

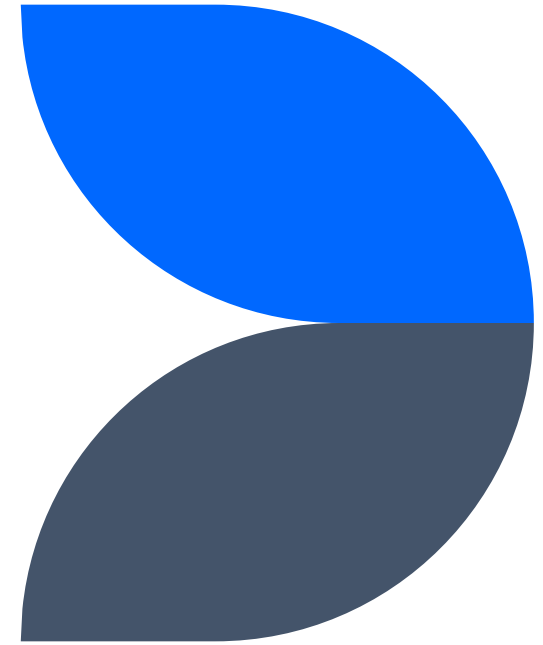


Searches and Seizures

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Warrant of Arrest and Search Warrant



Right against unreasonable searches and seizures

- Section 2, Article III of the 1987 Constitution - *The right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures of whatever nature and for any purpose shall be inviolable, and no search warrant or warrant of arrest shall issue except upon probable cause to be determined personally by the judge after examination under oath or affirmation of the complainant and the witnesses he may produce, and particularly describing the place to be searched and the persons or things to be seized.*
- Three-fold Aspect of Article III, Section 2 of the 1987 Constitution – (1) Right against Unreasonable Searches and Seizures; (2) Privacy of Communication and Correspondence; (3) Inadmissibility of Evidence.
- Available to all persons – natural or artificial, citizen or alien, accused of a crime or not.

Right against unreasonable searches and seizures (con't)

- Personal and may be invoked only by the person entitled to it. Hence, only the owner or lessee can challenge the validity of the search or seizure.
- The constitutional right against unreasonable searches and seizures is purely personal and may be invoked only by a person who has a requisite connection to the place, or by one who has asserted ownership or a possessory interest over the property searched. (*People v. Gepitulan*, G.R. No. 259381, 26 February 2024)
- State may perform search and/or seizure, so long as it is reasonable. “Reasonable” could be with a warrant or not.

Requisites of a Valid Warrant

- The constitutional requirements of a valid search warrant or warrant of arrest are:
 - Must be based on probable cause;
 - The probable cause must be determined personally by a judge;
 - The determination must be made after examination after oath or affirmation of the complainant and the witnesses he may produce; and
 - The warrant must particularly describe the place to be searched and the persons or things to be seized.
- Validity of Warrant of Arrest – does not expire, can be enforced any time of the day.
- Validity of Search Warrant – 10 days, must be served in daytime, unless the affidavit of the applicant states that the thing to be seized is on the person or placed to be searched, then it can be served at any time (day or night). (Rules 112 and 126 of the Rules on Criminal Procedure)

Existence of Probable Cause

- Probable cause refers to such facts and circumstances antecedent to the issuance of the warrant which would lead a reasonably discreet and prudent man to believe that an offense has been committed and the person to be arrested is guilty of such offense, or that the objects sought in connection with the offense are in the place sought to be searched (*Burgos v. Chief of Staff*, G.R. No. L-64261, December 26, 1984).
- It is less than the evidence which would justify conviction (*i.e.* proof beyond reasonable doubt) but should be more than mere suspicion. (*Borlongan v. Pena*, G.R. No. 143591, November 23, 2007).
- The warrant must refer to only one specific offense (Section 3, Rule 126 of the Rules on Criminal Procedure).
- A warrant which refers to multiple offenses, such as one referring to robbery, theft, qualified theft, or estafa, is called a **scatter-shot warrant**, and is invalid (*People of the Philippines v. Court of Appeals*, G.R. No. 94396, November 27, 1992).

