



**COMMISSION ON HUMAN RIGHTS**  
**REPUBLIC OF THE PHILIPPINES**

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**In Re:** The Killing of Diego Alberto  
Bello Lafuente

CHR-XIII-2020-0004

**For:** Violation of Right to Life

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**R E S O L U T I O N**

This case is a motu proprio investigation upon endorsement of the Strategic Communication Division Office with Memorandum No. SCD-M-10A20-09 dated January 10, 2020. This Office formed a fact-finding team<sup>1</sup> to jumpstart the investigation. The fact-finding team immediately started their investigation on January 13, 2020.

Initial information disclosed that the victim, Diego Alberto Bello Lafuente (Diego), hailed from Calle San Lucas, A. Coruña, Spain. He arrived in General Luna, Surigao del Norte sometime in 2018 as a tourist. Later, he put up his own business establishments in the island namely White House Inn, La Santa Bar and Restaurant, and Mamon Surf Shop. He had a total of 25 employees.

Diego lived in Poblacion 3, General Luna, Surigao del Norte (Siargao Island). As per police report, he was a high value target being on the list as a Top 1 Regional Level Illegal Drug Personality in Surigao del Norte. Thus, on the dawn of January 8, 2020, he was subjected to a buy-bust operation and died.

On January 14-16, 2020, the team went to Siargao Island to conduct a fact-finding investigation. In this mission, the team was able to interview the following persons:

- a. Dr. Elizabeth L. Gio of Dapa District Hospital, Dapa, Surigao del Norte;
- b. Barangay Councilor Minda Minglana of Barangay Poblacion 3, General Luna, Surigao del Norte;
- c. Spouses Tidong and Fe Antipasado of Barangay Poblacion 3, General Luna, Surigao del Norte;

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<sup>1</sup> The team was composed of Atty. Gerlyn V. Gamolo, CHR Caraga Investigation Section Chief Maria Theresa R. Neri and Special Investigator Russel R. Valeroso.



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- d. Responders Rey Alvin Longas, Anthony Moreno and Joseph Comon of General Luna Emergency Response Team, General Luna, Surigao del Norte;
- e. PCpt. Wise Vicente B. Panuelos (PCpt. Panuelos), the Chief of Police of General Luna Municipal Police Station, General Luna, Surigao del Norte;
- f. Ms. Shahani T. Malacura, a staff of Cita's Funeral Homes and Services who processed some documents so that Diego's dead body can be released at the hospital and interned at the said funeral home pending transport of the dead body to Manila; and
- g. A businessman who knew Diego. However, he requested to withhold his identity for security reasons;

During the interview of PCpt. Wise Vicente B. Panuelos (PCpt. Panuelos), he was informed that CHR-Caraga is conducting a fact-finding investigation on the death of Diego. The Office also requested copies of police record pertaining to the incident. He gave the team a copy of the Blotter/Spot Report<sup>2</sup> dated January 8, 2020. From this mission, an Initial Report was drafted and submitted through email to the Investigation Office of CHR Central Office and to the Office of the Executive Director on January 21, 2020.

On January 22, 2020, Atty. Jerefe D. Tubigon-Bacang, the CHR-Caraga Regional Director, together with the fact-finding team were able to talk to Spain's Consul General Fernando Heredia Noguer (Consul General Noguer) by means of a cellular phone. During the conversation, Consul General Noguer gave the names and contact numbers of the persons who were very close to Diego in General Luna. The names were Jinnah Lou Domino (Jinnah), Diego's common-law wife; Arturo Garcia (Arturo), Spanish National and Diego's business partner; and Pedro Moreno (Pedro), a common friend of Diego, Jinnah and Arturo and a Spanish National. Also given were photos of Diego at the funeral parlor, video clip of La Santa's CCTV footage of Diego leaving the bar, and a screen shot of Jinnah's phone showing text messages between her and Diego.

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<sup>2</sup> Attached to case Folder CHR-XIII-2020-0004.



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The screen shot of the text message disclosed that at 1:02 o'clock in the morning of January 8, 2020, Diego informed Jinnah that he was coming home. At 1:05 o'clock of the same date, Jinnah sent Diego a message that there was a gun shot. However, the word "gun" was erroneously spelled as "gym". On the other hand, the La Santa CCTV footage showed that Diego left the bar at around 1:12 in the morning of January 8, 2020. He did not carry any bag when he left at La Santa.

On January 23, 2020, the CHR Team learned from Shahani T. Malacura (Shahani), personnel of Cita's Funeral Parlor, that there was no autopsy conducted on Diego's body in General Luna. She said that the victim's family wanted to bring the dead body immediately to Manila and the autopsy will be done there. Through email, Shahani then forwarded to CHR Caraga an email from Bruno Bello Lafuente, Diego's brother in Spain, stating his refusal to let the local police conduct an autopsy on Diego's body.

On January 30, 2020, Atty. Gerlyn V. Gamolo and Special Investigator Russel R. Valeroso were able to interview through phone, Jinnah, Arturo, and Pedro, who were all in Spain for the internment of the victim's body. On the same day, the three were also interviewed by Maria Theresa Neri, the Chief of the Investigation Section.

On January 31, 2020, Atty. Ralphmar M. Oñez of CHR Caraga was able to talk to P/Lt. Col. Glenn C. Sampaga (P/Lt. Col. Sampaga) of Surigao del Norte Police Provincial Office. He asked if a case was filed against PCpt. Panuelos before the Regional Internal Affairs Service 13 (RIAS-13), a standard protocol in cases of death during police operation. P/Lt. Col. Sampaga informed Atty. Oñez that an administrative case was already forwarded to RIAS-13 against PCpt Panuelos.

On February 7, 2020, CHR-Caraga submitted a Progress Report dated February 5, 2020 to the Investigation Office of CHR Central Office. The said Progress Report was also submitted to the Office of the Executive Director through email.

