

**CIRCULAR NR 01-12**  
**RULES OF ENGAGEMENT**  
**(ROE) IN THE CONDUCT**  
**OF MARITIME LAW**  
**ENFORCEMENT (MARLEN)**  
**OPERATION**

**20 JANUARY 2012**



Department of Transportation and Communications  
**PUNONGHIMPILAN TANOD BAYBAYIN NG PILIPINAS**  
(HEADQUARTERS PHILIPPINE COAST GUARD)  
139 25<sup>th</sup> Street, Port Area  
Manila



20 January 2012

HPCG/CG3

HPCG Circular        )  
Number 01-12        )

**RULES OF ENGAGEMENT (ROE) IN THE CONDUCT OF MARITIME LAW  
ENFORCEMENT (MARLEN) OPERATIONS**

**I. AUTHORITY:**

Republic Act 9993 (PCG Law of 2009)

**II. REFERENCES:**

- a. HPCG SOP Nr 001-88: Guidelines and Procedures in Maritime Law Enforcement dated 22 Aug 1988
- b. HPCG SOP Nr 03 on Rules on Engagement, 2002
- c. HPCG Standing Operating Procedure Number 02-11 dated 15 Mar 2011
- d. PCG Handbook on Maritime Law Enforcement and Counteraction Operations, 2001
- e. UN Convention on the Law of the Sea (UNLCOS) 1982
- f. USCG Boarding Officer's Manual

**III. PURPOSE:**

This circular delineates the limitations and circumstances under which PCG personnel aboard PCG vessels and crafts will initiate and prosecute engagement through the use of well defined appropriate force over vessels and/or their crewmembers during the conduct of Maritime Law Enforcement (MARLEN) operations.

**IV. APPLICABILITY:**

The ROE shall apply to all PCG personnel aboard PCG commissioned vessels, PCG manned ships and small crafts performing MARLEN operation on waters subject to the maritime jurisdiction of the Republic of the Philippines. These include vessels and crafts loaned by the PCG personnel for the purpose of the conduct of MARLEN operations.

## V. DEFINITION OF TERMS:

- a. Rules of Engagement (ROE) – are guidelines and procedures issued by competent authority that defines the extent to which law enforcement units or its individual members may use force in the performance of their duties and to ensure that MARLEN operations are conducted within the rule of law.
- b. Maritime Law Enforcement (MARLEN) Operations- generally connotes PCG operations conducted against violations of penal laws (customs, immigration, fisheries, forestry, dangerous drugs, firearms, piracy, human smuggling, and environmental laws) and other maritime violations committed within the **maritime jurisdiction** of the Philippines.
- c. Target vessel/craft – a vessel or watercraft that is the subject for law enforcement operations. Target vessel/ craft are classified into the following:
  - i. Non-hostile watercraft – a target vessel/craft that has expressed their willingness to be subjected to inspection when signaled or challenged by a maritime patrol ship/craft. The crew of subject target vessel/craft readily respond and cooperate with the boarding officers during the course of inspection.
  - ii. Assumed hostile watercraft – a target vessel/craft that is assumed to be hostile by virtue of credible intelligence report, which indicates that the said vessel/craft intends or is being used to commit maritime violations.
  - iii. Hostile watercraft – a target vessel/craft is considered hostile if it manifests the following overt hostile actions:
    - 1) Increase speed, refuses to stop or conduct evasive action when challenged or signaled to stop;
    - 2) Perform a tactical maneuver towards or to a position with an unmistakable intention to attack or ram the patrol vessel/craft;
    - 3) Attacks or fires back with the use of any firearm or any other violent method at the patrol vessel/craft;
    - 4) The crew showing antagonism towards the boarding team and attempts to resist or fight back when being boarded.
- d. Unit afloat – refers to PCG manned ship/ small craft under the command of a PCG commissioned or a non-commissioned officer. It also includes any watercraft used by PCG personnel in the conduct of MARLEN operations.
- e. Sweep Search – initial search conducted aboard a target vessel to eliminate safety hazards, which could cause disruption, injury or death to anyone on board. Safety hazards include vessel hazards (vessel discrepancies which can cause danger), weapons and any persons who have not been accounted for or who threaten the boarding team's safety.

