



PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2023-022¹

28 November 2023

[REDACTED]

Re: MEDIA ACCESS TO POLICE BLOTTERS

Dear [REDACTED]:

We respond to your request for an Advisory Opinion on the apparent conflict between the media's right to access a police blotter for journalistic purposes *vis-à-vis* the confidential treatment by the Philippine National Police (PNP) of the same.

We were informed that you initiated a meeting with some officials of the PNP and of the National Privacy Commission (NPC) where you raised the concern that some media reporters are being prohibited from accessing the contents of police blotters. You argued that such prohibition violates the freedom of the press and of the right of the people to information.

For its part, the PNP cited PNP Memorandum Circular (MC) No. 2020-037² as their basis for the prohibition. PNP MC No. 2020-037 essentially states that the police blotter shall be treated with confidentiality since it contains personal information of complainants, victims, and suspects. Citing the Data Privacy Act of 2012 (DPA), the PNP limits access to the police blotter only to a real party-in-interest or upon order of a court. Media practitioners, however, may submit a data request to the Public Information Officer (PIO) of the police station, which will be treated similarly to a Freedom of Information (FOI) request.

Thus, you seek the NPC's opinion relative to the application of the DPA on the parties' seemingly opposing positions.

¹ Tags: press freedom; journalistic purpose, special case; freedom of information; security measures.

² Philippine National Police, Police Blotter and CIRAS Information Access, Memorandum Circular No. 2020-037 (May 20, 2020).

*Personal data; lawful criteria for processing;
Sec. 4(d), special cases*

Under the DPA, personal information refers to any information whether recorded in a material form or not, from which the identity of an individual is apparent or can be reasonably and directly ascertained by the entity holding the information, or when put together with other information would directly and certainly identify an individual.³

On the other hand, sensitive personal information refers to information:

- (1) About an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- (2) About an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
- 3) Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
- (4) Specifically established by an executive order or an act of Congress to be kept classified.⁴

As can be gleaned from the foregoing, a police blotter would, *a fortiori*, contain either personal information or sensitive personal information (collectively referred to as "personal data").

Generally, the processing of personal data requires the establishment of the applicable lawful basis provided in Sections 12 and/or 13 of the DPA. Nevertheless, Section 4(d) of the DPA expressly treats as a special case the processing of personal data for journalistic, artistic, literary or research purposes. This means that the media need not establish the lawful basis for processing of the personal data contained in a police blotter. But this exception afforded to the media does not equate to unbridled processing. The DPA limits the processing only to the minimum extent of collection, access, use, disclosure or other processing necessary to the purpose, function, or activity concerned.⁵

*Right to information vs. right to data privacy;
balancing of interests.*

The people have a fundamental right to information particularly on matters of public concern. Every Filipino citizen is afforded this right, subject to certain limitations provided by law. This constitutional guarantee is a recognition of the importance of the free flow of ideas and information in a democracy; it enables citizens to cope with the exigencies of the times.⁶

³ Republic Act No. 10173, § 3(g).

⁴ Republic Act No. 10173, § 3(l).

⁵ Rules and Regulations Implementing the Data Privacy Act of 2012, Republic Act No. 10173, § 5 (2016).

⁶ Baldoza v. Dimaano, A.M. No. 1120-MJ (1976).

Equally recognized is the fundamental human right to privacy which is afforded protection by both the 1987 Constitution and the DPA. In essence, the privacy right protected by the DPA involves the right of an individual to control the collection of, access to, and use of personal information about him or her that are under the control or custody of the personal information controllers, be it the government or the private sector.⁷ To strike a balance to these seemingly opposing rights, a brief discussion of the relevant laws involved is, thus, necessary.

Executive Order (EO) No. 02⁸ relates to the operationalization of the people's right to information under the executive branch. EO No. 02 permits the disclosure of information in the possession or under the custody of the government unless they fall under any of the exceptions enshrined in the Constitution, existing law or jurisprudence. Pursuant to the Inventory of Exceptions to EO No. 02,⁹ information deemed confidential for the protection of the privacy of persons is an exception to the general rule on the right of access to information.