To conduct a follow-up investigation, Special Investigators Maria Theresa Neri and Russel Valeroso returned to General Luna, Surigao del Norte on February 11, 2020. This time, they were accompanied by personnel from CHR Forensic Division, to wit: *Dr. Ravell Ronald R. Baluyot, Medico Legal Officer III*



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*of the CHR Forensic Division, Health Physicist II Julius E. Schuck, and Crime Photographer III Romeo S. Tayao.*

In the said mission trip, Special Investigators Maria Theresa Neri and Russel Valeroso personally met and interviewed the following individuals:

- a.) Jinnah, the live-in partner of Diego;
- b.) Punong Barangay Ruel Oraliza of Barangay Poblacion 3, General Luna, Surigao del Norte;
- c.) Ms. Irish Blancada, a trustee of La Santa Bar and Restaurant who was also assigned to work as cashier and a bartender of La Santa;
- d.) PCpt. Wise Vicente B. Panuelos, the Chief of Police of General Luna Municipal Police Station;
- e.) Mr. Nonilo Palomar aka Amay of Barangay Poblacion 1, General Luna, Surigao del Norte.

On February 20, 2020 Special Investigators Maria Theresa Neri and Russel Valeroso proceeded to RIAS-13 at Camp Rafael Rodriguez in Butuan City to inquire the status of the case that was lodged against PCpt. Panuelos. They were accommodated by RIAS Regional Director PCol. Joseph D. Plaza who disclosed that they were still in the evaluation stage of the documents submitted by PCpt. Panuelos.

During the interview with PCpt. Panuelos, the CHR Caraga team learned that notwithstanding Diego's death, a case was filed against him before the Office of the Provincial Prosecutor of Surigao del Norte for violation of RA 9165, attempted homicide and illegal possession of firearm. Thus, on February 24, 2020, this Regional Office sent a letter to the Provincial Prosecutor's Office to request for the status of the case against Diego and to request copies of its records as well.

On March 6, 2020, Special Investigators Maria Theresa Neri and Russel Valeroso went to the Provincial Prosecutor's Office in Surigao City to personally follow up the request letter. The said Office heeded the request and gave CHR-Caraga the records it requested. The records showed that the criminal cases against Diego were all dismissed because of his death.

Throughout the course of investigation, CHR-Caraga gathered the following documents:



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- a. **From Consul Fernando Heredia Noguera, of Consul, General's Office of Spain in Manila:**
1. La Santa CCTV Footage of Diego leaving the bar;
  2. Photographs of Diego at the funeral parlor; and
  3. Text messages between Diego and Jinnah on the date of incident
- b. **From Siargao District Hospital, Dapa, Surigao del Norte**
1. Post Mortem Examination Report duly signed by Dr. Elizabeth L. Gio, M.D.;
  2. A Medical Chart that indicates the location of Diego's gunshot wounds;
  3. Diego's Death Certificate; and
  4. Printed Email Message of Mr. Bruno Bello Lafuente (Diego's brother in Spain), granting permission to Shahani Malacura of Cita's Funeral Homes and Services to process the death certificate of Diego. Along with the printed email was a picture of his passport;
- c. **From PCpt Wise Vicente B. Panuelos:**
1. Police report with the subject: Updated Report on Buy Bust Operation of Top 1 Regional Drug Personality (Foreign National) that Resulted in Armed Encounter dated January 13, 2020;<sup>3</sup>
  2. Extract Copy from the Police Blotter with entry number 2020-1-2360 dated February 13, 2020;<sup>4</sup>
- d. **From CHR Forensic Center:**
1. Autopsy Report with report no. EN-20-01;
  2. A printed copy of an email from Bruno Bello Lafuente granting permission to the Commission on Human Rights to perform a medico-legal examination on the corpse of Diego; and

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<sup>3</sup> Provided by PCpt Wise Vicente B. Panuelos during the first fact-finding investigation dated Jan. 14-16, 2020.

<sup>4</sup> Provided by PCpt Wise Vicente B. Panuelos during the second fact-finding investigation dated Feb. 11-14, 2020.



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3. A photocopy of Bruno Bello Lafuente's Passport as an attachment;
4. Certificate of Death of Diego with Registry No. 2020-01;
5. Certification from Cita's Funeral Services dated January 9, 2020, stating that they have conducted embalming on the corpse of Diego and rendered funeral services for him;
6. Clearance and Transfer Permit issued by the Municipal Health Center of General Luna, Surigao del Norte dated January 10, 2020, signed by Municipal Health Officer Timothy Jordan R. Manalang, MD;
7. Exhumation Permit issued by the Municipal Health Center of General Luna, Surigao del Norte dated January 10, 2020, signed by Municipal Health Officer Timothy Jordan R. Manalang, MD;
8. Post Mortem Examination Report of Siargao District Hospital signed by Elizabeth L. Gio, MD;
9. Extract Copy from the Police Blotter by General Luna Municipal Police Station with Entry No. 371;
10. Endorsement letter of CHR Medico-Legal Officer V Dr. Joseph Andrew D. Jimenez, MD to Director Ferdinand M. Lavin, Forensic Investigation Service of National Bureau of Investigation, Taft Avenue, Manila; and
11. Evidence Chain of Custody Tracking Form for Case No. EN-20-01, with Date of Collection 14 January 2020 and Location Site Rizal Funeral Homes, Inc., Libertad, Pasay City;

**e. From Cita's Funeral Home and Services:**

1. A printed copy of an email from Bruno Bello Lafuente (together with the latter's photographed passport) requesting for the transport of Diego's dead body to Manila as well as his prohibition against the local authorities of General Luna to conduct autopsy on the cadaver of Diego;



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**f. From Surigao del Norte Provincial Prosecutor's Office:**

1. Order issued by Prosecutor Jesse Rey M. Silvosa of Surigao del Norte Provincial Prosecutor's Office dated January 13, 2020;
2. Referral of PCpt Wise Vicente B. Panuelos of General Luna Municipal Police Station to the Office of the Provincial Prosecutor, Surigao del Norte;
3. Extract Copy from the Police Blotter with Entry No. 371 by General Luna Municipal Police Station;
4. Affidavit Complaint/Poseur Buyer of P/SSg Ronel Azarcon Pazo of General Luna Municipal Police Station which was subscribed on January 10, 2020;
5. Affidavit of PCpt Wise Vicente B. Panuelos of General Luna Municipal Police Station which was subscribed on January 10, 2020;
6. Affidavit of P/SSg. Nido Boy Esmeralda Cortes of General Luna Municipal Police Station which was subscribed on January 10, 2020;
7. Photographs; and
8. Medico-Legal Chart;

**Facts of the Case**

The facts herein are sourced out from the interview of different resource persons particularly those from Diego's friends and neighbors. All were very cooperative during the interview but refused to execute sworn statements. Nonetheless, their testimonies were considered to have a comprehensive picture of what transpired on January 8, 2020.