- f. High Risk Board and Search – a method of board and search, which is employed when a suspected ship or watercraft is considered *hostile* and was forced to stop at sea or when there is an indication or sign of hostility.
- g. Right to Visit – the doctrine that allows patrol vessels or warships to close to other vessels (except other patrol vessels or warships) on the high seas in order to determine nationality and identity and to board those vessels if there are reasonable grounds for suspecting the a ship is engaging in piracy, slavery, unauthorized broadcasting, stateless (not registered in any country) and of the same nationality as the patrol vessels or warship.
- h. Right of Innocent Passage – right of non-interference enjoyed by a foreign vessel engaged in non-threatening transit inbound, outbound or through your territorial sea. Innocent passage includes stopping and anchoring, but only insofar as incidental to ordinary navigation or as rendered necessary by *force majeure* or distress. A vessel can lose its innocent passage status if it engages in the following:
  - i. illegal activities with consequences extending ashore;
  - ii. violates the peace and order of the coastal state;
  - iii. engages in illicit traffic of drugs;
  - iv. engages in other than normal transit activity.
- i. Hot pursuit – international doctrine which states that patrol vessel or warships may pursue a foreign vessel suspected of violating laws in the maritime jurisdiction onto the high seas. If you lose visual or radar contact and no other patrol vessel can positively identify the target vessel, hot pursuit must cease.
- j. Constructive Presence – A situation that makes a foreign vessel legally present in waters it does not occupy. This usually deals with hovering vessels (which usually remains outside the maritime jurisdiction) and contact vessels (which comes into contact with the hovering vessel usually for the purpose of smuggling contraband).
- k. Force Majeure – claim made under international law and is defined as an overwhelming and unexpected event, subjecting the vessel to loss, or a person onboard the vessel to loss of life, which causes the vessel to make an unscheduled entry into the territorial waters of another state.
- l. Maritime Jurisdiction – Sea area where a state exercises jurisdiction, sovereignty or sovereign rights. The area is defined into the following:
  - i. Territorial Sea – It is a belt of sea measured twelve (12) nautical miles seaward from the country's baseline as determined in accordance with the 1982 UNCLOS. The coastal State has absolute sovereignty over this body of water.

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ii. Contiguous Zone -- The sea area extending twelve (12) nautical miles from the territorial sea or twenty four (24) nautical miles from the baseline of a coastal State. The coastal State may exercise the control necessary to prevent or punish infringement of its customs, fiscal, immigration, and sanitary laws and regulations.

iii. Exclusive Economic Zone (EEZ) -- The sea area extending up to 200 nautical miles seaward from the baseline of a coastal State. A coastal State has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea-bed and its subsoil, and with regards to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds. A coastal state likewise has jurisdiction within the EEZ, with activities relating to the establishment and use of artificial islands, installations and structures, marine scientific research and the protection and preservation of the marine environment.

m. Non-combatant -- any person who does not belong to the uniform service, armed group, terrorist, dissidents and other lawless elements, foreign and domestic.

#### VI. POLICIES:

- a. Subject to the limits established by the Constitution of the Philippines and the applicable provisions of UNCLOS 82 and the provisions of applicable national laws, the Philippines exercises absolute jurisdiction and sovereignty as applicable over the inland waters, territorial waters, contiguous zone, EEZ and the extended continental shelf.
- b. RA 9993 (Coast Guard Law) authorizes the PCG to enforce all maritime laws, rules and regulations and other applicable laws within maritime jurisdiction of the Republic of the Philippines.
- c. All MARLEN operations should adhere to the government's policy and declaration on the protection of human rights as enshrined in the constitution and applicable international and national laws relating to human rights and law enforcement. Among the applicable provisions of these laws are as follows (see ANNEX for brief descriptions):

##### 1. Bill of Rights of the Philippine Constitution.

- i. Section 2 of Article III
- ii. Section 12 of Article III

##### 2. International Instruments Relating to the Proper Department of Law Enforcement Officials

- i. Code of Conduct for Law Enforcement Officials -- Adopted by the UN General Assembly on 17 December 1979.

