



**PUNONGHIMPILAN TANOD BAYBAYIN NG PILIPINAS**

Headquarters Philippine Coast Guard

139 25th Street, Port Area

1018 Manila

05 October 2017

**STANDING OPERATING PROCEDURE  
NUMBER 10 – 17)**

**PROCEDURE ON EFFECTING WARRANTLESS ARREST AND  
WARRANTLESS SEARCH AND SEIZURE**

**I. AUTHORITY**

- A. 1987 Philippine Constitution
- B. Republic Act 9993 and its IRR
- C. Revised Penal Code
- D. Rules of Court

**II. REFERENCES**

- A. DOTr Department Order Nr. 2017-008
- B. MARSLEN Manual
- C. Revised PNP Operational Procedures Series December 2013

**III. PURPOSE**

This SOP prescribes the procedure in effecting valid warrantless arrest and valid warrantless search and seizure pursuant to the PCG functions under DOTr 2017-008 on persons found violating or have violated or who are suspected to have violated any criminal or special penal laws including the PCG law and its IRR within the maritime jurisdiction of the Philippines;

**IV. SCOPE**

This SOP applies to all PCG personnel directed to perform the duties under DOTr Department Order Nr 2007-008.

## **V. GENERAL GUIDELINES/POLICIES**

1. Arrest is defined as the taking of a person into custody in order that he may be bound to answer for the commission of an offense<sup>1</sup>. An arrest is made by an actual restraint of a person to be arrested, or by his submission to the custody of the person making the arrest.

2. The procedure for arrest without warrant under Rule 113 of the Rules of Court shall be deemed applicable in the implementation of this Circular.

3. Search Warrant is an order in writing issued in the name of the Philippines, signed by a judge and directed to a peace officer, commanding him to search for personal property described therein and bring it before the court. Seizure is the taking into custody of property found by searching.

## **VI. PROCEDURE**

### **1. Effecting Warrantless Arrest<sup>2</sup>**

- (1) Freeze or restrain the suspect/s;
- (2) Make proper introduction as to identity and authority to arrest;
- (3) Inform the arrested person of the circumstances of his arrest;
- (4) Secure the person to be arrested and use handcuffs for the protection of the arresting officer, other individuals or the arrested person himself;
- (5) Conduct thorough search for weapons and other illegal materials on the person arrested and surroundings within his immediate control;
- (6) Confiscated evidence shall be properly documented with the chain of custody of evidence duly and clearly established;
- (7) No unnecessary force shall be used in making an arrest; and
- (8) Bring the arrested person to the nearest CG Station/ CG Substation for further investigation and disposition.

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<sup>1</sup> Rule 113 of the Rules of Court

<sup>2</sup> REVISED PNP OPERATIONAL PROCEDURES

## **2. Effecting Valid Search and Seizures Without Search Warrant**

### **2.1. Search made incidental to a valid arrest**

A person lawfully arrested may be searched for dangerous weapons or anything which may be used or which may constitute proof in the commission of an offense, without a search warrant. The warrantless search and seizure as an incident to a lawful arrest may extend beyond the person of the arrested to include the premises or surroundings under his immediate control.

### **2.2 Search of moving vehicles**

If the PCG personnel who will conduct the search have reasonable or probable cause to believe, before the search, that either the motorist is a law offender or they will find the instrumentality or evidence pertaining to a crime in the vehicle to be searched, the vehicle may be stopped and subjected to an extensive search.

### **2.3 Seizure of evidence in plain view**

Any object in the plain view is subject to seizure and may be introduced as evidence. Requirements under the Plain View Doctrine are:

(1) The PCG personnel must have prior justification for an intrusion or, otherwise, must be in a position from which he can view a particular area;

(2) The discovery of the evidence in plain view is unintentional; or

(3) It is immediately apparent to the PCG personnel that the item he observes may be evidence of a crime, contraband, or is a valid subject of seizure.

### **2.4 When there is waiver of the right or there is consented search**

To constitute a waiver of this constitutional right, it must appear, first, that the right exists; second, that the person involved had knowledge, either actual or constructive, of the existence of such right; that said person had an actual intention to relinquish the right.

### **2.5 Searches Under Stop and Frisk Rule**

The PCG personnel has the right to stop a citizen on ports and nearby street, interrogate him, and pat him for weapons whenever he observes unusual conduct which convinces him that a criminal activity exists.



## 2.6 Tipped Information

If the PCG personnel have reasonable grounds to believe that the subjects are engaged in illegal activities, the tipped information is sufficient to provide probable cause to effect a warrantless search and seizure.

## VII. RESPONSIBILITIES

The PCG personnel tasked to effect arrest, search and seizure shall have the following duties:

a. It shall be the duty of the PCG personnel effecting arrest to deliver the arrested person without delay to the nearest CG Station/ Substation to record the fact of the arrest;

b. It shall be the duty of the arresting officer to inform the person to be arrested of his authority and the cause of the arrest except when he flees or forcibly resists before the arresting officer has the opportunity to inform him or when the giving of such information will imperil the arrest;

c. The person arrested, with or without warrant, shall be informed of his constitutional right to remain silent and that any statement he makes could be used against him. Also, that he has the right to communicate with his lawyer or his immediate family and the right to physical examination;

d. A person arrested without a warrant shall be immediately brought to the CG Station/ Substation for investigation without unnecessary delay. He shall be subjected to inquest proceedings within the time prescribed in Article 125 of the Revised Penal Code (RPC);

e. No torture, force, violence, threat, intimidation; or any other means which vitiate the free will shall be used against an arrested person. The bringing of arrested persons to secret detention places, solitary confinement and the like is prohibited;

f. If the person arrested without a warrant waives his right under the provisions of Art 125 of the Revised Penal Code, the arresting officer shall ensure that the former signs a waiver of detention in the presence of his counsel of choice; and

g. If the person arrested waives his right against self-incrimination and chooses to give his statement, the arresting officer shall ensure that the waiver is made in writing and signed by the person arrested in the presence of a counsel of his own choice or a competent and independent counsel provided by the government

h. The PCG personnel who effected the arrest shall immediately submit a written report on the circumstances surrounding the arrest to the District Commander thru CG Station/ Substation.

**VIII. REPEALING CLAUSE**

All SOP inconsistent with this are hereby repealed and/or amended accordingly.


**IX. EFFECTIVITY**

This SOP shall take effect immediately upon approval and publication.

**BY COMMAND OF COMMODORE GARCIA:**

OFFICIAL:

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Chief of Coast Guard Staff

  
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*10/10/17*