Existence of Probable Cause (con't)

- Tipped information may be considered sufficient probable cause to effect *warrantless searches* in buy-bust operations. However, police officers are never justified in entering a house without a warrant to effect arrest and seizure based solely on an informer's tip (*People v. Martinez*, G.R No. 191366, December 13, 2010).
- The Supreme Court annulled Section 19 of the R.A. 10175 or the Cybercrime Prevention Act of 2012 which authorized the DOJ to issue an order to restrict or block access to computer data when the same is found *prima facie* to be in violation of the said law. Computer data constitutes personal property and are protected from unreasonable searches and seizures, even when stored in personal computers (*Disini v. Executive Secretary*, G.R. No. 203335, February 11, 2014)

Determination of Probable Cause

- Determination of probable cause is to be made personally by the judge. The term “judge” refers to judges of all levels, which includes justices of appellate courts.
- A prosecutor (fiscal) could determine probable cause but only for purposes of filing a criminal case before the courts. It is the judge who should *independently* determine whether there is probable cause for purposes of issuing a warrant of arrest when a criminal case is filed. The judge can rely on the prosecutor’s findings, but he/she is not bound thereby.
- **Prosecutor** – determines whether there is reasonable ground to believe that the accused is guilty and should be held for trial; **Judge** – determines if warrant of arrest should be issued to place the accused in immediate custody (*Ho v. People*, G.R. No. 106632, October 9, 1997).

Determination of Probable Cause (con't)

- **Only a judge can issue a warrant of arrest or arrest warrant.** Hence, Article 38 of the Labor Code of the Philippines was declared unconstitutional since it empowers the Secretary of Labor or his duly authorized representative to cause the arrest and detention and order the search of the office and the seizure documents of any unlicensed recruiter for overseas employment (*Salazar v. Achacoso*, G.R. No. 81510, March 14, 1990)

Examination of Applicant and Witnesses

- The judge must personally examine, in the form of searching questions and answers, in writing and under oath, the complainant and witnesses he may produce on facts personally known to them (Section 2, Article III of the 1987 Constitution)
- The evidence offered by the complainant and his witnesses should be based on their own **personal knowledge** and not on mere information or belief. Hearsay is not allowed. (*Yee Sue Koy v. Almeda*, G.R. No. 47021, June 25, 1940)
- Warrants cannot be issued on the strength of affidavits based on “*reliable information*,” or was “*correct to the best of the complainant’s knowledge and belief*.” (*Alvarez v. Court of First Instance*, G.R. No. L-45358, January 29, 1937)
- A judge **is not required to conduct a personal examination of the complainant and the witnesses he may produce** before issuing a warrant. The word “*personal*” as used under Section 2 of Article III refers to the determination of probable cause and NOT on the examination of the complainant and the witnesses he may present (*Soliven v. Makasiar*, G.R. No. 82585, November 14, 1988)

Particularity of Description

- The place to be searched or the persons or things to be seized be described with such particularity as to enable the person serving the warrant to identify them. Otherwise, it may result in erroneous or arbitrary enforcement of the warrant.
- A warrant which violates the foregoing requirements is called a **general warrant** and is invalid and unconstitutional.
- That said, it is only required that a search warrant be specific as far as the circumstances will ordinarily allow, such that a search warrant may be said to particularly describe the things to be seized when the description therein expresses a conclusion of fact by which the warrant officer may be guided in making the search and seizure.
- Ideally, the person sought to be seized should be identified by name. A warrant where the person sought be seized is unnamed is called a **John Doe Warrant** and is generally invalid.

Particularity of Description (con't)

- However, a by way of exception, a John Doe Warrant will still satisfy the constitutional requirement if there is some *descriptio personae* (personal description) that will enable the officer to identify the accused (*People v. Veloso*, G.R. No. L-23051, October 20, 1925).
- Further, even if the warrant does not contain a specific address of the place sought to be searched, it will suffice if it contains a description of the said place which will allow the officer with the warrant, with reasonable effort, ascertain and identify the place intended.

