

Ben Cardin

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S.L.C.

115TH CONGRESS
1ST SESSION

S. _____

To restrict the exportation of certain defense articles to the Philippine National Police, to work with the Philippines to support civil society and a public health approach to substance abuse, to report on Chinese and other sources of narcotics to the Republic of the Philippines, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. CARDIN (for himself, Mr. RUBIO, _____) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To restrict the exportation of certain defense articles to the Philippine National Police, to work with the Philippines to support civil society and a public health approach to substance abuse, to report on Chinese and other sources of narcotics to the Republic of the Philippines, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Philippines Human Rights Accountability and Counter-
4 narcotics Act of 2017”.

5 (b) **TABLE OF CONTENTS.**—The table of contents for
6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Policy statements.
- Sec. 4. Definition.
- Sec. 5. Restriction on assistance to the Philippine National Police.
- Sec. 6. Leahy vetting report on foreign assistance cases related to the Philippine National Police.
- Sec. 7. Report on Chinese and other sources of narcotics to the Philippines.
- Sec. 8. Human rights, democracy, and public health promotion.
- Sec. 9. Report on United States military assistance and arms transfers to the Philippines.
- Sec. 10. Report on plans for Philippines partner capacity building.

7 **SEC. 2. FINDINGS.**

8 (1) On August 28, 2016, Archbishop of Manila
9 Luis Antonio Cardinal Tagle said, in response to the
10 extrajudicial killings in the Philippines, “I know that
11 the big issue nowadays is the recent spate of killings
12 – which, they say, afflicts even those not guilty, the
13 innocent – but whether a person is guilty or not, life
14 should be cared for and respected.”.

15 (2) The Department of State’s 2017 Human
16 Rights Report, released on March 3, 2017—

17 (A) states that “police and unknown vigi-
18 lantes have killed more than 6,000 suspected
19 drug dealers and users” in the Philippines be-
20 tween July and December 2016, a period dur-

1 ing which extrajudicial killings “increased
2 sharply”; and

3 (B) chronicles the environment for
4 extrajudicial killings allegedly undertaken by
5 vigilantes, security forces, and insurgents and
6 the “apparent governmental disregard for
7 human rights and due process; and a weak and
8 overburdened criminal justice system”.

9 (3) On January 31, 2017, Amnesty Inter-
10 national reported, “Since President Rodrigo Duterte
11 took office in June 2016, there has been a relentless
12 campaign of violence against alleged drug offenders,
13 incited by the President and his administration.
14 More than 7,000 people have been killed, roughly
15 one-third during formal police operations and the
16 rest by unknown shooters who often arrive masked
17 and on motorbike to kill specific people.”.

18 (4) Human Rights Watch has reported that
19 since President Duterte took office, police and un-
20 identified gunmen together have killed more than
21 7,000 suspected drug users and dealers, with police
22 officials themselves claiming to have killed almost
23 3,000 in “encounters” with supposed drug sellers or
24 users. The police have attributed 3,271 other killings
25 to “vigilantes” and drug gangs, although Human

1 Rights Watch research suggests that many of these
2 cases may also entail police and police agent involve-
3 ment in extrajudicial executions.

4 (5) On February 14, 2017, national police chief
5 Ronald Dela Rosa announced that he was sus-
6 pending anti-narcotics operations after a South Ko-
7 rean businessman was killed at national police head-
8 quarters.

9 (6) On February 23, 2017, an arrest warrant
10 was issued against Philippines Senator Leila de
11 Lima for alleged involvement in drug trafficking.
12 The prosecution of de Lima came following her re-
13 peated criticism of the Duterte administration for its
14 conduct of the drug war, her holding of Senate hear-
15 ings where alleged former members of a death squad
16 testified that Duterte participated in extrajudicial
17 killings in Davao City when he was mayor, and re-
18 peated threats against her from Duterte and his al-
19 lies.

