun, you told us you can help, instead you are the one to mess this up.*)¹⁵⁰

At past 6:00 p.m., Lubang saw Yebra, Salvador and Gregorio approach the bus with Yebra carrying an envelope. Yebra handed the envelope to Lubang who in turn handed it over to Mendoza who was talking to someone over the phone.¹⁵¹ Mendoza handed the phone to Lubang who talked on the phone with someone whom he thought was Mike Enriquez of GMA 7. Mendoza then read the letter to the person on the phone. Mendoza then handed the letter back to Lubang which he in turn handed back to Yebra. Mendoza then told Yebra *“Hindi ‘yan ang kailangan ko. Hindi ito ang hiling ko. Basura ‘yan, basura. Wala naman dyan ang gusto kong desisyon eh. Ibalik nyo yan doon”* (*That is not what I need. This is not what I asked for. That is garbage. The Decision that I want is not there. You return it.*)¹⁵² Yebra and Salvador then tried to explain but Mendoza sternly rebuffed them.¹⁵³ Gregorio then told Mendoza *“Tol yun baril ko di pa rin binibigay”* (*Brother they did not return my gun yet*). Mendoza got angry and said *“Sinungaling talaga kayo! Ayaw ko na kayong kausap. Lumayas kayo sa harap ko!”*

¹⁴⁸ RMN Coverage, Live Interview of Michael Rogas with PSINSP Rolando Mendoza, August 23, 2010 ANNEX HHH.

¹⁴⁹ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹⁵⁰ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010 ANNEX U.

¹⁵¹ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010 ANNEX B.

¹⁵² Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B; Sinumpaang Salaysay, Alberto L. Lubang, August 24, 2010, NCR-CIDG.

¹⁵³ Sinumpaang Salaysay, Alberto L. Lubang, August 24, 2010, NCR-CIDG.

(You are really liars! I do not want to talk to you anymore! You get out of my sight!). Yebra and Salvador just walked away from the bus with Gregorio. Mendoza then brought the barrel of his long firearm outside the driver's window and fired a shot at the three as they walked away.¹⁵⁴

CHAN Kwok-chu recalled that he saw three men negotiating with Mendoza. At that time the atmosphere was completely different. Mendoza's voice was getting louder in a very angry tone. He seemed to have told the negotiators to go away and kept on shouting then raised his rifle and fired a shot through the driver's window. The atmosphere inside the bus was suddenly getting tense.¹⁵⁵

Decisions and Departures

At around 6:30 p.m., Colonel Po was outside the PCP when he heard Col. Yebra berating someone so he went inside the PCP. He discovered that Col. Yebra was angry at Gregorio.¹⁵⁶

When the negotiators and Gregorio returned to the PCP, Yebra told the Mayor, Vice Mayor, Magtibay and the other police officials present that Gregorio told Mendoza *"Tol di pa nila binabalik ang baril ko. Kapag di nila binalik huwag kang pumayag sa usapan."* (Brother they did not return my gun yet. If they do not return it do not abide by your agreement.). He continued that when a shot was fired, Yebra told Salvador that it was just a warning shot. Salvador disagreed and told him he was in the line of fire. Yebra told Magtibay that Gregorio was a conspirator.¹⁵⁷ Yebra recommended that Gregorio be charged and arrested for being an accessory to the crime.¹⁵⁸ Gregorio said that the letter had no value and that what they wanted was immediate reinstatement. Yebra explained to him that review was the first step to reinstatement. Mayor Lim then said *"Posasan nyo na yan"* (Handcuff him) but there were no handcuffs around.¹⁵⁹ Salvador recounted further that Mayor Lim said *"Dapat pala diyan posasan na. Padala na yan sa Headquarters para maimbestigahan."* (He should already be put in handcuffs. Bring him to Headquarters for investigation.).¹⁶⁰

Magtibay instructed Col. Po to produce handcuffs and to put policemen on stand by to take Gregorio to the MPD.¹⁶¹ Col. Po went out to look for handcuffs and instructed Police Chief Inspector (Major) Oliver Navales to be on stand by with policemen and a patrol car to take Gregorio to the MPD.¹⁶²

Mayor Lim, Police Chief Superintendent (General) Harold Ubalde, Col. Posadas, Col. Gutierrez, Gen. Magtibay and Col. Yebra then went to a separate room (kitchen) of the PCP and held a meeting.¹⁶³ Yebra was suggesting that the reinstatement order be issued

¹⁵⁴ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B; Sinumpaang Salaysay, Alberto L. Lubang, August 24, 2010, NCR-CIDG.

¹⁵⁵ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX C.

¹⁵⁶ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V.

¹⁵⁷ TSN, IIRC Clarificatory Hearing, Testimony of Vice Mayor Francisco Moreno Domagoso, dated September 4, 2010, ANNEX 4; Sworn Statement, PCSUPT Rodolfo Y. Magtibay, September 1, 2010, ANNEX T.

¹⁵⁸ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010, ANNEX U.

¹⁵⁹ TSN, dated September 4, 2010, IIRC Clarificatory Hearing, Testimony of Vice Mayor Francisco Moreno Domagoso, ANNEX 4; Sworn Statement, PCSUPT Rodolfo Y. Magtibay, September 1, 2010, ANNEX T; TSN, dated September 3, 2010, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 96, ANNEX 3.

¹⁶⁰ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010, ANNEX U.

¹⁶¹ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V; Sworn Statement, PCSUPT Rodolfo Y. Magtibay, September 1, 2010, ANNEX T.

¹⁶² Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V.

¹⁶³ TSN, dated September 4, 2010, IIRC Clarificatory Hearing, Testimony of Vice Mayor Francisco Moreno Domagoso; TSN, dated September 3, 2010, IIRC Clarificatory Hearing, PCSUPT Rodolfo Y. Magtibay, September 3, 2010, ANNEX 3.

by the NCRPO. Gen. Ubalde opposed it saying it would lead to complications and serve as a dangerous precedent. Ubalde said he would refer it to higher authorities.¹⁶⁴ Magtibay recalled Lim saying that Gregorio be **“brought instead to Tondo”**, the police force’s euphemism for summary execution.¹⁶⁵ In the other room, Isko Moreno approached Gregorio and asked him *“Bakit naman ganoon ang nangyari, sayang naman yun pagod natin”* (*Why did that happen, our efforts were in vain*). Gregorio just stayed silent.¹⁶⁶ When Lim and the police officials went out of the meeting, the handcuffs arrived but Lim told them not to handcuff Gregorio anymore but to just take him to the MPD Headquarters.¹⁶⁷ Returning with handcuffs, Po was told by Magtibay that Gregorio need not be handcuffed anymore.¹⁶⁸

Mayor Lim then left for Emerald Restaurant at 6:45 p.m. because he didn’t have lunch yet and it looked like the crisis will last until dawn so they will just exhaust Mendoza until he gives up.¹⁶⁹ He said *“Waiting game na lang ito. Maghintay na lang tayo. Baka kapag napagod yan, napuyat, mag-give way na.”* (*This is already just a waiting game. Let’s just wait. Maybe if he gets tired, lacks sleep, he will just give way.*)¹⁷⁰ He also intended to turn Emerald into the Command Post while eating and because it was the nearest place to set up a Command Post other than the PCP.¹⁷¹ He also instructed Magtibay to go with him. Magtibay left for Emerald before 7:00 p.m. At Emerald, Mayor Lim also invited Gen. Santiago and Usec. Puno to join them.¹⁷²

At around 6:20 p.m., Col. Medina arrived at the Grandstand directly from MPD Headquarters and looked for Magtibay. He was told that Magtibay was already at Emerald Restaurant with Mayor Lim.¹⁷³ He then proceeded to Emerald where he was briefed by Gen. Santiago and proceeded back to the Grandstand before 7:00 p.m.¹⁷⁴

At 6:30 p.m., Rogas continues his live interview with Mendoza. Mendoza said he no longer wants to deal with Yebra because he is a liar and he lied about returning his brother’s gun. He demanded a change of negotiators. He also said the shot he fired was a warning shot at Yebra. He then threatened to kill TSE Ting-chunn who was handcuffed near the door if the negotiations do not progress.¹⁷⁵

At 7:07 p.m., Rogas’ live interview resumed and Mendoza threatened that he will end everything if no negotiator shows up. At this point, Mendoza said his disposition and his thinking are already changing. He was then interviewed by Atty. Ed Araullo who affirmed Mendoza’s opinion on the Ombudsman letter. Mendoza expressed frustration that there is no justice anymore. It was also at this point that Erwin Tulfo of RMN who was at the scene told Mendoza that he was going to the bus after being cleared to interview him with a camera. Mendoza then let him interview YEUNG Yee-wa whose 15 year old daughter was still in the bus.¹⁷⁶

¹⁶⁴ TSN, dated September 3, 2010, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 96-97, ANNEX 3.

¹⁶⁵ TSN, September 8, 2010, Testimony of PCSUPT Rodolfo Magtibay upon Recall, ANNEX 3, ES.

¹⁶⁶ Sworn Statement, Francisco Moreno Domagoso, September 1, 2010, ANNEX W.

¹⁶⁷ TSN, dated September 4, 2010, IIRC Clarificatory Hearing, Testimony of Vice Mayor Francisco Moreno Domagoso, ANNEX 4; TSN, dated September 4, 2010, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 97, ANNEX 3.

¹⁶⁸ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V.

¹⁶⁹ TSN, September 3, 2010, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 98, ANNEX 3.

¹⁷⁰ TSN, September 3, 2010, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 111, ANNEX 3.

¹⁷¹ TSN, September 3, 2010, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 98, ANNEX 3.

¹⁷² TSN, September 3, 2010, IIRC Clarificatory Hearing, PCSUPT Rodolfo Y. Magtibay, September 3, 2010, p. 45, ANNEX 3.

¹⁷³ Affidavit, PSUPT Remus B. Medina, September 11, 2010, ANNEX AAA

¹⁷⁴ Affidavit, PSUPT Remus B. Medina, September 11, 2010, ANNEX AAA; TSN dated September 8, 2010, IIRC TWG with PSUPT Remus B. Medina, ANNEX 6, ES.

¹⁷⁵ RMN Coverage, Live Interview of Michael Rogas with PSINSP Rolando Mendoza, August 23, 2010, ANNEX HHH.

¹⁷⁶ RMN Coverage, Live Interview of Michael Rogas with PSINSP Rolando Mendoza, August 23, 2010, ANNEX HHH.

Arrest

Salvador stated that Magtibay ordered Gregorio to be escorted to MPD Headquarters via the back door to evade the media. He also saw Gregorio being escorted by policemen via the backdoor.¹⁷⁷

Gregorio was escorted through the side exit of the PCP by Col. Po and handed over to Major Navales but he immediately ran towards the front of the PCP where the media were camped out, sat on the pavement and started shouting. This drew the attention of the media who converged around him.¹⁷⁸ Salvador heard Gregorio shout “*Papatayin nila ako! Papatayin nila ako! Hindi ako accessory!*” (*They will kill me! They will kill me! I am not an accessory!*). He was lying on the floor while his police escorts just looked on and told him to stand up because it was embarrassing.¹⁷⁹ After a while Col. Po, together with some policemen, tried to pacify Gregorio and stand him up. However, his brother, son and daughter were clinging to him. Col. Po then explained to the media why he was being brought to the MPD. He then asked the media to stop covering the scene being made by Gregorio but the media kept on covering the scene until Gregorio was carried to a police car.¹⁸⁰ The GMA News 7’s live coverage showed Susan Enriquez interviewing Gregorio as he sat on the pavement crying out that he is not an accessory, as he was being shielded by relatives, and as he was bodily carried by policemen to the police car. The coverage did not stop until the firing of several shots in intervals was heard from the bus more than a hundred meters away.¹⁸¹

By that time Mayor Lim has already left the PCP for Emerald Restaurant. Isko Moreno saw special forces with sniper rifles come out behind Manila Hotel and decided to leave believing the crisis has now become a police matter. He proceeded to Manila Pavilion and sat at a bar and had coffee while watching on television ANC Channel’s coverage of Gregorio’s scene before the media, his arrest, and the assault on the bus.¹⁸²

Yebara still tried to contact Mendoza but he was not answering the throw phone and his cellphone was busy. Salvador also noticed Erwin Tulfo talking on the phone while looking at the bus.¹⁸³

Inside the bus, CHAN Kwok-chu recalled that Mendoza kept on talking to someone over the phone. He was angry at some points.¹⁸⁴ Mendoza told Lubang to turn on the bus television and they saw Gregorio being arrested.¹⁸⁵ Suddenly, he spoke loudly and firmly on the phone “*5 minutes*” then hung up. At this point, LEUNG Kam-wing seated on Seats 9AB told CHAN “*In case anything goes wrong, we take the opportunity and go forward to subdue the gunman.*” After a while, Mendoza, who was still talking over the phone, spoke very loudly and angrily while walking from the front to the rear of the vehicle. He was gripping his rifle butt in his right hand with the index finger on the trigger. Mendoza then sat down at the last row directly behind CHAN still talking on the phone in an angry tone.¹⁸⁶

¹⁷⁷ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010, ANNEX U.

¹⁷⁸ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V.

¹⁷⁹ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010, ANNEX U.

¹⁸⁰ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V.

¹⁸¹ GMA Live Coverage, August 23, 2010, ANNEX OOOOO.

¹⁸² TSN, dated September 4, 2010, IIRC Clarificatory Hearing, Testimony of Vice Mayor Francisco Moreno Domagoso, ANNEX 4.

¹⁸³ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010, ANNEX U.

¹⁸⁴ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX OOOO.

¹⁸⁵ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

¹⁸⁶ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX OOOO.

At 7:15 p.m., Mendoza was already witnessing on the bus television GMA News 7's coverage of the arrest of Gregorio. He was asking Michael Rogas, still over the live radio broadcast of RMN, why they are arresting Gregorio. He said that Gregorio is not an accessory since he alone was responsible for the hostage-taking. He said that if the police do not stop he will kill one of the hostages. He repeated his threat to kill the hostage who was in front of the bus.¹⁸⁷ Lubang heard Mendoza talking to someone over the phone and shouting "*Pakawalan nyo ang kapatid ko. Walang kinalaman yan! Pag hindi nyo pinakawalan yan ay papatayin ko na 'to lahat!*" (*Release my brother. He is innocent! If you do not release him I will kill all of these!*).¹⁸⁸

Killing the Hostages

At 7:20 p.m., still live over RMN, Mendoza was already on the verge of killing the hostage at the front section of the bus, shouting that he is already about to shoot. He threatened that if the police mobile carrying Gregorio leaves, he will shoot the hostage at the front of the bus. Rogas told him he is being heard live and that his message will be relayed to the police. A police car siren sounded in the background and shots rang out. There was screaming and crying. After a few seconds, the screaming and crying stopped as shots continued to be heard. The shooting came in single shot intervals and lasted for several seconds. Mendoza was then overheard instructing Lubang to drive the bus to the right. Lubang said something and Mendoza replied that he was also going to die there if he did not move the bus. Lubang was then heard pleading for his life and that he be released. At 7:29 p.m. over RMN, Lubang was reported seen running from the bus. Mendoza still warned the police on air to let someone go because he was innocent and that he is the only one responsible. Otherwise, he threatened to kill more hostages after the two he claimed he already killed. After lying live over radio about the number of hostages he already killed, Mendoza went off air at 7:30 p.m.¹⁸⁹

CHAN Kwok-chu recalled that Mendoza walked from the rear of the bus to the front returning to his position between Lubang and Masa. Then Mendoza threw away his phone with his left hand with a lot of force, raised the rifle in his right hand, and fired a shot at TSE Ting-chunn Masa. Then he pointed the rifle at YIK Siu-ling, CHAN's girlfriend who was seated at Seats 3CD, and fired a shot. At the same time, FU Cheuk-yan and LEUNG Kam-wing threw themselves at Mendoza. CHAN followed suit. FU Cheuk-yan got close to Mendoza, pushed up the rifle's muzzle and shouted "No!" Mendoza immediately moved one step backward and fired two shots at FU Cheuk-yan hitting him on the chest and abdomen. FU fell down immediately. Mendoza then instantly fired a shot at LEUNG Kam-wing who was still rushing forward at him. LEUNG was hit on the chest and also fell down immediately. CHAN retreated back to his seat at the back of the bus.¹⁹⁰

After shooting FU and LEUNG, Mendoza walked towards the rear of the bus. As he walked, he continued shooting the hostages on the left and right side of the bus at close range until he reached the rear. Finally reaching CHAN, Mendoza pointed the muzzle of his rifle at CHAN's head. Out of reflex, CHAN lifted his bag with both hands and covered his face. Mendoza fired at him hitting his bag and hands. CHAN's bag fell and flesh from his hands were torn off. CHAN fell on his seat and pressed his right hand with his left because the right hand was bleeding profusely. At this point Mendoza paid no more attention to CHAN.¹⁹¹ In total, CHAN heard Mendoza fire over fifteen (15) shots using

¹⁸⁷ RMN Coverage, Live Interview of Michael Rogas with PSINSP Rolando Mendoza, August 23, 2010, ANNEX HHH.

¹⁸⁸ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

¹⁸⁹ RMN Coverage, Live Interview of Michael Rogas with PSINSP Rolando Mendoza, August 23, 2010, ANNEX HHH.

¹⁹⁰ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX OOOO.

¹⁹¹ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX OOOO.

only his rifle, shooting from a distance as close as two to three feet and as far as five to six feet. He was the last one inside the bus to be shot by Mendoza.¹⁹²

Lubang heard a shot from inside the bus and the tour leader handcuffed to the handle bar of the refrigerator fell down near the door of the bus. Lubang then saw Mendoza fire his long firearm at the hostages through the driver's rear view mirror. When he turned his head to look at the back of the bus, he saw bodies which fell to the floor of the bus as Mendoza continued firing at the rest of the hostages¹⁹³ one by one, left and right of the aisle, pointing his long firearm at the hostages and firing at single shot intervals.¹⁹⁴

After he finished shooting the hostages, Mendoza then stopped in the middle of the aisle between the 6th row of seats (between 6AB and 6CD) and assumed a crouching position while holding his long firearm pointed at the front of the bus.¹⁹⁵ Mendoza then told Lubang to move the bus forward. Lubang moved the bus but the tires went flat and he was barely able to maneuver because the steering got heavy and he still had his left hand handcuffed to the steering wheel. Lubang pleaded to Mendoza to let him go and Mendoza told him that it was up to him to leave.¹⁹⁶

Escape

Lubang then tried to unlock the handcuffs by forcing a nail file to the keyhole of the handcuff until he finally succeeded. He then dropped from the driver's window and ran away from the bus as policemen waited for him and brought him to a holding area.¹⁹⁷ Lubang told the people there "*Patay na sila lahat!*" (*They are all dead!*). The people at the holding area were from the Red Cross, DSWD, the police, and Amansec.¹⁹⁸

PO3 Cesario Martin, PO2 Leo Sabete, and PO1 Alfredo Terrado Jr. composed the sniper team of the MPD SWAT deployed at the grandstand. At past 7:00 p.m., they heard successive gunshots coming from the bus. When the bus started to move after the shots, they fired at the right front and rear wheels of the bus. They then saw a man running away from the bus.¹⁹⁹

Upon being informed of Lubang's escape while still at Emerald Restaurant, Magtibay went back to the Luneta PCP. At that time, Magtibay was also about to return to the PCP to hand over to Yebra the letter from Gen. Santiago reinstating Mendoza into the service.²⁰⁰ However, according to the account of Mayor Lim, they were still going over the letter at Emerald and the same was sent from Emerald to Magtibay through motorcycle and he received it at the Grandstand during the assault.²⁰¹

Salvador recalled that numerous shots were heard and then saw Lubang running away from the bus. Lubang was heard by the media say "*Patay na, patay na silang lahat*" (*They are dead, they are all dead*). The negotiators kept on contacting Mendoza until 8:00 p.m. for renegotiations to no avail.²⁰²

¹⁹² Statement/Report, CHAN Kwok-chu, September 8, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, taken before Philippine Police and DOJ Officials, ANNEX OOOO-1.

¹⁹³ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

¹⁹⁴ IIRC Testimony of Alberto L. Lubang, Bus Ocular Inspection and Reenactment at Camp Bagong Diwa, September 8, 2010, ANNEX 14.

¹⁹⁵ IIRC Testimony of Alberto L. Lubang, Bus Ocular Inspection and Reenactment at Camp Bagong Diwa, September 8, 2010, ANNEX 14.

¹⁹⁶ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

¹⁹⁷ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

¹⁹⁸ Sinumpaang Salaysay, Alberto L. Lubang, August 26, 2010, ANNEX B.

¹⁹⁹ Supplemental Joint-Affidavit, PO3 Cesario Martin, PO2 Leo Sabete, and PO1 Alfredo Terrado Jr., September 3, 2010, ANNEX TT.

²⁰⁰ TSN, IIRC Clarificatory Hearing, PCSUPT Rodolfo Y. Magtibay, September 3, 2010, p. 49, ANNEX 3.

²⁰¹ TSN, IIRC Clarificatory Hearing, Testimony of Mayor Alfredo Lim, p. 102, ANNEX 3.