Particularity of Description (con't)

- In *Paper Industries Corporation of the Philippines v. Asuncion*, G.R. No. 122092, May 19, 1999, the search warrant identified the place to be searched as “PICOP Compound located at Brgy Tabon, Bislig, Surigao del Sur. However, it was shown that the compound was made of 200 offices/buildings, 15 plants, 84 staff houses, 23 warehouses, and some 800 miscellaneous structures. The Supreme Court invalidated the warrant, noting that it gives police officers unbridled and illegal authority to search all structures found inside the compound.
- The Supreme Court declared invalid a search warrant where the address indicated was “Informal Settler’s Compound, NIA Road, Barangay Pinyahan, Quezon City.” (*People v. Enriquez*, G.R. No. 264473, 07 August 2024)

Particularity of Description (con't)

- Valid search warrant – “books, documents, receipts, lists, and other papers used by him in connection with his activities as money lender, charging usurious interest, in violation of law.” (*Alvarez v. Court of First Instance*, G.R. No. L-45358, January 29, 1937)
- Invalid search warrant – “financial records, vouchers, journals, correspondences, receipts, typewriters and other documents and/or papers showing all business transactions.” (*Stonehill v. Diokno*, G.R. No. L-19550, June 19, 1967).
- A search warrant need not describe the items to be seized in precise and minute detail. A warrant is valid when it enables police officers to readily identify the properties to be seized and leaves them with no discretion regarding the said articles. The things described should be limited to those that bear a direct relation to the offense for which the warrant is being issued (*Worldwide Web Corporation v. People*, G.R. No. 161106, January 13, 2014).

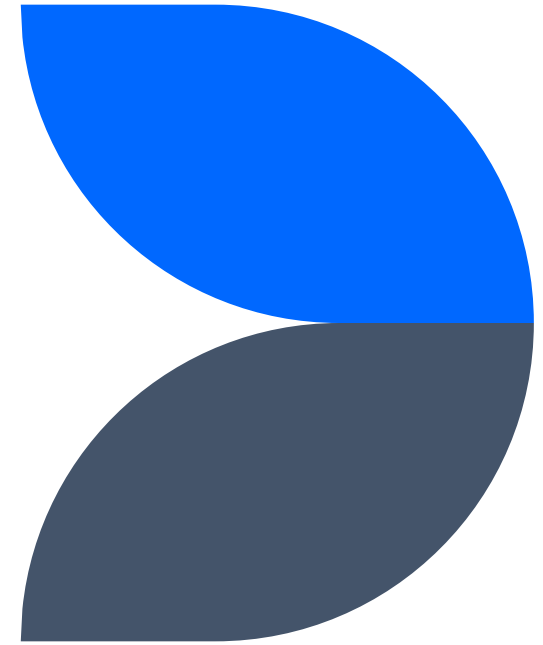
Properties Subject of Seizure

- The following are subject to search and seizure:
 - Properties subject of the offense;
 - Property stolen or embezzled and other proceeds or fruits of the offense; and
 - Property used or intended to be used as the means of committing an offense.

Admissibility of Illegally Seized Evidence

- **Fruit of the Poisonous Tree Doctrine** - Articles illegally seized are not admissible as evidence (Section 3(2), Article III, 1987 Constitution)
- However, the articles illegally seized may be used in judicial or administrative action that may be filed against the officer responsible for its illegal seizure.
- That said, where the accused did not raise the issue of the admissibility of the evidence against him/her on the ground that it had been illegally seized, such omission constitutes a waiver of the protection granted under Section 3(2), Article III of the 1987 Constitution.
- To emphasize, this can only be invoked against government authorities and not private individuals.

Warrantless Searches and Seizures



Warrantless Searches

- Valid warrantless search and seizure:
 - Consented search;
 - Search incident to a lawful arrest;
 - Stop-and-Frisk search or Terry search
 - Plain view search
 - Search of moving vehicles or search at checkpoints
 - Search conducted under exigent and emergency circumstances (under Martial Law or a State of Emergency)

Consented Search

- When the accused did not raise any protest when they, together with their bags containing marijuana, were brought to police station for investigation, they were considered to have consented to be searched (*People v. Dequina*, G.R. No. 177570, January 19, 2011).
- The right to be secure from unreasonable search may be waived. When one voluntarily submits to a search of consents to have it made of his person or premises, he is precluded from later complaining (*People v. Fernandez*, G.R. No. 113474, December 13, 1994).
- No waiver is presumed where the person merely submits to the authority of the arresting officer in manifestation of his respect for authority. Silence does not always amount to waiver.