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ii. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials – Adopted by the UN General Assembly in 27 August 1990.

**3. Republic Act No. 7438**

i. Section 2 - Rights of Persons Arrested, Detained or Under Custodial Investigation; Duties of Public Officer.

**4. Republic Act No. 9372 (Human Security Act of 2007)**

i. Section 21. Rights of a Person Under Custodial Detention.

**VII. GUIDELINES:**

- a. The conduct of MARLEN operations should always be in accordance with the rule of law. Commanding Officers, OICs, Boat Captains and other personnel in charge of the MARLEN operation should ensure that all personnel under his command are acquainted with the provisions of this circular and other pertinent laws, rules and regulations relating to the conduct of MARLEN operations to include the respect of human rights of persons and their properties that are the subject of the said operations.
- b. Peaceful and persuasive efforts to demand obedience from target vessels/craft should always take precedence over the use of force.
- c. Safety and the preservation of life and property should be, at all times, the primary consideration during the conduct of MARLEN operations.
- d. The use of deadly force (firearms) should be the last resort and should only be resorted to in self-defense or in defense of others against the imminent threat of death or serious injury, to prevent the perpetration of a particularly serious crime involving grave threat to life, to arrest a person presenting such a danger and resisting their authority, or to prevent his or her escape, and only when less extreme means are insufficient to achieve these objectives is present. Towards this end, the principle of proportionality shall always be observed. This principle provides that the force must be reasonable in intensity, duration and magnitude, and based on all facts known at the time. The level of force in terms of the types of weapons and the rates of usage must be limited to that which is reasonably necessary to counter the threat. Moreover, the employment of deadly force/ weapons should be controlled, precise and with sufficient fire warnings in order to avoid the accidental inflicting of casualties on innocent

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civilians. Shooting shall not be resorted to if it will endanger innocent people within the target area.

- e. Commanding Officers, OICs, Boat Captains and other personnel in charge of the MARLEN operation should ensure that all personnel are properly briefed and acquainted with the overall operational plan before the start of operations. The levels of authority particularly the authority to use deadly force should always be clear and delegated, if appropriate, to team leaders and subordinate units, before the start of the operation.
- f. PCG personnel in charge of unit afloat is authorized to declare a target vessel/craft as hostile prior to boarding. In the event that a non-hostile target vessel/craft show overt hostile actions during the conduct of the boarding operations, status of vessel automatically changed to that of a hostile watercraft without such declaration. As such, appropriate board and search procedures shall be automatically applied.
- g. If applicable, maximum coordination with other law enforcement units (i.e. PNP, AFP, other government agencies) shall be resorted to at all times.
- h. Warning shots to prevent the target vessel from escaping or to force the target vessel to comply with instructions to stop and be boarded are prohibited. Instead, personnel in charge of unit afloat shall employ other means necessary to force the target vessel to comply with instructions given.
- i. In the event that it is necessary to use deadly force (firearms) to prevent hostile vessel/craft or its crew members from inflicting injury or harm to patrol vessel/ craft crew or boarding team members, necessary warning shot(s) should be fired first prior directly firing at the hostile vessel/craft or its crew members. In such case, the intention for the use of deadly force should only be primarily for self-defense and to disable the target vessel or the offending crewmembers and not cause serious bodily harm or death.
- j. Nothing in this guideline should undermine the commander's responsibility and decision-making capacity to use any or all means necessary within the bounds of law to effect mission accomplishment.
- k. All incidents or encounters shall be fully documented and reported to the HPCG (Attn: CG-3/ CGAC) without delay IAW current reporting procedures.

#### VIII. PROCEDURES:

- a. Prior to any actual board and search operation, the Commanding officer or personnel in charge should establish appropriate jurisdiction over the target vessel. This is to ensure the legality of the operation to be conducted and that the operators are cloth with the authority to act in a legal manner.

