Republic of the Philippines
Supreme Court
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated **FEBRUARY 14, 2012**, *which reads as follows:*

"**In Re: Production of Court Records and Documents and the Attendance of Court officials and employees as witnesses under the subpoenas of February 10, 2012 and the various letters for the Impeachment Prosecution Panel dated January 19 and 25, 2012.**

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RESOLUTION

PER CURIAM:

Before us are the letters of Hon. Joseph Emilio A. Abaya, Congressman and Impeachment Prosecution Panel Manager, in behalf of the House Impeachment Panel, requesting for the actions described below. These letters are:

(1) LETTER dated January 19, 2012 of Hon. Joseph Emilio A. Abaya, Congressman, 1st District, Cavite; Chairman, Committee on Appropriations; and Impeachment Prosecution Panel Manager, writing in behalf of the House Impeachment Panel, requesting that the Public Prosecutors, as well as the Private Prosecutors, be permitted **to examine, among others, the *rollo* of *Flight Attendants and Stewards Association of the Philippines (FASAP) v. Philippine Airlines, Inc. (PAL), et al.*, G.R. No. 178083**;

LETTER dated January 25, 2012 of Hon. Irvin M. Alcala for Hon. Joseph Emilio A. Abaya, in behalf of the House Impeachment Panel,

requesting for **certified true copies of the Agenda and Minutes of the Deliberations of, among others, the case of *FASAP v. PAL, et al.*, G.R. No. 178083**.

(2) LETTER dated January 19, 2012 of Hon. Joseph Emilio A. Abaya, Congressman, 1st District, Cavite; Chairman, Committee on Appropriations; and Impeachment Prosecution Panel Manager, writing in behalf of the House Impeachment Panel, requesting that the Public Prosecutors, as well as the Private Prosecutors, be permitted **to examine, among others, the *rollo* of *Navarro v. Ermita*, G.R. No. 180050, April 12, 2011**.

(3) LETTER dated January 25, 2012 of Hon. Irvin M. Alcala for Hon. Joseph Emilio A. Abaya, Congressman, 1st District, Cavite; Chairman, Committee on Appropriations; and Impeachment Prosecution Panel Manager, in behalf of the House Impeachment Panel, requesting that the Public Prosecutors, as well as the Private Prosecutors, be permitted **to examine the *rollo* of the case of *Ma. Merceditas N. Gutierrez v. The House of Representatives Committee on Justice, et al.*, G.R. No. 193459**.

(4) LETTER dated January 19, 2012 of Hon. Joseph Emilio A. Abaya, Congressman, 1st District, Cavite; Chairman, Committee on Appropriations; and Impeachment Prosecution Panel Manager, writing in behalf of the House Impeachment Panel, requesting that the Public Prosecutors, as well as the Private Prosecutors, be permitted **to examine, among others, the *rollo* of *League of Cities v. COMELEC*, G.R. Nos. 176951, 177499 and 178056**.

In an intervening development, the Hon. Impeachment Court directed the attendance of witnesses Clerk of Court Enriqueta E. Vidal and Deputy Clerk of Court Felipa Anama, and the production of documents *per* the ***subpoena ad testificandum et duces tecum*** dated February 9, 2012 in the case of ***FASAP v. PAL***:

1. Records/Logbook of the Raffle Committee showing the assignment of the FASAP case;

2. Letter of Atty. Estelito Mendoza addressed to the Clerk of Court dated September 13, 2011 (copy furnished: The Hon. Chief Justice Renato C. Corona), in connection with the FASAP case;
3. Letter of Atty. Estelito Mendoza addressed to the Clerk of Court dated September 20, 2011 (copy furnished: The Hon. Chief Justice Renato C. Corona), in connection with the FASAP case;
4. Letter of Atty. Estelito Mendoza addressed to the Clerk of Court dated September 22, 2011 (copy furnished: The Hon. Chief Justice Renato C. Corona), in connection with the FASAP case;
5. Letter of Atty. Estelito Mendoza addressed to the Clerk of Court dated September 16, 2011 (copy furnished: The Hon. Chief Justice Renato C. Corona; Hon. Arturo D. Brion, Hon. Jose P. Perez, Hon. Lucas P. Bersamin and Hon. Jose C. Mendoza), in connection with the FASAP case.

Another *subpoena ad testificandum* dated February 10, 2012 directs Clerk of Court Vidal, in the case of former President Gloria Macapagal-Arroyo (G.R. No. 199034) and former First Gentleman Jose Miguel Arroyo (G.R. No. 199046) to bring with her, for submission to the Impeachment Court, the following:

1. Supreme Court received (with time and date stamp) Petition for Special Civil Actions for Certiorari and Prohibition with Prayer for the Issuance of a Temporary Restraining Order (*TRO*) and/or Writ of Preliminary Injunction filed by Gloria Macapagal Arroyo (G.R. No. 199034) (*GMA TRO Petition*), including the Annexes thereto;

2. Supreme Court received (with time and date stamp) Petition for Special Civil Actions for Certiorari and Prohibition with Prayer for

the Issuance of a TRO and/or Writ of Preliminary Injunction docketed as G.R. No. 199046 (Mike Arroyo TRO Petition), including the Annexes thereto;

3. Respondent Corona's travel order or leave applied for within the month of November 2011;

4. Minutes of the Supreme Court Raffle Committee which handled the GMA and Mike Arroyo TRO Petitions;

5. Appointment or Assignment of the Member-in-Charge of the GMA and Mike Arroyo TRO Petitions;

6. Resolution dated November 15, 2011 in the GMA and Mike Arroyo TRO Petitions;

7. TRO dated November 15, 2011 issued in the GMA and Mike Arroyo TRO Petitions;

8. Logbook or receiving copy showing the time the TRO was issued to the counsel of GMA and Mike Arroyo, as well as the date and time the TRO was received by the Sheriff for service to the parties;

9. *Special Power of Attorney* dated November 15, 2011 submitted by GMA and Mike Arroyo in favor of Atty. Ferdinand Topacio and Anacleto M. Diaz, in compliance with the TRO dated November 15, 2011;

10. Official Receipt No. 00300227-SC-EP dated November 15, 2011 issued by the Supreme Court for the Two Million Pesos Cash Bond of GMA and Mike Arroyo, with the official date and time stamp;

11. November 15 and 16, 2011 Sheriff's Return for service of the GMA and Mike Arroyo TRO dated November 15, 2011, upon the Department of Justice and the Office of the Solicitor General;

12. Certification from the Fiscal Management and Budget Office of the Supreme Court dated November 15, 2011, with the date and time it was received by the Supreme Court Clerk of Court showing it to be November 16, 2011 at 8:55 a.m.;

13. Resolution dated November 18, 2011 issued in the GMA and Mike Arroyo TRO Petitions;

14. Resolution dated November 22, 2011 on the GMA and Mike Arroyo TRO Petitions;

15. Logbook showing the date and time Justice Sereno's dissent to the November 22, 2011 Resolution was received by the Clerk of Court *En Banc*;