Documents provided by the Office of the Provincial Prosecutor in Surigao del Norte to the CHR Caraga Office were also used, particularly the sworn statements of the police that became the very basis of the cases filed against Diego.



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*Affidavits of PCpt. Panuelos,  
Poseur Buyer PSSg. Ronel Azarcon Pazo,  
Arresting Officer/Searcher,  
PSSg. Nido Boy Esmeralda Cortes and  
Police Blotter Copy dated January 8, 2020*

On December 30, 2019 at around 10:30 o'clock in the morning, PCpt. Panuelos called PSSg. Pazo, a member of Drug Enforcement Unit of General Luna Municipal Police Station (DEU-GLMPS,) to report to his office for a very important instruction. When PSSg. Pazo arrived, PCpt. Panuelos introduced PSSg. Pazo to a confidential informant (CI) who has access to buy cocaine from a certain Diego Lafuente, a Spanish national, who was reportedly involved in illegal trade of cocaine, which is classified as an illegal drug under RA 9165.

To validate the information, PCpt. Panuelos tasked PSSg. Pazo and the CI to conduct a test buy and take custody of the item bought from Diego Lafuente. Once the test buy would be successful, PSSg. Pazo would turn over the item bought to the PDEA Regional Office (RO) 13 Chemistry laboratory for the conduct of chemistry examination. PCpt. Panuelos then coordinated with PDEA RO 13 who gave the Pre-ops coordination number 30003-122019 at 11:06 in the morning dated December 30, 2019.

During the test buy, with the help of the CI, PSSg. Pazo was able to buy from Diego one self-sealing transparent plastic sachet of suspected cocaine which he marked as RP-1. On December 31, 2019, PSSg. Pazo personally submitted the said substance to PDEA RO 13 for laboratory examination. Thereafter, PSSg. Pazo received the chemistry result and immediately informed PCpt. Panuelos that the substance bought has a net weight of 1.419 gram and is positive to the presence of cocaine **hydrochloride**, a dangerous drug.

Upon receipt of the information, PCpt. Panuelos coordinated with RMFB 13 and PDEA SDN PO for the conduct of a possible joint anti-drug operation against the suspect. On January 7, 2020 at around 10 o'clock in the evening, PCpt. Panuelos conducted a briefing to the joint operatives of General Luna Municipal Police Station (GLMPS), 1302<sup>nd</sup> Mobile Company of the Regional Mobile Force Battalion 13 (RMFB-13) and the Philippine Drug Enforcement Agency 13, Surigao del Norte Provincial Office (PDEA- SDN PO) for a possible buy-bust operation against Diego.



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During the briefing, PCpt. Panuelos tasked PSSg. Pazo as the poseur buyer to be aided by the CI and PSSg. Nido Boy Cortez as the arresting/searching Officer.

PCpt. Panuelos instructed PSSg. Pazo that if he would be able to buy a cocaine from Diego, he would execute the pre-arranged signal by dropping his active smartphone to the ground to signify to the arresting team that the transaction is consummated, but if he would not be able to buy cocaine from the suspect, he would just leave the area, to signify that the transaction is not successful. PCpt. Panuelos then gave PSSg. Pazo one authentic One Thousand Peso bill with serial number A664846 and nineteen (19) fake one thousand Peso bill as marked money.

PCpt. Panuelos gave instruction to the members of the buy-bust team to observe the rule of law and emphasized the adherence to the human rights during the conduct of operation. He then coordinated with the PDEA RO 13 for a possible buy-bust operation under Pre-ops control number 30003-12020-0021. After the briefing, the buy-bust team went to their respective area as tasked.

At around 1:00 o'clock in the morning of January 8, 2020, PSSg. Pazo called PCpt. Panuelos and informed the latter that the CI was able to arrange and set a transaction with him (PSSg. Pazo) and Diego. They will be meeting at the vicinity of Diego's residence in Brgy. 3, General Luna, Surigao del Norte for the exchange of the cocaine and the payment. At the time of the call, PSSg. Pazo told PCpt. Panuelos that Diego was still at La Santa Bar.

PCpt. Panuelos instructed PSSg. Razo to proceed near the agreed area of meet-up and also told the other members of the buy-bust team to position themselves at the strategic location in the area of meet-up and wait for the actual exchange and the pre-arranged signal.

At around 1:35 o'clock in the morning, more or less, the police operatives saw Diego riding a motorbike and proceeded directly at the vicinity of his residence. He was immediately followed by PSSg. Pazo to the area. When PSSg. Pazo reached Diego, he introduced himself as the one who was sent by the boss to buy cocaine. Diego then said "Ah yes, OK. Where's the money?" while pulling out a small canister with yellow cap containing white substance from his belt bag then gave it to PSSg. Pazo. PSSg. Pazo then verified the substance and once convinced, he handed the marked money to Diego who



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received it and put it inside his belt bag. PSSg. Pazo then executed the pre-arranged signal by intentionally dropping his active smart phone on the ground as a sign of a consummated transaction.

Meanwhile, PCpt. Panuelos together with the other members of the team were observing the whole transaction in a concealed area. Upon seeing that PSSg. Pazo executed the pre-arranged signal, PCpt. Panuelos and the rest of the police operatives proceeded towards the direction of Diego. However, Diego sensed that he had transacted with a police operative. PCpt. Panuelos saw Diego pulled out a firearm from his belt bag and suddenly fired towards their direction. The buy-bust team then seek for cover. PCpt. Panuelos shouted "*Police, we are police. Don't move*". However, Diego fired again at the police operatives prompting them to return to fire at him.

Diego ran towards the direction of the wall and jumped over the other side of the wall and fired one more time. The police operatives then moved to the other side of the wall and saw Diego already lying on the ground. PCpt. Panuelos shouted his men "*Hold your fire!*" and likewise shouted to Diego to drop his gun but there was no response. The police then approached the spot where Diego was lying and saw his bloodied body with his gun. PCpt. Panuelos then verified that Diego was incapable of posing danger towards the buy-bust team, he ordered one of the police to call an ambulance to transport Diego to the hospital. He also ordered the responding officer to secure the crime scene.

PSSg. Pazo then marked the canister with yellow cap containing the white substance of suspected cocaine with "RP". At around 5:30 in the afternoon, he turned-over the canister to PEMS Eugene R. Coro of Surigao del Norte Crime Laboratory for chemical examination.