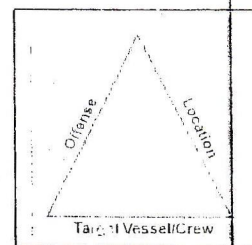


Figure 1. Jurisdictional Triangle

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Establishment of jurisdiction **should satisfy** the following elements: 1. Offense; 2. Location and 3. **Target Vessel/ Crew**. If any element is missing, then jurisdiction is not established.

- b. Commanding officers or **personnel in charge** should bear in mind, established doctrines of the **right to visit, right of innocent passage, hot pursuit, constructive presence and force majeure** and their applicability to the situation leading to the establishment of jurisdiction.
- c. Furthermore, law enforcement officers should be guided by Art 110 of UNCLOS 82 that if the suspicions prove to be unfounded, and provided that the ship boarded has not committed an act justifying them, it shall be compensated for any loss or damage that may have been sustained.
- d. Boarding party safety should always be a primary concern of all board and search operations conducted. As such, Commanding officers or personnel in charge should thoroughly plan the activity prior leaving your own vessel. Pre-boarding observations and intelligence reports should be considered in the preparation of the plan. Likewise, Commanding officers or personnel in charge are primary responsible for the determination of the degree of risk and the corresponding type of the board and search operation.
- e. Commanding officers or personnel in charge should minimize the risk involved by having control at all times of the situation on-scene. This includes:
  - i. Informing the target vessel of your intentions (whether to board, follow to the nearest port or you need to ask further questions);
  - ii. giving specific instructions to the target vessel (where you want the captain or crew to be located when you board, documentation needed and what to do with any weapons on board);
  - iii. approaching the target vessel safely using proper positioning of your vessel and small boat or RHIB.
- f. Commanding officers and personnel in charge should ensure that patrol vessels or crafts used in MARLEN operations have proper markings or are properly identified as such by target vessels. Upon decision to board target vessel, initial communication through radio with the target vessel should follow along the following: *"Name of watercraft (if identified) or Unknown ship/craft \_\_\_ miles (range) \_\_\_ (bearing from your vessel), this is PCG or BFAR MCS vessel \_\_\_ (Bow Nr) on maritime patrol, identify yourself and state your intention, be advised that you are in Philippine waters (if foreign vessel)"* or *"Name of watercraft (if identified) or Unknown ship/craft at vicinity \_\_\_\_\_, this is PCG or BFAR MCS vessel \_\_\_ (Bow Nr), stop your engines and prepare to be boarded"*. Appropriate language or dialect can be used in order to ensure that the initial communication with the target vessel is clearly heard and understood. Challenge using voice radio communication shall be augmented with the use of the ship's siren, public address system, flashing light and hand signal or any other device, which could get the attention of the target vessel.

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- g. All personnel concerned should likewise make every effort that board and search operation proceeds in a smooth and orderly manner. All MARLEN operations should therefore include a briefing on the objective of the particular operation by the unit commander or personnel in charge of the said operation. The said briefing should cover all the necessary aspects to include among others, embarkation of the boarding party, appropriate tactics to control target vessel and its crew, method of search to be used, use of weapons and/or other means necessary to counter threats, checking of documents, documentation of seized articles/evidences, return of crew property, detention of suspects and target vessel disembarkation. A debriefing should always follow every board and search operation conducted.
- h. In choosing a place to embark a target vessel, the following should be considered:
- i. Maximum safety of the boarding team;
  - ii. Weather and sea state;
  - iii. Safety of both vessels;
  - iv. Size of target vessel;
  - v. Location of target vessel's crew;
  - vi. Location of gears (i.e. nets, cargo) and obstructions
- i. Boarding team leader should always introduce himself to the master or ship captain upon boarding the target vessel. This is to ensure that the master is properly identified, that the team leader is properly identified to the master, that the target vessel knows the purpose of the boarding and to inquire if there any weapons on board. An example introduction is as follows: *"Good morning/afternoon captain, my name is \_\_\_\_\_ The PCG is boarding your vessel to determine your status and ensure compliance with the laws and regulations. Captain, without reaching for them, do you have any weapons on board?"* It is advisable if ready-made translation in the local prevailing dialect or language (in the case of a foreign vessel) of the above statement can be prepared.
- j. All members of the boarding team should always use the minimum force necessary to control or get compliance from the crew of the target vessel. As such, they are responsible to thoroughly acquaint themselves with the established "Range of Response Continuum" in dealing with threats encountered during the board and search operation. Below is the established "Range of Response Continuum":