16. Dissenting Opinions dated November 13 and 18, 2011, and December 13, 2011 of Justice Sereno on the GMA and Mike Arroyo TRO Petitions;

17. Dissenting Opinions dated November 15, 2011 and December 13, 2011 of Justice Carpio on the GMA and Mike Arroyo TRO Petitions;

18. Separate Opinion dated December 13, 2011 of Justice Velasco on the GMA and Mike Arroyo TRO Petitions;

19. Concurring Opinion dated December 13, 2011 of Justice Abad on the GMA and Mike Arroyo TRO Petitions;

20. Official Appointment of Respondent Corona as Associate Justice of the Supreme Court; and

21. Official Appointment of Respondent Corona as Chief Justice.

A Brief Statement of Relevant Background Facts and Developments

During the impeachment proceedings against Chief Justice Corona, the Prosecution Panel manifested in a COMPLIANCE dated January 27, 2012 that it would present about 100 witnesses and almost a thousand documents, to be secured from both private and public offices. The list of proposed witnesses included Justices of the Supreme Court, and Court officials and employees who will testify on matters, many of which are, internal to the Court.

It was at about this time that the letters, now before us, were sent. The letters asked for the examination of records, and the issuance of certified true copies of the ***rollos*** **and the Agenda and Minutes of the Deliberations,** as above described, for purposes of Articles 3 and 7 of the Impeachment Complaint. These letters specifically focused on the following:

a. with respect to the ***Flight Attendants and Stewards Association of the Philippines v. Philippine Airlines, Inc.*** case[1] (presently pending on the merits), the examination of the *rollo* of the case and the issuance of certified true copies of the Agenda and the Minutes of the case;

b. with respect to **Navarro v. Ermita**[2] or the **Dinagat case** (still pending on the merits), the examination of the *rollo* of the case;

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[1] G.R. No. 178083, July 22, 2008, 559 SCRA 252. In its Decision, the Court declared illegal the retrenchment of more than 1,000 flight attendants and cabin crew personnel of the flag carrier. The ruling was reiterated in the Resolutions dated October 2, 2009 and September 7, 2011.

However, on October 4, 2011, the Court recalled the September 7, 2011 Resolution when questions were raised as to the authority of the Second Division to issue the September 7, 2011 Resolution.

[2] G.R. No. 180050, February 10, 2010, 612 SCRA 131. In its Decision (affirmed in a Resolution dated May 12, 2010), the Court held that Republic Act No. (RA) 9355, the law creating Dinagat Province, was unconstitutional for failing to comply with the territorial and population requirements under Section 261 of

c. with respect to **Ma. Merceditas N. Gutierrez v. The House of Representatives Committee on Justice, et al.**[3] (a closed and terminated case), the examination of the *rollo* of the case; and

d. with respect to **League of Cities of the Philippines (LCP) v. COMELEC**,[4] (a closed and terminated case) the examination of the *rollo* of the case.

Per its MANIFESTATION in open court in the impeachment trial of February 7 and 8, 2012, the House Impeachment Panel requested the Impeachment Court for the issuance of *subpoena duces tecum* and *ad*

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the Local Government Code (LGC). The Court stressed that Dinagat Islands had a population of 120,813 which was below the LGC minimum population requirement of 250,000 inhabitants. Neither did Dinagat Islands, with an approximate land area of 802.12 square kilometers as stated in RA 9355, meet the LGC minimum land area requirement of 2,000 square kilometers.

However, in its Resolution dated April 12, 2011, the Court reversed its earlier ruling and upheld RA 9355. The Court ruled that consistent with the declared policy to provide local government units genuine and meaningful local autonomy, contiguity, and minimum land area requirements for prospective local government units, R.A. No. 9355 should be liberally construed in order to achieve the desired results. The strict interpretation adopted by the February 10, 2010 decision could be counter-productive, if not outright absurd, awkward, and impractical, it added.

[3] G.R. No. 193459, February 15, 2011. In a petition for *certiorari* and prohibition, then Ombudsman Gutierrez challenged the constitutionality of the September 1 and 7, 2010 Resolutions of The House of Representatives Committee on Justice finding the two successively filed impeachment complaints against her sufficient in form and substance. In its Decision (affirmed in a Resolution dated March 8, 2011), the Court dismissed the petition and held that the September 1 and 7, 2010 Resolutions were not unconstitutional. In this case, the Court held that the term "initiate" refers to the filing of the impeachment complaint *coupled with* Congress' taking initial action of said complaint, thus the simultaneous referral of the two complaints did not violate the one year-bar rule in the Constitution. The Court also found that there was no violation of the petitioner's right to due process since it is in no position to dictate a mode of promulgation beyond the dictates of the Constitution - which did not explicitly require that the Impeachment Rules be published.

[4] G.R. No. 176951, November 18, 2008, 571 SCRA 263. The Court, by a 6-5 vote, granted the petitions and struck down the Cityhood Laws (creating 16 new cities) as unconstitutional for violating Sections 10 and 6, Article X, and the equal protection clause. On March 31, 2009, the Court, by a 7-5 vote, denied the first motion for reconsideration.

On April 28, 2009, the Court, by a 6-6 vote, denied a second motion for reconsideration for being a prohibited pleading. However, the Court, in its June 2, 2009 Resolution, clarified that since it voted on the second motion for reconsideration and that it allowed the filing of the same, the second motion for reconsideration was no longer a prohibited pleading. It noted that it was for lack of the required number of votes to overturn the November 18, 2009 Decision and the March 31, 2009 Resolution that it denied the second motion for reconsideration in its April 28, 2009 Resolution.

On December 21, 2009, acting anew on the second motion for reconsideration, the Court, by a vote of 6-4, declared the Cityhood Laws as constitutional.

On August 24, 2010, the Court, this time by a vote of 7-6, reinstated the November 18, 2008 Decision. In a Resolution dated February 15, 2011, the Court, by a vote of 7-6, granted the motion for reconsideration of its August 24, 2010 Resolution, reversed and set aside its August 24, 2010 Resolution, and declared constitutional the Cityhood Laws.

The latest and final Resolution, dated April 12, 2011, affirmed the ruling in the February 15, 2011 Resolution.

testificandum for the production of records of cases, and the attendance of Justices, officials and employees of the Supreme Court, to testify on these records and on the various cases mentioned above.

Instead of issuing subpoenas as requested, the Hon. Presiding Senator-Judge Juan Ponce Enrile, on February 8, 2012, issued an **Order** denying the Prosecution Panel's request for *subpoena ad testificandum* to *JJ.* Villarama, Sereno, Reyes and Velasco (In re: Impeachment Trial of Hon. Chief Justice Renato C. Corona, Case No. 002-2011). **Thus, the attendance of Supreme Court Justices under compulsory process now appears to be moot and academic.** If they are included at all in the discussions below, reference to them is for purposes only of a holistic presentation and as basic premises that serve as the bases for the disqualification of Court officials and employees, and the exclusion of privileged and confidential documents and information.

