

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City



EIGHTEENTH CONGRESS

First Regular Session

House Bill No. 5408

Introduced by **HON. ROZZANO RUFINO B. BIAZON**

EXPLANATORY NOTE

This bill seeks to allow law enforcement officers involved in the investigation of terrorism and illegal drugs cases, or a person acting under the direction of said law enforcement officers, to record oral conversations between them and persons who are subjects of such investigations.

Article III, Section 3(1) of the 1987 Constitution provides that "*the privacy of communication and correspondence shall be inviolable except upon lawful order of the court, or when public safety or order requires otherwise, as prescribed by law*". This bill is being proposed as an exception to the inviolability of the privacy of communication as certain matters concerning public safety need to be addressed. These are our country's problems on illegal drugs and terrorism that are threatening the very foundations of Philippine society.

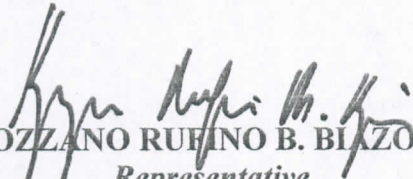
The 2018 Annual Report of the Philippine Drug Enforcement Agency (PDEA) states that, as of December 2018, out of the total 42,045 barangays in the country, 22,041 or 52.42% are considered drug-affected. Aside from drugs manufactured locally, the same report also states that the supply of drugs circulating in the country also come from international drug syndicates who smuggle these drugs inside the country.

As to our problem on terrorism, the siege of Marawi City by local militants who claimed to be members of the terrorist organization Islamic State of Iran and Syria (ISIS) is a concrete example of the gravity of this problem. Recently, there have been suicide bombings that have been carried out in Mindanao that killed not only members of our security forces, but also civilians.

In order to address the country's problems on terrorism and illegal drugs which are seriously affecting the safety of the public, law enforcement personnel must not only have the proper skills, training and equipment but also the investigative tools to address these. It is in this light that this bill is being proposed.

Giving our law enforcement officers the authority to record oral conversations that take place in the course of their investigations on cases involving terrorism and illegal drugs and allowing these recordings to be used as evidence will be a big boost in our efforts to address these problems. This investigative tool can be considered as an effective way of ensuring the preparation of air tight cases against persons involved in terrorism and illegal drugs and the successful prosecution and conviction of these criminals.

In view of the foregoing, the early passage of this bill is earnestly sought.


ROZZANO RUFINO B. BLAZON
Representative
Lone District, Muntinlupa City

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AN ACT
ALLOWING SINGLE PARTY RECORDING IN THE INVESTIGATION OF
TERRORISM AND ILLEGAL DRUGS CASES

Be it enacted by the Senate and House of Representatives of the Philippines in Congress, assembled:

SECTION 1. *Short Title.* – This Act shall be known as the "*Single Party Recording Law*".

SEC. 2. *Single Party Recording by Law Enforcement Officer.* – It shall be lawful for a law enforcement officer involved in the investigation of terrorism and illegal drugs cases, or a person acting under the direction of said law enforcement officer, to record an oral conversation: *Provided,* That such person is a party to the oral conversation or one of the parties to the oral conversation has given prior consent to such recording and the purpose of such recording is to gather evidence. For purposes of this section, a person is a party to an oral conversation if the oral communication is directed to such person or through telephone or other similar means, or is made in the person's immediate presence and is audible to the person regardless of whether the communication is specifically directed to such person.

SEC. 3. *Requirements for the Conduct of Single Party Recording.* – Single party recording shall only be conducted by members of the Criminal Investigation and Detection Group (CIDG) of the Philippine National Police (PNP) and agents of the Philippine Drug Enforcement Agency (PDEA) and National Bureau of Investigation (NBI).

In the case of the PNP, requests for the conduct of single party recording shall be approved by the Chief of Police (COP) or an officer in the unit of the requesting law enforcement officer whose rank is equivalent to the COP, and the Director of the Legal Service. Such approved requests shall then be submitted to the CIDG for appropriate action. The CIDG shall, before the conduct of any single party recording, inform the Chief of the PNP of such an activity.

Requests for the conduct of single party recording in the NBI shall be approved by the Chief of the Legal Evaluation Division and the Director. The Director of the Legal and Prosecution Service and the Director General of the PDEA shall approve all requests of PDEA agents for the conduct of single party recording.

A law enforcement officer requesting for the conduct of a single party recording shall accomplish an Application to Conduct Single Party Recording Form that shall provide the following information:

- (a) the reasons for the monitoring;
- (b) a citation of the principal criminal statute involved;
- (c) the nature of any danger to the consenting party if there be any;
- (d) the type of recording device to be used;
- (e) the location where the recording will take place;
- (f) the length of time needed for the recording, but in no event more than 90 days from the day the recording is scheduled to begin;
- (g) the names of the persons, if known, who will be recorded; and
- (h) whether the facts of the recording have been discussed with the legal officer of the investigating unit involved, and that said legal officer advised that the consensual recording is appropriate.

Requests for renewal of such authorizations must contain all the information required for the original application and must explain why the additional monitoring is needed.

SEC. 4. *Guidelines and Procedures in the Conduct of Single Party Recording.* – The Secretary of Justice in cooperation with the Secretary of the Interior and Local Government shall formulate the guidelines and procedures for the conduct of single party recording.

SEC. 5. *Admissibility of Evidence.* – No recording made under this Act shall be admissible in court unless it is proven that the recording presented is of the entire conversation free from any alterations. A recitation of the circumstances including the identity of the person making the recording, the date, time and place where the recording is made, the person or persons subject of the recording, and the offense for which the recording is being made shall be made part of the recording.

SEC. 6. *Implementing Rules and Regulations.* – Within ninety (90) days upon the effectivity of this Act, the Secretary of Justice in cooperation with the Secretary of the Interior and Local Government shall promulgate the necessary rules and regulations to effectively implement the provisions of this Act.

SEC. 7. *Repealing Clause.* – All laws, decrees, executive orders, administrative orders or parts thereof inconsistent with the provisions of this Act is hereby repealed, amended or modified accordingly.

SEC. 8. *Separability Clause.* – If any provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall continue to be in full force and effect.

SEC. 9. *Effectivity.* – This Act shall take effect fifteen (15) days following its complete publication in the Official Gazette or in at least two (2) newspaper of general circulation.

Approved,