20 (7) On December 16, 2016, Reuters reported,
21 “China isn’t only a source of meth expertise—it is
22 also the biggest source of the meth and of the pre-
23 cursor chemicals used to produce the synthetic drug
24 that are being smuggled into the Philippines, accord-
25 ing to local drug enforcement officials. ‘It’s safe to

1 say that the majority of the meth we have comes
2 from China,' said Philippine Drug Enforcement
3 Agency spokesman Derrick Carreon.”.

4 **SEC. 3. POLICY STATEMENTS.**

5 It is the policy of the United States—

6 (1) to reaffirm its commitment and support for
7 the Philippines, including the longstanding United
8 States policy regarding Article V of the United
9 States-Philippines Mutual Defense Treaty, signed at
10 Washington August 30, 1951 (3 UST 3947);

11 (2) to work with the Philippines to promote
12 economic growth and development through—

13 (A) programs such as the Partnership for
14 Growth, which seeks to strengthen regulatory
15 quality, fiscal management, and human capac-
16 ity development in the Philippines; and

17 (B) other appropriate bilateral and multi-
18 lateral economic development and trade initia-
19 tives;

20 (3) to work with the Philippines to support a
21 public health approach to substance abuse, drug ad-
22 diction, and the illegal use of narcotics utilizing com-
23 prehensive, voluntary, and community-based treat-
24 ment and rehabilitation programs in line with inter-
25 national standards;

1 (4) to support the people of the Philippines in
2 their efforts—

3 (A) to strengthen the rule of law and anti-
4 corruption measures;

5 (B) to further effective judicial and legal
6 institutions; and

7 (C) to promote human rights and civil soci-
8 ety.

9 (5) to expand opportunities for more robust co-
10 operative security assistance programs, particularly
11 programs involving maritime security and maritime
12 domain awareness;

13 (6) to pursue and coordinate robust cooperative
14 security assistance programs for capacity building of
15 the Philippines to establish a credible defense pos-
16 ture, and to support counter-terrorism and maritime
17 law enforcement;

18 (7) to coordinate closely on the implementation
19 of the Enhanced Defense Cooperation Agreement, a
20 mutually beneficial agreement that will—

21 (A) enhance the United States' ability to
22 provide rapid humanitarian assistance; and

23 (B) help build capacity for the moderniza-
24 tion of the Armed Forces of the Philippines;

1 (8) to enhance military-to-military cooperation
2 and inter-operability through joint exercises, capac-
3 ity-building, and intelligence sharing and support
4 work to establish a robust information security pro-
5 gram, which will lead to achieving a General Secu-
6 rity of Military Information Agreement; and

7 (9) to enhance cybersecurity cooperation be-
8 tween the United States and the Philippines.

9 **SEC. 4. DEFINITION.**

10 In this Act, the term “appropriate congressional com-
11 mittees” means—

12 (1) the Committee on Foreign Relations of the
13 Senate;

14 (2) the Committee on Armed Services of the
15 Senate;

16 (3) the Committee on Appropriations of the
17 Senate;

18 (4) the Committee on Foreign Affairs of the
19 House of Representatives;

20 (5) the Committee on Armed Services of the
21 House of Representatives; and

22 (6) the Committee on Appropriations of the
23 House of Representatives.

1 **SEC. 5. RESTRICTION ON ASSISTANCE TO THE PHILIPPINE**
2 **NATIONAL POLICE.**

3 (a) **IN GENERAL.**—Subject to subsections (b)
4 through (d), no defense articles or defense services may
5 be exported, and no licenses for export of any item con-
6 trolled by the United States for law enforcement, riot con-
7 trol, or related purposes may be issued, for the use of the
8 Philippine National Police or entities associated with the
9 Philippine National Police.

10 (b) **EXCEPTIONS.**—The restrictions under subsection
11 (a) shall not apply to the exportation of defense articles
12 or the provision of training for maritime law enforcement
13 (Coast Guard drug interdiction), criminal justice pro-
14 grams, human rights training, and counter-terrorism pro-
15 grams for use of the Philippine National Police.