Once the area was secured, PCpt. Panuelos coordinated with the Scene of Crime Operations (SOCO) team of Surigao del Norte Crime Laboratory to process the crime scene. The SOCO team led by PLTC Cramwell T. Banogon arrived to processed the crime scene. During the processing, the following were recovered:

- a. Six (6) fired cartridge case of cal. 9mm;
- b. Four (4) fired cartridge case of cal. 45;
- c. Six (6) ammunition of cal. 45;
- d. One (1) unit of Para-Ordnance cal. 45 pistol with serial number RN 7193;



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- e. One (1) magazine of cal. 45;
- f. One (1) bundle of keys;
- g. One (1) olive green with black strap belt bag (Reefside) containing rolled paper bill with one (1) authentic one thousand peso bill with serial number A664846 and nineteen (19) photocopied fake one thousand peso bill and two (2) cylindrical plastic container with yellow cap containing white substance of suspected cocaine with combined estimated weight of fifteen (15) grams; and
- h. Two (2) cotton buccal swab with bloodstain;

*Interview of Jinnah Lou Domino,  
Arturo Garcia, and Pedro Moreno*

During the interview, Jinnah disclosed that last January 7, 2020 at around 11:00 o'clock in the evening Diego came home rushing from Mamon Shop. By Jinnah's description, he looked very nervous and afraid at that time. Diego then told her that he saw four (4) men wearing jackets outside the corner of Johlans Store located at Tourism Road, General Luna. One of the men came to him and called him. Diego felt that the man was going to stab him, so he ran towards their house. According to Jinnah, Diego looked so anxious telling the story.

On January 8, 2020 at around 1:02 o'clock in the morning, she received a text message from Diego informing her that he was coming home. Shortly, at around 1:03 in the morning on the same date, as soon as Jinnah heard Diego's motorcycle stopped, Jinnah said he heard Diego opening the bamboo gate outside their house. Right there and then Jinnah said that she heard series of loud gunshots and she also noticed some sparks of light by the entrance of their house. Jinnah said she heard the voice of Diego that went, "AHHHH". Jinnah added that she then heard some footsteps and people murmuring. Immediately after that, Jinnah said that she jumped out of her bed and locked the front door for their safety before she proceeded to her daughter's room where she and her daughter hid under the bed.

When asked whether or not she heard from outside of her house any operatives calling out to Diego that they were police officers prior to the shooting, Jinnah answered that she never heard shouting by police officers so that she even called for police assistance.



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After a while, she went outside the house. She noticed that there were already policemen around. Jinnah said that she asked the policemen where was Diego, but there was no response from the police. Jinnah added that she then saw one of the policemen holding Diego's cellphone using it as a flashlight. She said she called the attention of the said policeman and begged him to give it to her. But the said police man just ignored her. Jinnah later on identified the said policeman as Chief of Police PCpt Wise Vicente B. Panuelos. She said she was then screaming for Pedro and Arturo to come to her but they were not allowed by the policemen.

On the other hand, Arturo, Diego's business partner, disclosed that on January 8, 2020, he, together with his girlfriend and Pedro, were buying snacks at a store just 100 meters from Diego and Jinnah's residence. At around 1:05 o'clock in the morning, she received a distress call from Jinnah. They immediately board their motorcycle and proceeded to couple's residence and arrived thereat at around 1:06 o'clock in the morning. As they entered the narrow pathway leading to the couple's residence, they saw a white police car parked by the right-side corner of the road. They noticed that there were six (6) or seven (7) men around. Three of them were wearing police uniforms, while the rest wore civilian clothes. One of them had his face covered showing only his eyes. Later, they noticed the arrival of another two policemen carrying some firearms.

When they arrived at Diego's residence, they were stopped by two policemen who were pointing their firearms at them. One of the policemen asked *"Who are you? Hands up! Get on the ground now!"* Arturo said that he immediately identified himself as a friend of Diego. Meanwhile, Pedro was asked if he was Arturo. Pedro replied, *"No."* The said police asked Pedro for his identification card, and he immediately showed it to the police asking for it. However, the policemen didn't ask anymore for Arturo's ID.

Both of Diego's friends narrated that they asked the policemen what happened. One of the police replied that their friend Diego was dealing cocaine. When they asked how was Diego, nobody answered them. Pedro then said that he asked one of the policemen to allow his girlfriend to check on Diego's condition because her girlfriend is a nurse. The said policeman allowed Pedro's girlfriend to go and check on Diego while they (Pedro and Arturo) were waiting at some distance.

After a while, Pedro said that his girlfriend came back. She told them that she could not find Diego's pulse and that she had asked one of the policemen



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standing nearby to help her turn Diego on his side so she could check his condition, but the said police refused. Pedro added that her girlfriend told them that one of the policemen who was holding a black gun said to her that he was sorry and that he thought Diego was going to shoot him first. Pedro also said that her girlfriend noticed that there was a silver colored gun on the right hand of Diego.

When asked if someone was extorting money from them, both Pedro and Arturo replied in the negative. However, when asked if they experienced any threat or harassment, Arturo recalled an incident that happened sometime in August 2019 involving Camarines Sur Governor Miguel Luis R. Villafuerte (Gov. Migz Villafuerte). At that time, Diego was in Manila recuperating from dengue.

Arturo recalled that sometime in August 2019, at around 1:15 o'clock in the morning while doing his work at La Santa, someone came looking for him. He accommodated the person who told him that someone wanted to talk to him. He went with the person to the house at the corner. When they arrived, he noticed that there were three persons waiting. One was a neighbor, the other was wearing a police uniform and a woman. After brief introductions, Arturo learned that the woman was Rachel Peters while one of the men was Gov. Migz Villafuerte and the one who fetched him was the bodyguard.

Arturo said that the conversation was about the loud noise coming from La Santa and Gov. Migz Villafuerte was very cordial with his complaints. Later, Gov. Migz Villafuerte started to become aggressive. He said that the governor told him *“YOU DON'T KNOW WHO I AM? YOU DON'T KNOW WHAT I CAN DO WITH YOU GUYS! THERE ARE THREE OF YOU! RIGHT? WHERE ARE THE OTHERS?”* Arturo then explained that La Santa has only two owners, and the other one was in Manila. Gov. Migz Villafuerte then told him *“I CAN SHOOT YOU AND I WILL MAKE YOU DISAPPEAR AND THROW YOU IN THE MANGROVE!”*

Upon hearing this, Arturo got scared and immediately went back to La Santa to close the bar/restaurant. Though he was scared, Arturo said that he did not bother to make the incident a big issue. He never reported the incident to the authorities but told Mr. Ruel Oraliza, the *Punong Barangay* of Barangay 3, General Luna. He considered Mr. Ruel Oraliza a very good friend of his.