²⁰² Sworn Statement, PCI Romeo B. Salvador, September 1, 2010, ANNEX U.

Amansec recalled that there was a shot and members of the media started to run around and crowd around the holding area. Lubang arrived with a policeman, shaken and exhausted. He sat down beside Amansec and the policeman asked him if there were hostages still alive. He said *“Patay na lahat!”* (*They are all dead!*). The policeman then left without asking Lubang other questions. Amansec then asked Lubang if he was sure that all the hostages were already dead. Lubang said *“Yes mam, noong lumundag ako nakabaril na siya”* (*Yes mam, when I jumped he already finished firing his gun*). Nobody else approached Lubang to ask him questions except for the Red Cross who took his blood pressure. They then heard successive gunfire. All throughout, there were no longer any police officials at the PCP which was already closed even before Lubang escaped.²⁰³

A police officer approached Col. Po and informed him that the bus driver escaped from the bus. However, Po was not able to talk to Lubang because he was being interviewed by medical people and other persons. He just returned to the PCP and waited for Lubang to be brought inside. When Lubang was brought to him, Po asked Lubang how he escaped and how Mendoza killed the hostages. He then went out to look for Police Chief Inspector (Major) Santiago Pascual, head of the SWAT assault team.²⁰⁴

At 7:30 p.m., Police Inspector (Lieutenant) Marlon A. Ursua and SPO2 Bertito D. Pineda of UN Ave. Station 5 Investigation and Operation Division were ordered by Police Superintendent (Lieutenant Colonel) Frumencio Bernal to go to the Luneta PCP to investigate someone. At the PCP, they were met by Police Chief Inspector (Major) Rizalino Picayo who told them to investigate Lubang.²⁰⁵

Assault

Col. Po found Major Pascual and asked him if he heard shots being fired at the bus. Pascual said yes and that Magtibay has just ordered him to initiate the assault on the bus.²⁰⁶

The assault on the bus started upon the orders of Magtibay after being informed that Lubang has escaped and told the police that Mendoza has started shooting the hostages. Magtibay did not verify the statement of Lubang since they already heard several gunshots coming from the bus.²⁰⁷

The members of the MPD SWAT assault team were Police Chief Inspector (Major) Santiago Pascual as over-all commander, SPO2 Bernardo Espinosa as leader of Team 1, SPO4 Reynaldo Antonio as leader of Team 2, and SPO3 Alfonso Gameng Jr. as leader of Team 3. There was also a sniper team deployed consisting of three members. Police Superintendent (Lt. Colonel) Remus Medina and his PNP Special Action Force (SAF) team also participated in the assault.²⁰⁸

The assault was launched at 7:35 p.m.²⁰⁹ With a signal from the Command Group, Teams 1, 2, and 3 were ordered to move into position around the bus. Before they approached, Mendoza started firing from inside the bus. The bus curtains were drawn closed and interior lights turned off. Mendoza was using his automatic M16 assault rifle. The teams started smashing the bus windows which turned out to be made of tempered

²⁰³ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010, ANNEX L.

²⁰⁴ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V.

²⁰⁵ Pinagsamang Sinumpaang Salaysay, P/Insp. Marlon A. Ursua and SPO2 Bertito D. Pineda, August 31, 2010, ANNEX WW.

²⁰⁶ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V.

²⁰⁷ Sworn Statement, PCSUPT Rodolfo Y. Magtibay, September 1, 2010, ANNEX T; Memorandum for BC, DPSB, from Santiago D. Pascual III, Chief, RDC, After Operation Report, Luneta Hostage Incident, August 23, 2010, ANNEX EEEE.

²⁰⁸ Sworn Statement, PCSUPT Rodolfo Y. Magtibay, September 1, 2010, ANNEX T.

²⁰⁹ GMA Live Coverage, August 23, 2010, ANNEX OOOOO.

plexi-glass making breaching with the use of a sledge hammer difficult.²¹⁰ In the middle of the assault, Col. Yabut, battalion commander of the DPSB, decided to supervise the assault and joined the assault team. He went around the bus and then reported to Magtibay.²¹¹ At 8:09 p.m., a rope was tied to the door of the bus in the hope of pulling it out but this also failed.²¹²

The NCR-RPD/LRU (PNP SAF) then assisted the assaulting teams at 8:11 p.m. and provided ladder for window entry at 8:16 p.m.²¹³ An opening was made at the rear window and entry was attempted but the group was met by successive shots and PO2 Allan Dy was hit on his Kevlar helmet. Another round hit his ballistic shield. The other teams continued breaching the windows and door. It was discovered that a body was lying at the door blocking access through the bus door.²¹⁴ Finally, at 8:40 p.m., teargas was deployed by SPO3 Alfonso Gameng Jr. through the driver's window.²¹⁵ Movement from Mendoza was detected by PO2 Leo Sabete who took a shot from his sniper position, hitting Mendoza in the head and killing him at 8:41 p.m.²¹⁶ Magtibay estimated the assault lasted for around forty five (45) minutes.²¹⁷ The GMA Live coverage showed that it started at 7:35 and lasted until 8:41 when Mendoza was hit by sniper fire, or exactly 66 minutes.

During the time that the assault got stalled from 7:35 until 8:11 p.m., Gen. Santiago called Col. Medina and asked him what was happening with the assault. Medina told Santiago that it was stalled. Santiago ordered Medina to take charge and use the SAF-CRG in the assault. Medina ordered the SAF to proceed to the back of the bus. By then, the MPD SWAT were trying to enter the emergency exit of the bus when they were fired upon and the lead SWAT fell down. Everyone took cover as Mendoza continued to fire in automatic mode. Medina then saw Magtibay at the northern side of the Grandstand, went to him and informed him that he was taking over upon orders of Gen. Santiago and even told him to move back from the line of fire. Medina then called Major Pascual and told him he was taking over. They regrouped and Medina ordered that the SAF will assault the bus from the back while the SWAT distracts Mendoza from the front, then they will throw two teargas at the back and one in front after which the SAF will start the final assault. When the teargas was thrown, Mendoza was forced to go to the front of the bus and was shot by SWAT snipers.²¹⁸

CHAN Kwok-chu felt shots hitting the windows and the body of the bus and stayed prostrate on the floor. Later he heard the smashing of windows on the front and rear part of the bus. He also felt someone prying open the emergency exit behind him. Then he sensed people at the emergency exit. He heard gunshots coming from inside the bus and the sound of metal being hit behind him. The smashing of windows continued. Then he felt a heavy smoke inside the bus and had difficulty breathing. He wanted to stand up

²¹⁰ Memorandum for BC, DPSB, from Santiago D. Pascual III, Chief, RDC, After Operation Report, Luneta Hostage Incident, August 23, 2010, ANNEX EEEE.

²¹¹ Affidavit, PSUPT Nelson T. Yabut, August 26, 2010, ANNEX BBB-2.

²¹² GMA Live Coverage, August 23, 2010, ANNEX OOOOO; Affidavit, PSUPT Nelson T. Yabut, August 26, 2010, ANNEX BBB-2.

²¹³ GMA Live Coverage, August 23, 2010, ANNEX OOOOO; Memorandum for BC, DPSB, from Santiago D. Pascual III, Chief, RDC, After Operation Report, Luneta Hostage Incident, August 23, 2010, ANNEX EEEE.

²¹⁴ Memorandum for BC, DPSB, from Santiago D. Pascual III, Chief, RDC, After Operation Report, Luneta Hostage Incident, August 23, 2010, ANNEX EEEE.

²¹⁵ Memorandum for BC, DPSB, from Santiago D. Pascual III, Chief, RDC, After Operation Report, Luneta Hostage Incident, August 23, 2010, ANNEX EEEE; IIRC-TWG with MPD-SWAT Assault Teams, IIRC Hearing, September 4, 2010, ANNEX 4, ES; GMA Live Coverage, August 23, 2010, ANNEX OOOO.

²¹⁶ Memorandum for BC, DPSB, from Santiago D. Pascual III, Chief, RDC, After Operation Report, Luneta Hostage Incident, August 23, 2010, ANNEX EEEE; Supplemental Joint-Affidavit, PO3 Cesario Martin, PO2 Leo Sabete, and PO1 Alfredo Terrado Jr., September 3, 2010, ANNEX TT.

²¹⁷ Sworn Statement, PCSUPT Rodolfo Y. Magtibay, September 1, 2010, ANNEX T; Memorandum for BC, DPSB, from Santiago D. Pascual III, Chief, RDC, After Operation Report, Luneta Hostage Incident, August 23, 2010, ANNEX EEEE.

²¹⁸ Affidavit, PSUPT Remus B. Medina, September 11, 2010, ANNEX AAA; IIRC TWG with PSUPT Remus B. Medina, ANNEX 6, ES.

but he still heard gunshots from outside so he stayed still. When he heard people shouting from behind he stood up and escaped via the emergency exit. He was rushed to the hospital before being flown to Hong Kong and being admitted at a Hong Kong hospital.²¹⁹

Major Salvador saw the SWAT teams move in to assault the bus. He went to the NCRPO van to wait for any call from Yebra but none came. Later he heard from other policemen that Mendoza was killed by a sniper shot.²²⁰

Aftermath

Col. Medina ordered the clearing operations for any other possible threat after Mendoza was finally shot. When the bus was cleared, he gave the go signal for the ambulances. He was surprised when one ambulance opened its backdoor and there were TV cameramen on board.²²¹

At around 8:50 p.m., the first hostages started to be taken out of the bus by responding police, Red Cross volunteers, and other medical teams.²²²

Col. Po approached the bus and observed that some hostages have exited through the emergency door at the back of the bus. He then went to the front door and saw the body of Mendoza hanging out of the door with part of his head missing. He assisted some policemen in extricating the body until it was removed. He then instructed Col. Yabut to safeguard the firearms of Mendoza. Po then assisted medical personnel carry out one hostage lying on the aisle near the bus stairs. The medical team also complained of having difficulty retrieving hostages because of the tear gas. Po entered the bus again and pushed out a smashed window to let out the tear gas smoke. He then turned off the bus engine. Finally, Po was approached by Li Qinfeng, the Consul General of the People's Republic of China who requested for an initial report of the hostage-taking incident.²²³

PO1 Ronaldo Flores Jr., the personal driver of Police Superintendent (Lt. Col.) Nelson Yabut of the District Public Safety Battalion (DPSB), who was then at the right side of the bus, was instructed by Yabut to approach the bus. When he saw them retrieving the body of Mendoza, he gave assistance. A policeman wearing a bullcap in reverse made a body search of Mendoza which resulted in the recovery of 3 magazines for .45 caliber pistol, a wallet, cellphone, and dagger. Lt. Col. Yabut handed over the items to Flores. He also handed over an M16 rifle without magazine and ordered Flores to turn-over all the items to the Luneta PCP. Major Edgar Reyes accompanied Flores to the PCP.²²⁴

Major Edgar Reyes found Lt. Col. Yabut carrying a plastic bag containing belongings of the victims. He was looking for an officer to accompany PO1 Ronaldo Flores to bring the items to the Luneta PCP for turn-over and inventory.²²⁵

One female hostage victim aged 30 to 40 was taken out of the bus through the window and was put into a stretcher and ambulance of the Red Cross team led by Aloysius Alvarez. She was brought to the Manila Doctor's Hospital but the security guard said they were no longer accepting emergency cases. She was brought to the Ospital ng

²¹⁹ Statement/Report, CHAN Kwok-chu, September 6, 2010, Hong Kong Police HQ-Organized Crime and Triad Bureau, ANNEX OOOO.

²²⁰ Sworn Statement, PCI Romeo B. Salvador, September 1, 2010, ANNEX U.

²²¹ Affidavit, PSUPT Remus B. Medina, September 11, 2010, ANNEX AAA.

²²² GMA Live Coverage, August 23, 2010, ANNEX OOOOO.

²²³ Sworn Affidavit, PSSUPT Robert G. Po, August 31, 2010, ANNEX V; Affidavit, PSUPT Nelson T. Yabut, August 26, 2010, ANNEX BBB-2.

²²⁴ Affidavit, PO1 Ronaldo Flores Jr., August 31, 2010, ANNEX YY.

²²⁵ Affidavit, PCINSP Edgar A. Reyes, August 30, 2010, ANNEX XX.

Maynila instead. Along the way the hostage victim was given CPR but she no longer had a pulse.²²⁶

Amansec recalled that Major Edgar Reyes came carrying a long firearm, a pistol, and some magazines which he put down a table together with two handcuffs, a wallet, a bloodied hunting knife, and the cellular phones of the hostages.²²⁷

While Lieutenant Ursua and SPO2 Pineda were investigating Lubang, Major Reyes and Lt. Col. Nelson Yabut came carrying the objects recovered from the hostage-taker and asked them to receive the same. They initially refused to receive the same because these should be taken into custody by the homicide investigator. They relented only because no one was there to take the recovered objects into custody. The objects were inventoried by Reyes, Pineda and Ursua. These are the following:

1. One Elisco M16 rifle SN-127030 with one chambered ammunition;
2. Three M16 rifle magazines (Two banana type magazines with one loaded with 12 rounds of ammunition and one empty aluminum type magazine);
3. Two police handcuffs;
4. One Samsung cellphone with SIM card;
5. One empty shell of caliber .45 ammunition;
6. One .45 caliber pistol, Colt standard SN-123034;
7. One dagger with case;
8. One Gucci men's wallet containing Permit To Carry Firearm, Firearm License, Mission Order, Driver's License, US Resident Alien ID, and US SSS Security Card all issued in the name of Mendoza, as well as cash and assorted calling cards; and
9. Eighteen assorted cellphones.²²⁸

The objects were then taken to Police Station 5 for safekeeping after which they notified Lt. Col. Bernal of the same. On August 24, 2010 at 6:34 a.m., the recovered objects were brought by SPO2 Pineda and Police Officer 3 (PO3) Anthony Leonard Navarro to the SOCO-MPD which refused to receive all the objects. SOCO operative PO2 Ryan Gaytano received only the following:

1. Elisco M16 rifle;
2. Three magazines with 15 live ammunition;
3. .45 caliber Colt pistol;
4. Three .45 caliber pistol magazines with 19 pieces of live ammunition and one empty shell; and
5. One dagger.²²⁹

The objects which the SOCO refused to receive were turned over and received by the Homicide Section of the MPD.²³⁰

Vice Mayor Isko Moreno was still at the Manila Pavilion after the assault and he called Magtibay to ask which hospitals the hostages were being taken to and he went to the Manila Doctor's Hospital. A personnel there told him that of the five hostages that were taken there, four were declared dead on arrival.²³¹

²²⁶ Sinumpaang Salaysay, Aloysius Anthony A. Alvarez, September 7, 2010, ANNEX R.

²²⁷ Sinumpaang Salaysay, Lourdes V. Amansec, August 31, 2010, ANNEX L.

²²⁸ Pinagsamang Sinumpaang Salaysay, P/Insp. Marlon A. Ursua and SPO2 Bertito D. Pineda, August 31, 2010, ANNEX WW; Affidavit, PCINSP Edgar A. Reyes, August 30, 2010, ANNEX XX.

²²⁹ Pinagsamang Sinumpaang Salaysay, P/Insp. Marlon A. Ursua and SPO2 Bertito D. Pineda, August 31, 2010, ANNEX WW.

²³⁰ Pinagsamang Sinumpaang Salaysay, P/Insp. Marlon A. Ursua and SPO2 Bertito D. Pineda, August 31, 2010, ANNEX WW.

²³¹ TSN, September 4, 2010, IIRC Clarificatory Hearing, Testimony of Vice Mayor Francisco Moreno Domagoso, ANNEX 4.

Emelito H. Tuazon is the manager of King Harold Memorial Chapel. His people were able to retrieve the bodies of the following dead hostages:

1. YEUNG Yee-wa, Female, 44 – taken from Ospital ng Maynila with clothes on;
2. Unidentified male – Also taken from Ospital ng Maynila but claimed by Archangel Funeral Home who claimed because the child of the victim was with them, wearing sic pocket shorts;
3. WONG Tze-lam, Male, 51 – taken from Philippine General Hospital, wearing briefs only;
4. FU Cheuk-yan, male, 39 – taken from Manila Doctors' Hospital, wearing briefs;
5. TSE Ting-chunn, male, 32 – taken from Manila Doctors' Hospital, wearing boxer shorts; and
6. YEUNG Yee-kam, female, 46 – taken from Manila Doctors' Hospital, wearing pants.

All said bodies retrieved by King Harold Memorial Chapel were brought to PNP SOCO at Camp Crame.²³²

At 9:30 p.m., Col. Medina was ordered by Gen. Santiago to go to Emerald Restaurant together with the SAF team. Arriving at Emerald, the President asked Medina what happened to him because of his appearance. Medina told him that he took part in the assault of the bus. The President asked to be briefed but later on he ordered Medina and his men to proceed to Malacanang.²³³

²³² Sworn Statement, Emelito H. Tuazon, September 7, 2010, ANNEX S.

²³³ Affidavit, PSUPT Remus B. Medina, September 11, 2010, ANNEX AAA.

FORENSIC FINDINGS

Forensic Pathology

On August 24, 2010 the remains of the hostage-taker and five of the eight dead foreigners were autopsied by the Philippine National Police medico-legal officers. The remaining three were only externally examined “per relatives’ request.” The PNP autopsy reports (mostly 1-page long) do not indicate where these examinations took place. All eight bodies of the foreign nationals were then repatriated to Hongkong the same day.

In Hongkong, autopsies with postmortem x-rays were conducted on all the bodies on August 27, 2010 at the Kwai Chung Public Mortuary. The autopsy reports were prepared by pathologists who are officers of the Forensic Pathology Service, Department of Health. Two of these examiners are identified as Specialists in Forensic Pathology (Drs. CHIAO Wing-fu, YING Ho-wan, POON Wai-ming, NG Chung-ki and LAM Wai-kwok). The reports are 4-5 pages long printed on legal size paper containing such details as external and internal examination findings, a cause of death statement and remarks. The bodies were noted to be previously embalmed with signs of fingerprinting and early decomposition. Nasal and tracheal swabs were reportedly obtained and tested to assess exposure to tear gas components and the results were inconclusive.

Reviewed were copies of documents pertinent to the case such as scene sketches, witness accounts, medical findings on the injured survivors (Philippines), autopsy reports (Philippines and Hong Kong), 13 color images of the remains taken during the PNP examination, toxicology and (preliminary) ballistics results.

A reconstruction of the events of the shooting based on the documents reviewed including witness accounts, scene and autopsy findings and preliminary forensic test results, show that the shooting inside the vehicle started after Mendoza fired one shot in the direction of people walking away from the bus who were negotiating with him (apparently a “warning” shot). Thereafter, a second shot was fired this time aimed at Mr. **TSE Ting-chunn (Masa)**, the tour guide, who was then standing while handcuffed to a railing of the right front main door. Among the autopsy findings were “two closely grouped linear abrasions, 0.2 and 0.8 cm long, on the back of the right hand.” These could be patterned cuff marks. TSE sustained a single perforating (through and through) gunshot wound of the neck, with a left to right and downward trajectory (with reference to the anatomic position). Major blood vessels in the neck were lacerated including the left common carotid artery, left internal jugular vein and right external jugular vein leading to massive hemorrhage and death. Tattooing or stippling (small lesions from flecks of unburnt gunpowder impacting the skin) was noted superolateral to the entry wound. This indicates an **intermediate range of fire** with a gun-to-muzzle distance of only a few inches.

Several shots then followed with Mendoza firing from the front of the bus facing the seated hostages. Mr. **FU Cheuk-yan** with Mr. **LEUNG Kam-wing** behind him reportedly rushed towards the gunman in an attempt to overpower him. Both were killed and fell on the aisle. Mr. Fu sustained three penetrating gunshot wounds of the trunk. Considering their anatomic trajectories correlated with the circumstances of death, he was probably hit first at the left lower abdomen with the bullet eventually lodging in the right buttock. The small intestines were lacerated and extensive pelvic fractures resulted, effectively disabling him. Another gunshot wound entering the lower chest also on the left side was the most fatal of the three because the heart, aorta and left lung were damaged. It could be that the gunshot wound of the left upper back was the last to be inflicted.

Mr. LEUNG, on the other hand, also had three gunshot wounds like Mr. FU. The perforating gunshot wound of the right upper arm was least fatal injuring only soft

tissues. The two penetrating chest injuries however damaged the heart and lungs aside from causing fractures of the ribs and left shoulder region. It cannot be determined with certainty how Mr. LEUNG was shot but the backward trajectories of both the right arm and left upper chest wounds indicate that he could have sustained these while facing the gunman. The shot in the back therefore could have been fired when he was already down.