It has been held that access to public documents may be duly regulated, despite their nature as such. Thus, the Supreme Court ruled in *Legaspi vs. Civil Service Commission*:¹⁰

A distinction has to be made between the discretion to refuse outright the disclosure of or access to particular information and the authority to regulate the manner in which the access is to be afforded. The first is a limitation upon the availability of access to the information sought, which only the Legislature may impose (Art. III, Sec. 6, 1987 Constitution). The second pertains to the government agency charged with the custody of public records. Its authority to regulate access is to be exercised solely to the end that damage to, or loss of, public records may be avoided, undue interference with the duties of said agencies may be prevented, and more importantly, that the exercise of the same constitutional right by other persons shall be assured.

In the present case, the people's right to information, exercised through the media, should be considered alongside the PNP's obligation as a personal information controller (PIC) to protect the personal data of individuals. Thus, a public record does not equate to public access in all cases, especially when there are other rights to be considered, such as the right to data privacy.

Consequently, the PNP may establish regulations or guidelines to properly safeguard personal data in police blotters, which includes classifying the information contained therein to determine the appropriate security measures to put in place. This is also in line with the provisions in E.O. No. 02, which allows for certain exceptions as to the disclosure of information marked as confidential by the appropriate government agency or authority.

⁷ NPC Advisory Opinion No. 2020-026 (June 26, 2020).

⁸ Office of the President, Operationalizing in The Executive Branch The People's Constitutional Right To Information and The State Policies to Full Public Disclosure and Transparency in The Public Service and Providing Guidelines Therefor, Executive Order No. 2 [EO No. 2] (July 23, 2016).

⁹ Office of the President, Inventory of Exceptions to Executive Order No. 2 (S. 2016), Memorandum from the Executive Secretary (Nov. 24, 2016).

¹⁰ G.R. No. L-72119 (1987).

It appears that PNP MC No. 2020-037 does not seek to prohibit the media from obtaining information contained in the police blotters. Rather, it only regulates the media's access only to information that is necessary and proportionate to their purpose. As blotter entries are not considered official complaints or cases filed in court, the dissemination of its contents to the public without proper context may lead to a violation of the right of an accused to be presumed innocent until proven guilty. Moreover, unqualified processing or publication of news reports may prejudice the advancement of cases filed in court.¹¹

If the media wishes to report on a specific incident listed in the police blotter, they can submit a data request to the PIO of the police station to access the specific police blotter entry, which the latter should not refuse without citing a legal ground. By doing so, media reporters can still acquire information on a matter they intend to cover; at the same time, the PNP can ensure that the personal data of individuals in the police blotter logbook are duly protected.

Data privacy principles; proportionality

Furthermore, the provisions of PNP MC No. 2020-037 on the submission of a data request to the station's PIO is an example of the PNP's adherence to the general data privacy principles set forth under the DPA.

Specifically, under the principle of proportionality which provides that the processing of personal data shall be adequate, relevant, suitable, necessary, and not excessive in relation to a declared specified purpose. This principle further states that personal data shall only be processed only if the purpose of the processing could not be reasonably fulfilled by any other means.¹² Thus, disclosure of personal data to requesting entities, in this case the media, should be limited to its declared, specified, and legitimate purpose. In addition, only those personal data that are needed in relation to the declared and stated purpose should be disclosed to the requesting entities, which may be determined by the PNP on a case-to-case basis through its PIO.

PNP MC No. 2020-037 seeks to balance the interests concerning the media's right to information on access to police blotter entries, while adhering to the data privacy principle of proportionality by ensuring that only the necessary information are disclosed by the PNP stations or personnel to the media.

The freedom of the press is duly recognized, allowing the media to perform their functions whilst also allowing the PNP to perform its obligation as a PIC to protect the information of individuals whose personal data have been entrusted to them.

In sum, the PNP's classification of information in police blotter entries as confidential under PNP MC No. 2020-037 appear to be within its lawful mandate as a PIC and in accordance with the DPA. These guidelines do not run counter to the provisions of the DPA on special cases involving personal information processed for journalistic, artistic or literary purposes, considering that what is only regulated is the level of access to the information contained in the police blotter, and does not operate as a total prohibition in accessing the information itself.

¹¹ PNP MC No. 2020-037, § 3 (2020).

¹² Rules and Regulations Implementing the Data Privacy Act of 2012, Republic Act No. 10173, §18 (c) (2016).

Please be advised that this Advisory Opinion was rendered based solely on the information you have provided. Any extraneous fact that may be subsequently furnished us may affect our present position. Please note further that our Advisory Opinion is not intended to adjudicate the rights and obligations of the parties involved.

Very truly yours,

(Sgd.)
FRANKLIN ANTHONY M. TABAQUIN IV
Director IV, Privacy Policy Office