16 (c) **WAIVER.**—The President may waive the restric-
17 tions under subsection (a), on a case-by-case basis, if—

18 (1) the President determines that the export of
19 such item or service is in the national interest of the
20 United States; and

21 (2) the President notifies the appropriate con-
22 gressional committees of the determination under
23 paragraph (1), including the justification for such
24 determination, at least 30 days before invoking such
25 waiver.

26 (d) **SUNSET.**—

1 (1) IN GENERAL.—The restrictions under sub-
2 section (a) shall terminate on—

3 (A) the date that is 5 years after the date
4 of the enactment of this Act; or

5 (B) the date set forth in paragraph (2) if
6 the President determines that—

7 (i) the Philippine National Police and
8 its associated entities have been sufficiently
9 reformed; and

10 (ii) sufficient safeguards, reporting,
11 investigatory, and judicial measures have
12 been established to prevent recurrent
13 human rights abuses.

14 (2) NOTICE.—The date set forth in this para-
15 graph is 30 days after the President notifies the
16 Committee on Foreign Relations of the Senate and
17 the Committee on Foreign Affairs of the House of
18 Representatives that the President has made the de-
19 termination described in paragraph (1)(B) and pro-
20 vides such committees with justification for such de-
21 termination.

1 **SEC. 6. LEAHY VETTING REPORT ON FOREIGN ASSISTANCE**
2 **CASES RELATED TO THE PHILIPPINE NA-**
3 **TIONAL POLICE.**

4 (a) IN GENERAL.—Not later than 90 days after the
5 date of the enactment of this Act, and annually thereafter
6 until 5 years after the date of the enactment of this Act,
7 the Secretary of State shall submit a report to the appro-
8 priate congressional committees on foreign assistance
9 cases related to the Philippine National Police, or entities
10 associated with the Philippine National Police, submitted
11 for vetting for purposes of section 620M of the Foreign
12 Assistance Act of 1961 (22 U.S.C. 2378d) during the pre-
13 ceding fiscal year, including—

14 (1) the total number of cases related to the
15 Philippine National Police submitted, approved, sus-
16 pended, or rejected for human rights reasons; and

17 (2) for cases rejected, a description of the steps
18 taken to assist the foreign government in taking ef-
19 fective measures to bring the responsible members of
20 the security forces to justice, in accordance with sec-
21 tion 620M(e) of such Act.

22 (b) FORM.—The report required under subsection (a)
23 shall be submitted in unclassified form, but may be accom-
24 panied by a classified annex.

1 **SEC. 7. REPORT ON CHINESE AND OTHER SOURCES OF**
2 **NARCOTICS TO THE PHILIPPINES.**

3 (a) IN GENERAL.—Not later than 180 days after the
4 date of the enactment of this Act, and annually thereafter,
5 the Secretary of State, with the concurrence of the Admin-
6 istrator of the Drug Enforcement Administration and the
7 Secretary of Defense, shall submit a report to the appro-
8 priate congressional committees that describes, for the
9 previous calendar year—

10 (1) Chinese and other sources of narcotics and
11 precursor chemicals to produce narcotics in the Phil-
12ippines; and

13 (2) Chinese and other sources of expertise for
14 the production of narcotics in the Philippines.

15 (b) FORM.—Each report under subsection (a) shall
16 be submitted in unclassified form, but may include a clas-
17sified annex.

18 **SEC. 8. HUMAN RIGHTS, DEMOCRACY, AND PUBLIC HEALTH**
19 **PROMOTION.**

20 Of the amounts made available for the Department
21 of State and the United States Agency for International
22 Development to support global health and civil society, in-
23cluding human rights defenders, and to promote the rule
24 of law and good governance in fiscal years 2017 and 2018,
25 up to \$25,000,000 may be used to support human rights,

1 democracy, and public health in the Philippines, includ-
2 ing—

3 (1) supporting Filipino defenders of human
4 rights;

5 (2) assisting victims of human rights violations;

6 (3) responding to human rights emergencies;

7 (4) promoting and encouraging the rule of law,
8 including the support for nongovernmental organiza-
9 tions in the Philippines;

10 (5) promoting a public health approach to sub-
11 stance abuse, drug addiction, and the illegal use of
12 narcotics utilizing comprehensive, voluntary, and
13 community-based treatment and rehabilitation pro-
14 grams that are consistent with international stand-
15 ards; and

16 (6) carrying out such other related activities as
17 are consistent with paragraphs (1) through (5).