According to witness accounts, Mendoza proceeded to fire at the seated hostages while walking back and forth on the aisle of the bus. This scenario is consistent with the injuries sustained by four of the fatalities: **Mr. WONG Tze-lam (seat 5A), Ms. LEUNG Chung-see Doris (seat 7A), Ms. YEUNG Yee-kam (seat 4D) and Ms. YEUNG Yee-wa (seat 6D)**. Mr. WONG and Ms. LEUNG Doris were seated on the **left** side of the bus and both sustained single gunshot wounds behind the **right** ear and on the **right** upper back respectively. This is consistent with the shooter's position on the aisle on their right back side with them seated facing forward and defensively crouched behind the seat in front. Notably, **the entrance wound of Ms. LEUNG also showed tattooing or stippling indicating an intermediate range of fire**. Also probably related to this fatal head injury is a gunshot wound of the right thumb which was likely sustained when she had her hands over her ears, again an instinctive gesture.

The YEUNG sisters, on the other hand, were seated on the **right** side of the bus and they also sustained single gunshot wounds on their **left** side. Again this places the shooter on the aisle on their left side. Ms. YEUNG Yee-kam had a perforating gunshot wound entering the left temple and exiting below the right ear. This caused extensive brain lacerations and skull fractures. Ms. YEUNG Yee-wa died from a penetrating gunshot wound with the bullet entering above the left collar bone, moving to the right and downward. The bullet hit the first three thoracic vertebrae, completely transected the spinal cord and also lacerated the right lung.

The single, head or upper body shots that killed these four seated passengers on both sides of the bus are consistent with the gunman methodically firing while moving along the aisle as claimed by the witnesses.

The eighth fatality, **Ms. LEUNG Song-yi Jessie** (14 years old and incidentally the youngest in the group) reportedly attempted to crawl from her seat on the 8th row on the right side of the bus toward her injured brother on the other side, and she was shot in the process by the gunman. She sustained two perforating gunshot wounds of the chest. One grazed the inner right upper arm first before entering the chest wall at the front of the armpit while the other entered the left upper chest proceeding straight backward. Both caused lung injuries and rib and spine fractures. While it cannot be determined definitively how Ms. Leung was shot, in the absence of evidence to the contrary, she could have been killed by the gunman methodically firing from the aisle at the hostages just like the rest.

Based on case materials reviewed so far, the deaths of the eight hostages are attributable to gunfire coming from Mr. Mendoza using the rifle he was armed with. The complexity of the skin wounds, the extensive internal lacerations and severe fractures are consistent with high velocity gunfire, though subject of course to correlation with ballistic examination findings. The internal injuries of the eight dead victims were clearly severe and non-survivable: two had head shots with brain lacerations, one's spinal cord was severed, and in the others the lungs, heart, aorta and other major blood vessels were lacerated.

More information is needed, however, regarding the injuries of the survivors, the scene and the results of the ballistics examinations, to determine with absolute certainty that the external assault by the police did not injure or cause death. Preliminary results

indicate that the bus was fired at on all sides with at least 32 bullet entry marks identified.

Reconstruction of the shooting incident is therefore still ongoing. It is particularly recommended that the autopsy results be correlated with the scene findings in order to determine shooting trajectories and to further recover bullets and other evidence. Indiscriminate removal of the bodies from the scene prior to documentation made it difficult to analyze how they were shot. It is also not clear if adequate scene investigation was done at all. It is likewise recommended that further examination of the body of Rolando Mendoza be done because of incomplete and questionable findings in the autopsy report.

This evaluation is subject to further review and revision as necessary, if significant additional information becomes available.

Gunshot wounds sustained by all victims share the common characteristic of the bullets having a downward trajectory except for the gunshot wound of LEUNG Chung-see (Doris) which is slightly upward. From that it can be deduced that the position of the shooter is higher than the position of the victims.²³⁴

Ballistics and Firearms Examination

An examination of shell casings from 5.56 mm (.223) cal. ammunition used for M16A1 assault rifles reveals that of the 65 fired cartridges of said type of ammunition found in the crime scene, 58 were fired from the rifle of Mendoza, an Elisco M16A1 (standard M16) with serial number (SN) RP127030, while 7 5.56 mm shells found in the same crime scene were fired from two (2) different 5.56 mm firearms and not Mendoza's M16A1. Six (6) were fired from one single firearm and one (1) from another, but all not from Mendoza's M16A1.²³⁵ A supplemental report to the same firearm examination shows that an additional four (4) 5.56 mm fired cartridges were fired from Mendoza's M16A1, which brings to a total of sixty two (62) fired 5.56 mm cartridges positively identified as coming from Mendoza's M16A1. At the same time, one .45 caliber fired cartridge was found to have come from Mendoza's .45 Colt Government pistol (standard) with SN 123034 while 2 (two) other .45 caliber fired cartridges were fired from another .45 caliber firearm, unknown.²³⁶

The evidence log book shows that one (1) .45 caliber fired cartridge was collected from inside the bus while two (2) were found outside the bus. However, sixty five (65) 5.56 mm fired cartridges were collected from inside the bus, when only sixty two (62) were positively identified as having been fired from Mendoza's M16A1.²³⁷ This means that three (3) 5.56 mm fired cartridges collected from the bus were not positively matched with Mendoza's M16A1.

Another firearms examination report shows that nine (9) 5.56 mm fired cartridges were positively matched with a 5.56 mm Ferfrans SOAR rifle belonging to PO2 Leo Sabete of the MPD-SWAT sniper team, while one (1) came from an M16A1 rifle belonging to PO3 Cesario Martino of the same unit. The same report showed another batch of four (4) .45 cal. fired cartridges from one and the same .45 caliber firearm but not from Mendoza's .45 Colt Government Pistol. A 9 mm fired cartridge came from PO2 Marlon Santos's 9mm Beretta 92DS, another from the 9 mm Glock 17 of SPO4 Reynaldo Antonio. A bullet fragment was traced to the M16A1 Elisco rifle of PO3 Martin.²³⁸

²³⁴ Consolidated Report on the Joint Forensic Examination of the NBI and PNP, September 15, 2010, ANNEX IIIII-1

²³⁵ Firearms Identification Report No. FAID-104-2010, PNP Crime Laboratory, August 26, 2010, ANNEX III.

²³⁶ Firearms Identification Report No. FAID-104-2010, PNP Crime Laboratory, August 28, 2010, ANNEX III.

²³⁷ RE SOCO REPORT NR: SOCO-450-10, MPD Crime Laboratory, August 24, 2010, ANNEX III.

²³⁸ Firearms Identification Report No. FAID-104-2010-B, PNP Crime Laboratory, September 13, 2010, ANNEX CCCC-1.

After the PNP-SOCO, the NBI conducted its own search of the crime scene and collected a number of additional specimens. Another firearm report shows that a deformed 5.56 mm copper jacket recovered at the wall of the bus toilet came from Mendoza's M16A1. Another two (2) 9mm fired cartridges found at the front left side of the bus came from one and the same 9 mm. firearm. Two (2) 9 mm fired cartridges were fired from the Beretta 9 mm. pistol of PO3 Randy Eizaguirre. Several other specimens of metallic fragments and fired cartridges, including a round of .45 caliber ammunition, yielded negative results or were still undergoing examination.²³⁹

Ocular ballistics examination of the bus²⁴⁰ show the following results:

Inside the Bus

1. 19 entry bullet holes fired from the inside the bus;
2. 2 exit bullet holes fired from the inside the bus;
3. 6 entry bullet holes fired from the outside the bus; and
4. 2 exit bullet holes fired from outside the bus

Outside the Bus

1. 31 were entry bullet holes; and
2. 12 were exit bullet holes.

The report deduced that for the shots fired from inside the bus that hit the windows, windshield, overhead compartment, and air vents have an upward trajectory. The shots that hit the seats and the wall have a downward trajectory with the exception of the bullet entry at Seat 10B which is upward.

A report dated September 13, 2010 submitted to the Hon Kong Police HQ – Organized Crime and Triad Bureau²⁴¹ shows that a total of 62 impact bullet marks were found on the exterior of the bus. Among the 62 bullet impact marks, 32 were caused by bullets externally discharged and directed at the bus. Ten bullet impact marks on the exterior of the bus were identified to have been caused by bullets discharged from inside the bus. However, bullet impact marks could be higher because some glass panels of the bus were taken down and were not located and therefore could not be examined.

A total of fourteen (14) bullet fragments were still recovered by the Hong Kong Forensics Team that made an examination of the bus after the PNP SOCO examination. The report's initial findings likewise state that the bullet fragments recovered from various origins were examined and that fragmentation was found on most items, especially those discharged by M16 rifles. Many contained no identifiable signatures and therefore unsuitable for ballistic examination. The examination of the fragments and casings continue to the present. However, as of the report, it was found that there is a consistency on rifling signatures between two bullet fragments in .45 caliber (Exhibits RM-9 and RM-8) to show that they may have been discharged from the same pistol. Cross matching on other fragments is continuing.²⁴²

²³⁹ FID Report No. 113-25-8-2010, NBI Firearms Investigation Division, September 14, 2010, ANNEX CCC-1.

²⁴⁰ Consolidated Report on the Joint Forensic Examination of the NBI and PNP, September 15, 2010, IIII-1.

²⁴¹ Preliminary Report on FEED Examination on Manila Tourist Coach Hostage Taking Incident, CHAN Siu-kei, September 13, 2010, ANNEX TTTT.

²⁴² Preliminary Report on FEED Examination on Manila Tourist Coach Hostage Taking Incident, CHAN Siu-kei, September 13, 2010, ANNEX TTTT.

CRITICAL INCIDENTS

There were Critical Incidents in the chain of events as reconstructed. These Critical Incidents are those points in the chain of events where the action taken, or the inaction, the evaluations and decisions made or omitted, the lapses, that occurred during or resulting from the Critical Incident affected the final outcome of the incident under review.

The First Critical Incident

First Critical Incident was that the Crisis Management Committee was not activated in accordance with the Manual on the activation of a Crisis Management Committee (CMC). Mayor Alfredo Lim of the City of Manila was the person in authority charged with the duty of activating the CMC.

While there was a semblance of a CMC organized by General Magtibay as the Ground Commander, the sub-groups required under the Manual were not activated. As borne by the events as they transpired, this lapse or omission resulted in the inefficiency of, and lack of critical information to make an informed judgment by, the components of the teams assigned to handle the crisis situation most especially the Chief Hostage Negotiator.

There was no intelligence gathering sub-group that would have systematically gathered relevant information to aid the Hostage Negotiating Team and ultimately the assault team. The testimonies given by Amensec and the released hostages were clear that no one took the effort of debriefing or interviewing them to gather relevant information. Right from the very start, the nationality of the hostages was reported as Koreans when the correct information could have been easily obtained from Amensec who reported the incident to the police authorities. Technical information related to the bus such as the emergency exit door, the release button of the main door from the outside, and the make and material of the window panels, were readily available from Amansec and which could have aided decisions related to the assault on the bus. The hostages were also not debriefed as they were released. The basic and important information of seating arrangements or position of the hostages on board the bus was not even obtained. Family members and friends who showed up were not interviewed by the authorities. All these rich intelligence data were not gathered because CMC sub-group for this purpose was not activated.

The sub-group for psychologist(s) to aid the CMC or the Hostage Negotiator in evaluating the Hostage Taker's behavior and/or actuations did not exist. There were various instances where inputs from a psychologist would have been helpful and in fact critical. Examples of these are: (1) the implications of the Hostage Taker releasing hostages even before his demands (including for food and media) were not yet met; (2) the attempt to fire his gun but where his gun misfired; (3) the potential implications or repercussions of presenting the letter from the Ombudsman in the tenor it was written and its deviation from the demand of the Hostage Taker; (4) the firing of his gun after the letter or the Ombudsman was presented to him and where Gregorio Mendoza told the Hostage Taker that his (Gregorio's) gun was not returned; (4) the implications or repercussions of even involving Gregorio Mendoza; (5) the potential repercussions of arresting Gregorio, to name just a few. (As an aside, allowing the Hostage Taker to directly communicate with civilian authorities is a breach of protocol on hostage negotiations).

There was notably the absence of a point person to handle media relations, another sub-group of the CMC. This omission later proved to be a major contributory factor to the tragic result of the crisis incident.

The authorities resolving the crisis situation, which included the Hostage Negotiating Team, were clearly not properly guided with relevant inputs or assessment from a psychologist required by the circumstances or nature of the crisis situation.

The Second Critical Incident

The improper appreciation of the nature of the demand of the hostage taker was the Second Critical Incident. How or when the demand for “an order for reinstatement to the service” was convoluted to “a letter promising to review Mendoza’s case” by the Ombudsman could not be satisfactorily explained by the authorities concerned. If it was intentional, then a proper assessment of its implications should have been made. The tenor of the letter was simply, a promise for further delay of the already delayed resolution of Mendoza’s Motion for Reconsideration. It should be noted that at this point the expectations of Mendoza has been raised with the promise of the delivery of the demanded Order. He talked to Vice Mayor Moreno and was even allowed to directly talk to the Ombudsman and was given assurances. It should have been assessed that having raised his expectations, the frustration level could potentially be high if his demand was not met. As borne by testimony, the only action taken related to the tenor of the letter was to read the letter aloud and to ask Gregorio, if it would be acceptable to the Hostage Taker. Gregorio was obviously unqualified to make such assessment!

Related to this was the non-delivery of Mendoza’s case file to Sec. De Lima of the Department of Justice as demanded by Mendoza on two occasions. The first time, to Maj. Salvador, and again reiterated to Col. Yebra. Also twice, PO2 Rivera proceeded to deliver the documents but on both occasions, he was recalled to the Advance Command Post. The only explanation was that the file was going to be reviewed.

The non-delivery of the documents to the Department of Justice in compliance with the request or demand of Mendoza was an omission that excluded the possibility of setting into motion the involvement of the Department of Justice in giving its inputs on the legal viability of complying with the demand for an Order for Reinstatement and in aiding in the resolution of the crisis situation.

The Third Critical Incident

The presentation to Mendoza of the letter from the Ombudsman and the resulting breakdown of negotiations constituted the third Critical Incident. As earlier discussed, at this point the expectations of Mendoza that his demand for and Order for reinstatement was high because this was reinforced by the assurances from the Ombudsman and the Vice Mayor.

There also appears to be a lack of judgment in including Gregorio Mendoza with the Negotiating Team. The point in time when the demand of the hostage taker is “complied with” should have been handled with more sensitivity especially as there was the possibility that the letter would be rejected since it was a deviation from the actual demand of Mendoza. With proper evaluation, elements that could potentially compromise success could have been eliminated.

When the letter from the Ombudsman was read by Mendoza his reaction was almost instantaneous, as born by the transcript of the recording on air from DZXL. Mendoza said: “Basura ito!” (This is garbage!). The rejection was obviously a breakdown in the negotiation. While Col. Yebra attempted to salvage the situation by offering an alternative (the conditional reinstatement pending appeal), several factors converged that affected the appreciation by Mendoza of the offered alternative. Mendoza’s attention was being distracted by his simultaneous engagement in an “interview” by Michael Rogas and his brother, Gegerio, was reporting that his gun was not yet returned. This latter report from Gregorio further infuriated Mendoza because he felt betrayed, claiming that Yebra had earlier told him that the gun was returned.

The criticality of the incident was underscored by Mendoza aiming and firing his rifle at the Negotiating Team (by Maj. Salvador's account). The implications of the above incident was not also properly evaluated.

The Fourth Critical Incident

The acts, omissions and reaction, of the authorities concerned with resolving the crisis situation, to the initial breakdown (the third Critical Incident) is the Fourth Critical Incident.

Immediately upon return of the Negotiating Team, with Gregorio, to the Advance Command Post, Col. Yebra accused Gregorio of being a conspirator and an accessory. Whether he was shouting or not is not really material. The fact is Col. Yebra displayed his loss of focus on the task at hand. He was distracted by a peripheral matter. More important to addressing the actuations of Gregorio was re-building the confidence of Mendoza, re-establishing contact with him, and salvaging the negotiations that clearly broke down, by working on the offered alternative solution. Instead, Col. Yebra, Mayor Lim, Gen. Magtibay, and other police officers present focused on handling the peripheral matter involving Gregorio resulting to Mayor Lim's order for Gregorio's arrest, looking for handcuffs, and conferring on how to handle Gregorio. By attending to the peripheral matter, precious time to salvage the negotiations, already critical at this late hour of the crisis situation, was lost. The windows of opportunity were closing.

This incident led to a chain of events that became the tipping point that pushed Mendoza to become fatally hostile.

The Fifth Critical Incident

The arrest of Gregorio Mendoza upon orders of Mayor Lim was the Fifth Critical Incident. Viewed in perspective, this was the proximate cause of the chain of events that led to Mendoza's shooting at the Hostages. The potential adverse reaction of Mendoza to an arrest of Gregorio was not lost to Mayor Lim. This is borne by his instruction to the escorting officers to use the back door of the Advance Command Post to avoid media. That Mendoza was viewing television at this time was already known at this point. The instruction to avoid media should be taken in this context.

Given the tenuous situation, i.e., negotiations having broken down, adding a potential irritant to Mendoza with the arrest of his brother, was a lack or absence of sound judgment. Again, the absence of a properly constituted CMC (the First Critical Incident) affected decisions made as there was no one properly evaluating implications of actions and advising decision makers.

The Sixth Critical Incident

The departure of Mayor Lim and General Magtibay from the Advance Command Post at a crucial time was the Sixth Critical Incident.

Immediately preceding events aggravated by lack of evaluation of their implications, compounded by error in judgment, resulted in the Sixth Critical Event. The absence of Mayor Lim and General Magtibay in the Advance Command Post created a vacuum in command or decision makers. This resulted in the inability of those present to handle crisis events as they unfolded. Everything that Mayor Lim and General Magtibay hoped to accomplish at Emerald Restaurant, including taking a meal, could have been accomplished at the Advance Command Post and even better because they would have been in a position to react to events promptly.

The most significant of events that transpired after Mayor Lim and General Magtibay left the Advance Command Post were the coverage of Gregorio being arrested, the deadlines being given by Mendoza before he starts shooting the hostages and the actual shooting of hostages.

The Seventh Critical Incident

The inefficient, disorganized and stalled assault brought about the Seventh Critical Incident. The manner by which the assault on the bus, to rescue the hostages and take down Mendoza, was carried out was the convergence of efficiencies omitted, and inefficiencies committed, through-out the day.

There was an absence of relevant intelligence information that could have aided the formulation and execution of a proper assault plan, including the choice of equipment needed to efficiently carry out the same. The information about the emergency exit door, the emergency button to open the main door and the strength of material of the window panels were vital information. Unfortunately, from the very start, there was no intelligence gathering sub-group activated.

The choice of the SWAT to carry out the assault is by itself a judgment call that requires scrutiny. The IIRC is not in doubt that an order directly from General Santiago and also through Major Medina, to utilize the SAF was given to General Magtibay. Considering that an order to assault entails danger to lives, extra-ordinary diligence in making the decision should be the measure of determining the correctness of the decision.

The SAF is reputedly a better trained and equipped unit for the type of assault to be carried out under the circumstances, a matter known to General Magtibay as a high ranking officer in the PNP. This alone demonstrates the error in judgment in General Magtibay's choice of the SWAT to carry out the assault. Assuming that the proper judgment call was made in the choice of the SWAT, the order for the SAF to support the assault should have been immediately given when the assault faltered and the SWAT was confronted with difficulty in breaching the bus. Precious minutes ran out before the SAF was ordered to assist or support the SWAT assault. There was omission of immediate judgment called by the circumstances.

The Eight Critical Incident

The absence of an organized Post Assault Plan constituted the Eighth Critical Incident. This is significant because an efficient post assault plan is an integral part of managing a crisis situation. Among others, it has for its purpose providing timely and efficient medical attention to hostages that are injured or whose lives could still be saved, securing the area to avoid further harm or injury (the reason for an Explosive Ordinance Unit), and the preservation of the scene for evidence gathering to aid in the investigation that would necessarily follow.

What transpired immediately after the neutralization of Mendoza clearly demonstrated the absence of a Post Assault Plan or the inefficient manner such a plan was carried out, if indeed there was a plan. There was no crowd control that resulted in bystanders rushing to the immediate vicinity of the bus thereby hampering evacuation of hostages. Media reporters were even allowed to board ambulances. There was also no clear coordination with medical facilities as shown by the testimony that victims were rejected by one hospital because they could no longer be accommodated. Time was lost in traveling to the next nearest hospital.

Another critical result of the absence of, or lack of proper implementation of a post assault plan was that the scene of the incident, in and around the immediate vicinity, was not preserved. Potential forensic evidence were either lost or contaminated so as to render them practically useless for the purpose of investigation and evidence gathering.

The IIRC is witness to the difficulty in reconstructing the events relative to the assault and what transpired inside the bus, even while Mendoza was alive, due to the contamination of forensic evidence.

Again, this Critical Incident is a result of the CMC not being properly convened and the obvious lack of foresight and planning by the Ground Commander and all other authorities charged with the function of ensuring the proper and efficient handling of the crisis situation from its inception to the post assault events.