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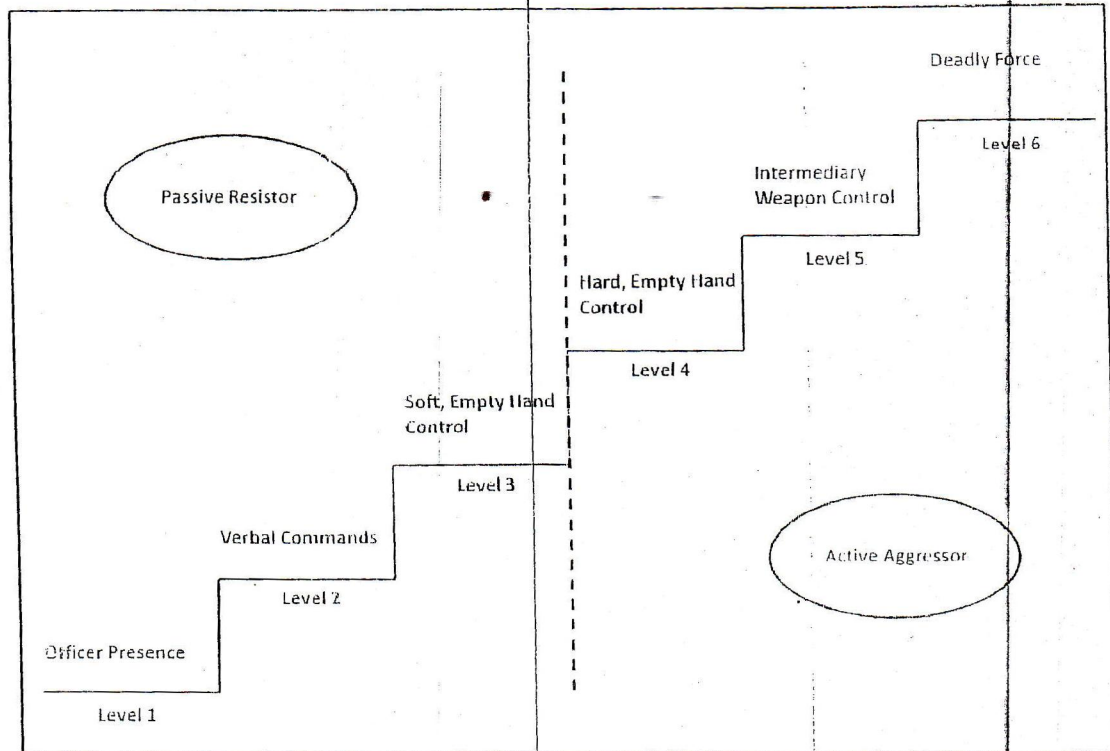


Figure 2. Range of Response Continuum

*Level 1 (Officer Presence)* – is the physical appearance of the boarding team and the patrol vessel.

*Level 2 (Verbal Commands)* – is the tone, choice of words and inflection that the boarding team uses to communicate with the crew of the target vessel.

*Level 3 (Soft, Empty Hand Control)* – any method of physical control which does not cause any soft or connective tissue damage, laceration of the skin and bone fractures.

*Level 4 (Hard Empty hand Control)* – any method of physical control which has the probability of creating soft/connective tissue damage, laceration of the skin or bone fractures.

*Level 5 (Intermediary Weapons)* – any method of mechanical control which has the probability of creating soft/connective tissue damage, laceration of the skin or bone fractures.

*Level 6 (Deadly Force)* – any force which is intended to cause or which creates a substantial risk of death or serious bodily injury.