On February 10, 2012, Atty. Vidal, Clerk of the Supreme Court, brought to our attention the ***Subpoena Ad Testificandum et Duces Tecum*** and ***Subpoena Ad Testificandum*** she received, commanding her to appear at 10:00 in the morning of the 13th of February 2012 with the original and certified true copies of the documents listed above, and to likewise appear in the afternoon at 2:00 of the same day and everyday thereafter, to produce the above listed documents and to testify.

In light of the *subpoenas* served, the urgent need for a court ruling and based on the Constitution, the pertinent laws and of the Court's rules and policies, we shall now determine how the Court will comply with the *subpoenas* and the letters of the Prosecution Impeachment Panel.

Prefatory Statement

The Court states at the outset that this Resolution is issued not to favor or prejudice the Chief Justice whose impeachment gave rise to the letters and the subpoenas under consideration, but to simply consider the requests and the subpoenas in light of what the Constitution, the laws, and our rules and policies mandate and allow.

From the constitutional perspective, a necessary starting vantage point in this consideration is the **principle of separation of powers** through the recognition of the **independence of each branch of government** and through the protection of privileged and confidential documents and processes, as recognized by law, by the rules and by Court policies.

The ***Independence of the Judiciary***

The doctrine of separation of powers is an essential component of our democratic and republican system of government. The doctrine inures not by express provision of the Constitution, but as an underlying principle that constitutes the bedrock of our **system of checks and balances** in government.[5] It divides the government into three branches, each with well-defined powers. In its most basic concept, the doctrine declares that the legislature enacts the law, the executive implements it, and the judiciary interprets it.

Each branch is considered separate, co-equal, coordinate and supreme within its own sphere, under the legal and political reality of *one* overarching *Constitution* that governs *one government* and *one nation* for whose benefit all the three separate branches must act with unity. Necessarily under this legal and political reality, the mandate for each branch is to ensure that its assigned constitutional duties are duly performed, all for the one nation that the three branches are sworn to serve, obey and protect, among others, by keeping the government stable and

[5] See *Angara v. Electoral Commission*, 63 Phil. 139, 156-157 (1936).

running. The **Court's mandate,** in so far as these constitutional principles are concerned, is to keep the different branches within the exercise of their respective assigned powers and prerogatives through the **Rule of Law**.[6]

A lesser known but no less important aspect of the principle of separation of powers – deemed written into the rules by established practice and rendered imperative by the departments' inter-dependence and need for cooperation among themselves – is the **principle of comity** or the practice of voluntarily observing inter-departmental courtesy in undertaking their assigned constitutional duties for the harmonious working of government.

The Judiciary applies the principle of comity at the first instance in its interpretation and application of laws. In appreciating the areas wholly assigned to a particular branch for its sole and supreme exercise of discretion (*i.e.,* on political questions where the courts can intervene only when the assigned branch acts with grave abuse of discretion), *the courts tread carefully; they exercise restraint* and intervene only when the grave abuse of discretion is clear and even then must act **with carefully calibrated steps, safely and surely made within constitutional bounds**. The two other branches, for their part, may also observe the principle of comity by voluntarily and temporarily refraining from continuing with the acts questioned before the courts. Where doubt exists, no hard and fast rule obtains on how due respect should be shown to each other; largely, it is a weighing of the public interests involved, as against guaranteed individual rights and the attendant larger public interests, and it is the latter consideration that ultimately prevails.

A case in point is on the matter of impeachment whose trial has been specifically assigned by the Constitution to the Senate. Where doubt exists in an impeachment case, a standard that should not be forgotten

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[6] *Neri v. Senate Committee on Accountability of Public Officers and Investigations*, G.R. No. 180643, March 25, 2008, 549 SCRA 77.

is the need to preserve the structure of a democratic and republican government, ***particularly the check and balance that should prevail.***

Access to court records: general rule – a policy of transparency

Underlying every request for information is the constitutional right to information (a right granted to the people) that Article III, Section 7 of the Constitution provides:

> Section 7. The right of the people to information on matters of public concern shall be recognized. **Access to official records, and to documents and papers pertaining to officials acts, transactions, or decisions,** as well as to government research data used as basis for policy development, **shall be afforded the citizen, subject to such limitations as may be provided by law.** [emphases ours]

The right to information, by its very nature and by the Constitution's own terms, is not absolute. On the part of private individuals, the **right to privacy**, similarly inviolable, exists. Institutions also enjoy their own right to confidentiality, that, for governmental departments and agencies, is expressed in terms of their need to protect the integrity of their mandated tasks under the Constitution and the laws; these tasks, to state the obvious, are their reasons for their being.

In line with the public's constitutional right to information, the Court has adopted a policy of transparency with respect to documents in its possession or custody, necessary to maintain the integrity of its sworn duty to adjudicate justiciable disputes.[7] This policy, in terms of Court Rules, is embodied in Section 11, Rule 136 of the Rules of Court,[8] which states:

> Section. 11. *Certified copies.*—The clerk shall prepare, for **any person** demanding the same, a copy certified under the seal of

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[7] CONSTITUTION, Article VIII, Section 1.

[8] Section 5(5) of the Constitution directly grants the Court the power to promulgate rules concerning proceedings in court. These rules have the same force and effect as legislated laws.

> the court of **any paper, record, order, judgment, or entry in his office**, proper to be certified, for the fees prescribed by these rules. [emphases ours]

Notably, the rule grants access to court records to *any person*, subject to payment of fees and compliance with rules; it is not necessary that the request be made by a party to the case. **This grant, however, is not as open nor as broad as its plain terms appear to project, as it is subject to the limitations the laws and the Court's own rules provide.** As heretofore stated, for the Court and the Judiciary, a basic underlying limitation is the need to preserve and protect the integrity of their main adjudicative function.

When Court Records are considered Confidential

In the Judiciary, privileges against disclosure of official records "create a hierarchy of rights that protect certain confidential relationships over and above the public's evidentiary need" or "right to every man's evidence."[9] Accordingly, certain informations contained in the records of cases before the Supreme Court are considered confidential and are exempt from disclosure. To reiterate, the need arises from the dictates of the integrity of the Court's decision-making function which may be affected by the disclosure of information.

Specifically, the Internal Rules of the Supreme Court (*IRSC*) prohibits the disclosure of **(1)** the result of the **raffle of cases, (2) the actions taken by the Court** on each case included in the agenda of the Court's session, and **(3) the deliberations of the Members in court sessions on cases and matters pending before it.**

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[9] John Louis Kellogg. *What's Good for the Goose... Differential Treatment of the Deliberative Process and Self-Critical Analysis Privileges*, 52 Journal of Urban and Contemporary Law 255 (1997), citing *US v. Bryan*, 339 US 323, 331 (1950).