The CHR Special Investigators also learned that both Gov. Migz Villafuerte and PCpt. Panuelos hailed from the same province of Camarines Sur.



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*Neighbors of Diego and Jinnah:  
The Spouses Tidong Gonzaga and  
Fe Antipasada Gonzaga*

The Gonzaga spouses are the owners of the property that was leased by Diego and Jinnah and used as their dwelling. The said property is situated just across the residence of the Gonzaga spouses.

During the interview, the couple disclosed that on January 7, 2020 at around 10:00 o'clock in the evening, they noticed two (2) suspicious looking persons drinking beer near Diego's residence. The two persons were unfamiliar to them so Tidong called out their attention and asked them what they were doing. The two replied that they were just there drinking beer. Tidong then went on his way.

On January 8, 2020 at around 1:00 o'clock in the morning, they were awakened by a loud burst of gunfires. They hurriedly went outside to check what happened. On the way out, they were met by men who had guns and told them to go back inside. By their description, the men covered their faces with a white t-shirt like a ninja warrior. Immediately thereafter, they heard a commotion outside of their house. They also heard somebody said, "Please sir don't".

At around 8:00 o'clock to 9:00 o'clock in the morning, they saw the arrival of the SOCO team. They noticed that the SOCO team encircled the eleven (11) empty bullet cartridges on the ground, but did not cordon the area. There was an easy access for anybody to go inside the crime scene. The couple noticed that the metal gate of the fence beside their house was hit with a bullet. They also noticed that there were splatter of blood leading to the fence near Diego's house.

*The Staff of the MDRRMO, namely: the  
Responders, Rey Alvin Longas and Anthony Moreno; and  
Driver, Joseph P. Comon.*

According to Mr. Longas, they were on night duty on January 7, 2020. On January 8, 2020, at around 1:20 o'clock in the morning more or less, they received a call for rescue. At the time of the call, there was a connection problem because they cannot hear the caller very well. They disconnected the call, and tried to readjust their position. In less than one minute, the caller called again,



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but just the same they could not hear the caller very well. The number that appeared in the call log was 0998-549-4147. The number is that of the General Luna Municipal Police Station.

After a few minutes, Police Officer Gervacio (PO Gervacio) came to the Office and asked for assistance. PO Gervacio cited of an emergency at Brgy. 3, General Luna. The MDRRMO team inquired for the exact situation but PO Gervacio could not give any details. Nonetheless, the team responded to the call. As per Office logbook, the team left at around 1:55 o'clock in the morning.

*Post Mortem Examination by  
Dr. Elizabeth Gio at  
Siargao District Hospital*

Dr. Gio said that the General Luna rescue team arrived at Dapa District Hospital at around more or less, 2:00 o'clock in the morning of January 8, 2020. When the rescue team arrived at the hospital, Diego's vital signs were already down. Upon examination, her findings<sup>5</sup> were:

### Multiple Gunshot Wounds

1. Wound of entrance-back of right ear, wound of exit-left side of the neck;
2. Anterior chest, upper portion left;
3. Right Iliac area, 2 points;
4. Left, Inguinal area;
5. Left Thigh proximal 3<sup>rd</sup>; and
6. Left Buttock.

Probable cause of death: Internal Hemorrhage secondary to multiple organ injury secondary to multiple gunshot wound (Dead on Arrival)

Dr. Gio then opined that of the six wounds sustained by Diego, the most fatal was the first wound and probably accelerated his death.

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<sup>5</sup> Post Mortem Examination furnished by Dapa District Hospital.



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### *Interview of Diego's employee Irish Blancada*

Irish Blancada told the CHR team that she knows Diego since 2018. She started working at La Santa on July 3, 2019. She said that Diego was considerate and generous to his twenty-five (25) employees.

She said during the interview that before Diego was killed, she was at La Santa working as a cashier for that was her task that night. She said that by the time she went home at 12:30 in the morning of January 8, 2020, Diego was still at La Santa entertaining customers. When asked, she said she never saw Diego keeping a gun or even holding one. When asked about Diego's alleged involvement with illegal drugs, she averred that Diego was not into it. She said Diego was neither a drug user nor a pusher. She said she was sure of it since she knows Diego since 2018 or even before she was hired to work in La Santa.

### *Interview of the Punong Barangay Ruel Oraliza*

Punong Barangay Ruel Oraliza told the CHR team that he was notified by the police officers of their operation only in the morning of January 8, 2020. He said he was surprised when he learned that Diego was already dead and that he was the subject of the said operation. When asked further, he said Diego was not in the Barangay Anti Drug Abuse Council (BADAC) watchlist either as drug user or pusher.

### *Autopsy Report*

Subsequently, Diego's dead body was transported to Manila upon the request of Diego's brother, Mr. Bruno Bello Lafuente. The corpse was then turned over to Rizal Funeral Homes in Pasay City, Metro Manila.

The autopsy was performed on January 14, 2020 at Rizal Funeral Homes. The autopsy was conducted by a team from CHR Forensic Center led by Dr. Joseph Andrew Jimenez (as the examiner), Ms. Kathryn Lazo (Documenter), Mr. Telestino Mendoza (Technician) and Mr. Carlito Consibido (Photographer).

As per CHR Forensic Center Autopsy Report, Diego sustained the following wounds:



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1. Gunshot wound to the Head;
2. Gunshot wound to the Left Upper anterior chest;
3. Gunshot wound to the Abdomen (left lower quadrant);
4. Gunshot wound to the Right Abdomen;
5. Gunshot wound to the Right gluteal area;
6. Gunshot wound to the Right foot;
7. Grazing wound, 2<sup>nd</sup> digit, Left hand;
8. Superficial wound, Right posterior flank area;

The Autopsy report also states that Diego's cause of death were the gunshot wounds to the Left upper anterior chest and Left lower abdomen.

### ISSUE

Whether or not there is human rights violations in the death of Diego Bello Lafuente.