- k Appropriate tactics should always be employed to control the crew during the board and search operation. These tactics should keep all persons on board safe and maintain the dignity of the crew of the target vessel.

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assigned duties and responsibilities and above all the safety of the whole boarding team.

- l. Safe search techniques should be used at all times. The intensity with which the safe search techniques are used depends on the degree of risk as determined before the boarding team embarked on the target vessel. In high-risk board and search situations, the full use of safe search techniques is required. In lower risk situations, safe search techniques maybe modified.
- m. Sweep search should always be conducted first prior searching for other items or evidences. This is to ensure that all safety hazards are identified, removed or secured prior the conduct of the more thorough search for contraband items or evidences relating to the commission of an illegal activity. Thorough search can only be done upon the report that the sweep search was completed and all safety hazards found were secured. Team members should always ensure the presence of a target vessel's crewmember in searching crews' compartment and personal belongings.
- n. Team members are allowed to draw their sidearm when there is a possibility that deadly force maybe necessary during the conduct of the search. In this case, weapon ready stance (for lead team member) and weapon down technique (rear team members) should be practiced by the team members.
- o. Boarding team should thoroughly check vessel documents as presented by the target vessel captain for any discrepancies (required signatures appear, authenticity and expiration). Documents include vessel registration, cargo manifest, licenses, crew manifest and personal identification.
- p. Upon completion of the board and search activity and no violations are found, boarding team should depart without delay. Always depart the target vessel with safety in mind and in an orderly manner. More so, all team members should ensure that they have all the equipment that they have brought. Prior departure, return all items which were temporarily secured. Don not forget to express appreciation for the cooperation shown by the target vessel's captain and her crew.
- q. Proper documentation should always be followed no matter what the outcome of the board and search activity. For this purpose, documentation would mean any form of permanent record of any aspect of the operation. The following is a partial list of types of documentation:
  - i. After boarding report (radio message, formal report, etc);
  - ii. Videos;
  - iii. Photographs;
  - iv. Written statements;
  - v. Certificate that the boarding was done in an orderly manner;
  - vi. Inspection and Apprehension Report (IAR);

- vii. Property Inventories (for seizure of contraband items/evidences);
  - viii. Medical reports (for detained suspects prior turning over to proper authorities);
- r. Seizure of property is appropriate when the boarding officer believes that he or she has encountered contraband, instrumentalities of a crime/violation of law, fruits of the crime/violation of law or other evidences to aid prosecution. The team leader should ensure that all seized items/evidences should be properly inventoried with the inventory report countersigned by the target vessel's captain, second officer or chief engineer.
- s. Personal detention can be resorted to if a boarding officer suspects that a violation has occurred and need to temporarily deprive someone of his or her freedom in order to investigate further but is not certain that an arrest is called for. If resorted, commanding officer or person in charge should ensure that the legal rights of the suspect (s) are not violated.
- t. In the event of an arrest, suspects should be properly informed of their rights as enshrined in the established jurisprudence. The team leader should ensure that the suspects are read (In English or any language or dialect that can be understood by the suspects) their rights as follows:
- i. The right to be informed of the nature and cause of his arrest;
  - ii. The right to remain silent;
  - iii. The right to a counsel preferably of his choice. If the person cannot afford the services of counsel of his or her choice, the arresting officers concerned shall immediately contact the free legal assistance unit of the Integrated Bar of the Philippines (IBP) or the Public Attorney's Office (PAO).

In case of foreign nationals who do not understand English and in the absence of an interpreter, team leader/arresting officer should still read the above rights and ensure that the reading of said rights are properly documented.