Rule 7, Section 3 of the IRSC[10] declares that the **results of the raffle of cases** shall only be available to the parties and their counsels, unless the cases involve bar matters, administrative cases and criminal cases involving the penalty of life imprisonment, which are treated with strict confidentiality and where the raffle results are not disclosed even to the parties themselves.[11]

Rule 10, Section 2 of the IRSC provides that the **actions taken in each case in the Court's agenda**, which are noted by the Chief Justice or the Division Chairman, are also to be treated with strict confidentiality. Only after the official release of the resolution embodying the Court action may that action be made available to the public.[12] A resolution is considered

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[10] IRSC, Rule 7 – Raffle of Cases, Section 3. *Raffle Committee Secretariat.* – The Clerk of Court shall serve as the Secretary of the Raffle Committee. He or she shall be assisted by a court attorney, duly designated by the Chief Justice from either the Office of the Chief Justice or the Office of the Clerk of Court, who shall be responsible for (a) recording the raffle proceedings and (b) submitting the minutes thereon to the Chief Justice. **The Clerk of Court shall make the result of the raffle available to the parties and their counsels or to their duly authorized representatives, except the raffle of (a) bar matters; (b) administrative cases; and (c) criminal cases where the penalty imposed by the lower court is life imprisonment, and which shall be treated with strict confidentiality.** [emphases ours]

[11] See also IRSC, Rule 9, Sections 2 and 4 which declare:

RULE 9
FOLDER OF PLEADINGS, COMMUNICATIONS,
DOCUMENTS AND OTHER PAPERS IN A CASE

Section 2. *Repository of rollos.* – All *rollos* of cases submitted for decision shall be kept in the *Rollo* Room in the Office of the Chief Justice, except when taken out for delivery to any of the following: (1) the Judicial Records Office for attachment of a pleading, communication, document or other papers filed; (2) the Office of the Clerk of Court or the Office of the Division Clerk of Court, for the preparation of the Agenda and of the Minutes of a Court session, as well for the attachment of the decisions or resolutions to the *rollo*; (3) the Office of the Member-in-Charge or the Office of the *ponente* or writer of the decision or resolution; (4) any Office or official charged with the study of the case. **All personnel charged with the safekeeping and distribution of *rollos* shall be bound by strict confidentiality on the identity of the Member-in-Charge or the *ponente*,** as well as on the integrity of the *rollos*, under pain of administrative sanction and criminal prosecution for any breach thereof.

Section 4. *Confidentiality of identity of Member-in-Charge or ponente and of Court actions.* – Personnel assigned to the *Rollo* Room and **all other Court personnel** handling documents relating to the raffling of cases are **bound by strict confidentiality on the identity of the Member-in-Charge or ponente and on the actions taken on the case.**

Rollo Room personnel may release a rollo only upon an official written request from the Chief Judicial Staff Head or the Chief of Office of the requesting Office. The *rollo* room personnel may release a *rollo* only to an authorized personnel named in the official written request. All personnel handling the rollos are bound by the same strict confidentiality rules. [emphases ours]

[12] IRSC, Rule 11, Section 5, which states:

RULE 11
AGENDA AND MINUTES OF COURT SESSIONS

Section 5. *Confidentiality of minutes prior to release.* – **The Offices of the Clerk of Court and of the Division Clerks of Court are bound by strict confidentiality on the**

officially released once the envelope containing its final copy, addressed to the parties, has been transmitted to the process server for personal service or to the mailing section of the Judicial Records Office.

Court deliberations are traditionally recognized as privileged communication. Section 2, Rule 10 of the IRSC provides:

> Section 2. *Confidentiality of court sessions.* – Court sessions are executive in character, with only the Members of the Court present. **Court deliberations are confidential and shall not be disclosed to outside parties, except as may be provided herein or as authorized by the Court.** [emphasis ours]

Justice Abad discussed the rationale for the rule in his concurring opinion to the Court Resolution in *Arroyo v. De Lima*[13] (TRO on Watch List Order case): the rules on confidentiality will enable the Members of the Court to "freely discuss the issues without fear of criticism for holding unpopular positions" or fear of humiliation for one's comments.[14] The privilege against disclosure of these kinds of information/communication is known as **deliberative process privilege,** involving as it does the deliberative process of reaching a decision. "Written advice from a variety of individuals is an important element of the government's decision-making process and that the interchange of advice could be stifled if courts forced the government to disclose those recommendations;"[15] the privilege is intended "to prevent the 'chilling' of deliberative communications."[16]

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action or actions taken by the Court prior to the approval of the draft of the minutes of the court session release of the resolutions embodying the Court action or actions.

A resolution is considered officially released once the envelope containing a final copy of it addressed to the parties has been transmitted to the process server for personal service or to the mailing section of the Judicial Records Office. Only after its official release may a resolution be made available to the public. [emphases ours]

[13] G.R. Nos. 199034 & 199046, December 13, 2011.

[14] *Id.*; see J. Abad Concurring Opinion.

[15] John Louis Kellogg, *supra* note 9, citing *Kaiser Aluminum & Chemical Corporation v. US*, 157 F. Supp. at 943.

[16] Gerald Watlaufer, *Justifying Secrecy: An Objection to the General Deliberative Privilege.* 65 Indiana Law Journal 845, 850.

The privilege is not exclusive to the Judiciary. We have in passing recognized the claim of this privilege by the two other branches of government in *Chavez v. Public Estates Authority*[17] (speaking through J. Carpio) when the Court declared that -

> **[t]he information x x x like internal deliberations of the Supreme Court and other collegiate courts, or executive sessions of either house of Congress, are recognized as confidential.** This kind of information cannot be pried open by a co-equal branch of government. **A frank exchange of exploratory ideas and assessments, free from the glare of publicity and pressure by interested parties, is essential to protect the independence of decision-making of those tasked to exercise Presidential, Legislative and Judicial power.**[18] (emphases ours)

Justice Brion noted this fact in his Separate Concurring Opinion in *Neri v. Senate Committee on Accountability of Public Officers and Investigations*:[19]

> Significantly, **this type of privilege is not for the Executive to enjoy alone. All the great branches of government are entitled to this treatment for their own decision and policy making conversations and correspondence.** It is unthinkable that the disclosure of internal debates and deliberations of the Supreme Court or the executive sessions of either Houses of Congress can be compelled at will by outside parties. [emphasis ours]

Thus, a Senator may invoke *legislative privilege* when he or she is questioned outside the Senate about information gathered during an executive session of the Senate's legislative inquiry in aid of legislation. In the same manner, a justice of the court or a judge may invoke *judicial privilege* in the Senate sitting as an Impeachment Court, for proceedings in the performance of his or her own judicial functions. **What applies to magistrates applies with equal force to court officials and employees who are privy to these deliberations.** They may likewise claim exemption when asked about this privileged information.

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[17] 433 Phil. 506 (2002).
[18] *Id.* at 534.
[19] *Supra* note 6, at 399. This is a case in point as it involved the confidentiality of communications between a former President and one of her Cabinet members.