EVALUATION of CMC and POLICE ACTIONS

Establishing the Crisis Management Committee (CMC)

The formation of the CMC established the capability to handle the crisis incident. Conversely, the non-establishment of the CMC established the incapability to handle the crisis situation. That a manual has been developed and in place which defines the organizational structure of the CMC emphasizes the importance of convening a CMC. Standard Operating Procedure for a hostage taking requires that the Local Executive (Mayor) of the Local Government Unit (LGU) officially convene the CMC immediately after being informed of the existence of a crisis incident.

Mayor Alfredo Lim of Manila claims that having confirmed that MPD Commander, Gen. Rodolfo Magtibay, was already on the scene and acting as Ground Commander and having given instructions to Gen. Magtibay to “cordon-off the area”, inform him of his requirements and “do whatever is necessary”, the Mayor had in effect convened and operationalized the CMC. This was supposed have been reinforced with Vice-Mayor Moreno being designated as “Vice-Chairman”.

The protocols are specific on the organization or composition of the CMC. There is also a basis for why the Local Chief Executive (Mayor) is charged with organizing the CMC and not the Ground Commander. The reason is that some of the critical elements or the sub-groups of the CMC are not under the control or supervision of the Ground Commander “prior” to the CMC being formally convened, but are under the Chief Executive of the City. Examples of these are: Medical Support Group and Fire Fighting Units. Operational control over the said units by the Ground Commander follows as a consequence of, and not prior to, the CMC being convened or formed. In fact, that Mayor Lim or Vice Mayor Moreno instructed Gen. Magtibay to “inform them of what he needs” emphasizes this matter.

Mayor Lim, as the designated Chairperson of the CMC, should have ensured that the components of the CMC were actually in-place with, at the very least, the designation of the point persons for each critical position or sub-group. Although he said that Members of CMC are department heads for legal, health, the secretary to the mayor, and social welfare and that this was activated after the department heads meeting²⁴³ there was no other indication in the records or testimonies of the convening of the CMC. Magtibay in fact merely assumed the formation of the CMC when he said that he did not receive any order on the formal activation of CMC. He merely assumed automatic activation upon the happening of the hostage crisis. He said he did not find time for the ministerial designation and issuance of order for the activation of the CMC.²⁴⁴ In fact, Magtibay believed that what was established at 10:30 was the Crisis Incident Management Task Group (CIMTG) under the ground commander since Mayor Lim was at the City Hall.²⁴⁵

There was no clear-cut delineation of functions between the Chairman of the CMC and on-scene ground commander. It did not specify to what extent the mayor can interfere in the operations for it was learned during the hearings that the mayor had the opportunity to order the arrest of the brother of the hostage taker. There is also no guideline as to when a higher ranking officer can take over the on-scene ground commander if the former had assessed that the on scene commander is not capable of addressing the crisis.

²⁴³ TSN, dated September 3, 2010, Lim, p. 91, ANNEX 3.

²⁴⁴ TSN, dated September 3, 2010, Magtibay, p. 32, ANNEX 3.

²⁴⁵ TSN, dated September 3, 2010, Magtibay, p. 57, ANNEX 3.

Measured against the requirements under Sec. 116 of RA 7160 or the Local Government Code and Executive Orders No. 309, 320 and 773, Mayor Lim of the City of Manila failed in the performance of his mandate to form or convene the CMC in accordance with the said cited law and Executive Orders.

Of major significance, as borne out by the events as they unraveled, was the absence of three CMC sub-groups that are very critical in a hostage taking crisis. These are the Intelligence sub-group, the Psychologist to support the Negotiating Team and public affairs to control and brief media.

For this purpose, the issue as to whether EO 309, 320 and 773 and Sec. 116 of RA 716, are what governs in determining the composition of the CMC or whether it is the new EO is immaterial. Either way, *the Mayor is still charged with organizing the CMC.*

Strategic Lapses in the Negotiation Process

The initial contact and access to the hostage taker made by Major Salvador was orderly in appearance. The same with Col. Yebra who was also able to establish rapport.

The medium for communications were the standard throw phones in hostage situation in order to establish communication between the hostage takers and the negotiator in case the former do not have one. The communication was also established with the use of cell phones. Lack of other communication apparatus got in the way. What the negotiator failed to give was a two-way radio that is faster and convenient to use in this kind of situations and more reliable in case of network failures or heavy traffic in the network providers. Sometimes the old equipment could still be of good use and should not be left out of any operations like bull horns, loud speakers to convey messages in case of network failures that what actually happened in this case wherein the negotiator tried to re-establish communication with the hostage taker but failed to do so because the cell phone line of the hostage taker was busy while talking with an anchorman of RMN radio network demanding for another negotiator because he has lost his confidence with the two negotiators for not returning the gun of his brother confiscated earlier.

Col. Yebra had some training in crisis management and had a few experiences in hostage situations. He did not, however, have any official designation as a negotiator nor there exists a negotiating team in the Manila Police Department. The one who assisted him in the hostage situation, Major Salvador, has to his credit some experience in crisis management. Both belong to the legal department of the Manila Police District. The non-designation of a regular negotiator is sufficient proof of the ineffectiveness of the Manila Police District to address hostage crisis situations.

The two police officers were reporting to the on scene-commander during the crisis situation. There was no intelligence officer to assist them in order to give details to them concerning the hostage taker in order to give them a better assessment of his personality, service track record, ideology, traits, personages that may affect his actions and other information that would facilitate the negotiations. Thus, the negotiators were largely acting on their own. They were not being assisted by any psychologist or any intelligence officer for much needed outside information that may be necessary in hostage crisis management. Although the on scene commander was present during the early and later part of the crisis, he never coordinated intelligence in a serious and organized fashion. He was complacent in the demand for support to the negotiators and this complacency proved contagious to his men to the point that even Yebra and Salvador also no longer asked for, demanded or looked for information and intelligence on their own.

The negotiators were hampered by the distance of the spot command post set up by the on-scene commander. The posts of the negotiator and the on-scene commander are a

distant a far, in fact, they were on the different sides of the park. This delayed whatever developments that had to be relayed to the on scene commander.

The police authorities endeavored to grant all demands made by the hostage-taker, to wit: That his case folder be brought to the Secretary of Justice and the Office of the Ombudsman (although no copy was ever received by the Secretary of Justice); that food and fuel be delivered; a mobile phone and a throw phone were provided to facilitate communication and negotiation; and his brother Gregorio was allowed to approach the bus and talk to him. However, the other demands were not accommodated for security reasons, as for example: an audience with a lady reporter.

In substance though, there was a total lack of a genuinely serious and well-planned out negotiation strategy. Everything depended on the Vice Mayor's trip to the Ombudsman. Even when this was discussed, there was a miscommunication on the precise nature of the demand, from an Order of Reinstatement to a mere Review. There was even legalistic opposition as to its propriety even when the Order can be reversed anytime after the crisis for having been acquired through force and intimidation. The alternative of a reinstatement order from the NCRPO was only brought up when the Ombudsman letter was rejected as garbage by Mendoza. Even then, the main strategy, as articulated by Mayor Lim, was to simply "tire out" Mendoza, to wit: "*Waiting game na lang ito. Maghintay na lang tayo. Baka kapag napagod yan, napuyat, mag-give way na.*" (*This is already just a waiting game. Let's just wait. Maybe if he gets tired, lacks sleep, he will just give way.*) This was made with utter disregard of any experience and training in hostage-taking incidents that when hostage-takers get tired and grow impatient for lack of response to demands, more often than not, they actually just start getting violent.

Unfortunately, even at the moment when there was a semblance of a formal convening of the CMC at the PCP in the late afternoon, the strategizing was layman in approach, without benefit of professional clinical analysis. It was heavily dependent on the equally unsophisticated and unscientific observation that the hostage-taker was "kind" and "reasonable" and that "the whole day before the shooting nothing was happening". This was made despite the reminder in the hostage manual of the critical period known as "dynamic inactivity" when the mind of the hostage-taker keeps on running scenarios, options and possibilities, together with the thought of being killed, that makes for immediately volatile and dynamic eventualities in hostage-taker action, contrary to "nothing was happening," and its implication of an expectation on the part of the CMC that nothing will continue to happen as the basic premise for crucial judgments on the hostage crisis.

This articulated "strategy" of Mayor Lim to just "tire out" the hostage is in clear disregard of Section 5.5.2.2 of the Amended Crisis Management Manual of 2010, to wit:

Another factor that is always present and relate to time is stress. People tend to become more rational as they become less emotional. Therefore, to get your message across, first do something to reduce the hostage-taker's emotional level. The body reacts to stress through its adaptive mechanism. However, individuals cannot maintain a high level of resistance to stress. Eventually, they will reach the exhaustion stage. xxx xxx

It is also important to note how the chief negotiator, Col. Yebra, refused to box Mendoza accordingly among the three possible stereotypes of hostage-takers described in the Hostage Negotiation Manual. Yebra considered Mendoza a "criminal" hostage-taker who is described to be a person who has just committed a crime and in the course of avoiding arrest and capture by the police decides to take hostages as he is cornered.²⁴⁶ This type of hostage-taker implies lack of premeditation to take hostages on the part of

²⁴⁶ Hostage Negotiation Manual, p. 1, ANNEX PPP.

the hostage-taker. The taking of hostages was just incidental in the effort of the criminal to flee the police and elude arrest. This clearly was not the case for Mendoza.

Col. Yebra refused to categorize Mendoza under the stereotype where Mendoza clearly falls, i.e., a “mentally deranged” individual who deliberately takes hostages because of feelings of oppression and persecution for purposes of correcting a wrong or injustice done to him.²⁴⁷ This type of hostage-taker implies his hostage-taking as premeditated, deliberate, thought through, and planned. This type of hostage-taker is ready to die, not unlike the terrorist-type of hostage-taker. The proper stereotype would have helped in the crafting of an appropriate negotiation strategy, as well as forewarn the negotiator of surprises in behavioral changes.

Neither was there any serious analysis made of his probable psychological set-up at periodic intervals especially at the stage of “dynamic inactivity” forewarned in the hostage manual. Information on the hostage-taker as far as the ground commander was concerned was limited to the characterization from the hostages that he was calm, playful with the driver, cracking jokes, and kind. Information on his state of mind that he will not harm hostages was based simply and much naively on the fact that he was releasing hostages.²⁴⁸

Yebra’s explanation that Mendoza was reasonable and rationale with his dealings from the start as the reason for not labelling him as a “mentally-deranged” hostage-taker tells much of Yebra’s professional training, that at the most critical moment of practical application, he throws all his training out the window and proceeded to consider a premeditated hostage-taker as an ordinary case of a man who can be reasonably talked to, and refuses to see the undercurrents of psychological conflicts that has driven a man such as Mendoza to the extreme act of hostage-taking to correct the perceived injustice done to him.

Mendoza might not have looked like the stereotype psychotic as seen in mental wards, but Yebra’s failure to see through Mendoza and his veneer of calm and reasonable deliberateness, despite all alarm bells ringing in Yebra’s own hostage manual and training is, to say the least, disappointing and unprofessional.

The Debacle of the Assault

The Rizal Park Hostage Crisis will always be remembered by the whole world by the images of the debacle of the assault on the Hong Thai tour bus. This debacle was caused by several factors. But foremost of them was the clear and patent display of insubordination of General Magtibay to follow categorical orders from the President himself to use the PNP Special Action Force – Crisis Response Group (SAF-CRG) for the bus assault.

According to the PNP Chief and his Directors, the best PNP unit trained and equipped for the job of hostage rescue was the Special Action Force – Crisis Response Group.²⁴⁹ This group was present at the southern side of the Grandstand at 5:30 p.m. The confidence in the capability of this special unit of the PNP is such that conventional wisdom goes to the view that if this was the unit employed in the assault, the bungling image of the PNP rescue would have been avoided and not imprinted in the eyes of the world.

Upon being informed of the hostage-taking, Gen. Santiago as Regional Director, NCRPO immediately informed the Chief PNP, Gen. Jesus Versoza, who in turn ordered the deployment of the SAF and RMCG. Undersecretary Rico E. Puno of the Department of

²⁴⁷ Hostage Negotiation Manual, p. 2, ANNEX PPP.

²⁴⁸ TSN, dated September 3, 2010, Magtibay, p. 79, ANNEX 3.

²⁴⁹ TSN, dated September 3, 2010, Versoza, p. 66, ANNEX 2.

Interior and Local Governments (DILG) testified that immediately after being informed of the incident by General Versoza (shortly before 12:00HR of August 23), he asked Col. Medina, who was assigned by Gen. Santiago, to accompany him to give a briefing to the President.

During the briefing, the President gave instructions to make all resources needed at the disposal of General Magtibay, who was the on-scene (ground) commander. The instructions were relayed to Gen. Magtibay through Col. Medina. The President also inquired on the intervention team. When given the assessment that the SAF was better prepared and equipped vis-à-vis the SWAT, the President gave instructions to Usec. Puno and Col. Medina to direct Gen. Magtibay to utilize the SAF.

General Santiago, Col. Medina and Usec. Puno gave testimony to the effect that they relayed to Gen. Magtibay the instructions of the President to utilize the SAF if and when an assault or intervention was to be carried out. In fact, Gen. Santiago said that he “coached or stated the instructions of the President in the form of an Order” (to Gen. Magtibay). This was supported by the deployment of the SAF and RMCG units to the MPD-TOC by Gen. Santiago at around 2:30 p.m. and by informing Gen. Magtibay of such deployment. Gen. Santiago and Col. Medina further testified that operational control over the SAF and RMCG was placed under Gen. Magtibay.

Gen. Magtibay, on the other hand, testified that while he was informed that the SAF was available, he did not confirm that he was “ordered” to utilize the SAF. Gen. Magtibay further acknowledged that the information was relayed to him by Col. Medina, but he could not recall if he was informed by Col. Medina that he was in Malacanang and that the use of the SAF was an instruction coming from the President.

The testimonial evidences weigh in favor of the assertions that instructions from no less than the President were given and relayed to the on-scene or ground commander placing at his disposal the resources needed to address the situation. This included the instructions given to Gen. Magtibay to use the SAF for tactical intervention. The claim of Gen. Magtibay that he did not know (or was not informed, or cannot remember) that Col. Medina was at Malacanang, or that instructions were coming from the President when the instructions were relayed, does not appear to be credible. This defies known practice or even standards of relaying instructions within the PNP or military organizations. It is important to note that the instructions were being relayed through a junior officer (Lieutenant Colonel) to a senior officer (General). Established protocol dictates that the junior officer inform the senior officer the source of such instruction. In fact, it is customary for the junior officer to inform the senior officer of the source. If not given, the senior officer is expected to demand for the source of the instruction specially that he is the on-site or ground commander. It is likewise consistent with culture that the person relaying such kind of instruction invokes higher authority. Gen. Magtibay’s claim goes against the grains of protocol and culture.

The gross insubordination of Gen. Magtibay only became apparent at the moment of the assault itself when the SWAT entered the scene at 7:35 p.m. and there was no word from Magtibay to the PNP SAF-CRG to also deploy for the assault or that they will be deployed as the primary assault unit. As a result, the assault stalled perpetually until Col. Medina relieved Magtibay of his command around 8:11 p.m. and took over the assault operation.

Even then, the question is why did it take Col. Medina so long to take the decisive action of relieving the disobedient Magtibay? In the first place, he should have ascertained Magtibay’s intention to utilize or not to utilize the SAF beforehand upon reaching the Grandstand at around 6:20 p.m. Having failed to do so, the next opportunity to intervene was not during the assault, but during the stall in the assault, as forcing the SAF upon Magtibay at the start of the assault would have harmed what could have been possibly a swift assault by the SWAT, as everybody eventually witnessed was not to be

the case. The assault started at 7:35 p.m. Col. Medina took over at 8:11 p.m. A long time has passed from that stage when a reasonable mind would conclude that the assault has stalled to Medina's take over. A reasonable mind would conclude that the assault stalled 5 or 10 minutes into the assault, and that Medina should have intervened and taken over at that point with his SAF unit. For some reason, the relief order on Magtibay was only given by Gen. Santiago long after it has already become pretty obvious to the whole world that the SWAT assault was going nowhere and was becoming disastrous by the moment.

The PNP has repeatedly assured the President as he repeatedly reminded the PNP that the SAF was the assault unit going to be used, and they had failed him. When the President issues orders, he expects them to be followed, and the simple task of the officials relaying the command to General Magtibay is to make sure that it is not only relayed, **but that the order be obeyed to the letter. For what is the purpose of relaying an Order if it is not coupled by the more important task of making sure that what is relayed is followed to the letter.** PNP Chief Jesus Versoza and General Leocadio Santiago Jr., having been given direct orders by the President to make sure that the SAF was used, had the sworn duty to see to it that said orders were carried out by Magtibay. They miserably failed in this task.

Failure in Intelligence

Intelligence gathering and delivery to the proper officials was virtually nil.

No one was specifically tasked to monitor broadcast radio and TV channels for news on the hostage-taking at the Command Post at the Luneta PCP. Admittedly, there was no working television inside the PCP. If the CMC was properly convened, City Hall would have been requested to provide any of its wide-screen TVs from the Offices of the Mayor, the Vice-Mayor, or the Councilors.

No one interviewed the family members and friends of Mendoza present at the Luneta PCP or within the vicinity all throughout the hostage crisis. A tactical investigation of Gregorio early in the day before he was arrested would have provided material information as Lim said in his testimony that Gregorio at one point admitted that he and Mendoza agreed to "go" the plan in light of their frustration with the Ombudsman. Implying that he was actually part of the planning. Ironically, this should have also led Lim to proceed cautiously with Mendoza knowing he might be a conspirator. Instead, he was the one to give a go ahead to Gregorio's participation in the delivery of the Ombudsman letter to Mendoza despite Yebra's reservations.

There were nine released hostages. Not a single one was properly debriefed or interviewed for information about the conditions of and inside the bus and the condition of the hostages and the hostage-taker. All throughout the day, the negotiating team was ignorant of the fact that the bus was equipped with a TV set capable of receiving live broadcast on the hostage-taking incident. There was not a single attempt to interview the hostages and the assistant manager (Lourdes Amansec) of the travel agency which operated the bus to provide information on the features of the bus, such as internal and external dimensions, toilet facilities, number of seats, the make of the glass windows and access to entry points from the outside, particularly through the emergency exit or the main hydraulic door, etc. The driver was asked about how to open the hydraulic door from the outside by pressing a button only when the assault was already under way, even when several minutes have passed from his escape to the start of the assault on the bus.

The negotiating team admittedly was also uncertain until the late hours of the afternoon whether or not Mendoza was acting alone or had another armed conspirator inside the bus because nobody bothered to verify this simple but most critical matter. Nobody also asked the released hostages if Mendoza planted or carried explosives inside the bus.

Command, Control, Coordination and Communication

Command, Control, Coordination and Communication between the different groups under the CMC and the ground commander and even between the group commander and the different groups under him were lacking. This caused failure in the following:

- a. Flow of crucial information and intelligence from the designated official to the proper recipient;
- b. Crowd control;
- c. Media Control and Relations; and
- d. Legal support.

This was not more exemplified than at the most crucial stage of the hostage crisis, the arrest of Gregorio which prompted Mendoza to shoot all hostages in less than five minutes. Monitoring and communications were a total failure considering that the outburst of Mendoza threatening to shoot the hostages if his brother was not released was being aired on radio several minutes before he started shooting at the hostages.

Efficient communications and coordination could have easily avoided this most crucial tipping point. However, this was aggravated by the fact that by then, the ACP at the Luneta PCP was practically closed for business with the departure of the ground commander himself and the Chairman of the CMC with other highest district PNP officials to Emerald Restaurant, leaving no one in charge to stop the arrest in the event that it could have been communicated immediately. With the departure of the ground commander, strategic decisiveness required at the most critical juncture was absent from among any of the police officials left at the scene since the ground commander admittedly carried his command with him to Emerald, leaving no particular official directly in charge at the scene capable of making decisions and having those decisions followed without question.

The simple but delicate business of communicating precisely the demands of the hostage-taker from the negotiator to the ground commander even when made personally suffered from miscommunication because of a lack of attention to details. The clear demand for a favorable Order or Decision from the Ombudsman on Mendoza's Motion for Reconsideration as initially relayed to Yebra and Salvador mutated into a "Review" of the Ombudsman decision when it reached the Ombudsman.

Command, Control and Coordination was usually made via cellular phone. This entailed problems in operational efficiency when the delicate police operation becomes subject to ordinary civilian problems of officials not being able to connect to each other or their men, dead batteries, lack of load for texting and calling, etc.

Legal support was found wanting in impressing upon the ground commander and the CMC the legal implications of not delivering and notifying the Secretary of Justice of the case folder of Mendoza and his demand for the Secretary to look into his case and to personally call Col. Yebra. Mendoza felt that more than just a simple case of Dismissal by the Ombudsman, his was a case of injustice and oppression, and his demand for the Secretary to take a look into his case, a dismissal decision taking all of three pages to ruin his life, was his final cry for justice from the Philippine government, and last hope from a new administration in whose touted flagship platform of delivering justice for every Filipino he believed.