### Applicable Human Rights Instruments

The right to life guarantees essentially the right to be alive upon which the enjoyment of all rights is preconditioned.<sup>6</sup> It commands respect at all times that derogation is impermissible even in times of public emergency that threatens the state of the nation.

The inviolability of life is recognized under the two-core international human rights instrument, to wit:

#### **Universal Declaration of Human Rights (UDHR)**

**Article 3:** Everyone has the right to life, security and liberty.

#### **International Covenant on Civil and Political Right (ICCPR)**

**Article 6:** Every human being has the inherent right to life. The right shall be protected by law. No one shall be arbitrarily deprived of his life.

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<sup>6</sup> The Secretary of National Defense vs Manalo - GR No. 180906, October 7, 2008.



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States which ratified the ICCPR undertakes to ensure to all individuals within its territory and subject to its jurisdiction to respect the rights recognized in the ICCPR by undertaking the necessary steps, in accordance with the State's constitutional processes to adopt legislative or other measures as maybe necessary to give effect to the rights recognized in the ICCPR.<sup>7</sup>

The Philippines having signed<sup>8</sup> the ICCPR on December 19, 1966 and ratified<sup>9</sup> the same on October 23, 1986, engraved its obligation under Article III, Section 1 of the 1987 Constitution, which states:

No person shall be deprived of life, liberty, or property without due process of law, nor shall any person be denied the equal protection of the laws.

The State obligation to respect life is further exemplified under Article 249 of the Revised Penal Code. The law simply punished the unlawful curtailment of life by one person to another. If the killing is attended by aggravating circumstances enumerated under Article 15 of the same code, the crime is raised to murder and carries a heavier penalty under Article 248.

In the context of the war on drugs, the CHR issued a Resolution: CHR (V) No. AM-2016-092 which created the National Task Force Against Extrajudicial Killings (Task Force). The task force then formulated a definition of drug-related killings quoted hereunder to wit:

1. There is an arbitrary deprivation of life; or deliberate infliction of a life-threatening harm or injury; or an attempt thereof;
2. That the victim:
  - a. Was linked or perceived to be linked to the illegal drug trade; or
  - b. Was killed or harmed; or injured in relation to the state's anti-illegal drug campaign;
3. That the acts were carried out by any of the following:
  - a. State Actors
    - i. In accordance with orders or state authorities; or

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<sup>7</sup> ICCPR: Part II, Articles 2.1 and 2.2.

<sup>8</sup> [https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-4&chapter=4&clang=\\_en](https://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&clang=_en), last accessed on October 22, 2019.

<sup>9</sup> Ibid.



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- ii. With their complicity/acquiescence/tolerance without any judicial/due process; or
  - b. Non-State actors
    - i. Under orders or influence of state authorities; or
    - ii. For any consideration
4. That there is failure or unwillingness of state authorities to prevent, investigate, and/or prosecute the same.
5. The acts may include, but are not limited to, the following:
  - a. Summary executions by State agents without due process;
  - b. Deaths resulting from failure to observe rules and operational procedures in accordance with law enforcement guidelines, domestic laws and international laws;
  - c. Deaths in detention or custody;

### Evaluation

Before going over the issue, this Office deemed it necessary to discuss the investigative power of the Commission on Human Rights (CHR). As it is known, the 1987 Constitution, created the Office of the CHR. One of the powers and functions mentioned therein is: (1) *to investigate, on its own or on complaint by any party, all forms of human rights violations involving civil and political rights (ICCPR)*. Ancillary to this power is to receive evidence and make findings of fact as regards claimed of human rights violations involving ICCPR.<sup>10</sup>

The power to investigate is not adjudication and cannot be likened to the judicial function of a court of justice or a quasi-judicial agency. The function of receiving evidence and ascertain therefrom the facts of a controversy is not a judicial function. To be considered as such, receiving evidence and making factual conclusions in a controversy must be accompanied by the *authority* of applying the law to those conclusions. The CHR does not possess such authority.<sup>11</sup>

Nonetheless, the CHR does have the legal standing to indorse, for appropriate action, its findings and recommendations to any appropriate

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<sup>10</sup> Export Processing Zone vs CHR – GR No. 101476, April 14, 1992.

<sup>11</sup> Export Processing Zone vs CHR – GR No. 101476, April 14, 1992.



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agency of the government.<sup>12</sup> Hence, the findings of this Office in this case shall be referred to appropriate government agency. Now, coming to the issue of this case.

The right to life is listed first because it is the most basic human right of all: if one could be arbitrarily deprived of one's right to life, all other rights would become illusory. The fundamental nature of the right is also clear from the fact that it is "*non-derogable*": it may not be denied even in "*time of war or other public emergency threatening the life of the nation.*"<sup>13</sup> Article 6 of the International Covenant on Civil and Political Rights guarantees this right for all human beings, without distinction of any kind, including for persons suspected or convicted of even the most serious crimes.<sup>14</sup>

As a minimum, the right to life imposes upon States the duty to abstain from arbitrarily killing individuals under their jurisdiction. The paradigm violations of the right to life are the extra-judicial executions understood as killings "*committed, condoned or acquiesced by governments*".<sup>15</sup> In the context of the Task Force definition, this means that the killings are done under the influence of the State and there is failure or unwillingness of the State to investigate or prosecute the killing. The killing is done through non-observance of the law enforcement operational guidelines and those deaths under law enforcer's custody.

Whether or not the instant case falls under extra-judicial executions, the guidelines formulated by the Task Force shall be used. Each of the elements enumerated in the guidelines shall be used to gauge the circumstances in the instant case. Only then can a sound evaluation on this case can be reached.

As for the ***first element***, whether or not there is a deliberate infliction of a life- threatening harm or injury, this Office finds guidance in the Supreme Court ruling in the case of *Rivera vs People*<sup>16</sup> which says:

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<sup>12</sup> *Simon vs Commission on Human Rights* – GR No. 100150, January 5, 1994.

<sup>13</sup> Douwe Korff, *The Right to Life: A Guide to the Implementation of Article 2 of the European Convention on Human Rights*, p.6, accessed at <https://rm.coe.int/168007ff4e>, on January 30, 2019.

<sup>14</sup> General Comment No. 36 on Article 6 of the ICCPR, on Right to Life ([http://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6\\_EN.pdf](http://www.ohchr.org/Documents/HRBodies/CCPR/GCArticle6/GCArticle6_EN.pdf)) last accessed on December 27, 2017.