While Section 2, Rule 10 of the IRSC cited above speaks only of the confidentiality of court deliberations, it is understood that the **rule extends to documents and other communications which are part of or are related to the deliberative process.**[20] The deliberative process privilege protects from disclosure documents reflecting advisory opinions, recommendations and deliberations that are component parts of the process for formulating governmental decisions and policies. Obviously, the privilege may also be claimed by other court officials and employees when asked to act on these documents and other communications.

The *Code of Conduct for Court Personnel* in fact provides that access shall be denied with respect to information or records relating to drafts of decisions, rulings, orders, or internal memoranda or internal reports. In the *2007 Resolution on Access to Justice for the Poor Project*,[21] the Court excluded the same information and records from the public by classifying them as confidential:

> Article 1. Definition of Terms.
>
> 2. Confidential information generally refers to **information not yet made a matter of public record relating to pending cases,** such as notes, drafts, research papers, internal discussion, internal memoranda, records of internal deliberations, and similar papers. **Even after the decision, resolution, or order is made public, such information that a justice or judge uses in preparing a decision, resolution, or order shall remain confidential.** [emphases ours]

To qualify for protection under the deliberative process privilege, the agency must show that the document is both (1) **predecisional** and (2) **deliberative.**[22]

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[20] Gerald Watlaufer, *supra* note 16, at 851, which states:

> Generally, the privilege extends to written and oral communications comprised of opinions, recommendations or advice offered in the court of the executive's decision-making processes.

[21] Access to Justice for the Poor Project – Information Education, Communication Guidelines for Municipal Court Information Officers, A.M. No. 05-2-01-SC, March 13, 2007.

[22] *Electronic Frontier Foundation v. US Department of Justice*, 2011 WL 596637.

A document is "predecisional" under the deliberative process privilege if it precedes, in temporal sequence, the decision to which it relates.[23] In other words, **communications are considered predecisional if they were made in the attempt to reach a final conclusion.**[24]

A material is "deliberative," on the other hand, if it reflects the give-and-take of the consultative process.[25] The key question in determining whether the material is deliberative in nature is ***whether disclosure of the information would discourage candid discussion within the agency.***[26] If the disclosure of the information would expose the government's decision-making process in a way that discourages candid discussion among the decision-makers (thereby undermining the courts' ability to perform their functions), the information is deemed privileged.

Court records which are "predecisional" and "deliberative" in nature are thus protected and cannot be the subject of a subpoena if judicial privilege is to be preserved. The privilege in general insulates the Judiciary from an improper intrusion into the functions of the judicial branch and shields justices, judges, and court officials and employees from public scrutiny or the pressure of public opinion that would impair a judge's ability to render impartial decisions.[27] The deliberative process can be impaired by undue exposure of the decision-making process to public scrutiny before or even after the decision is made, as discussed below.

Additionally, two other grounds may be cited for denying access to court records, as well as preventing members of the bench, from being subjected to compulsory process: **(1) the disqualification by reason of privileged communication and (2) the pendency of an action or matter.**

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[23] *Ibid.*
[24] See *NLRB v. Sears, Roebuck & Co.*, 421 US 151.
[25] *Electronic Frontier Foundation v. US Department of Justice, supra* note 22.
[26] *Ibid.*
[27] Kevin C. Milne. *The Doctrine of Judicial Privilege: The Historical and Constitutional Basis Supporting a Privilege for the Federal Judiciary*, 44 WASH & LEE L. REV. 213 (1987).

The prohibition against disclosure of confidential information is required to be observed by members of the Court under the *New Code of Judicial Conduct for the Philippine Judiciary*. Section 9, Canon 4 (Propriety) states:

> Section 9. Confidential information acquired by judges in their judicial capacity shall **not be used or disclosed** for any other purpose related to their judicial duties. [emphasis ours]

This rule of judicial ethics complements the rule of evidence that disqualifies **public officials** from testifying on information they acquire in confidence in the course of their duties:

> Rules of Court, Rule 130, Section 24. *Disqualification by reason of privileged communication.* – The following persons **cannot testify** as to matters learned in confidence in the following cases:
>
> x x x x
>
> (e) A public officer cannot be examined **during his term of office or afterwards**, as to communications made to him in official confidence, when the court finds that the public interest would suffer by the disclosure. [emphasis ours]

To ensure the observance of these rules, the improper disclosure of confidential information learned in official capacity is made criminally punishable under **Article 229 of the Revised Penal Code**,[28] **Section 3 (k) of Republic Act No. 3019**, or the Anti-Graft and Corrupt Practices Act,[29] and

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[28] This provision of law states:

ART. 229. *Revelation of secrets by an officer.* – Any public officer who shall reveal any secret known to him by reason of his official capacity, or shall wrongfully deliver papers or copies of papers of which he may have charge and which should not be published, shall suffer penalties of *prision correccional* in its medium and maximum periods, perpetual special disqualification and a fine not exceeding 2,000 pesos if the revelation of such secrets or the delivery of such papers shall have caused serious damage to the public interest; otherwise, the penalties of *prision correccional* in its minimum period, temporary special disqualification and a fine not exceeding P500 pesos shall be imposed.

[29] This provision of law states:

SEC. 3. *Corrupt practices of public officers.* – In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

x x x x

Sec. 7 of **Republic Act No. 6713**, or the Code of Conduct and Ethical Standards for Public Official and Employees.[30] Under existing laws, neither the Impeachment Court nor the Senate has the power to grant immunity from criminal prosecution for revealing confidential information.

Under the law, therefore, the Members of the Court may not be compelled to testify in the impeachment proceedings against the Chief Justice or other Members of the Court about information they acquired in the performance of their official function of adjudication, such as information on how deliberations were conducted or the material inputs that the justices used in decision-making, because the end-result would be the disclosure of confidential information that could subject them to criminal prosecution. Such act violates *judicial privilege* (or the equivalent of *executive privilege*) as it pertains to the exercise of the constitutional mandate of adjudication.

Jurisprudence implies that justices and judges may not be subject to *any* compulsory process in relation to the performance of their adjudicatory functions. In *Senate of the Philippines v. Exec. Sec. Ermita*,[31] the Court declared that

> members of the Supreme Court are also exempt from [the Congress'] power of inquiry [in aid of legislation]. Unlike the Presidency, judicial power is vested in a collegial body; hence, each member thereof is exempt on the basis not only of separation of powers but also on the fiscal autonomy and the constitutional independence of the judiciary.

(k) Divulging valuable information of a confidential character, acquired by his office or by him on account of his official position to authorized persons, or releasing such information in advance of its authorized release date.