There was total failure of proper coordination among the various teams that are supposedly tasked to be part of a crisis management task group. Spectators were able to break through the police line inappropriately set, news reporters and cameramen had access to the crime scene, responding crews of ambulances did not have the proper training as how to approach and evacuate victims of the incident thereby destroying and

contaminating evidence, there was no immediate personnel from the SOCO to manage and supervise the evacuation of victims and preservation of evidence, lack of police personnel to accompany the victims who survived the incident to the hospital for proper coordination with hospital personnel to preserve evidence, and the lack of well-planned operations to address matters of this nature. The police force of the City of Manila, especially its leadership, clearly was not prepared for the hostage crisis incident.

Deployment

The police authorities seriously failed to properly coordinate their individual assignments to come up with an orchestrated solution to the crisis. Although the police deployed a big number of its personnel, it did not correctly address the situation.

The perimeter police line was so lax that on-lookers, ambulant vendors, in fact anybody were able to penetrate the police line and reached a distance that is not safe, for the effective range of the rifle of the hostage taker is more than 300 yards. A spectator was hit in the leg during the assault. The rifles of the SWAT were of the same type that also has the capacity to hit innocent by-standers. This being the case, the police line should have doubled the distance. Even if there were spectators that were able earlier to gain entry into the police line still there was no effort to push them away from the scene of the hostage situation. In fact after the situation came to an end, these spectators rushed to the bus and contributed greatly to the confusion and congestion that hamper or delayed the proper medical personnel and police investigative authorities in performing their tasks. It highly contaminated the immediate area outside of the bus.

One example of the laxity in the police line was the penetration of the brother of the hostage taker, SPO2 Gregorio Mendoza, who was able to come close to the bus and was only noticed by the one of the negotiator Chief Inspector Salvador.

The District Director who is not experienced in this kind of situation took command of the crisis situation management instead of delegating the matter to a more experienced officer. The command post he established was also far from the negotiators delaying the immediate dissemination of information being gathered, if there was any.

Deployment of the assault teams and the snipers was poorly done by the assault commander. The snipers were clustered in one area and that is the left side of the grandstand if you are facing it. According to the assault commander and the snipers themselves, this is the best spot to avoid any cross fire between the assault teams and the snipers. Not one covered the front part of the bus wherein the front windshield of the bus could have provided unhampered view of the interior of the bus. The reason of the assault commander is not supported by the deployment of the assaults teams during the breach considering that they were all positioned around the bus so the incident of a cross-fire was not remote. In fact forensic reports show that shots were fired from all sides of the bus thereby showing that the snipers were not the only ones firing from a distance in a cross-fire manner prejudicing the lives of the assault teams. If only a sniper or a spotter was positioned in front of the bus during the entire assault, the spotter could have relayed the place where the hostage taker was positioned and to have a visual confirmation that all hostages are dead as reported by the driver of the bus that was able to escape. The statement of the sniper that he was the one who shot the hostage taker supports the observation that there was a great possibility that a police operative may be hit by friendly fire. There was no spotter whose only duty was to monitor the bus and to report continuously of what is being seen or observed from the outside and inside of the bus.

The media was able to gain so much ground that they were even the ones when it became dark providing light in the crime scene. The unrestricted coverage of the situation wherein they exposed the tactical movements of the SWAT assault teams compromised their actions giving the hostage taker an eye from the outside as to how he

would repel the assault. The scene wherein his brother was seen being manhandled by the police on national television and the fear of the brother of being liquidated seriously aggravated the agitation of the hostage taker. This scene could not have been witnessed by the hostage taker if media was restricted to fully cover the situation. The media has protocols when covering situations and instead of adhering to the protocols it blatantly violated in the disguise that they were merely covering the incident. There is a manual covering the media and they are fully aware of these protocols for they themselves formulated it. They claim that if they were told to restrict their covering the incident then they could have done so. This is no excuse for they claim they are professional and they should be aware of their limitations.

The on-scene or ground commander left his post thereby creating a vacuum as to who was in actual command during his absence. Though he is only a kilometer away and accessible by cell phone, no other could substitute for his physical presence and decisive actions during the crucial minutes of the hostage crisis situation. The on-scene or ground commander ordered the full breach of the bus without consulting the negotiator whether all efforts to negotiate failed and a report from the spotters to have visual confirmation of the report made by the driver who escaped.

There is obviously tactical lapses on the part of the on scene commander that contributed immensely to the tragedy. The on-scene or ground commander after long hours of negotiations underestimated with complacency the volatility of the situation.

Equipment and Training

The ideal equipment of a SWAT team more or less are as follows: communication apparatus, armor vest, helmets, gas mask, pistols, assault rifles for close quarter battle, handcuffs, synchronized watches, binoculars, telescopes, night vision goggles, battering rams, ladders, ropes, stun grenades, teargas, smoke grenades, stick lights, flashlights, spotlights, telescopic gun sights, hydraulic jacks, bolt cutters, glass shutter explosives, fire extinguisher, fireman's ax, chain saw, SWAT van, gloves, carpentry tools, acetylene torch and rain gears.

There was lack of equipment on the part of Manila SWAT to handle the situation. Although they had their basic weapons such as their armor vest (the effectiveness are already in deep question), their rifles, pistols and Kevlar helmets but still by standards, these are not adequate to address the hostage crisis situation. It is very evident that they were not even carrying with them flashlights but all of the time they were reporting and complaining that the interior of the bus was dark. The lack of equipment already put the breaching operation into a compromise. The element of surprise was gone that resulted into a stall that lasted for sometime thereby endangering lives. The doubt regarding the effectiveness of their armor vest contributed to the apprehension of the SWAT members to rush inside the bus during the assault.

The Manila SWAT was not only ill-equipped but they were not trained in different kinds of situations. In fact they had to rehearse on the very day of the hostage situation. The trainings of the Manila SWAT as provided by the Manila Police District are not updated and simulated operations were conducted, if ever conducted, was a long time ago. They don't even know the serial numbers of their guns at an instant query. They train on their own personal account. Skill acquired through trainings diminishes after some time and needs to be constantly updated.

National or Local Crisis

The authorities considered the crisis a local crisis and therefore handled by the local CMC of Manila. The basic parameter being that the locality where the crisis is occurring will determine which CMC has jurisdiction. Thus, the crisis was handled by Mayor Lim as the Chairperson of the Manila CMC. It appeared that at no point was the elevation to

the status as a national crisis considered even while practically all the hostages were foreign nationals and even while representatives from foreign embassies or consular offices were already involved.

The Implementing Rules and Regulations (IRR) on Crisis Situations does not have clear parameters on when, or under what circumstances, should a crisis be elevated to national status.

It is also not clear as to which agency, or who in the bureaucracy, will initiate the elevation of the crisis to national status. Will it be by endorsement or initiative of the local CMC or will the elevation be through a “take over process” initiated by the national agency concerned?

It is also not clear on what is the scope of the authority of the CMC. Is it advisory or does it make a decision based on consensus of the members of the CMC which decision is then to be implemented by the Ground Commander?

EVALUATION of MEDIA COVERAGE

The incident in review was given extensive tri-media (television, media and print) coverage. Major television networks pre-empted their regular programming to cover the incident. Even foreign press correspondents were on the scene in the afternoon of August 23, 2010.

There were several aspects of the coverage by the media that are the subject of scrutiny of the Committee. These are:

1. The showing of tactical or strategic footages particularly sniper positions and the assault by the SWAT and subsequently, the augmentation by the SAF;
2. The coverage on the arrest or taking into custody of SPO2 Gregorio Mendoza (brother of the Hostage Taker);
3. The interview over the radio by Radio Mindanao Network (RMN) station DZXL with Michael Rogas as anchorman.

The Sniper Positions and the Assault

Several footages taken by cameramen of television networks that were aired showed the right side of the bus from the angle of a sniper (taken from behind and showing the rifle pointed towards the right side of the bus).

When the assault on the bus was carried out, footages of the SWAT assault teams were shown by various television networks starting from the time the assault teams were deployed, the positions they took and the attempts to breach the bus. The subsequent assistance by the SAF team, their positions at the back of the bus, and their attempts to breach the bus were also aired. There were also footages of the positions of the SWAT at the front of the bus.

The Arrest or Taking of SPO2 Gregorio Mendoza Into Custody

The incident involving Gregorio Mendoza, the brother of the Hostage Taker, was given coverage by all media organizations positioned at the entrance of the Police Command Post. This included the shouting of Gregorio Mendoza that he was being arrested, claiming that he was going to be killed and his pleas that he was not involved in the hostage taking, and his claims of innocence, his being protected by members of his family and his being handcuffed and forcibly taken into custody.

The Interview of the Hostage Taker by Michael Rogas of Radio Station DZXL

The transcript of the interview by Michael Rogas indicate that the interview was taking place even prior to the delivery of letter from the Ombudsman to the Hostage Taker and up to the time the Hostage Taker started shooting the hostages.

Crisis situations are “news worthy” events and media coverage is expected. There is no statute that prohibits the coverage by media of what can be classified as “crisis situations”. This is understandable because of constitutional issues that are inherent in any law limiting constitutionally protected primary rights. However, because lives may be at stake, media organizations have ethical and operational rules and regulations on how media personnel should conduct themselves in the coverage of a crisis situation. Also, because of the potentially adverse effect on the resolution of a crisis situation, the PNP have institutionalized directives on how to handle media during a crisis situation. Ethical rules and regulations governing journalist covering a crisis situation, locally and internationally, vary in the manner they are phrased, but the essence of the ethical rules and considerations are the same. These ethical rules, regulations and considerations, or even guidelines, do not also prohibit the coverage of crisis situations by journalists but

merely lay the rules of engagement and ethical considerations. For this purpose, the following are the relevant rules of the Kapisanan ng mga Brodkaster ng Pilipinas (KBP), the national organization of the Philippine broadcast industry, in the coverage of crisis situations found in its Broadcast Code.

Crime and Crisis Situations

Sec. 1. The coverage of crimes in progress or crisis situations such as hostage-taking or kidnapping shall not put lives in greater danger than what is already inherent in the situation. Such coverage should be restrained and care should be taken so as not to hinder or obstruct efforts of authorities to resolve the situation.

Sec. 2. A coverage should avoid inflicting undue shock and pain to families and loved ones of victims of crimes, crisis situations, disasters, accidents, and other tragedies.

Sec. 3. The identity of victims of crimes or crisis situations in progress shall not be announced until the situation has been resolved or their names have been released by the authorities. The names of fatalities should be aired only when their next of kin have been notified or their names released, by the authorities.

Sec. 4. The coverage of crime or crisis situations shall not provide vital information or offer comfort or support to the perpetrators.

Sec. 5. Stations are encouraged to adopt standard operating procedures (SOP's) consistent with this Code to govern the conduct of their news personnel during the coverage of crime and crisis situations.

Some media outlets or networks also have their own internal guidelines on the coverage of crisis situations by their personnel but they all have similar tenor with generally accepted guidelines, including the KBP that of the KBP Broadcast Code.

There are basically four principles involved:

1. Non-endangerment of the lives of all concerned, which includes the lives of hostages, the hostage taker, the authorities engaged in resolving the crisis, as well as the journalists concerned
2. Non-interference as this could adversely affect the manner authorities are resolving the crisis situation;
3. The non-involvement of journalists in the crisis situation since it would affect the objectivity of the journalists
4. The presumption that the perpetrator (hostage taker, criminals etc.) have access to what is being aired by media outlets.

Because of past experiences involving PNP personnel and journalists covering crisis situations, the PNP have their guidelines for observance by their personnel during a crisis situation. The PNP guidelines were a result of consultation with media organizations so that there is an acceptable "terms of engagement" between the police authorities and media personnel covering a crisis situation.

The Significance of a Police Line

It is expected that the police authorities establish a secure perimeter or the "police line" around the area of a crisis incident that defines the boundary beyond which media is prohibited. This is an accepted "term of engagement" between Philippine media organizations and the police consistent with their respective guidelines. It is founded on the principles that while media has the task or responsibility of informing the public, in the case of crisis situations, media coverage could be restricted in the interest of

preventing loss or injury to life. In addition, the right of the public to know information, delivered through media, is limited to what the public has access to if they were personally present in the location subject of media coverage. Stated otherwise and in connection with the police line, the information that media could provide the viewing or listening public in a crisis situation is limited to that which the public could normally observe or gather outside of the police line. In fact, in crisis situations, crowd control by the authorities encompasses “media control”.

In the incident under review, media did not cross the established police line. Media reporters and equipment were positioned outside of the established police perimeter. It must be noted that while there were areas not cordoned-off, media were, however, following instructions of the authorities given over a megaphone.

“On-air” Footages

While the general rule is media could air information that is normally accessible to the public, there are exceptions to this rule. It is when the information or footage might potentially endanger lives. This is because of the *presumption* that the hostage taker (or perpetrator in other types of crisis situations) has access to what is being aired by media outlets, particularly television and radio, which has an element of immediacy (live) as distinguished from print media which is “day after news”. That the Hostage Taker in this instance was watching television, and the channel he was viewing, was not just presumed but was a fact known to the police authorities.

Examples of “on air” footages that could be restricted are:

1. Those that reveal the position of troops or their movement;
2. Other tactical information such as, the number of police personnel, their equipment, tactical plans etc. ;
3. In certain instances, the identity of persons involved including the victims;

Were there “on air” footages on television/radio that should have been restricted? Obviously there were. These were (1) the showing of the bus from the vantage point of the sniper which showed the rifle pointed towards the right side of the bus and (2) the assault of the bus by the SWAT and subsequently with the assistance of the SAF.

The “sniper footage” did not directly reveal the position of the sniper nor was there a verbal report on the position. But as the saying goes, “A picture speaks a thousand words”. It must be noted that the Hostage Taker is a police officer, a fact known by media. He would readily know that the video footage was from a sniper’s position because the footage included taking it from a position showing a rifle aimed at the right side of the bus. By simple deduction, the Hostage Taker would know the relative position of the sniper including the type of rifle being used. He would therefore be guided accordingly i.e. avoid providing a visual of himself on the right side of the bus negating any tactical advantage of the sniper.

The “assault footages” speak for themselves. They not only showed (live or on real time) that an assault was taking place but also the relative position (at least on the right side) of the assaulting troops, their number, the equipment being used, and their progress (or lack thereof).

Who is responsible for what was aired on broadcast media? Reporters covering the incident are being blamed for the showing of the above footages. This should be clarified in relation to how broadcast media organizations actually operate.

When news reporters and their supporting crew, i.e., camera men, communication links etc. are sent to cover an event, their basic mandate is to get as much news worthy information, footages, voice clips and sound bites as they can. The decision on what goes on the air is not of the reporters’. There were footages that were taken from various

locations and covering various situations connected with the incident that were not aired. The decision on what goes on the air is made by the producer(s) and/or director(s) in charge of the coverage who are located at the station not the site and, to a certain level, the anchor person.

On the side of the authorities, it must be pointed out that because of the nature of how media operate, the media personnel on the ground take their cue from the authorities particularly the police officer assigned to coordinate with media. In the incident under review, it was not clear as to who this person was. A certain PCI (Major) Margarejo was giving information to media from noon to about mid afternoon, however, this giving of relevant information and coordination with media personnel ceased by about 4p.m. No coordination was ever made other than in relation to the established police line. A megaphone was being used at the police line to issue instructions to the crowd gathered and to media.

It must also be emphasized that the persons charged with resolving the crisis incident knew what was being aired by broadcast media because they were also partially relying on feeds from media outlets particularly television. Since they were also the ones on-the-know on potential tactical maneuvers, they were in a position to assess the impact of media coverage on such maneuvers. Media did not know how, or when, the coverage might potentially affect police operations as media were operating within established parameters at that time. No coordination with media was ever made on this aspect. The “terms of engagement” between the authorities resolving the crisis situation and media is that directives on restricted coverage will come from the authorities. This is not to say that media is free from responsibility because there are ethical rules and guidelines that they should have observed when it became evident that what was being covered and aired were tactical details. Self-restraint or self-regulation by the media outlets concerned should have been observed.

The Coverage of SPO2 Gregorio Mendoza Being Taken Into Custody

A critical incident that involved the coverage by media, particularly television and radio, was the incident involving the arrest or taking into custody of SPO2 Gregorio Mendoza. Correlated with the testimonies of Lubang and the survivors, as well as audio recordings on what was transpiring inside the bus, the incident involving Gregorio, made vivid to the Hostage Taker through television, indicates that seeing what was being done to his brother on television appeared to be the tipping point that led the Hostage Taker into shooting the hostages. The Hostage Taker was heard shouting for the police to release his brother and giving deadlines for the release. He was also heard asking why his brother was being treated “like a pig”. It was while this incident was taking place, and immediately thereafter, that the shooting of hostages took place.

Were the reporters covering the incident involving Gregorio Mendoza responsible for the reaction of the Hostage Taker? It must be noted that the incident, which was a “news worthy” incident, practically fell on the laps of the reporters situated at the entrance of the Advance Command Post of the police. Gregorio Mendoza ran to them shouting that he was being arrested and, claiming his innocence, lay on the ground resisting attempts of the police to subdue and take him into custody. Television footage of the police forcibly taking Gregorio into custody was also taken and aired. Some footage showed the police asking media not to cover the incident.

The potentially adverse impact of reporting on, or giving coverage to, the arrest could only be assessed if the incident is correlated with other events that immediately preceded or were simultaneously happening i.e. if taken as series of related incidents. Because of flaws in the coordination with media, due to lack of a point person (if any was assigned), and the lack of crowd control measures in the vicinity, restraining media was either too late or impossible. At that point in time, was media in error in covering the incident? From the point of view of media, the answer is, no. It was undoubtedly a

“news worthy” event transpiring right before them because, aside from Gregorio Mendoza being the brother of the Hostage Taker, Gregorio was officially made a player in the negotiation process by no less than the authorities. Note that immediately preceding the incident, Gregorio Mendoza was made to accompany the Chief Negotiator, Col. Yebra, to present to the Hostage Taker the letter from the Ombudsman. From the point of view of media or a reporter, anything involving a key personality in the incident was “news worthy”.

It should also be noted that at that point in time, no one in the media knew what transpired during the latest contact of Col. Yebra, Maj. Salvador, and Gregorio Mendoza with the Hostage Taker and subsequently, at the Advance Command Post where the order to place Gregorio under custody was issued which information, if known to media, could have given “context” to coverage of Gregorio. Gregorio’s running to the media and his antics were a sudden and surprising development.

In contrast, the authorities knew or anticipated the possible repercussions if media knew of, and reported on, the arrest as demonstrated by the order to use the back door of the Advance Command Post as an exit of the police officers taking Gregorio into custody precisely “to avoid media”. To be fair, the authorities concerned were probably in a “catch 22” situation because it could be tactically wrong to give media a “heads-up” not to report on Gregorio’s arrest. This information, if given, might be leaked either intentionally, accidentally or inadvertently. But that was precisely why the authorities should have taken more stringent measures to shield Gregorio’s being arrested, from the media. Of note is the lack of crowd control measures instituted at a very critical area i.e. the Advance Command Post at the site. By accounts of witnesses, anybody and everybody including media, was practically able to move about the said Advance Command Post. This constitutes lack of concern for security or confidentiality in or about a critical center for police operations.

The DZXL Interview of Mendoza by Michael Rogas

The “on air recording” and transcript of the exchange between the Hostage Taker and radio station DZXL anchorman, Michael Rogas, indicate that the contact by DZXL was established shortly before the letter from the Ombudsman was delivered to the Hostage Taker. This was confirmed by the testimony of Michael Rogas and Jake Maderazo. This continued up to the time the Hostage Taker started shooting the hostages and shortly thereafter (correlated in the chain of events, about the time that the assault by the SWAT took place).

Again, while there is no law that directly prohibits contact by journalists with a hostage taker while the crisis situation is on-going, the guidelines and ethical practices applicable to journalists provide, among others, that journalists should not, without authority from the Ground Commander (1) Be involved in the incident and/or (2) Act as hostage negotiator. There are ethical, practical and tactical considerations for these limitations.

Ethical Considerations

A journalist has the function of recording and reporting of events as they happen. Crisis situations should be reported without becoming part of the event being covered. When a journalist becomes part of the events, he loses his objectivity and potentially places himself in a position where he might have to make a moral judgment outside of his function as a journalist. This was the case of Michael Rogas and Erwin Tulfo because they became part of the events. During the time that the Hostage Taker was shouting that he will shoot the hostages and giving deadlines for the police to release his brother, Michael Rogas and Erwin Tulfo found themselves a “part of the events” that unfolded as they tried, in person (in the case of Tulfo) and on the air, to get police authorities to respond to the threats of the Hostage Taker. Tulfo was even cursing police authorities

for apparently not giving their pleas attention. The involvement in the incident, other than in a detached and objective coverage, is a breach of the ethics of journalism.

Could not journalists make a judgment to get involved in the situation given the circumstances especially if it is to save lives? They could, but they cease being journalists at that point. By involving themselves, and making pleas for action by the authorities, they become advocates and lose their objectivity as journalists in the process. In this connection, acting as a hostage negotiator is also considered as involving oneself in the events being covered.