Search Incidental to a Lawful Arrest

- When an arrest, with a warrant or warrantless, is affected by virtue of a valid warrant, a search may be made as an incident to such valid arrest. The lawful arrest must precede the warrantless search. It cannot be the other way around.
- The person being arrested may be frisked for concealed weapons that may be used against the arresting officer and all unlawful articles found in his person or within his immediate control may be seized (*People v. Figueroa*, G.R. No. 97142, October 2, 1995).
- Usually happens in buy-bust operations. A buy-bust operation is a form of entrapment operation commonly used in anti-narcotics operations. In this type of operation, a poseur-buyer from the law enforcement agency pretends to buy illegal drugs from the suspect. Once the transaction is completed, and the illegal drugs are handed over to the poseur-buyer, the arresting officers will move in to apprehend the suspect.
- Even assuming that the firearms and ammunitions were products of an active search done by the authorities on the person and vehicle of petitioner, their seizure without a search warrant nonetheless can still be justified under a search incidental to a lawful arrest (first instance). Once the lawful arrest was effected, the police may undertake a protective search of the passenger compartment and containers in the vehicle which are within petitioner's grabbing distance regardless of the nature of the offense. This satisfied the two-tiered test of an incidental search: (i) the item to be searched (vehicle) was within the arrestee's custody or area of immediate control and (ii) the search was contemporaneous with the arrest. (*Robin Padilla v. Court of Appeals*, G.R. No. 121917, March 12, 1997)

Stop-and-frisk or Terry Search

- Even before an arrest is made, when an officer is justified in believing that the individual whose suspicious behavior he is investigating is presently dangerous to the officer or others, he may conduct a limited protective search for concealed weapons (*Terry v. Ohio*, 392 U.S. 1)
- The purpose of this limited search is not to discover evidence of crime but to allow the officer to pursue his investigation without risk of violence.
- To sustain the validity of a stop and frisk search, the arresting officer should have personally observed two or more suspicious circumstances, the totality of which would then create a reasonable inference of criminal activity, viewed through the eyes of a reasonable, prudent police officer, to compel the arresting officer to investigate further. (*Manibog v. People*, G.R. No. 211214, March 20, 2019)

Plain View Search

- Prohibited articles within plain view, or open to eye and hand, of law enforcement officers who comes upon them **inadvertently** may also be seized by them without a warrant.
- The doctrine applies when the following requisites concur:
 1. The law enforcement officer in search of the evidence has a prior justification for an intrusion or is in a position from which he can view a particular area;
 2. The discovery of the evidence in plain view is inadvertent; and
 3. It is immediately apparent to the officer that the item he observes may be evidence of a crime, contraband, or otherwise subject to seizure.
- Where the object seized was inside a closed package, the object itself is not in plain view. However, when the object proclaims its contents, whether by its distinctive configuration, its transparency, or if its contents are obvious to an observer, then the contents are in plain view and may be seized.
- The seizure of the Smith & Wesson revolver and an M-16 rifle magazine was justified for they came within "plain view" of the policemen who inadvertently discovered the revolver and magazine tucked in petitioner's waist and back pocket respectively, when he raised his hands after alighting from his Pajero. The same justification applies to the confiscation of the M-16 armalite rifle which was immediately apparent to the policemen as they took a casual glance at the Pajero and saw said rifle lying horizontally near the driver's seat. (*Robin Padilla v. Court of Appeals*, G.R. No. 121917, March 12, 1997)

Search of moving vehicles or at checkpoints

- Generally limited to a visual search of the vehicle.
- The police does not have unbridled authority to search moving vehicles. An intrusive search is justified only when the officers have a reasonable or probable cause to believe that they would find evidence pertaining to a crime in the vehicle to be searched. (*People v. Tuazon*, G.R. No. 175783, September 3, 2007)
- Violation of ordinances and regulations (e.g. traffic violations) alone is insufficient to trigger a valid warrantless search and seizure, especially when the penalty does not involve imprisonment. (*Ridon y Guevarra v. People*, G.R. No. 252396, December 6, 2023)
- ***But take note of this surprising case*** - Failure by the driver to show Certificate of Registration and Official Receipt (OR/CR) gives probable cause to perform intrusive warrantless search on vehicle (*Uy y Sayan v. People*, G.R. No. 217097, February 23, 2022)