[30] This provision states:

SEC. 7. *Prohibited Acts and Transactions.* – In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute **prohibited acts and transactions of any public official and employee** and are hereby declared to be unlawful:

x x x x

(c) Disclosure and/or misuse of confidential information. – Public officials and employees shall not use or divulge, confidential or classified information officially known to them by reason of their office and not made available to the public, either:

(1) To further their private interests, or give undue advantage to anyone; or

(2) To prejudice the public interest. [emphasis ours]

[31] 522 Phil. 1, 49 (2006).

This ruling was dictated in no small measure by the principle of comity mentioned above. **Inter-departmental courtesy demands that the highest levels of each department be exempt from the compulsory processes of the other departments on matters related to the functions and duties of their office.**

With respect to Court officials and employees, the same rules on confidentiality that apply to justices and judges apply to them. They are barred from disclosing (1) the result of the raffle of cases, (2) the actions taken by the Court on each case included in the agenda of the Court's session, and (3) the deliberations of the Members in court sessions on cases and matters pending before it. They are subject as well to the disqualification by reason of privileged communication and the *sub judice* rule. As stated above, these rules extend to documents and other communications which cannot be disclosed.

These privileges, incidentally, belong to the Judiciary and are for the Supreme Court (as the representative and entity speaking for the Judiciary), and not for the individual justice, judge, or court official or employees to waive. Thus, every proposed waiver must be referred to the Supreme Court for its consideration and approval.

In fine, there are Philippine laws, rules and jurisprudence prohibiting the revelation of confidential or "secret" information that causes damage to public interest even in judicial and other proceedings such as the *sui generis* impeachment trial. As far as the Court is concerned, its Members and officials involved in all proceedings are duty-bound to observe the privileged communication and confidentiality rules if the integrity of the administration of justice were to be preserved – *i.e.,* not even Members of the Court, on their own and without the consent of the Supreme Court, can

testify on matters covered by the prohibitions and exclusions, particularly with respect to matters pending resolution before the Supreme Court.

To state the rule differently, Justices of the Court cannot be compelled to testify on matters relating to the **internal deliberations and actions of the Court,** in the exercise of their adjudicatory functions and duties. This is to be differentiated from a situation where the testimony is on a matter which is **external** to their adjudicatory functions and duties.

For example, where the ground cited in an impeachment complaint is bribery, a Justice may be called as a witness in the impeachment of another Justice, as bribery is a matter external to or is not connected with the adjudicatory functions and duties of a magistrate. A Justice, however, may not be called to testify on the arguments the accused Justice presented in the internal debates as these constitute details of the deliberative process.

Public interest, among others, demands that justices, judges and judicial proceedings must not only be, but must appear to be impartial since an impartial tribunal is a component of ***the right to due process*** that the Constitution guarantees to every individual. Section 4, Canon 3 of the *New Code of Judicial Conduct for the Philippine Judiciary* requires that -

> Section 4. Judges shall not knowingly, while a proceeding is before or could come before them, make any comment that might reasonably be expected to affect the outcome of such proceeding or impair the manifest fairness of the process. Nor shall judges make any comment in public or otherwise that might affect the fair trial of any person or issue.

As a penultimate point, **witnesses need not be summoned to testify on matters of public record.** These are the records that a government unit is required by law to keep or which it is compelled to keep in the discharge of duties imposed by law. A record is a public record within the purview of a statute providing that books and records required by law to be kept by a

clerk may be received in evidence in any court if it is a record which a public officer is required to keep and if it is filled in such a manner that it is subject to public inspection.[32] Under the Rules of Court, the rule on public records is embodied in Section 44, Rule 130 which provides:

> Section 44. *Entries in official records.* - Entries in official records made in the performance of his duty by a public officer of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated.

To restate the rule, entries in official records may be presented without the necessity of presenting in court the officer or person who made the entries.[33] Entries in public or official books or records may be proved by the production of the books or records themselves or by a copy certified by the legal keeper thereof.[34] **These records, however, may be presented and marked in evidence only where they are not excluded by reasons of privilege and the other reasons discussed above.**

The reasons for this rule are necessity and trustworthiness.

Necessity consists in the inconvenience and difficulty of requiring the official's attendance as a witness to testify to the innumerable transactions in the course of his duty. **A public officer is excused from appearing in court in order that public business may not be interrupted, hampered or delayed.** Where there is no exception for official statements, hosts of officials would be found devoting the greater part of their time attending as witnesses in court, delivering their deposition before an officer.[35]

Trustworthiness is a reason because of the presumption of regularity of performance of official duty. **The law reposes a particular confidence in public officers that it presumes that they will discharge their several**

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[32] Black's Law Dictionary (5th ed.), p. 1107.
[33] Oscar M. Herrera. *Remedial Law* (19th ed.), p. 740.
[34] Vicente J. Francisco. *Evidence*, Volume II (1997 ed.), p. 620.
[35] *Ibid.*

trusts **with accuracy and fidelity; and therefore, whatever acts they do in the discharge of their public duty may be given in evidence and shall be taken to be true under such a degree of caution as the nature and circumstances of each case may appear to require.**[36] Thus, "[t]he trustworthiness of public documents and the value given to the entries made therein could be grounded on: 1) the sense of official duty in the preparation of the statement made, 2) the penalty which is usually affixed to a breach of that duty, 3) the routine and disinterested origin of most such statements, and 4) the publicity of record which makes more likely the prior exposure of such errors as might have occurred."[37]

As a last point and mainly for purposes of stress, the privileges discussed above that apply to justices and judges apply *mutatis mutandis* to court officials and employees with respect to their official functions. If the intent only is for them to identify and certify to the existence and genuineness of documents within their custody or control that are not otherwise confidential or privileged under the above discussed rules, their presence before the Impeachment Court can be and should be excused where certified copies of these non-privileged and non-confidential documents can be provided.

In sum, Philippine law, rules and jurisprudence **prohibit the disclosure** of confidential or privileged information under well-defined rules. At the most basic level and subject to the principle of comity, Members of the Court, and Court officials and employees may not be compelled to testify on matters that are part of the *internal deliberations and actions* of the Court in the exercise of their adjudicatory functions and duties, while testimony on matters *external* to their adjudicatory functions and duties may be compelled by compulsory processes.

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[36] *Id.*
[37] *Tecson v. Commission on Elections*, G.R. Nos. 161434, 161634, and 161824, March 3, 2004, 424 SCRA 277, 336.

To summarize these rules, the following are privileged documents or communications, and are not subject to disclosure:

(1) *Court actions* such as the result of the raffle of cases and the actions taken by the Court on each case included in the agenda of the Court's session on acts done material to pending cases, except where a party litigant requests information on the result of the raffle of the case, pursuant to Rule 7, Section 3 of the IRSC;

(2) *Court deliberations* or the deliberations of the Members in court sessions on cases and matters pending before the Court;

(3) *Court records* which are "predecisional" and "deliberative" in nature, in particular, documents and other communications which are part of or related to the deliberative process, *i.e.,* notes, drafts, research papers, internal discussions, internal memoranda, records of internal deliberations, and similar papers.