Practical and Tactical Considerations

The ethical rules of conduct that journalists are enjoined to observe in the coverage of crisis situations are also based on practical and tactical considerations related to efforts of duly constituted authorities to resolve the crisis situation. In the case of a journalist acting as a hostage negotiator, the basic practical consideration is that journalists are not trained as hostage negotiators. There are nuances of behavior and communication when negotiating with a hostage taker that journalists are not specially trained for or familiar with. Mistakes could result in the loss of lives, including that of the journalist. Assuming that the journalist is a trained hostage negotiator then, and with all the more reason, he should know that he could not engage the hostage taker without the authority of the on-scene ground commander.

The tactical consideration is that by engaging the hostage taker in an interview, discussion or any form of communication, the journalist could potentially derail the efforts of the officially designated Hostage Negotiator and/or the authorities in resolving the crisis situation. The hostage taker could become distracted. Gains in the negotiating process could be lost. In particular, the introduction of an alternative person to communicate with, other than the hostage negotiator, diminishes the dependence of the hostage taker on the hostage negotiator. This was the case in the incident under review.

The Hostage Taker was being interviewed by Michael Rogas at a time when a critical event was about to take place, which was the presentation to the Hostage Taker of the letter from the Ombudsman. The giving of the letter was supposed to be that point in time when the demand of the Hostage Taker is met or satisfied. But because the Hostage Taker was simultaneously being engaged by Michael Rogas, who insisted that the line of communication be kept open even while the Hostage Taker was talking to Col. Yebra, and even asked that the contents of the letter be read on the air, the Hostage Taker was clearly distracted and found an alternative means to voice his objections to the letter. The hostage negotiator “lost contact” with the Hostage Taker. Even the attempts of the hostage negotiator to save the situation by an offer of a solution and re-establish confidence appear not to have been understood or appreciated by the now distracted Hostage Taker. He was practically talking to two persons at the same time. It was also at this point that Gregorio Mendoza reported to the Hostage Taker that his (Gregorio’s) gun was not yet returned to him further enraging the Hostage Taker. But confidence and dependence having been lost, attempts by Col. Yebra to appease the hostage taker fell on ears that were engaged with Michael Rogas.

That the Hostage Taker had now an alternative avenue to vent his anger and frustration other than to the hostage negotiator aggravated the loss of confidence and dependence of the Hostage Taker on the hostage negotiator. This contributed to the hostage negotiator subsequently failing to re-establish effective contact with, and confidence of, the Hostage Taker.

The continuous engagement by Michael Rogas of the Hostage Taker in an “interview” during this critical moment (because confidence of the Hostage Taker was lost and the Hostage Taker had displayed hostility by firing his gun at the hostage negotiators) deprived the hostage negotiator of the opportunity to communicate with the Hostage

Taker. The criticality of the situation was compounded when the incident involving the arrest of Gregorio Mendoza was taking place and seen by the Hostage Taker on television while still engaged with Michael Rogas. During this incident, Michael Rogas was repeatedly misleading the Hostage Taker into believing that by talking to him in his “live interview” over DZXL, the Hostage Taker was being heard by the police. Michael Rogas kept on claiming that because they were “live nationwide” the demands and/or pleas of the Hostage Taker were being heard by the authorities implying that it was not necessary for the Hostage Taker to contact the authorities.

In addition to the above, there are portions in the “interview” that border on giving or offering the Hostage Taker support.

The contact by Michael Rogas and/or DZXL of the Hostage Taker, his engagement in a continuing “interview”, and the manner by which this was undertaken, was a breach of the ethical guidelines governing journalists covering a hostage taking crisis situation, potentially endangered lives, and interfered and/or derailed the efforts of authorities to resolve the crisis.

CONCLUSIONS on ACCOUNTABILITY

General Rodolfo Y. Magtibay

In a nutshell, by all standards, Gen. Magtibay was an incompetent commander, organizer and manager. To top this off, he was also grossly and recklessly insubordinate at a most crucial moment. One is tempted to put the whole blame on the hostage debacle upon him, if not for the equally incomprehensible lapses and indecisions committed by both his superiors and men all throughout the hostage crisis, specifically on strategy, intelligence, coordination, and deployment. But it is without question that he carries the biggest accountability for the disastrous and murderous outcome of the hostage crisis.

Magtibay must accept liability not only based on the doctrine of command responsibility but for his own personal direct actions and inactions. He committed tactical errors that were simple to avoid and which prejudiced and cost human lives. It was a tactical error on the part of Magtibay not to be at the scene of the hostage-taking at the most critical point. By all standards, Magtibay's departure to Emerald Restaurant at the TIPPING POINT when Gregorio was arrested and Mendoza started shooting hostages constituted an abandonment of his post.

Magtibay must be held responsible for lapses in the operations, such as lack of intelligence gathering, proper coordination and dissemination of the intelligence, lack of formulation and implementation of a serious negotiation strategy, lack of effort to continuously and consciously assess the situation with his group commanders and the negotiating team, and for his submission to the command of the Chairman of the CMC in aspects that are the exclusive prerogative and jurisdiction of the ground commander, such as the following:

1. The decision to go to Emerald Restaurant upon orders of Lim;
2. The decision to arrest Gregorio and "send him to Tondo" upon the orders of Lim;
3. The decision to allow Gregorio accompany the negotiating team deliver the Ombudsman letter to Mendoza; and
4. By all indications, the decision to use the MPD-SWAT instead of the SAF-CRG in the bus assault upon the orders of Lim.

This acquiescence of Magtibay is in complete disregard of command protocol on the over-all responsibility of the ground commander as stated in Section 1.7.2 of the CMC Manual, to wit:

The action phase consists of two distinct activities: negotiation and tactical action or intervention which may take place independently either simultaneously or in succession. **In any case both activities are under the complete control and supervision of the On-Scene Commander.**

At least at two points, Magtibay was himself handling the negotiations with Mendoza, directly and directly. He directly called Mendoza during the negotiations for a lady reporter and cameraman. According to Susan Enriquez, it was Magtibay who gave her the phone when she talked with Mendoza, although she did not know what they were talking about. In another instance, Magtibay talked directly with Robert Agojo and dealt with him at the PCP without informing Yebra that a close *kumpare* of Mendoza was at the scene with Magtibay and would like to offer his help in the negotiations. At that point, he decided by himself, to the exclusion of the chief negotiator, how to treat Agojo in dealing with the negotiations aspect of the operations. At any rate, Magtibay, at some points, was directly dealing either with Mendoza or people offering to help in the

negotiation, to the exclusion and without the knowledge of Yebra. This is in violation of the following CMC Section:

3.5.1.4 The chief negotiator does not command and neither does the on-scene or tactical commander negotiate.

Magtibay also failed in the aftermath of the hostage-taking to secure the area and preserve the evidence for the SOCO team in contravention of the following CMC guideline:

3.6.2 Protection of the Incident Scene

The incident scene must be cordoned and protected to prevent looters and preserve evidences as necessary.

Bodies, or those found dead on the spot, were carried away together with the injured, without regard to the preservation of the crime scene. This was made possible because of the negligent management of all group commanders in their assigned tasks which should have been supervised and assured by Magtibay from the very beginning.

Mayor Alfredo Lim

As Chairman of the local CMC which exercised jurisdiction over the crisis incident, Mayor Lim failed to properly activate the CMC and render it fully functional to respond to the crisis as required under existing protocol. Based on existing guidelines, the CMC is charged with the responsibility “to take decisive action in emergency situations” and to integrate and orchestrate “government, military/ police and public efforts towards the prevention and control of (the) crisis incident” (4.3.1, 4.3.3, *Crisis Management Manual*). While Mayor Lim claims to have convened the CMC, there is no showing, however, that its members performed assigned tasks such as reporting to the crisis management operation center (CMOC) to assess and monitor the situation while the crisis was in progress; coordinate and provide support services; prepare and implement contingency measures (4.11, 2.6, *Crisis Management Manual*).

The designated Vice Chair of the CMC, Vice Mayor Isko Moreno, admitted that he did not know the members and the tasks of the CMC at that time, a glaring indication that the CMC was not properly activated and rendered fully functional to respond to the crisis situation pursuant to existing protocols.

Mayor Lim failed to observe the appropriate degree of attention required by the gravity and highly-volatile nature of the crisis, involving the hostage-taking of 21 foreign nationals, 3 Filipinos and one local Chinese by a fully-armed and distressed police officer, evincing gross failure to accord due importance to his role and responsibilities as head of the CMC in addressing the crisis. While admitting to have received direct instruction from the President during the early hours of the hostage-taking to exert all efforts to ensure the safety of the hostages and peaceful resolution of the crisis, Mayor Lim arrived at the crisis management operations center and command post to assess the situation for the first time only at past 5:00 p.m. which was already beyond the initial 3:00 p.m. deadline issued by the hostage-taker. As head of the CMC, Mayor Lim’s conduct bespeaks of a weak, if not anemic, response to the hostage-taking crisis, unmindful of its gravity and the urgency of its resolution as every moment of delay in ending the crisis increases the risk to the safety of the hostages, mostly foreign nationals, and the damage to the image of the country before the international community.

Mayor Lim directed the handcuffing, arrest and forcible taking of SPO2 Gregorio Mendoza, the brother of the hostage-taker, at the crucial stage of the crisis, thereby seriously jeopardizing the negotiation process and putting to grave risk the lives of the

hostages. The arrest and forcible taking of SPO2 Gregorio Mendoza proved to be the final tipping point in the violent and tragic ending of the crisis.

It was Mayor Lim who directed that SPO2 Gregorio Mendoza be utilized to assist in the negotiation to convince the hostage-taker to accept the Ombudsman letter and end the crisis. The decision practically overturned the previous position of the ground commander and the negotiating team against the active use of family members in the negotiation pursuant to established protocols. Mayor Lim enlisted SPO2 Mendoza in the negotiation despite full knowledge of his sensitive relationship to the hostage-taker and possible adverse consequences of such a role in the negotiation process. Thus, if SPO2 Gregorio Mendoza allegedly turned out to be uncooperative during the negotiation, Mayor Lim should have fully anticipated the consequences of his gamble.

As such, Mayor Lim's subsequent orders to handcuff, arrest and forcibly take SPO2 Gregorio Mendoza to "Tondo" was completely unjustified, improper, reckless and contrary to established protocols in negotiations. At that time, Mayor Lim was fully aware that the situation in the bus was turning extremely volatile in light of Mendoza's outright rejection of the Ombudsman letter and his hostile action in firing his gun to express his frustrations with the negotiators whom he accused of having fooled him. The immediate concern of the CMC should have been to promptly address the negotiation deadlock and defuse the volatile situation by rebuilding the confidence of the hostage-taker in the negotiation process, stabilizing his agitated emotional state, and re-establishing rapport and communication lines. But in ordering the arrest and forcible taking of SPO2 Mendoza, Mayor Lim did the exact opposite. The action aggravated the already volatile situation, diverted the focus away from resolving the negotiation deadlock, and eliminated any chance of rebuilding the confidence of the hostage taker in the negotiation process, all in utter disregard of the safety of the hostages and the basic protocols in crisis management in hostage-taking situations.

Despite the collapse of the negotiations highlighted by Mendoza's outright rejection of the Ombudsman letter, Mayor Lim effectively hindered the immediate revival of the negotiation process by stalling the implementation of the alternative proposal for Mendoza's provisional reinstatement pending resolution by the Ombudsman of his motion for reconsideration, thereby squandering the remaining opportunity to secure the peaceful resolution of the crisis.

When the ground commander (Magtibay) and the chief negotiator (Yebra) proposed to provisionally reinstate Mendoza pending resolution by the Ombudsman of his motion for reconsideration and save the situation from getting out of hand, Mayor Lim balked at the proposal and insisted that the matter be subjected to further study and discussion. The hard-line position against the proposal was unjustified as it failed to take into serious account the urgency of securing the safety of the hostages due to the increasing volatility of the situation as reflected by the hostile action of the hostage taker in firing his gun. Besides, the alternative proposal was inherently reasonable and legally tenable as it merely entails provisional reinstatement pending resolution by the Ombudsman of the motion for reconsideration. The provisional reinstatement could have been immediately issued subject to revocation upon denial by the Ombudsman of the motion for reconsideration and without prejudice to prosecution for the hostage-taking.

At the most crucial moment of the hostage-taking crisis, Mayor Lim abandoned the command post (which also functioned as the crisis management operation center) and brought with him the ground commander to Emerald Restaurant, thereby effectively transferring the command center thereat, all in gross disregard of the increasing volatility of the situation and the vital need to maintain close contact, coordination and supervision at the ground level to ensure swift reaction in case of adverse turn of events and secure the safety of hostages.

It was the height of irresponsibility for the Chairman of the CMC to abandon the command post and take along with him the ground commander to Emerald Restaurant on the lame justification that he was hungry and nothing was happening yet (“wala pang nangyayari”). At that time, the protracted 8-hour negotiation had already collapsed after the hostage-taker rejected the Ombudsman letter and resorted to a hostile action by firing his gun, indicating a highly-agitated mental state and obviously warranting close attention and immediate measures to prevent further deterioration of the situation. Worse, the Emerald Restaurant did not have the required communication facilities to enable the CMC officials to closely monitor the unfolding crisis at the ground level, thereby hampering their capacity to take decisive action during the crucial moments of the crisis. Thus, when the situation worsened, there was no responsible official left behind to immediately manage the crisis and take the required decisive action to address the situation.

Vice Mayor Francisco “Isko Moreno” Domagoso

Vice Mayor Isko Moreno committed clear acts of negligence and dereliction of duty for not knowing the particular organization and responsibilities of the city officials as members of the Crisis Management Committee. He is also liable for dereliction of duty when he left the Advanced Command Post at the height of the hostage crisis and proceeded to the Manila Pavilion to have coffee despite being the Vice Chairman of the Crisis Management Committee of which, admittedly, he knows nothing about.

The Vice Mayor carries a big responsibility. In the absence of the Mayor, he assumes the chairmanship of the Crisis Management Committee. What then happens is the assumption of a chairman utterly with no knowledge of how the operation of the CMC is done, thus putting into jeopardy the entire City of Manila in case of widespread disaster, in this case, the lives of hostages.

Because of his admitted ignorance of the organization, function, and purpose of the CMC and because of his willful abandonment of the Advance Command Post, Vice Mayor Isko Moreno should be held liable for gross negligence and dereliction of duty.

Undersecretary Rico E. Puno

Interior and Local Government Undersecretary Rico Puno revealed that he was the caretaker of the national crisis management committee, and that the local crisis committee was headed by Manila Mayor Alfredo Lim, although Puno said that he did not receive any order activating the local CMC. During the entire course of the hostage incident, he admitted getting in touch with the local CMC three to four times only.

Usec. Puno cannot and should not have acted as “caretaker” of the national crisis committee because the rule provides for the following organizational structure to which his position as Undersecretary is not found:

Section III. CRISIS MANAGEMENT ORGANIZATION

4-8. Organizational Level

a. National

- (1) National Peace and Order Council (NPOC)
- (2) NPOC Crisis Management Committee (CMC)
 - (a) Secretary, Department of the Interior and Local Government (DILG)
 - (b) Secretary, Department of National Defense (DND)
 - (c) Secretary, Department of Social Welfare and Development (DSWD)
 - (d) Secretary, Department of Justice (DOJ)
 - (e) Chairman, Cabinet Crisis

Puno said that it was around 10:30 AM of August 23, 2010 when he was informed of the hostage situation. He was informed by Superintendent Ramos Medina of the NCRPO, and that already on the scene were Mayor Lim and General Magtibay. He called up General Santiago, the head of NCRPO, and asked if the Crisis Management Committee was created and was given an affirmative response. Puno monitored through Medina, who was in contact with General Magtibay, by phone while he was at Malacañan Palace. He said he left the Palace at 6 PM. He had an open line of communication with then Director General/PNP Chief Jesus Verzosa, and called him at 2 PM.

He told the Committee that the hostage incident was treated by the crisis committee, including him, as local and not national despite the fact that majority of the hostages were foreign nationals because:

“The treatment was... it happened in Manila. That's one. And also the hostage-taker was a former police officer assigned in Manila. That was the consideration”²⁵⁰

When asked how significant to him was the element of having foreign nationals as hostages, he answered that, *“It was very significant but again I reiterate that in their (local crisis committee members’) personal assessment, the hostage [incident] took place in Manila and the hostage-taker, a former Manila policeman, was very cooperative”²⁵¹*. He was allegedly very sure that negotiations will succeed, while at the same time acknowledging that he was not trained to handle hostage negotiation.

It did not occur to him at any given time to consider the crisis within the dimension of the national crisis committee: *“Our assessment was that he was a very cooperative hostage-taker, releasing eight or nine hostages.”* (emphasis and underlining supplied)²⁵². In his judgment, they had to downplay the situation due to the apprehension that the hostage taker might ask bigger demands if national officials are seen. Their assessment of the hostage taker was that he was not a criminal, so they did not take contingency plans.

But even assuming that the hostage incident was properly treated as a local crisis, the national CMC is required to be on standby and ready to make decisions that may be referred to by the local CMC. This means that the national CMC must still be duly constituted even for local crises, thus:

4-9. National Level Crisis Management Organization

- a. All crisis incidents at national level shall be handled by the NPOC Crisis Management Committee, headed by the Secretary of the Department of the Interior and Local Government.
- b. The NPOC CMC shall give the necessary orders to those concerned for the activation of the Ad Hoc National Crisis Management Organization.
- c. The National Crisis Management Operations Center (NCMOC) shall be established at IRC, NHQ Building, Camp Crame and the On-Scene Command Post shall be established at the most appropriate location in the vicinity of the crisis incident scene.

²⁵⁰ TSN, IIRC Clarificatory Hearing, USEC Puno, September 3, 2010, p. 52.

²⁵¹ TSN, IIRC Clarificatory Hearing, USEC Puno, September 3, 2010, p. 54.

²⁵² TSN, IIRC Clarificatory Hearing, USEC Puno, September 3, 2010, p. 72.

d. The participation of all AFP units in CMC-directed operations involving PNP units shall be as directed by the Chief of Staff, AFP in coordination with Chief, PNP.

e. **The NPOC CMC shall monitor crisis incident situations in the lower levels and be prepared to make decisions on matters referred by such lower level CMC.**

Puno added that he did not go to the command center near the area where the hostages were being held so as not to break protocol, but admitted that he went to the operations center of NCRPO. He did not know what was happening then. Santiago was at the Western Police District (WPD) tactical center. This runs counter to his assertion that he was monitoring the whole incident.

Puno said the local crisis committee's decision to transfer its operation at the Emerald Restaurant in Roxas Boulevard was **Lim's decision**. While thereat, he advised the President, and **assured him that there will be employment of special units**, but when pressed to identify whose liability was the failure to employ the PNP - Special Action Force, he said it was the ground commander's decision. During the executive session, Superintendent Medina clarified that the President personally ordered him to employ the Special Action Force unit under his command, but when he relayed the matter to General Magtibay at around 3 PM, Magtibay countermanded the President's order and insisted on the use of the MPD SWAT. Puno, when asked by the Committee, stated that the reports given to him on the sufficiency of the capability of the MPD to deal with the hostage situation were relied upon, and he stressed that it was the BEST team for the last two years. It is observed that Puno's assurance to the President that the special units will be employed, coupled with the public statement of the President that his instruction was to employ the Special Action Force (SAF), indicate that Puno had assumed responsibility as "caretaker" of the national crisis management committee. He should have verified on the ground if the instructions of the President, with his assurances, were actually carried out. He failed to communicate this matter effectively to General Magtibay.

As for the presence of media and how they affected the hostage situation, Puno said that bulletins were issued by the Public Information Officer, but did not name who was the PIO or in what form the bulletins were issued and how they were implemented. He may have assumed that there was an organized structure of the local CMC, but did not ask Mayor Lim about it despite having discussed and met with him at Emerald Restaurant. While he realized that protocols were not followed, Puno said he did not volunteer to go to the scene to take over management of the crisis. While he took full responsibility for the incident, it is more proper to say that the responsibility was shared between the local and national CMCs, who could have worked together, the former being principally engaged and the latter supposedly giving needed assistance and guidance.

It is the conclusion of the Committee that, the improper assumption by Usec. Puno of the functions of the Secretary of DILG as the chairman of the National Crisis Committee, in the light of his admitted lack of training and experience, may have compromised the readiness of the national CMC to take over the responsibility when it became apparent that the local CMC could not properly handle the hostage situation. That readiness could have been the immediate answer to the worsening situation. Puno's failure to call upon the other members of the national CMC to be on standby reflects this lack of capacity. While he may have good intentions, rules must still be followed, and the organizational structure of the national CMC must be maintained.