<sup>15</sup> *The Right Not To be Arbitrarily Killed by the State*, accessed at <http://www.humanrights.is/en/human-rights-education-project/comparative-analysis-of-selected-case-law-achpr-iachr-echr-hrc/the-right-to-life/the-right-not-to-be-arbitrarily-killed-by-the-state>, on January 30, 2020.

<sup>16</sup> GR No. 166326, January 25, 2006.



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The Court declared that evidence to prove intent to kill in crimes against persons may consist, *inter alia*, in the means used by the malefactors, ***the nature, location and number of wounds sustained by the victim***, the conduct of the malefactors before, at the time, or immediately after the killing of the victim, the circumstances under which the crime was committed and the motives of the accused. If the victim dies as a result of a deliberate act of the malefactors, intent to kill is presumed. (Emphasis supplied)

As per CHR Forensic Center Autopsy Report, Diego sustained six (6) gunshot wounds. These wounds were found to be at the head, chest, left lower abdomen, right abdomen, gluteal area, and right foot. Of these wounds, the said report stated that Diego's death was caused by the wounds to the left upper anterior chest and left lower abdomen. The fact that Diego died instantly, intent to kill is already presumed.

While the vivid descriptions stated in the said Autopsy Report are couched in a medical scientific language, however, the number and location of the wounds tell us that such were mortal, sufficient to end the life of Diego instantly.

Moreover, as per Affidavits of PCpt. Panuelos, PSSg. Pazo, and PSSg. Cortes, all three are unanimous in stating that when Diego sensed that he was dealing with a police operative, he pulled out a firearm from his belt bag and fired towards the operatives. As a consequence, the police operatives were forced to defend themselves by returning fire at him. Though the number of police who took part in the buy-bust operation is not specified, what is evident is, these police officers used their firearms against Diego. To our mind, this is akin to the use of excessive force.

The Revised Philippine National Police Operational Procedures<sup>17</sup> Rule 7 and 8 thereof provides guidelines on the use of force and firearm during police operations. These rules are reproduced hereunder to wit:

### **Rule 7: Use of Force During Police Operations**

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<sup>17</sup> December 2013 Edition.



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#### **7.1 Use of Excessive Force Prohibited**

The excessive use of force during police operation is prohibited. However, in the lawful performance of duty, a police officer may use necessary force to accomplish his mandated tasks of enforcing the law and maintaining peace and order.

#### **7.5 Application of Necessary and Reasonable Force**

During confrontation with an armed offender, only such necessary and reasonable force should be applied as would be sufficient to overcome the resistance put up by the offender; subdue the clear and imminent danger posed by him; or to justify the force/act under principles of self-defense, defense of relative, or defense of stranger.

### **Rule 8. Use of Firearm During Police Operations**

#### **8.1 Use of Firearm When Justified**

The use of firearm is justified if the offender poses imminent danger causing death or injury to the police officer or other persons. The use of firearm is also justified under the doctrines of self-defense, defense of relative, or defense of stranger. However, one who resorts to self-defense must face a real threat on his life, and the peril to be avoided must be actual, imminent and real. Unlawful aggression should be present for self-defense to be considered as a justifying circumstance.

As per PNP Operational Procedures, the police are allowed to use force but only when necessary to overcome or subdue the resistance put up by the offender. Diego need not be shot many times when he can be subdued or crippled with one shot, sufficient enough to overcome the danger he posed. He need not die instantly. Sadly, as it turned out, as per ruling in *Rivera vs People*, the nature, location and number of wounds sustained by Diego implies that such were deliberately inflicted.

This Office also noticed that as per *Affidavits* of PCpt. Panuelos, PSSg. Pazo, and PSSg. Cortes, Diego sensed that he had just transacted with a police operative, thus, he pulled out a firearm from his belt bag and suddenly fired towards the direction of the police operatives prompting them to run for cover. To repel the aggression, the police then shouted "*POLICE, WE ARE POLICE*



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*DON'T MOVE*". Notwithstanding this warning, still Diego fired at the police, prompting the police to defend themselves by firing back at Diego.

By such statement, the buy-bust team led by PCpt. Panuelos is claiming self-defense. In this instance, the Supreme Court ruling in *Ortega vs Sandiganbayan*<sup>18</sup> reiterated in *Aguilar vs DOJ*<sup>19</sup> is relevant when it held:

Well settled is the rule that where the accused had admitted that he is the author of the death of the victim and his defense anchored on self-defense, it is incumbent upon him to prove this justifying circumstance to the satisfaction of the court. To do so, he must rely on the strength of his own evidence and not on the weakness of the prosecution, for the accused himself had admitted the killing. The burden is upon the accused to prove clearly and sufficiently the elements of self-defense, being an affirmative allegation, otherwise the conviction of the accused is inescapable.

Whenever a person claims self-defence, such person admits authorship of the crime. The burden of proving self-defense is upon the person claiming it. Thus, the buy-bust team lead by PCpt. Panuelos, has the burden to prove self-defense. To do so, the buy-bust team needs to prove the concurrence of the following: (1) unlawful aggression; (2) reasonable necessity of the means employed to prevent or repel the aggression; (3) lack of sufficient provocation on the part of the person defending himself.<sup>20</sup>

Proving the elements of self-defense, the Affidavits of PCpt. Panuelos, PSSg. Pazo, and PSSg. Cortes mentioned that it was Diego who pulled a gun from his belt bag and fired his gun first when he sensed that he was dealing with the police. The unlawful aggression was exhibited by Diego. However, We find this statement doubtful for three reasons:

- 1.) The La Santa CCTV footage provided by Consul Fernando Heredia Noguera to this Office showed that Diego left the bar at around 1:12 o'clock in the morning of January 8, 2020. When he left, Diego was not carrying anything and no belt-bag was shown hanging on his waist either. As to how the belt-bag got in to Diego's waist from which he pulled his gun, needs to be looked at;

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<sup>18</sup> G.R. No. 57664 February 8, 1989.

<sup>19</sup> G.R. No. 197522, September 11, 2013.

<sup>20</sup> *People vs Dulin* – GR No. 171284, June 29, 2015.