(4) *Confidential Information* secured by justices, judges, court officials and employees in the course of their official functions, mentioned in (2) and (3) above, are privileged even after their term of office.

(5) *Records of cases that are still pending for decision* are privileged materials that cannot be disclosed, except only for pleadings, orders and resolutions that have been made available by the court to the general public.

(6) *The principle of comity or inter-departmental courtesy* demands that the *highest officials of each department* be exempt from the compulsory processes of the other departments.

(7) *These privileges* belong to the Supreme Court as an institution, not to any justice or judge in his or her individual capacity. Since the Court is

higher than the individual justices or judges, no sitting or retired justice or judge, not even the Chief Justice, may claim exception without the consent of the Court.

WHEREFORE, on the basis of the above-cited laws, rules, jurisprudence and principles, the Court resolves the matter of the House Impeachment Panel's letters through as follows:

A. 1. **On the letters dated January 19 and 25, 2012** sent in behalf of the House Impeachment Panel, the Court cannot grant the requested examination of the *FASAP v. PAL*[38] *rollo* as this is still a pending case and the *rollo* contains privileged and confidential materials. The Court, however, can issue certified true copies of the Decisions, Orders and Resolutions it issued in the case and which have been released to the parties, and certified copies of the parties' pleadings and the letters of Atty. Estelito Mendoza.

2. On the letter of January 25, 2012, regarding the examination of the *rollo* of *Navarro v. Ermita*[39] (*Dinagat* case), the Court — although the *Dinagat* case is closed and terminated — cannot grant the requested examination as the *rollo* contains privileged and confidential information. The Court, however, can issue certified true copies of the Decisions, Orders and Resolutions it issued in the case and which have been released to the parties, and certified copies of the parties' pleadings.

3. On the letter of January 25, 2012, regarding the examination of the *rollo* of the case of *Ma. Merceditas N. Gutierrez v. The*

[38] G.R. No. 178083.
[39] G.R. No. 180050.

House of Representatives Committee on Justice,[40] this is a closed and terminated case. However, the court cannot still allow examination of the *rollo* as it contains materials that are still covered by privilege or are still considered confidential. The Court, however, if requested by the Prosecution Panel, can issue certified true copies of the Decisions, Orders and Resolutions that are now matters of public record, as well as certified copies of the parties' pleadings.

4. On the letter of January 19, 2012 in behalf of the Prosecution Panel in the case of *League of Cities v. COMELEC*,[41] this is still a pending case and the Court cannot allow the examination of the *rollo*. The Court, if requested by the Prosecution Panel, can provide certified true copies of its Decisions, Orders and Resolutions that have been furnished the parties, and certified copies of the parties' pleadings.

B. On the *subpoena duces tecum et ad testificandum* in the *FASAP v. PAL case* that is the subject of the *subpoena,* the case is still pending. Therefore, all the requested documents cannot be produced as discussed above.

The witness can consequently provide certified true copies to the Impeachment Court of the Decisions, Orders and Resolutions furnished to the parties, as well as certified copies of the parties' pleadings and the letters of Atty. Estelito Mendoza.

The Court cannot as well waive the privileges attendant to the proposed testimony of Clerk of Court Enriqueta E. Vidal and of the other Court officials and employees on matters covered by privilege and confidentiality.

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[40] G.R. No. 193459.
[41] G.R. Nos. 176951, 177499 and 178056.

The documents directed to be produced by the *subpoena duces tecum* in the *GMA and Arroyo* cases (G.R. Nos. 199034 and 199046) are listed in the attached Annex "A" hereof, and are resolved in accordance with this listing. The witness can only testify on the documents or records allowed under this listing.

C. The Clerk of Court is hereby **DIRECTED:**

1. to PHOTOCOPY the non-confidential documents and records requested in the letters of the House Impeachment Panel, if requested by the Prosecution Panel. She shall as well provide these certified copies to the Impeachment Court pursuant to the *subpoena duces tecum,* but shall exclude therefrom the documents and records considered as confidential or privileged;

2. to SERVE a copy of this Resolution immediately to the House Impeachment Panel and to the Impeachment Court;

3. to REPORT to the Court the results of its actions, under (1) and (2) above, as soon as they are completed and no later than the deadline imposed by the Impeachment Court.

D. The Court's **Internal Rules and Revision of Rules Committees** shall forthwith meet for the alignment of the above discussed laws, rules and policies with the Internal Rules of the Supreme Court and the Rules of Court, and to further discuss these rules and policies to the end that the needs of transparency can fully meet, and be harmonized with, the requirements of confidentiality."

Given by the Supreme Court of the Philippines, this 14th day of February 2012. *JJ. Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza* and *Reyes,* concurring;

Presiding Officer Carpio and *J. Sereno*, concurring under Separate Opinions; *Chief Justice Corona*, inhibiting; *JJ. Velasco, Jr.* and *Perlas-Bernabe,* on official leave of absence."

Very truly yours,

ENRIQUETA E. VIDAL
Clerk of Court

Prosecution Panel of the House
of Representatives (x)
c/o Hon. Joseph Emilio A. Abaya
Congressman, First District, Cavite
Manager, Impeachment Prosecution Panel
House of Representatives
Constitution Hills, Diliman, Quezon City

Hon. Juan Ponce Enrile (x)
Senate President and Presiding Officer
Impeachment Court
Senate of the Philippines
GSIS Building, Pasay City

Hon. Edgardo J. Angara (x)
Hon. Joker P. Arroyo (x)
Hon. Pia S. Cayetano (x)
Hon. Allan Peter S. Cayetano (x)
Hon. Franklin M. Drilon (x)
Hon. Francis G. Escudero (x)
Hon. Jinggoy Ejercito Estrada (x)
Hon. Teofisto Guingona III (x)
Hon. Gregorio B. Honasan II (x)
Hon. Panfilo M. Lacson (x)
Hon. Manuel M. Lapid (x)
Hon. Loren B. Legarda (x)
Hon. Ferdinand R. Marcos, Jr. (x)
Hon. Sergio R. Osmeña III (x)
Hon. Francis Pangilinan (x)
Hon. Aquilino Pimentel III (x)
Hon. Ralph G. Recto (x)
Hon. Ramon Revilla, Jr. (x)
Hon. Miriam Defensor Santiago (x)
Hon, Vicente C. Sotto III (x)
Hon. Antonio F. Trillanes IV (x)
Hon. Manny Villar (x)
Impeachment Court
Senate of the Philippines
GSIS Building, Financial Center
Roxas Blvd., Pasay City

Justice Serafin R. Cuevas [Ret.] (x)
Lead Counsel for Chief Justice Renato C. Corona
c/o Suite 1902 Security Bank Center
6776 Ayala Avenue, Makati City

Hon. Lucas P. Bersamin (x)
Associate Justice and Working Chairperson
Committee on Revision of the Rules of Court
Supreme Court

Hon. Roberto A. Abad (x)
Associate Justice and Chairperson
Committee on Internal Rules of the Supreme Court