Director General Jesus Verzosa

Upon being informed at 10:00 a.m. of the hostage incident, PNP Chief Verzosa called General Leocadio Santiago Jr. of the NCRPO who called the District Commander,

General Magtibay, for the creation of the Crisis Management Task Group (CMTG), as the incident calls for application of local protocols. At the same time, he set-up a command center at Camp Crame headed by the Director for Operations, General Benjamin Belarmino. He was monitoring the whole incident. The setting up of the Command Center at Camp Crame headed by the Director for Operations is apparently in accordance with protocol that provides as follows:

4-9. National Level Crisis Management Organization

f. All crisis incidents at national level shall be handled by the NPOC Crisis Management Committee, headed by the Secretary of the Department of the Interior and Local Government.

g. The NPOC CMC shall give the necessary orders to those concerned for the activation of the Ad Hoc National Crisis Management Organization.

h. The National Crisis Management Operations Center (NCMOC) shall be established at IRC, NHQ Building, Camp Crame and the On-Scene Command Post shall be established at the most appropriate location in the vicinity of the crisis incident scene.

Versosa was clearly aware of the national significance of the hostage situation since he knew that foreign nationals were involved, so by instinct or foreknowledge, he ordered the setting up of a command center. As a consequence of the command center's activation, the next step expected was the dissemination of notices to the members of the NPOC CMC that a national level crisis arose. But culled from the narration of events both by Puno and Verzosa show that the subsequent call between them made them to agree Verzosa and Usec Puno may have changed their decision to agree that it be localized. Nevertheless, localization of CMC structure still calls for the convening of the national CMC because the protocol provides that the "**NPOC CMC shall monitor crisis incident situations in the lower levels and be prepared to make decisions on matters referred by such lower level CMC.**" This being known to Verzosa, it was incumbent upon his command center to have so informed the other NPOC CMC members, but he chose not to.

Before leaving for Cagayan de Oro City for an official function, he contacted Usec. Puno. His second in command, General Bacalso, went with him to Cagayan de Oro. These actions were made despite the activation of the command center in Camp Crame. As if to show that he was actively monitoring the incident, Verzosa said that he was monitoring the incident on TV in Cagayan de Oro. He then violated the protocol that monitoring shall be at the "**National Crisis Management Operations Center (NCMOC) xxx at IRC, NHQ Building, Camp Crame.**"

He said decisions are left to the discretion of the ground commander, including failure of negotiation. The policy is to have no compromise with the hostage taker. But this is contradictory to what Puno said before him that the plan was to give all the demands. These contradictory statements show that Verzosa and Puno either had no communication or misunderstood each other. Either way, their collective failure to pass essential information for an informed judgment affected the responses of the units under them.

Verzosa revealed that target elimination was an option, and that Magtibay was knowledgeable of crisis situations. MPD was allegedly prepared but "variables" affected the operation. The NCRPO gave guidance to Magtibay, and he, as Chief of the PNP, may take over when EXTREMELY necessary. He was alarmed when he saw Gregorio Mendoza being arrested, but he did not do anything so as not to bother the "busy" ground commander. Curiously, his "**alarm**" was not translated into an "**extreme**

necessity” to intervene, a serious flaw between his judgment and action based on such judgment.

As if to extricate himself from protocols which he himself had helped set up, Verzosa insisted that protocols are continuing activities, and are always subject to change.

Verzosa was questioned by the Committee on his absence and his decision to let Manila Police District (MPD) officials handle the situation. He was asked if he had the authority to make replacements after the hostage-taker expressed disgust over the chief negotiator, Col. Yebra. **“When it is extremely necessary,”** Verzosa said. **“We don’t want to intervene in the situation on the ground.”**²⁵³

Committee Chair De Lima sought Verzosa’s assessment of Magtibay’s decision to arrest Mendoza’s brother, SPO2 Gregorio Mendoza, for allegedly conniving with the hostage-taker. **“I was alarmed by the sudden commotion and felt nervous something might happen, [and] I still believe it was the most critical and tipping point,”**²⁵⁴ Verzosa said. He said he had **thought of calling Magtibay** to relay instructions on how to handle the situation, but decided not to. **“If you were physically present, would you have done that? Immediately ordered Magtibay to desist from arresting the brother?”** Chair De Lima said. Verzosa replied: **“I can [make] that decision.** But it has already happened, and it might be hard to repair the observations of the public.”²⁵⁵ Despite being alarmed, nervous, judging the situation as critical and a tipping point, and having thought of calling Magtibay, he was more concerned about “observations of the public” rather than the lives at stake.

Verzosa said the police failed to control the crowd during the hostage crisis. He said crowd control involved keeping away not only kibitzers but also the media, the police, and other personalities who should not be at the site of a hostage-taking. **“There was a mix-up,”** Verzosa said under questioning by Committee Member Basbaño. **“The lapses happened because of the failure to [implement] crowd control. We saw some lapses... I think we failed to designate a media center, where media briefings should have been given.”**

Like Puno, Verzosa said he was confident that Magtibay was capable of ensuring a peaceful end to the hostage crisis because Mendoza was cooperative with the police during the early hours. **“There were two considerations in having the MPD address it— [Mendoza] was from the MPD and Magtibay said they can probably settle with the hostage-taker because he was cooperative,”** the PNP chief said. Verzosa said the release of some of the hostages in the first few hours of the situation indicated that the negotiation was “going smoothly.” **“In various stages, [the negotiation] was proceeding very well,”** he said, adding that he was **continuously talking with Magtibay to give instructions.**²⁵⁶ Again, this is inconsistent with his other statements that he did not want to bother Magtibay who was allegedly “busy” on the ground.

Verzosa said Mendoza’s disposition suddenly changed when he saw the letter from the Office of the Ombudsman stating that it would review his dismissal from the PNP. **“That was the tipping point. His character just changed from then on,”** Verzosa said.

Based on all these actions or omissions of Gen. Verzosa, the proper administrative cases should be filed against him.

²⁵³ TSN, Verzosa, September 3, 2010, p. 80, ANNEX 2.

²⁵⁴ TSN, Verzosa, September 3, 2010, p. 82, ANNEX 2.

²⁵⁵ TSN, Verzosa, September 3, 2010, p.83, ANNEX 2.

²⁵⁶ TSN, Verzosa, September 3, 2010, p. 86, ANNEX 2.

General Leocadio Santiago Jr.

In his statement before the Committee, Police Director Santiago said that the Manila Police District is under his command, the NCRPO, but that he had no administrative control and supervision over the Special Action Force (SAF) of the PNP, the later unit being under the National Headquarters of the PNP. On extreme urgency, the SAF can be directly tapped with clearance from the National headquarters. This clearance was clearly given already by Director General Jesus Verzosa when he called Santiago, to employ the SAF. This was also the directive of the President when he gave the order through Superintendent Remus Medina around 2:30 PM of August 23, 2010. In fact, Santiago categorically stated that the **SAF was placed under his authority** when he said that, “at 2:35 ma’m, I **directed** them to the Manila Police District.”

The order of the President was relayed by Medina to Santiago, and the latter relayed the President’s order to Magtibay. In his affidavit, Medina said: “As of 2:30 p.m., the SAF was already in the area and **Gen. Santiago informed Gen. Magtibay of their presence and ordered him to use the SAF based on the order of the President**”.²⁵⁷ The tenor by which the order of the President was given, per Medina’s affidavit, was that the SAF should lead the tactical assault when necessary. But the subsequent events, and the affidavits of other police officers like Chief Inspector Reggie Laxamana, show that Santiago gave the go signal for the CRG (Crisis Response Group Rapid Deployment Battalion) team to assault the bus IN SUPPORT only of the MPD SWAT team, and not as the lead unit as the President had directed. The statement of Medina that Santiago ORDERED Magtibay to use the SAF show that Santiago could, at any time, countermanded any wrong decision of Magtibay that is not consistent with the instruction of the President. But he did not, which may be considered as **gross insubordination** that had serious consequences on the lives of hostages and hostage-taker alike.

Earlier, Santiago was directed by Director General Verzosa to insure crowd control, that the elements are secured, all forces are available for the ground commander to use. He also gave DIRECT ORDER to District Deputy Director for Operations Superintendent Fidel Posadas of MPD about crowd control at around 11:07 AM. Then later, during the tactical assault, he was the one who ordered the SAF to assist the MPD because “*nobody in the organization of the Crisis Incident Management Task Group took the initiative, so I took the initiative*”. These actions prove that Santiago has the full authority to take over, at any point in time, the role of the ground commander, Magtibay, but he failed, miserably, to act promptly, as he waited for various lapses to happen. Had he implemented strictly the order of the President to use the SAF as the principal assault team as early as 2:35 PM when the order was given, the outcome could have been different.

Santiago even tried to cover up the lapses of Magtibay when he said during the hearing that, “*After 7:29, Ma’m, the Ground Commander, after a few minutes stood up and **told me that he ordered the go signal for the assault.***”²⁵⁸ Because this is contrary to the affidavit of Medina that says,

23. At 7:35 pm, the Manila Police District (MPD) Command Group composed of Col. Gutierrez, Col. Po and Col. Posadas who were in the Quirino grandstand ordered the assault of the bus by the MPD-SWAT (Special Weapons and Tactics).

24. All along, “akala ko kami ang option”, so I again called up Gen. Santiago to inform him “sir, pinasok na nang MPD”.

²⁵⁷ ANNEX AAA.

²⁵⁸ TSN, Police Director Leocadio Santiago, September 4, 2010, p. 25.

25. Gen. Santiago relayed that when he told Gen. Magtiba “sir, na assault na ang bus” to which Gen. Magtibay replied “**ay, na assault nap ala**”.

Whether Santiago treated the incident as falling within the jurisdiction of the local CMC or beyond it as to fall within the Regional CMC where he is a member as NCRPO chief, he is liable. Initially, Santiago tried to downplay his role because according to him the local CMC and the corresponding local CIMTG headed by Magtibay has full responsibility. Under the Standard Operating Procedure Number ODO-2008-03, dated November 1, 2008, it provides for the composition of CIMTG for the NCR District Level, where Santiago DOES NOT BELONG, as follows:

4. Critical Incident Management Task Group at NCR District Level – The Mayor is the Chairman of the Crisis Management Committee, where the District Director is a member. The Critical Incident Management Task Group Commander is the Deputy District Director for Administration, while the Deputy District Director for Operations is the On-Scene Commander. The CDDS is the Head, Battle Staff. The following are the composition:

- a. **Negotiation Sub-Task Group** – The C, IID is in-charge of the Negotiation Sub-Task Group, composed of the Liaison Team, Negotiators and other government agencies.
- b. **Operations Sub-Task Group** – The C, Operations Division is in-charge of the Operations Sub-Task Group, composed of the following: Security Elements; Tactical Action/Intervention; Investigation/Intelligence; CBRN Unit; SOCO, BDU/EOD; and other government agencies.
- c. **Service Support Sub-Task Group** – The Chief DLD is in-charge of the Service Support Sub-Task Group, composed of the following: Legal; Commel; Medical Utilities Team; Fire Fighting; Logistics; Admin Section; and other government agencies.
- d. **Public Affairs Sub-Task Group** – The C, PCRD is in-charge of the Public Affairs Sub-Task Group, composed of the following: Public Information/Media Handling; Media; Community Relations; and other government agencies.

Even when the crisis is considered appropriate at the level of the City of Manila, Santiago would still be OVERSTEPPING his authority because, again, he is not within its structure, thus:

5. Critical Incident Management Task Group (Municipal/City Level) – The Mayor is the Chairman of the Crisis Management Committee, where the Chief of Police (COP) is a member. The Critical Incident Task Group Commander and concurrently the On-Scene Commander is the Deputy Chief of Police. The organizational structure is composed of the following:

- a. **Negotiation Sub-Task Group** – The C, Investigation Section is in-charge of the Negotiation Sub-Task Group, composed of the Liaison Team, Negotiators and other government agencies.
- b. **Operations Sub-Task Group** – The C, Operations Division is in-charge of the Operations Sub-Task Group, composed of the following: Security Elements; Tactical Action/Intervention;

Investigation/Intelligence; CBRN Unit; SOCO, BDU/EOD; AFP Elements; and other government agencies.

c. **Service Support Sub-Task Group** – The Chief, Administrative Section is in-charge of the Service Support Sub-Task Group, composed of the following: Legal; Commel; Medical Utilities Team; Fire Fighting; Logistics; Admin Section; and other government agencies.

d. **Public Affairs Sub-Task Group** – The C, PCR Section is in-charge of the Public Affairs Sub-Task Group, composed of the following: Public Information/Media Handling; Media; Community Relations; and other government agencies.

But with the express instructions of Director General Verzosa for Santiago to insure deployment of special units, direct supervision over crowd control, safety of the hostages, the Chief of the PNP may have, in his INITIAL judgment prior to his phone call with Usec. Puno, elevated the matter to the level of the Regional CIMTG, of which Santiago could fully exercise his authority. This is supported by the order of the President to directly use SAF as the principal tactical assault team over which Santiago had exercised supervision through Superintendent Medina. As early as 11:07 AM, Santiago had taken over crowd control, an exercise of his authority as Chairman of the Regional CIMTG, with the following composition:

1. **Regional Critical Incident Management Committee** – The RPOC Chair is the Chairman of the Regional Crisis Management Committee with the RD of PRO as member. The DRDA is the Regional Task Group Commander and the DRDO is the On-Scene Task Group Commander. The CRDS is the Head, Battle Staff, Sub-Task Group Commanders are designated to manage specific activities.
 - a. **Negotiation Sub-Task Group** – The C, RIDMD is in-charge of the Negotiation Sub-Task Group, composed of the Liaison Team, Negotiators and other government agencies.
 - b. **Operations Sub-Task Group** – The C, ROPD is in-charge of the Operations Sub-Task Group, composed of the following: Security Elements; Tactical Action/Intervention; Investigation/Intelligence; CBRN Unit; SOCO; BDU/EOD; AFP Elements; and other government agencies.
 - c. **Service Support Sub-Task Group** – The C, RDL is in-charge of the Service Support Sub-Task Group, composed of the following: Legal; Commel; Medical; Utilities Team; Fire Fighting; Logistics; Admin; and other government agencies.
 - d. **Public Affairs Sub-Task Group** – The C, RPCRD is in-charge of the Public Affairs Sub-Task Group, composed of the following: Public Information/Media Handling; Media; Community Relations; and other government agencies.

Indeed, the situation, per initial reaction of the Chief PNP when he called Santiago for the directives, and by the latter's own actuations after seeing the inability of the MPD early on to control the crowd, including the apparent failure of Magtibay to follow the order of the President coursed through Santiago as early as 2:35 PM to principally deploy the SAF instead of the MPD SWAT, are indicators of the operational incapability of Magtibay and his CIMTG members to deal with the situation. Protocol dictated that Santiago should have immediately taken over the command and constituted his regional CIMTG. **Memorandum Order No. 121 (Updating the Government Policy on**

Hostage-taking Situations), dated October 31, 2000, signed by then President Joseph Estrada and Executive Secretary Ronaldo Zamora, provides that:

Section 1, D (1b): :If the crisis is beyond the operational capability of the local PNP unit such as the provincial or regional command should immediately take full control and responsibility of the situation, when its judgment calls for such an action.”

Santiago’s attention was already called by Superintendent Medina on the operational incapacity of MPD when he relayed to Santiago the order of the President. In fact, in paragraph 25 of Medina’s affidavit, he said that 5:45 PM he REPORTED to Santiago who gave him a situational briefing, and for Magtibay, Medina simply gave him a COURTESY CALL by coordinating with him to make sure that the President’s instruction is followed.

Santiago’s failure to follow the protocol and the President’s order early on should make him liable.

Lieutenant Colonel Orlando Yebra

The primary negligence committed by Col. Yebra is his failure to not properly appreciate the hostage-taker profile of Mendoza and not request for intelligence when none was forthcoming.

As discussed in the previous section on the evaluation of police action, Yebra initially failed to properly profile Mendoza as a hostage-taker. His appreciation of Mendoza persisted all through out the negotiations, with disastrous consequences. Second, he then failed to demand the assistance of a professional forensic or criminal psychologist trained in offender profiling during the negotiations, thus subjecting the profiling and evaluation of the psychological state of Mendoza to unscientific and unprofessional layman assessment, thus further leading to the negotiating team’s and Magtibay’s justification on why they did not foresee the violence Mendoza was capable of, because all through out the day until late afternoon, he was “mabait” and “nakakausap”. Such an approach to negotiations and the adoption of such a negotiation strategy is inexcusable, and constitutes gross negligence, at the least.

With regard to the intelligence, Yebra said that he was not being fed information on the situation inside the bus by those who were supposed to debrief the released hostages. Prudence and ordinary diligence dictates that a public official, even when not assigned the task, is obliged to remind the official assigned to such task or his superior to perform the same, especially when that task is crucial to the proper performance of his own official functions. At no point during the negotiation did Yebra raise the issue with Magtibay that he was not receiving any intelligence from the intelligence support group. Thus making this state of affairs of a failure in intelligence continue until that fateful moment when Mendoza watched on the bus TV his brother’s arrest and the SWAT snipers move into position, thus sealing the fate of the hostages, for the simple reason that no one bothered to ask the released hotages if the bus had a TV and if Mendoza was watching live boadcast of the hostage-taking.

His second major failure was the fact that the negotiating team was caught lying by Mendoza when they told him that Gregorio’s pistol has already been returned when in fact it was not, as blurted out by Gregorio during the delivery of the Ombudsman letter to Mendoza, prompting Mendoza to reject the negotiators as liars and later to demand for new negotiators for lack of trust in Yebra. At this point, Yebra lied to and was caught lying by the hostage-taker, thus violating a cardinal rule in hostage negotiations, which eventually had fateful consequences on the turn of events and, unfortunately, on the lives of the hostages.

The negotiator also had lapses by permitting the brother of the hostage taker to participate in the negotiations. However, this can actually be traced, again, to the acquiescence of Magtibay to Lim's Order to let Gregorio join the negotiators in delivering the letter to Mendoza, despite Lim's own claim of alleged implied admission by Gregorio that he took part in his brother's decision to execute his plan of hostage-taking in light of the delay in the Ombudsman resolution of his motion for reconsideration in his dismissal case.

Major Santiago Pascual III

Major Pascual failed to exercise that degree of diligence required of an assault commander when he failed to properly strategize his assault plan, starting with the gathering of the intelligence necessary for its success. His fault as discussed earlier included the failure to follow up debriefing on the conditions inside the bus and the features of the bus itself from the tour agency manager Amansec or her employees. By not gathering the necessary intelligence for the assault, he ended up exposing his men to harm and injury. This is inexcusable and grossly negligent and he should be charged with the appropriate administrative offenses commensurate with the degree of negligence he has exhibited.

The assault commander had lapses for failing to discuss with the on scene (ground) commander the capability of his men and the adequacy of their equipment. The SAF was positioned near them hours before the breach and as a true assault commander should have made him realized the disparity of their equipment. They decided the use of tear gas late in the assault when they did not have any tear gas with them prompting them to borrow from the SAF.

Ombudsman Merceditas Gutierrez and Deputy Ombudsman Emilio Gonzalez III

Both Tanodbayan (Ombudsman) Merceditas Gutierrez and Deputy Ombudsman Emilio Gonzalez III cannot escape accountability for gross negligence and grave misconduct in handling the case against Mendoza.

FIRST, Ombudsman Gutierrez and Deputy Ombudsman Gonzalez committed serious and inexcusable negligence and gross violation of their own rules of procedure in failing to promptly resolve without justification, and despite repeated written pleas, Mendoza's motion for reconsideration to the judgment of dismissal, which prolonged inaction precipitated the desperate resort to hostage-taking.

As reflected in the cartolina pasted on the bus and directly relayed to the negotiators, Mendoza, a highly-decorated police officer, resorted to the "big mistake" of hostage-taking "to correct" -- what he believed was -- "a big wrong decision" of the Ombudsman in dismissing him from service and its gross inaction in resolving his pending motion for reconsideration. Thus, as clearly expressed in the hand-written demand posted on the bus, "Release final Decision OMB-P-A-080570-H."

As culled from the case records obtained by the Committee, Mendoza's demand for immediate resolution of his motion for reconsideration is not without legal and compelling basis. As borne out on record –

- a) PSI Mendoza and four policemen were investigated by the Ombudsman involving a case for alleged robbery (extortion), grave threats and physical injuries amounting to grave misconduct allegedly committed against a certain Christian Kalaw (*Decision dated May 21, 2009, OMB-P-A-08-0670-H*). The same case, however, was previously dismissed by the Manila City Prosecutor's Office (I.S. No. 08E-09512) for lack of probable cause and by the PNP-NCR Internal Affairs Service (Case No. 0Co80052) for failure of the complainant

(Christian Kalaw) to submit evidence and prosecute the case. On the other hand, the case against Christian Kalaw involving the same incident, which was filed much ahead by the arresting policemen, was given due course by the City Prosecutor's Office (Crim. Case Nos. 053366-67).