Search of moving vehicles or at checkpoints (con't)

- Another justification is a search of a moving vehicle (third instance). In connection therewith, a warrantless search is constitutionally permissible when, as in this case, the officers conducting the search have reasonable or probable cause to believe, before the search, that either the motorist is a law-offender (like herein petitioner with respect to the hit and run) or the contents or cargo of the vehicle are or have been instruments or the subject matter or the proceeds of some criminal offense. (*Robin Padilla v. Court of Appeals*, G.R. No. 121917, March 12, 1997)

Search of moving vehicles or at checkpoints (con't)

- *Marcelo Saluday vs. People of the Philippines*, G.R. No. 215305, April 3, 2018:
 - In the conduct of **bus searches**, the Court lays down the following guidelines:
 - Prior to entry, passengers and their bags and luggages can be subjected to a routine inspection akin to airport and seaport security protocol. In this regard, metal detectors and x-ray scanning machines can be installed at bus terminals. Passengers can also be frisked. In lieu of electronic scanners, passengers can be required instead to open their bags and luggages for inspection, which inspection must be made in the passenger's presence. Should the passenger object, he or she can validly be refused entry into the terminal.

Search of moving vehicles or at checkpoints (con't)

- While in transit, a bus can still be searched by government agents or the security personnel of the bus owner in the following three instances:
 - First, upon receipt of information that a passenger carries contraband or illegal articles, the bus where the passenger is aboard can be stopped *en route* to allow for an inspection of the person and his or her effects. This is no different from an airplane that is forced to land upon receipt of information about the contraband or illegal articles carried by a passenger on board.
 - Second, whenever a bus picks passengers *en route*, the prospective passenger can be frisked and his or her bag or luggage be subjected to the same routine inspection by government agents or private security personnel as though the person boarded the bus at the terminal. This is because unlike an airplane, a bus is able to stop and pick passengers along the way, making it possible for these passengers to evade the routine search at the bus terminal.
 - Third, a bus can be flagged down at designated military or police checkpoints where State agents can board the vehicle for a routine inspection of the passengers and their bags or luggages.

Search of moving vehicles or at checkpoints (con't)

- In both situations, the inspection of passengers and their effects prior to entry at the bus terminal and the search of the bus while in transit must also satisfy the following conditions to qualify as a valid reasonable search:
 - First, as to the manner of the search, it must be the least intrusive and must uphold the dignity of the person or persons being searched, minimizing, if not altogether eradicating, any cause for public embarrassment, humiliation or ridicule.
 - Second, neither can the search result from any discriminatory motive such as insidious profiling, stereotyping and other similar motives. In all instances, the fundamental rights of vulnerable identities, persons with disabilities, children and other similar groups should be protected.
 - Third, as to the purpose of the search, it must be continued to ensuring public safety. Fourth, as to the evidence seized from the reasonable search, courts must be convinced that precautionary measures were in place to ensure that no evidence was planted against the accused.

Search of moving vehicles or at checkpoints (con't)

- The search of persons in a public place is valid because the safety of others may be put at risk. Given the present circumstances, the Court takes judicial notice that public transport buses and their terminals, just like passenger ships and seaports, are in that category.
- Aside from public transport buses, **any moving vehicle that similarly accepts passengers at the terminal and along its route is likewise covered by these guidelines.** Hence, whenever compliant with these guidelines, a routine inspection at the terminal or of the vehicle itself while in transit constitutes a reasonable search. Otherwise, the intrusion becomes unreasonable, thereby triggering the constitutional guarantee under Section 2, Article III of the Constitution.
- To emphasize, **the guidelines do not apply to privately-owned cars. Neither are they applicable to moving vehicles dedicated for private or personal use, as in the case of taxis, which are hired by only one or a group of passengers such that the vehicle can no longer be flagged down by any other person until the passengers on board alight from the vehicle.**

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Search of moving vehicles or at checkpoints (con't)

- The police cannot conduct a warrantless intrusive search of a vehicle on the sole basis of an unverified tip relayed by an anonymous informant (*People of the Philippines vs. Jerry Sapla*, G.R. No. 244045, June 16, 2020)
- Reconcile the *Saluday* and *Sapla* cases (see next slide).

