

HUMAN RIGHTS ADVISORY FOR PNP PERSONNEL CONDUCTING CHECKPOINTS DURING ELECTION PERIOD

(PNP Guidebook on Human Rights-Based Policing and PNP Police Operational Procedure
2013)

1. Police Checkpoint

Checkpoints are important in maintaining public safety and deterring criminality in the streets. However, such checkpoints must not inconvenience nor intimidate citizens but, instead, should provide them a real sense of safety and security. To remain legitimate and authorized, all PNP checkpoints must be:

- 1.1 Staffed by **uniformed police personnel in complete uniform**, including name plates and (if available) I.D. cards and shall not be under the influence of liquor/drug. The checkpoint must be led by a Police Commissioned Officer who is at least of Inspector rank. In Metro Manila and other major cities, enforcement officers manning the checkpoints should not be wearing battle dress uniforms or black fatigues in lieu of the PNP GOA unless the conduct of checkpoint is a result of a hot pursuit operation. Any violation hereof shall make the offender and his commanding officer jointly liable for administrative/criminal action.
- 1.2 **Civilian volunteers** (barangay officials, NGO members, etc.) who will participate in the checkpoint operations must be properly accredited by the PNP and must have undergone proper orientation prior to deployment. The civilian volunteers must also wear their organizational uniform and identification cards during the checkpoint operations. Said volunteers are not authorized to bear firearms and must only act as observers at the checkpoint. In serious national emergency situations, the participation of civilian volunteers is not allowed.
- 1.3 **Only official PNP marked vehicles** shall be used in establishing mobile checkpoints.
- 1.4 Always use courteous language when speaking to motorists, passengers, and drivers of public utility vehicles. The conduct of checkpoint including searches, seizures, and arrests shall be done with civility and with due respect to innocent passers-by, commuters, or bystanders.

Suggested Script:

*“ Magandang umaga/gabi po. Police checkpoint lang po ito,
Pasensya na po sa kaunting abala. Maraming salamat po.”*

*“Good morning/evening. This is a police checkpoint.
Please bear with the slight inconvenience. Thank you, Sir/ Ma’am.”*

- 1.5 Always explain the purpose of the checkpoint.
- 1.6 Observe the **Plain View Doctrine** during checkpoint operations. Never force motorists to open their vehicle’s trunk or compartments. Never force motorists, drivers, and passengers to present I.D. cards.
- 1.7 The **use of warning shots is strictly forbidden** to avoid unnecessary and accidental deaths, injuries, and damage to property. Megaphones or police sirens shall be used instead during the pursuit. In the event that the occupants of the vehicle open fire on the personnel manning the checkpoint, reasonable force to overcome the suspects’ aggression may be employed.
- 1.8 **Searches made at checkpoints shall be limited to visual search** and neither the vehicle nor the occupants shall be subjected to physical search or require the passengers to alight from the vehicle. An extensive search maybe allowed only if the officers conducting the search have probable cause to believe that they would find evidence pertaining to the commission of a crime in the vehicle to be searched and there is no sufficient time to secure a valid warrant upon which the passengers shall be required to alight from the vehicle to effect the search.
- 1.9 **Persons stopped during a checkpoint are not required and must not be forced to answer any questions** posed during spot checks or accosting. Failure to respond to an officer’s inquiries is not, in and of itself, a sufficient ground to make an arrest. A person’s failure or refusal to respond to questions made by the police officer, however, may provide sufficient justification for additional observation and investigation.
- 1.10 The **team leader must properly orient the search Team and Security Team** that will participate in the checkpoint operations. In the conduct of Police checkpoints, all PNP personnel must promote and protect the citizen’s right to dignity, privacy, and freedom of movement.
- 1.11 The team composing the checkpoint must not solicit or extort money from person passing through checkpoints nor accept voluntary offers of cash or gifts of whatever kind.
- 1.12 In situations when arrests are to be made during the conduct of checkpoints, the arresting officers must:

1.12.1 Inform **the person to be arrested of his authority and the cause of the arrest**, unless the latter is either engaged in the commission of the offense, is pursued immediately after its commission, has escaped, flees or forcibly resists before the officer has opportunity so to inform him, or when the giving of such information will imperil the arrest.