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- 2.) The Spouses Tidong and Fe Gonzaga revealed that on the date in question, at around 1:00 o'clock in the morning, more or less, they were awakened by a loud burst of gunfires. When both hurriedly went outside to check, they were met by men who had guns who told them to get back inside.

The couple did not mention of any police warning against Diego. Considering that they live just across Diego's place, they would have heard any shoutings or commotion. What the couple heard instead, were loud noise of gunshots;

- 3.) Diego's girlfriend, Jinnah, said during the interview that on the date of the buy-bust, at around 1:03 in the morning, she heard Diego's motorcycle stopped outside. She then heard Diego tried to open the bamboo gate of their house. At that instant, Jinnah heard a series of loud gunshots and saw some sparks of light outside. She then heard Diego's voice that went "AHHH". Then there were footsteps and people murmuring.

Similar to the Gonzaga Spouses, Jinnah did not hear any shout of warning against Diego. What she heard were series of gunshots.

The three foregoing factors caused this Office to be skeptical that it was Diego who fired his gun from his belt bag and that the police gave him warning before shooting him. These are the very reasons why the claim of self-defense is to be taken with a grain of salt.

We note that there is lag in minutes between the text message sent by Diego to Jinnah and the La Santa CCTV footage. We believe that this is because the CCTV and cellular phone were not set at par with each other. However, Diego's text message to Jinnah was the last one he sent before he died; while the CCTV footage was also the last footage of Diego leaving La Santa before he was killed. Both are relevant in this case.

As for self-defense's second element or the reasonable necessity of the means employed to prevent or repel the aggression, this is very much the same to that of *Application of Necessary and Reasonable Force* found in PNP



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Operational Procedures. This requires a reasonable proportionality between the unlawful aggression and the defensive response.<sup>21</sup>

As per autopsy result, Diego sustained six (6) gunshot wounds causing him to die instantly. There is no doubt that these six shots came from the police operatives which landed on the different parts of his body. Are these six shots reasonable enough to repel the aggression? Or the six shots are already too much that Diego died instantly.

What this Office would like to point out is that the self-defense claim cannot be just taken as plain truth. There has to be a judicial proceeding in which each element of self-defense is being brought in the open, scrutinized and evaluated vis-à-vis the rules. The claim of self-defense is debatable.

The presumption of regularity in the performance of official duty likewise does not hold water. The presumption only stands when no reason exists in the records by which to doubt the regularity of the performance of official duty. In this case, the death of Diego is an irregularity that destroys the presumption. Death cannot just be presumed in every buy-bust operation. This is the very reason why having admitted to have killed Diego, the burden to prove self-defense shifted to the the police buy-bust team led by PCpt. Panuelos.

In sum, the Supreme Court rulings and the PNP Operational rules pointed out the presence of arbitrariness in the manner that Diego was killed.

As for the **second and third elements**, these can be merged into one and discussed as one. As per PCpt. Panuelos' Affidavit, Diego was involved in the illegal trade of cocaine. In fact, he was classified as Top 1 Regional Drug Personality. This prompted PCpt. Panuelos to subject Diego to a test buy that eventually led to a buy-bust operation. His death was in relation to the State's campaign against illegal drugs.

We take note when Punong Barangay Ruel Oraliza was interviewed, he said that Diego was not in the Barangay Anti-Drug Abuse Council (BADAC) watchlist personalities involved in illegal drugs. This is in contrast to PNPs classification of him as Top 1 illegal drug personality in Caraga Region.

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<sup>21</sup> Velasquez vs People – GR No. 195021, March 15, 2017.



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On the **fourth** element, or the failure or unwillingness of state authorities to prevent, investigate, and/or prosecute the crime committed, this Office has to look back to one of the actions taken by this Regional Office.

On January 31, 2020, Atty. Ralphmar M. Oñez, inquired from P/Lt. Col. Glenn C. Sampaga of SDN PPO if a case against PCpt. Panuelos was filed before the RIAS-13. P/Lt. Col. Glenn C. Sampaga answered in the affirmative prompting Special Investigators Maria Theresa R. Neri and Russel R. Valeroso to go to RIAS-13 in Camp Rafael Rodriguez, Butuan City to verify the status of the case. They were able to talk to RIAS 13 Regional Director PCol Joseph D. Plaza who disclosed that they are still in evaluation stage of the documents submitted by P/Capt. Panuelos.

Given this detail, there is an effort from the PNP to assess and evaluate their police operations. Such effort is commendable. This is an indication that the institution would not tolerate any deviation from their very own procedure. However, there is yet no word as to the outcome of the investigation

**Fifth**, in the absence of any official pronouncement that the buy-bust team led by PCpt. Panuelos was defending themselves during the buy-bust operation, Diego's death is not sanctioned by any law, and could be considered as a summary execution. The claim of self-defense is self-serving on the part of the buy-bust team. The burden to prove that it was indeed self-defense lies upon the police and the same should be proved in an independent proceeding.

Considering further that as per our findings, there is doubt on the buy-bust team's compliance with the PNP Operational Guidelines, the claim of self-defense stands on shaky foundation.

In line with the Omnibus Rules of Procedure of this institution, the resolution of this case shall be furnished to the family of Diego Lafuente through the Embassy of Spain in Manila, should they wish to pursue further proceedings relative to this case. Such resolution shall likewise be furnished to PCpt. Wise Vicente B. Panuelos being the team leader of the police operatives that subjected Diego to a buy-bust operation.



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**Findings and Recommendation**

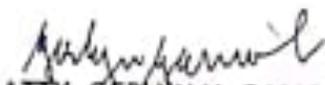
WHEREFORE premises considered, there is a finding of human rights violation upon the life of DIEGO BELLO LAFUENTE. Let the records of this case be forwarded to the following:

1. National Bureau of Investigation for evidence gathering for criminal prosecution; and
2. The Office of the Deputy Ombudsman for Military and Other Law Enforcement Offices (Ombudsman-MOLEO) for their appropriate action on the administrative liability of the buy-bust team headed by PCpt. WISE VICENTE B. PANUELOS.

The investigation of the instant case is hereby **CLOSED** for **MONITORING**.

SO RESOLVED.

July 31, 2020, Butuan City, Philippines.

  
ATTY. GERLYN V. GAMOLO  
Attorney IV

Approved:

  
ATTY. JEREFE D. TUBIGON-BACANG  
Regional Director

Cc:

1. Consul General Fernando Heredia Noguez  
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