- u. The team leader should ensure that the arrested suspects are safely and effectively taken into custody. As such, he is responsible that the suspects are properly restrained in order to prevent escape while in custody. However, team leader take into consideration the safety of the suspects and if restraint is appropriate while in transport from the target vessel to the patrol vessel/craft. Team leader should likewise ensure that the arrested suspect(s) are thoroughly searched for weapons or any hazardous items/materials, which can be used to inflict harm to the team members or anyone in the vicinity.
- v. The commanding officer or person in charge should ensure that proper documentation is made on the arrest of the suspect(s). As such, a complete record of all the events, which occurred relating to the arrest, should be made. The documentation should include the sequence of

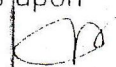
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events upon arrest and data on the situation. Specifically, it should include the following:

- i. When and how the arrest was made;
  - ii. How the suspect was restrained;
  - iii. Any statements made by the suspect;
  - iv. Suspect particulars (name, age, address);
  - v. Suspect's health status or physical condition.
- w. The transport of suspects from the target vessel to the patrol vessel could be done if the target vessel is unsafe or if the situation could be better controlled on the patrol vessel. The transport of suspects should be done taking into consideration the on-scene weather, health/physical condition of the suspect(s), distance to the nearest port, target vessel condition, number of suspects and the security of the prize crew, which will be left aboard the target vessel. If the decision has been made to transport the suspect(s), the following steps should be taken to ensure the safety of both the team members and the suspect(s):
- i. Thoroughly search the suspect(s) prior transport;
  - ii. Putting a life jacket on the suspect(s);
  - iii. Helping the suspect(s) into the small boat or patrol vessel.
- x. All suspect(s) while in custody are the primary responsibility of the commanding officer or person in charge. As such, they should ensure that the suspect(s) are treated in accordance with established laws on the humane treatment of suspect(s) while in custody. Basic necessities such as food, water, sanitation and medication, if necessary, should be provided.
- y. Upon arrival to the nearest port, commanding officers or person in charge should ensure that the suspects/seized items/evidences are properly turned over to competent authorities.

#### IX. RESPONSIBILITY:

- a. All COs, OICs and Boat Captains of units afloat shall be responsible for the strict implementation of these ROE. Non-observance or violation of these rules shall be dealt with accordingly and shall, ipso facto, be considered evidence of negligence in any administrative proceeding.
- b. All COs, OICs and Boat Captains of units afloat are responsible for the dissemination and proper orientation of personnel under their command on the different provisions of the ROE. As such, TI and E on the above topic should be made upon effectivity of this circular and all personnel shall certify that they have read and understood the provisions of this circular. Report of compliance should be reported to CCGFleet NLT 30 days upon effectivity of this circular.

  
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- c. Newly reported personnel should likewise be indoctrinated on the provisions of this circular and should certify as such.
- d. All COs, OICs and Boat Captains of units afloat shall ensure that copies of the ROE should always be aboard their vessels and should be carried by the board and search teams during the conduct of the actual operation.
- e. CGFREG shall be responsible for the proper dissemination of this circular. As such, they shall conduct a seminar/workshop for all units afloat on the provisions of said ROE. Moreover, they should include this ROE as part of the program of instruction in any shipboard course being conducted by that group. In addition, knowledge of the ROE should be made as part of the annual ORE conducted on all units afloat.
- f. CCGETC shall include this ROE as part of the POI of CGOC and CGMC training program.
- g. CCGFLEET shall be responsible for the proper monitoring of the implementation of this ROE.

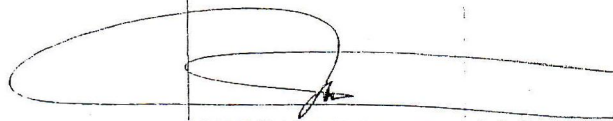
**X. RESCISSION:**

HPCG SOP Nr 02-11 dated 15 March 2011 ("Rules Of Engagement For Maritime Law enforcement Operations") and other policies that are inconsistent with this circular are hereby rescinded upon approval and effectivity of this circular.

**XI. EFFECTIVITY:**

This Circular is effective upon approval and will be implemented 30 days upon publication to provide time for its dissemination and proper orientation of all concerned.

**BY COMMAND OF VICE ADMIRAL LIWAG:**



OFFICIAL:

FERDINAND M VELASCO  
CAPT PCG  
Chief of Coast Guard Staff

LCDR PCG  
Coast Guard Adjutant

  
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