1.12.2 **Treat the arrested person humanely and with utmost respect for his constitutional rights.** Immediately inform the person arrested about his/her rights under the law using a language or dialect that is known or understood by the arrested person.

1.12.3 **Immediately report and turn-over the arrested person including the confiscated weapon, ammunition, material, illegal contrabands to the nearest police station with the corresponding affidavit/s of arrest** needed in the investigation and documentation inclusive of medical examination of the said arrest. The concerned chief of office may then indorse to the prosecutor for the inquest proceedings. It is the investigator on case who should make needed efforts to contact and present the arrested person to the duty inquest prosecutor. It is only then that we wait for the disposition of the concerned prosecutor in the case.

1.12.4 **When accused lawfully arrested without warrant.** When a person is lawfully arrested without a warrant involving an offense which requires a preliminary investigation, the complaint or information may be filed by a prosecutor without need of such investigation provided an inquest has been conducted in accordance with existing rules. In the absence or unavailability of an inquest prosecutor, the complaint may be filed by the offended party or a peace officer directly with the proper court or the basis of the affidavit of the offended party or arresting officer or person (Section 7 Rule 112 Rules on Criminal Procedures).

2. Pursuant to **COMELEC Resolution 10029** dated December 22, 2015. Consolidated resolution for **Guidelines on the establishment and operation of COMELEC Checkpoints**; and instruction for the conduct of preliminary examination of violation of the ban on firearms, other deadly weapons and security personnel in connection the May 9, 2016 Automated National and Local Election, any search must be made only by members of the unit designated to man the checkpoint. It should be done in a manner which will impose minimum

of inconvenience upon the person so searched, to the end that civil, political and human rights of the person are not violated.

2.1 The **warrantless search** can be made in the following cases:

2.1.1 **Moving vehicles** and seizure of evidence in plain view;

2.1.2 **Limited to a visual search;**

2.1.3 **Occupants** of the vehicle appear to be **nervous, suspicious, or exhibit unnatural reaction;**

2.1.4 The **officer** conducting the search has **reasonable or probable cause** to believe that either the occupant/s is a law offender or that the instrumentality or evidence pertaining to the commission of a crime can be found in the vehicle to be searched; and

2.1.5 On the basis of the **prior confidential information** which are reasonably corroborated by other attendant matters

2.2 The **Rights of person arrested:**

2.2.1 To **remain silent**, and be **informed** that **anything she/he says maybe used against her/him in court**. This right cannot be waived except in writing in the presence of competent and independent counsel;

2.2.2 To **have competent and independent counsel** preferably of his own choice, and if he cannot afford the services of counsel, he must be provided with one. This right cannot be waived except in writing in the presence of a counsel;

2.2.3 When women or children are among the suspect/s or arrestees, the arresting officer shall task the **WCPD officer** who is familiar with women and children protection desk duties **to conduct pat-down search**, whenever necessary in accordance with PNP POP Manual 2013;

2.2.4 **Ensure respect for the rights of any child in conflict with law** as provided in the Philippine Constitution, domestic laws, the Convention on the Rights of the Child and other related international human rights instruments. The procedure in handling of CICL under Rule 33.5 of PNP Operations Manual 2013;

2.2.5 In cases involving **person with disability, the prohibition on verbal, non-verbal ridicule and vilification** under RA 9442 and its

implementing Rules and Regulation, and other relevant domestic and international laws shall be strictly observed; and

2.2.6 In cases involving committed by the **elderly, due respect, courtesy and consideration** shall be accorded to their persons in regard **of their age and physical state**. The **same respect courtesy** and consideration shall be accorded **to pregnant women**.