Reconcile Saluday and Sapla cases

- The Court is not unaware that in the recent case of *Saluday v. People* (Saluday), a bus inspection conducted by Task Force Davao at a military checkpoint was considered valid. However, in the said case, the authorities merely conducted a "visual and minimally intrusive inspection" of the accused's bag — by simply lifting the bag that noticeably appeared to have contained firearms. This is markedly dissimilar to the instant case wherein the search conducted entailed the probing of the contents of the blue sack allegedly possessed by accused-appellant Sapla.
- Moreover, in Saluday, the authorities never received nor relied on sheer information relayed by an informant, unlike in the instant case. In Saluday, the authorities had relied on their own senses in determining probable cause, i.e., having personally lifted the bag revealing that a firearm was inside, as well as having seen the very suspicious looks being given by the accused therein.
- Further, in Saluday, the Court laid down the following conditions in allowing a reasonable search of a bus while in transit: (1) the manner of the search must be least intrusive; (2) the search must not be discriminatory; (3) as to the purpose of the search, it must be confined to ensuring public safety; and (4) the courts must be convinced that precautionary measures were in place to ensure that no evidence was planted against the accused.

Reconcile Saluday and Sapla cases (con't)

- It must be stressed that none of these conditions exists in the instant case.
- First, unlike in Saluday wherein the search conducted was merely visual and minimally intrusive, the search undertaken on accused-appellant Sapla was extensive, reaching inside the contents of the blue sack that he allegedly possessed.
- Second, the search was directed exclusively towards accused-appellant Sapla; it was discriminatory. Unlike in Saluday where the bags of the other bus passengers were also inspected, the search conducted in the instant case focused exclusively on accused-appellant Sapla.
- Third, there is no allegation that the search was conducted with the intent of ensuring public safety. At the most, the search was conducted to apprehend a person who, as relayed by an anonymous informant, was transporting illegal drugs.
- Lastly, the Court is not convinced that sufficient precautionary measures were undertaken by the police to ensure that no evidence was planted against accused-appellant Sapla, considering that the inventory, photographing, and marking of the evidence were not immediately conducted after the apprehension of accused-appellant Sapla at the scene of the incident.

Search in Exigent Circumstances

- Martial Law
- State of Emergency
- Election Period
- During police investigations (where requesting a warrant would cause delay)
- To implement ordinances and regulations

Implementation of a Search Warrant

- Government agents must announce their presence, identify themselves to the accused and to the persons who rightfully have possession of the premises to be searched, and show to them the search warrant to be implemented by them and explain to them said warrant in a language or dialect known to and understood by them. If the government agents are refused entry despite their compliance, then they have the right to break open doors or windows.
- As regards the witnesses, Rule 126, Section 8 of the Rules of Court provides a hierarchy of who are prioritized as witnesses. This witness must either be the lawful occupant of the premises to be searched or any member of their family. It is only their absence that individuals of sufficient age and discretion residing in the same locality may step in as witnesses. Corollarily, a search where the witnesses prescribed by law are prevented from actually observing and monitoring the search of the premises violates both the spirit and letter of the law and renders the search unreasonable (*People v. Lucky Enriquez*, G.R. No. 264473, August 7, 2024)

Chain of Custody Rule in Drugs Cases

Section 21 of Republic Act No. 9165, otherwise known as the "Comprehensive Dangerous Drugs Act of 2002", is hereby amended (by R.A. 10640) to read as follows:

- The apprehending team having initial custody and control of the dangerous drugs, controlled precursors and essential chemicals, instruments/paraphernalia and/or laboratory equipment shall, immediately after seizure and confiscation, **conduct a physical inventory of the seized items and photograph the same** in the presence of the **accused or the person/s from whom such items were confiscated and/or seized, or his/her representative or counsel, with an elected public official and a representative of the National Prosecution Service or the media** who shall be required to sign the copies of the inventory and be given a copy thereof: Provided, finally, That noncompliance of these requirements; **Provided, That the physical inventory and photograph shall be conducted at the place where the search warrant is served; or at the nearest police station or at the nearest office of the apprehending officer/team, whichever is practicable, in case of warrantless seizures:** Provided, finally, That noncompliance of these requirements under justifiable grounds, as long as the integrity and the evidentiary value of the seized items are properly preserved by the apprehending officer/team, shall not render void and invalid such seizures and custody over said items.