18 **SEC. 9. REPORT ON UNITED STATES MILITARY ASSISTANCE**
19 **AND ARMS TRANSFERS TO THE PHILIPPINES.**

20 (a) **IN GENERAL.**—Not later than 180 days after the
21 date of the enactment of this Act, the Secretary of State,
22 with the concurrence of the Secretary of Defense, shall
23 submit a classified report to the appropriate congressional
24 committees on whether—

1 (1) United States military assistance, coopera-
2 tion, security assistance, and arms transfers (includ-
3 ing items prohibited under section 5, and any de-
4 fense or other items or services controlled for export
5 by the United States that have been provided for the
6 use of the Philippine National Police and its associ-
7 ated entities) are used by the Philippine National
8 Police and its associated entities—

9 (A) to commit gross violations of human
10 rights; or

11 (B) in violation of other United States
12 laws applicable to United States military or se-
13 curity assistance, cooperation, and arms trans-
14 fers that are related to human rights and pre-
15 venting human rights violations; and

16 (2) the United States has the ability—

17 (A) to determine whether United States
18 military assistance and arms transfers are used
19 to commit gross violations of human rights;

20 (B) to detect other violations of United
21 States law concerning United States military or
22 security assistance, cooperation, and arms
23 transfers, including the diversion of such assist-
24 ance or the use of such assistance by security

1 force or police units credibly implicated in gross
2 human rights violations; and

3 (C) to determine whether individuals or
4 units that have received United States military,
5 security, or police training or have participated
6 or are scheduled to participate in joint exercises
7 with United States forces have been credibly
8 implicated in gross human rights violations.

9 (b) **TECHNOLOGY TRANSFER STATUS REPORT.**—Not
10 later than 90 days after the date of the enactment of this
11 Act, the Secretary of State shall submit a report to the
12 appropriate congressional committees, in unclassified form
13 to the maximum extent possible, that summarizes the sta-
14 tus of the Defense Security Cooperation Agency's efforts
15 to implement the End-Use Monitoring Enhancement Plan
16 relating to government-to-government transfers and com-
17 mercial sales of defense articles, defense services, law en-
18 forcement articles, law enforcement services, and related
19 technologies.

20 **SEC. 10. REPORT ON PLANS FOR PHILIPPINES PARTNER**
21 **CAPACITY BUILDING.**

22 Not later than 180 days after the date of the enact-
23 ment of this Act, the Secretary of State, with the concur-
24 rence of the Secretary of Defense, shall submit a classified
25 report to the appropriate congressional committees that

1 includes a plan that describes, for each of the 6-month,
2 1-year, and 5-year periods beginning on the date of such
3 report—

4 (1) partner capacity building assistance to the
5 Philippines to enhance maritime capabilities, re-
6 spond to emerging threats, and maintain freedom of
7 operations in international waters and airspace in
8 the Asia-Pacific maritime domains;

9 (2) recommendations, if any, for additional for-
10 eign military sales, foreign military financing, and
11 international military education and training to be
12 made available to the Philippines, including—

13 (A) any necessary updates to the report
14 detailing steps taken by the Government of the
15 Philippines to investigate and prosecute army
16 personnel involved in human rights violations,
17 as required by Senate Report 114-79; and

18 (B) an assessment of the commitment of
19 the Government of the Philippines to inter-
20 national human rights conventions; and

21 (3) how the assistance referred to in paragraph
22 (1) will be implemented in accordance with appro-
23 priate human rights laws, including—

24 (A) the regular process for vetting partici-
25 pants in security assistance and training pro-

1 grams funded by the United States under sec-
2 tion 620M of the Foreign Assistance Act of
3 1961 (22 U.S.C. 2378d); and

4 (B) the restrictions on assistance to for-
5 eign security forces set forth in section 362 of
6 title 10, United States Code.