2.2.7 To be **released from detention if no charges have been filed** against him within the allowable period/s from arrest under the law, unless he is charged under PD 1866, as amended, RA 10591, and other rules and regulations implemented by the COMELEC. **In no case shall the period of detention exceed thirty-six (36) hours from arrest**, if no charge has been filed before the respective City Prosecutor's Office against the person arrested;

2.2.8 The Officer-On-Case is responsible to coordinate with the concerned prosecutor to ensure the compliance to the provision of the thirty-six (36) hours from arrest. Hence, it is the responsibility of the **Officer-On-Case to get the contact number of the designated prosecutors in the regional or provincial level** as the case maybe (Ref: DOJ Dept Order No. 328 dated 05 May 2016 attached) to facilitate the filing of the case within the allowable period.

2.3 Preliminary Examination

The Chief of Police or his duly authorized PNP representative shall conduct the preliminary examination of all apprehensions for violation of the ban on the bearing, carrying and transporting of firearms and other deadly weapons, use of armored land, water or aircraft, wearing of uniforms and bearing arms, and on the employment of security personnel and bodyguards, organization or maintenance of strike forces, reaction forces or other similar forces in their respective areas of jurisdiction.

2.3.1 The Chief of Police or his duly authorized investigator shall:

2.3.1.1 Take the affidavit of the arresting officer or policeman indicating therein the fact of arrest and the circumstances surrounding the arrest;

2.3.1.2 Take the statement of the respondent/s;

2.3.1.3 Confiscate the firearms and issue the proper receipt therefor;

2.3.1.4 Cause the respondent/s to sign an affidavit binding himself to be present at the preliminary investigation at a later date before the prosecutor

and that failure to do so shall constitute a waiver to present evidence for his defense; and

2.3.1.5 Take the statement of witness/witnesses, if any.

2.3.1.6 Any person arrested at the COMELEC Checkpoint including the confiscated weapon, ammunition, and material must be turned-over to the nearest law enforcement station or office together with the corresponding affidavit/s of arrest for proper action. The Chief of Police/Detachment Commander concerned, shall conduct a preliminary examination and submit the result thereof to the provincial/city prosecutor for preliminary investigation copy furnished the law department, election officers and their respective operation centers.

3. Coordination with Election Officer

When circumstances warrant, Spot Checkpoint maybe established provided that the coordinating officer/team leader shall give prior notice and coordinate with the Election Officer having jurisdiction over the area. The establishment of checkpoint must follow the guidelines of COMELEC Checkpoints as follows:

3.1 **Checkpoint must be well lighted**, properly identified and man uniformed personnel with their nameplates and other identification tag clearly visible and readable;

3.2 **Checkpoint shall have signboard** measuring three feet by four feet (3'x4'), to clearly identify the place as checkpoint from a reasonable distance; the following shall be printed/painted on both sides of the signboard in bold letters on a white background:



3.3 The team manning the checkpoint **must require the motorist to slow down** and courteously request to dim the headlights and turn on cabin lights. In a checkpoint inquiry the occupants cannot be compelled to step out of the vehicle;

3.4 **Only visual search is required** using the **plain view doctrine**;

3.5 **No person may be subjected to physical or body search** in the absence of any reasonable ground to believe that a person has just committed, is about to commit, or is committing a crime;

3.6 The personnel manning the checkpoint **cannot compel the motorist to open the trunk of glove compartment** of the car or any package contain therein;

3.7 Ordinary/routine questions maybe ask with courtesy. Checkpoint may involve only a brief detention of travelers during which the vehicle's occupants are required to answer brief question or two; and

3.8 **Report violations**, incident, or untoward circumstance in the conduct of COMELEC Checkpoint **within twenty four (24) hours to the Election Officer** to ensure proper monitoring and reporting of violations.