Public Information Office (x)
Supreme Court

Atty. Corazon G. Ferrer-Flores (x)
Deputy Clerk of Court & Chief
Fiscal Management & Budget Office
Supreme Court

The Solicitor General (x)
134 Amorsolo St.
Legaspi Village
1229 Makati City

(with Separate Opinion of J. Carpio and Concurring and Dissenting Opinion of J. Sereno)

ANNEX "A"

1. Supreme Court-received (with time and date stamp) Petition for Special Civil Actions for Certiorari and Prohibition with Prayer for the Issuance of a Temporary Restraining Order (TRO) and/or Writ of Preliminary Injunction filed by Gloria Macapagal Arroyo (G.R. No. 199034) [GMA TRO Petition], including the Annexes thereto	Matter of Public Record – Certified copy can be provided by the witness to the Impeachment Court, as directed..
2. Supreme Court received (with time and date stamp) Petition for Special Civil Actions for Certiorari and Prohibition with Prayer for the Issuance of a Temporary Restraining Order and/or Writ of Preliminary Injunction docketed as (G.R. No. 199046) [Mike Arroyo TRO Petition], including the Annexes thereto	Matter of Public Record – Certified copy can be provided by the witness to the Impeachment Court, as directed.
3. Official Leave of Respondent Corona's travel order or leave applied for days within the month of November 2011	Not Confidential – matter of Public record. The witness can provide certified copy to the Impeachment Court, as directed
4. Minutes of the Supreme Court Raffle Committee which handled the GMA and Mike Arroyo TRO Petition	Privileged and Confidential because this is a pending case expressly prohibited under the IRSC. The parties, however, may request for a copy of the Minutes, with portions relating to other cases deleted.
5. Appointment or Assignment of the Member-in-Charge of the GMA and Mike Arroyo TRO Petition	Privileged and Confidential because this is a pending case; expressly prohibited under the IRSC. The parties, however, may request for a copy of this record, with portions relating to other cases deleted.
6. Resolution dated 15 November 2011 on the GMA and Mike Arroyo TRO Petition,as published	Matter of Public Record. Certified copy can be provided by the witness to the Impeachment Court, as directed.
7. Logbook or receiving copy showing the time the TRO was issued to the counsel for GMA and Mike Arroyo as well as the date and time the TRO was received by the sheriff for service to the parties	Privileged and Confidential because this is a pending case; expressly prohibited under the IRSC. The parties, however, may request for a copy of this record, with portions relating to other cases deleted.
8. Temporary Restraining Order dated 15 November 2011 issued in the GMA and Mike Arroyo TRO Petition	Matter of Public Record. Certified copy can be provided by the witness to the Impeachment Court as directed.
9. Special Power of Attorney dated 15 November 2011 submitted by GMA and Mike Arroyo in favor of Atty. Ferdinand Topacio appointing him "to produce summons or receive documentary evidence" with the	Privileged and Confidential because this is a pending case; expressly prohibited under the IRSC. Parties can request for a copy.

official date and time stamp of the Supreme Court	
10. Official Receipt No. 00300227-SC-EP dated 15 November 2011 issued by the Supreme Court for the Two Million Pesos Cash Bond of GMA and Mike Arroyo with the official date and time stamp	Part of public record and certified copy can be provided to the Impeachment Court.
11. November 15 and 16, 2011 Sheriff's Return of service of the GMA and Mike Arroyo TRO dated 15 November 2011 upon the Department of Justice and the Office of the Solicitor General	Privileged and Confidential because this is a pending case; expressly prohibited under the IRSC. Parties can request for a copy of this record.
12. Certification from the Fiscal Management and Budget Office of the Supreme Court dated November 15, 2011 with the date and time it was received by the Supreme Court Clerk of Court showing it to be November 16, 2011 at 8:55am	Privileged and Confidential because this is a pending case; expressly prohibited under the IRSC and deliberative process. The requested certification refers to the time the bond was received by the Court.
13. Resolution dated 18 November 2011 issued on the GMA and Mike Arroyo TRO Petition, as published	Matter of Public Record. Certified copy can be provided by the witness to the Impeachment Court, as directed.
14. Resolution dated 22 November 2011 on the GMA and Mike Arroyo TRO Petition	Matter of Public Record. Certified copy can be provided by the witness to the Impeachment Court, as directed.
15. Logbook showing the date and time Justice Sereno's dissent to the 22 November 2011 Resolution was received by the Clerk of Court En Banc	Privileged and Confidential because this is a pending case; expressly prohibited under the IRSC.
16. Dissenting Opinion of Justice Sereno in G.R. No. 199034 and 199046 as published on 15 November 2011, 18 November 2011 and 13 December 2011	The Dissenting Opinion refers to the personal opinion of the writer who has the constitutional duty to explain her Dissent, and is a matter of public record after this was published. The Court, however, as the institution entitled to the deliberative process privilege, cannot waive the confidentiality of certain portions of this Dissent for being part of the privilege. The Court shall allow the witness to issue a certified true copy of this Dissent, subject to its reservation.
17. Dissenting Opinion of Justice Carpio dated 15 November 2011 and 13 December 2011 in G.R. No. 199034 and 199046 as published	The Dissenting Opinion refers to the personal opinion of the writer who has the constitutional duty to explain his Dissent, and is a matter of public record after this was published. The Court, however, as the institution

	entitled to the deliberative process privilege, cannot waive the confidentiality of certain portions of this Dissent for being part of the privilege. The Court shall allow the witness to issue a certified true copy of the Dissent, subject to its reservation.
18. Separate Opinion of Justice Velasco dated 13 November 2011 in G.R. No. 199034 and 199046	The Separate Opinion refers to the personal opinion of the writer and is a matter of public record after this was published. The Court, however, as the institution entitled to the deliberative process privilege, cannot waive the confidentiality of certain portions of this Separate Opinion for being part of the privilege. The Court shall allow the witness to issue a certified true copy of this Separate Opinion, subject to its reservation.
19. Concurring Opinion of Justice Abad dated 13 December 2011 in G.R. No. 199034 and 199046	The Concurring Opinion refers to the personal opinion of the writer and is a matter of public record after this was published. The Court, however, as the institution entitled to the deliberative process privilege, cannot waive the confidentiality of certain portions of this Concurring Opinion for being part of the privilege. The Court shall allows the witness to issue a certified true copy of this Concurring Opinion, subject to its reservation.
20. Official Appointment of Respondent Corona as Associate Justice of the Supreme Court	Matter of Public Record. The witness can provide certified copy to the Impeachment Court, as directed.
21. Official Appointment of Respondent Corona as Chief Justice	Matter of Public Record. The witness can provide certified copy to the Impeachment Court, as directed.

To complete the records of the Impeachment Court, a certified copy of the Separate Opinion of Justice Arturo D. Brion dated December 13, 2011 on the same issue in the case can also be provided, subject to the same conditions made in item nos. 16, 17, 18 and 19.