- b) It appears that the Ombudsman exercised jurisdiction over the case based on a letter issued *motu proprio* by Deputy Ombudsman Emilio O. Gonzalez III, directing the PNP-NCR -- without citing any reason -- to endorse the case against Mendoza and the arresting policemen to his office for administrative adjudication, thereby showing undue interest on the case. (Decision, pages 3-4). He also caused the docketing of the case and named Atty. Clarence V. Guinto of the PNP-CIDG-NCR, who indorsed the case records, as the nominal complainant, in lieu of Christian Kalaw.²⁵⁹ During the proceedings, Christian Kalaw did not also affirm his complaint-affidavit with the Ombudsman or submit any position paper as required.
- c) Subsequently, Mendoza, after serving preventive suspension, was adjudged liable for grave misconduct by Deputy Ombudsman Gonzalez (duly approved on May 21, 2009) based on the sole and uncorroborated complaint-affidavit of Christian Kalaw, which was not previously sustained by the City Prosecutor's Office and the PNP Internal Affairs Service. From the said Resolution, Mendoza interposed a timely motion for reconsideration (dated and filed November 5, 2009) as well as a supplement thereto. No opposition or comment was filed thereto.
- d) Despite the pending and unresolved motion for reconsideration, the judgment of dismissal was enforced, thereby abruptly ending Mendoza's 30 years of service in the PNP with forfeiture of all his benefits. As a result, Mendoza sought urgent relief by sending several hand-written letter-requests to the Ombudsman for immediate resolution of his motion for reconsideration. But his requests fell on deaf ears.

By allowing Mendoza's motion for reconsideration to languish for nine long (9) months without any justification, Ombudsman Gutierrez and Deputy Ombudsman Gonzalez committed complete and wanton violation of the Ombudsman prescribed rule to resolve motions for reconsideration in administrative disciplinary cases within five (5) days from submission (*Sec. 8, Ombudsman Rules of Procedure*). The inaction is gross, there being no opposition to the motion for reconsideration. Besides, the Ombudsman, without first resolving the motion for reconsideration, arbitrarily enforced the judgment of dismissal and ignored the intervening requests for immediate resolution, thereby rendering the inaction even more inexcusable and unjust as to amount to gross negligence and grave misconduct.

SECOND, Ombudsman Gutierrez and Deputy Ombudsman Gonzalez committed serious disregard of due process, manifest injustice and oppression in failing to provisionally suspend the further implementation of the judgment of dismissal against Mendoza pending disposition of his unresolved motion for reconsideration.

By enforcing the judgment of dismissal without resolving the motion for reconsideration for over nine months, the two Ombudsman officials acted with arbitrariness and without regard to due process and the constitutional right of an accused to the speedy disposition of his case. As long as his motion for reconsideration remained pending and unresolved, Mendoza was also effectively deprived of the right to avail of the ordinary course of appeal or review to challenge the judgment of dismissal before the higher courts and seek a temporary restraining order to prevent the further execution thereof.

²⁵⁹ At that time, Christian Kalaw was already at-large and evading service of warrants of arrest (even up to now).

As such, if the Ombudsman cannot resolve with dispatch the motion for reconsideration, it should have provisionally suspended the further enforcement of the judgment of dismissal without prejudice to its re-implementation if the reconsideration is eventually denied. Otherwise, the Ombudsman will benefit from its own inaction. Besides, the litigant is entitled to a stay of the execution pending resolution of his motion reconsideration. Until the motion for reconsideration is denied, the adjudication process before the Ombudsman cannot be considered as completely finished and, hence, the judgment is not yet ripe for execution.

In *Samaniego vs. Ombudsman* (G.R. 175573, September 11, 2008), the Supreme Court en banc ruled that judgments of the Ombudsman in administrative disciplinary cases become executory only after the denial of appeal, or after the lapse the period to appeal and no appeal is filed, except when the penalty merely involves censure, or reprimand or suspension of not one month.²⁶⁰ This implies that an Ombudsman judgment of dismissal cannot be executed if subject of a pending appeal.

If an Ombudsman judgment of dismissal cannot be executed when subject to a pending appeal before the higher courts, what more for a judgment of dismissal that is still subject of pending reconsideration before the Ombudsman. Such suspension of execution of the judgment of dismissal is a matter of right pending resolution of reconsideration. Thus, the Ombudsman under existing rules was duty bound to provisionally suspend the further implementation of the judgment of dismissal against Mendoza without prejudice to re-implementation upon denial of the motion for reconsideration.

When the two Ombudsman officials received Mendoza's demand for the release of the final order resolving his motion for reconsideration, they should have performed their duty by resolving the reconsideration that same day since it was already pending for nine months and the prescribed period for its resolution is only five days. Or if they cannot resolve it that same day, then they should have acted decisively by issuing an order provisionally suspending the further enforcement of the judgment of dismissal subject to revocation once the reconsideration is denied and without prejudice to the arrest and prosecution of Mendoza for the hostage-taking. Had they done so, the crisis may have ended peacefully, without necessarily compromising the integrity of the institution. After all, as relayed to the negotiators, Mendoza did express willingness to take full responsibility for the hostage-taking if his demand for release of the final decision or reinstatement was met.

But instead of acting decisively, the two Ombudsman officials merely offered to review a pending motion for review of the case, thereby prolonging their inaction and aggravating the situation. As expected, Mendoza – who previously berated Deputy Gonzalez for allegedly demanding Php 150,000 in exchange for favourably resolving the motion for reconsideration -- rejected and branded as trash (“basura”) the Ombudsman letter promising review, triggering the collapse of the negotiations. To prevent the situation from getting out of hand, the negotiators sought the alternative option of securing before the PNP-NCRPO an order for Mendoza's provisional reinstatement pending resolution of the motion for reconsideration. Unfortunately, it was already too late. But had the Ombudsman officials performed their duty under the law and acted decisively, the entire crisis may have ended differently.

²⁶⁰ The decision was affirmed by the Supreme Court on December 8, 2008 when it resolved to **deny with finality** the Ombudsman motion for reconsideration. While the Ombudsman subsequently interposed a motion for leave to file and admit a second motion for reconsideration, the same has not yet been granted by the Court.

Michael Rogas and Erwin Tulfo

The responsibility and accountability of media in the coverage of a crisis situation is aptly stated in the KBP Broadcast Code, to wit: “The coverage of crimes in progress or crisis situations such as hostage-taking or kidnapping shall not put lives in greater danger than what is already inherent in the situation. Such coverage should be restrained and care should be taken so as not to hinder or obstruct efforts of authorities to resolve the situation”.

The pressures of “ratings” and “scoops” vis-à-vis competitor media outlets bearing upon reporters, producers, directors and all other persons involved in the coverage is not an excuse, or defense, for committing an act that could potentially cause harm to, or loss of, lives – which was the paramount concern in the incident under review. Even a coverage done with all the good intentions should yield to the paramount importance of protecting lives.

The manner by which broadcast media undertook the coverage of the hostage-taking crisis situation show that there were broadcast media stations and personnel who violated their code of ethics and possibly the Revised Penal Code and in the process, possibly endangered lives. The violation is not confined to television stations but include radio stations. In particular was the live “interview” being conducted by DZXL (RMN) Anchorman Michael Rogas with Erwin Tulfo as the field correspondent or reporter. In the case of Erwin Tulfo, it must be noted that his earlier request to interview the Hostage Taker was already denied. Station management personnel (television and radio) in charge of directing the program and/or who had authority to stop or prevent the airing of material that was in violation of the broadcast journalist’s code of ethics and which was endangering lives. should also be held accountable.

Considering that the accountability of broadcast journalists and station management is basically anchored on their code of ethics, such accountability should be enforced within existing self-regulatory mechanisms that enforce ethical practices and sanction violations thereof, such as the KBP or appropriate media “watchdog” organization(s).

It is recommended that the matter of imposing sanctions on television and radio stations covering the incident, Michael Rogas and Erwin Tulfo for possible violation of the Code of Ethics applicable to broadcast journalists and/or stations be endorsed for appropriate action to the Kapisanan ng mga Brodkaster ng Pilipinas (KBP) or media “watchdog” organization(s), and to include the person(s) in charge of directing the program, and/or for allowing materials/footages to be aired which endangered lives of persons involved in the hostage taking crisis situation and/or compromised police operations.

RECOMMENDATIONS

In light of the preceding discussions on the accountability of the above-mentioned public officials, PNP officers and private individuals based on their corresponding acts and omissions during the August 23, 2010 Rizal Park Hostage-taking crisis, the Committee hereby recommends the following actions:

1. Against **PCSUPT (General) Rodolfo Y. Magtibay**, the initiation of the corresponding administrative proceedings is recommended based on the following grounds:
 - a. Serious Irregularities in the Performance of Duties - for countermanding the order of his superior officer, Police Director (General) Leocadio Santiago Jr. to use the PNP SAF-CRG in the assault of the hostaged bus, and in direct opposition to the clear and categorical order of the President to do so as relayed through said superior officer;
 - b. Gross incompetence – for manifest lack of adequate ability and fitness to satisfactorily perform his police duties as ground commander in the hostage-taking incident as established in this investigation, resulting in the needless and tragic death of eight (8) foreign tourists and the injury of seven (7) others;

At the same time, it is recommended that a preliminary investigation be conducted by the appropriate government agency for any possible criminal liability that may have been committed arising from the commission of the above offenses and in the course of the execution of his command during the hostage crisis

2. Against **Police Director Leocadio Santiago Jr.**, the initiation of the corresponding administrative proceedings is recommended for Less Grave Neglect of Duty on the following grounds:
 - a. For his failure to execute lawful orders from higher authority when he failed to implement the order of the President to use the PNP SAF-CRG in the assault of the hostaged bus;
 - b. For his failure to make immediate correction or take appropriate action when a dereliction of duty has been committed in his presence by a subordinate under his command by failing to take immediate action to correct:
 - i. the countermanding of the Order of the President by Gen. Magtibay to use the PNP SAF-CRG in the assault of the hostaged bus more than 30 minutes into the assault of the SWAT even when he was merely two blocks away from the scene of the incident at Emerald Hotel monitoring the actions of Gen. Magtibay through Col. Medina of the NCRPO;
 - ii. the failure of the local City CMC to properly respond to the crisis situation and to constitute and organize the Regional Critical Incident Management Task Group (CIMTG) to take over the local CIMTG and CMC.

At the same time, it is recommended that a preliminary investigation be conducted by the appropriate government agency for any possible criminal liability arising from the commission of the above offenses and in the course of the execution of his command during the hostage crisis.

3. Against **Police Director General Jesus A. Verzosa**, the initiation of the corresponding administrative proceedings is recommended for Less Grave Neglect of Duty in his failure to execute lawful orders from higher authority when he failed to implement the order of the President to use the PNP SAF-CRG in the assault of the hostaged bus and for his failure to monitor the crisis situation at the NCMOC as provided in the CMC Manual and as such respond adequately and give effect to decisive actions as may have been needed, but instead proceeding to Cagayan De Oro in the middle of the hostage crisis

At the same time, it is recommended that a preliminary investigation be conducted by the appropriate government agency for any possible criminal liability arising from the commission of the above offenses and in the course of the execution of his command during the hostage crisis.

4. Against **Undersecretary Rico E. Puno**, the initiation of the corresponding administrative proceedings is recommended for gross negligence under the appropriate civil service laws, rules and regulations for neglecting to disseminate and ensure the implementation of the order of the President to utilize the PNP SAF-CRG in the assault of the hostaged bus and for failure to exercise with due diligence his supervisory powers over the PNP as ordered by the President.

At the same time, it is recommended that a preliminary investigation be conducted by the appropriate government agency for any possible criminal liability arising from commission of the above offenses and in the course of the execution of his duties as DILG Undersecretary during the hostage crisis and in assuming the position of the DILG Secretary as NPOC CMC.

5. Against **Mayor Alfredo S. Lim**, the initiation of the corresponding administrative and criminal proceedings for assuming the authority of the on-scene commander in negotiation and tactical action or intervention in contravention of Section 1.7.2 of the CMC Manual, for negligence in his failure to properly organize and constitute the Crisis Management Committee in accordance with the CMC Manual of 2000, for issuing an illegal order during the arrest of Gregorio Mendoza, for abandoning and ordering the on-scene commander to abandon the Advanced Command Post at the height of the hostage crisis and, in general, for failure to perform his duties as CMC Chairman as discussed in the previous section constituting dereliction of duty and gross negligence, in accordance with Sec. 60 (c) of R.A. 7160.

6. Against **Vice Mayor Francisco Domagoso**, the initiation of the corresponding administrative proceedings for negligence in his failure to properly execute his duties and functions as Vice Chairman of the Crisis Management Committee and for dereliction of duty for abandoning the Advance Command Post at the height of the hostage crisis, in accordance with Sec. 60 (c) of R.A. 7160.

7. Against **PSUPT. Orlando Yebra**, the initiation of the corresponding administrative proceedings is recommended based on the ground of gross incompetence, for manifest lack of adequate ability and fitness to satisfactorily perform his police duties as Chief Negotiator in the hostage-taking incident as established in this investigation, resulting in the needless and tragic death of eight (8) foreign tourists and the injury of seven (7) others;

At the same time, it is recommended that a preliminary investigation be conducted by the appropriate government agency for any possible criminal liability arising from the commission of the above offenses and in the course of the execution of his office as Chief Negotiator during the hostage crisis.

8. Against **PCINSP. Santiago Pascual III**, the initiation of the corresponding administrative proceedings is recommended on the ground of gross incompetence, for manifest lack of adequate ability and fitness to satisfactorily perform his police duties as Over-all Assault Team Leader in the hostage-taking incident as established in this investigation, resulting in the prolonged agony of the surviving injured hostages for the rescue that should have arrived and succeeded in minutes, instead of an hour.

At the same time, it is recommended that a preliminary investigation be conducted by the appropriate government agency for any possible criminal liability arising from the commission of the above offenses and in the course of the execution of his office as Over-all Assault Team Leader during the hostage crisis.

9. Against **Tanodbayan (Ombudsman) Merceditas Gutierrez**, the initiation of further investigation to determine whether the offenses established in the preceding section qualify as grounds for impeachment of the Ombudsman, in accordance with the discussion in the previous section.
10. Against **Deputy Ombudsman Emilio Gonzales III**, the referral of the findings of this investigation to the Office of the President for further determination of possible administrative offenses as discussed in the previous section and for the initiation of the proper administrative proceedings.
11. Against **Michael Rogas and Erwin Tulfo**, the endorsement of the results of this investigation to the Kapisanan ng mga Brodkaster ng Pilipinas (KBP) for the purpose of imposing sanctions for violating the Code of Ethics applicable to broadcast journalists and to include the Radio Station Manager of DZXL, and person(s) in charge for directing the program, for allowing the “interview” with the hostage-taker to be undertaken and aired endangering the lives of persons involved in the hostage-taking. It is further recommended, that the Department of Justice initiate an investigation to determine any other culpability.
12. Against **ABC5, ABS-CBN and GMA7**, the endorsement of the results of this investigation to the KBP, or appropriate media “watchdog” organization(s), for the possible violation of their code of ethics in the coverage of a crisis incident.

This is without prejudice to the findings to be arrived at in future proceedings as to the culpability of other officials and individuals.

HIGHLIGHTS

1. The report identifies eight critical incidents in the hostage-taking crisis. These are 1) The failure to activate the Crisis Management Committee in accordance with the CMC Manual; 2) the improper appreciation of the demand of the hostage-taker; 3) the presentation to Mendoza of the letter from the Ombudsman and the resulting breakdown of negotiations; 4) the acts, omissions and reactions of the concerned officials in responding to the initial breakdown; 5) the arrest of Gregorio; 6) the departure of the CMC Chairman and the ground (on-scene) commander from the command post at the crucial point in the hostage-taking crisis; 7) the stalled assault; 8) and the absence of a post-assault plan.
2. The failure to properly and officially organize and activate the CMC, to convene a formal meeting of all the members and to continue to deliberate as an official body all through out the crisis led to most serious lapses in basic operational actions. These are the following: 1) There was no serious criminal profiling of the hostage-taker; 2) Intelligence gathering was virtually nil; and 3) Command, Control, Coordination and Communication were practically absent.
3. It is clear that the hostage-taking was pre-meditated as shown by the pre-written messages of Mendoza on cartolina paper and his bringing along the file of his case. The proximate cause of his actuation being the slow wheels of justice and in this case, at the Office of the Ombudsman. Mendoza's telephone call while on board the commandeered bus also indicates that there were other persons in-the-know of what he intended to do. However, there is no evidence to show that taking the particular tourist group as hostage was pre-meditated. The decision appears to have been made when the opportunity presented itself.
4. At least in so far as the MPD is concerned, there is an absence of a sufficiently trained, equipped and manned Hostage Negotiating Team. Emergency response units, such as the SWAT and medical support teams are also not adequately trained and ill-equipped.
5. There is evidence to support the finding that what Mayor Lim actually ordered was the summary execution of Gregorio Mendoza when, in conjunction with the order to arrest Gregorio Mendoza, he also instructed the MPD officials present at the PCP that Gregorio be "brought to Tondo", a police euphemism for summary execution. This could also be the reason for the desperate run of Gregorio to the media outside the PCP while he was being taken out of the back door and his assertion that he was going to be killed.
6. The gross insubordination on the part of Gen. Magtibay in his refusal to utilize the SAF despite direct orders from the President, directly relayed by his immediate superior, General Santiago, resulted in the debacle of the assault. This necessitated General Magtibay's relief in the middle of the assault by Col. Medina when the latter, with his SAF units, took over the assault operations and executed the final entry into the bus.
7. The shooting of the hostages occurred immediately preceding the escape of Lubang and before the assault. There are no indications that Mendoza still shot at the hostages during the assault or that some of the hostages died as a result of the assault. Thus, based on the case materials reviewed so far, the deaths of the eight hostages are attributable to gunfire coming from Rolando Mendoza using his 5.56 mm. M16A1 Elisco assault rifle, before the assault on the bus by the SWAT team.
8. The internal injuries of the eight dead victims were clearly severe and non-survivable: two had head shots with brain lacerations, one's spinal cord was

severed, and in the others the lungs, heart, aorta and other major blood vessels were lacerated. None of those who died from shots fired by Mendoza could have survived even if rescued within minutes.

9. Some remarkable findings have been established in the forensic pathology and ballistics and firearms examination. However, more matters remain inconclusive in some material aspect. The investigation should continue regarding these matters on the science of the crime incident as new results come in on the examinations still currently being conducted.
10. There is clearly a need to establish better relations and coordination between the PNP and a higher level of media outlet/network officials for the effective implementation of “terms of engagement” during crisis situations.

EPILOGUE

All misfortune conspired to produce the tipping point. The non-happening of a single event could have drastically changed the fate of the hostages. However, the inefficiency in ground command, the cavalier attitude of the CMC Chairman, the misreading by the negotiator of the hostage-taker, the employment of his brother in the negotiations, the decision to abandon the command post at the most critical point, the intervention of a radio announcer at the height of the negotiations and his eventual take-over of the negotiations, were not helped at all by the fact that they all occurred and converged at a single moment to create the TIPPING POINT. There was no luck that day.

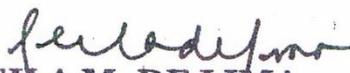
One is tempted to believe the Chinese that this August is indeed the ghost month. But this is the farthest cause of the murder of eight human beings. The ghosts are ours alone. A man with a perceived injustice and oppression done against him, so common in Philippine society, cornered and forced to a murderous and insane mission, the incompetence and insubordination of a police commander, the aggravating vigilantism of a politician, the disregard for the proper use of a crisis system by the crisis responders, the reckless irresponsibility of media people and their total abhorrence to any form of restraint in the practice of their trade. These are our own ghosts that we should now face squarely if we are not to repeat August 23, 2010.

This is our society, this is our culture, these are Filipinos at their worst. At some point in time, an oppressed Filipino crying out for justice may again snap and seize them, in exchange for justice without him having to pay any amount, even P150,000, but at the cost of human lives. For in truth, justice has become a commodity in this country, with no less than heartless bureaucrats in charge of its dispensation on the condition that they are paid to give what is already owed to a man, even to the shameless extent of asking it from a lowly policeman.

This is our society. It drives otherwise ordinary and simple men to turn into murdering monsters at a snap. Because they feel oppressed and need justice but are asked for money. They ask for redemption but are faced only with extortion. Officials without shame, policemen without competence, politicians without care, reporters without conscience, a nation without luck. Mendoza was only the instrument in the murder of eight innocent human beings. In this investigation, this Committee looked into the hostage-taking incident and ended up looking into the nation's soul, and find that we are all equally guilty of pulling the trigger of the gunman.

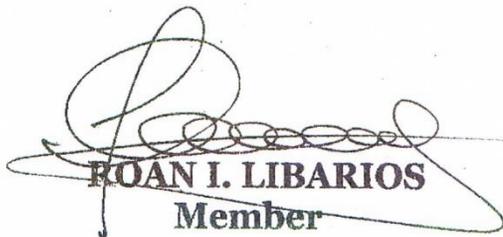
This is our country seen through a mirror, and that mirror was Rizal Park, August 23, 2010.

Respectfully submitted:


LEILA M. DE LIMA
Chairman


JESSE M. ROBREDO
Vice-Chairman

*did not participate in
the deliberations on the determination
of accountability of
the parties cited.*


ROAN I. LIBARIOS
Member


TERESITA ANG-SEE
Member


HERMAN Z. BASBAÑO
Member