Warrantless Arrests

- A police officer or a private person may, without a warrant, arrest a person:
 1. When such person has in fact just committed, is actually committing, or is attempting to commit an offense in his presence (*in flagrante delicto* arrest);
 2. When an offense has in fact just been committed and he has personal knowledge of facts indicating that the person to be arrested has committed it (hot pursuit arrest); and
 3. When the person to be arrested is a prisoner who has escaped from a penal establishment or place where he is serving final judgment or temporarily confined while his case is pending or has escaped while being transferred from one confinement to another. (Section 5, Rule 113 of the Rules of Court)

In *Flagrante Delicto* Arrest

- To constitute a valid in *flagrante delicto* arrest, two requisites must concur:
 1. The person to be arrested must execute an overt act indicating that he has just committed, is actually committing, or is attempting to commit a crime; and
 2. Such overt act is done in the presence of within the view of the arresting officer or person.
- Buy-bust operations of various law enforcement agencies, particularly those involving the illegal sale of prohibited or dangerous drugs, have consistently been considered as lawful in *flagrante delicto* arrests. It is a valid form of entrapment.
- However, entrapment must be distinguished from instigation.
- Warrantless arrests made on the basis alone of “tips” or “reliable information” have been consistently considered unlawful.

Hot Pursuit Arrest

- A hot pursuit arrest is valid when:
 1. An offense has just been committed; and
 2. The person making the arrest has personal knowledge of facts and circumstances indicating that the person to be arrested has committed it.
- In *People v. Uyboco*, G.R. No. 178039, January 19, 2011 the police officers were able to witness the payoff which consummates the crime of kidnapping. They saw the accused take the ransom money. Such knowledge was then related to the other police officers stationed in another place where the accused was expected to pass by. The accused was apprehended, and the Supreme Court sustained his arrest as a hot pursuit arrest.
- The exigent circumstances of hot pursuit — fleeing suspect, a moving vehicle, the public place and the raining nighttime — all created a situation in which speed is essential and delay improvident. The Court acknowledges police authority to make the forcible stop since they had more than mere "reasonable and articulable" suspicion that the occupant of the vehicle has been engaged in criminal activity. (*Robin Padilla v. Court of Appeals*, G.R. No. 121917, March 12, 1997)
- There should be a large measure of **immediacy** between the commission of the crime and ensuing warrantless arrest of the suspect. The warrantless arrest of the person should not be too far removed from the commission of the crime.

Waiver of Right

- Any irregularity in a warrantless arrest are considered waived if not raised before arraignment.
- However, a waiver of an illegal warrantless arrest does not carry with it a waiver of the inadmissibility of evidence seized during the said illegal warrantless arrest.
- Remedy against illegal warrantless arrests and searches is Article 32 of the New Civil Code.

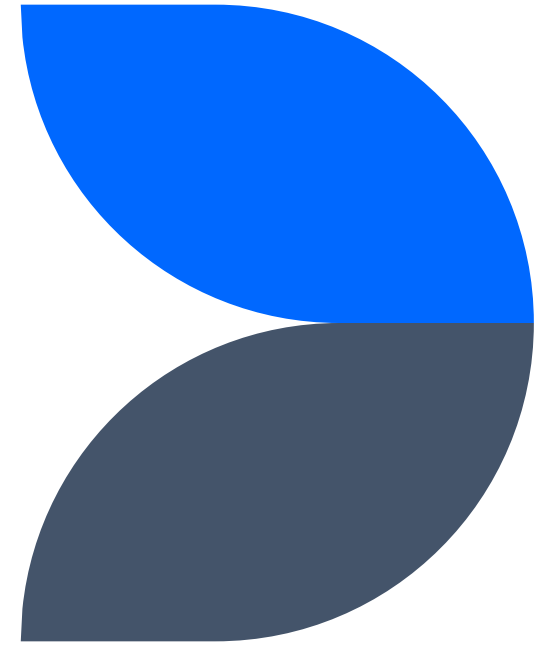
Rights of an Accused (Article III, 1987 Constitution)

- Section 14. (1) No person shall be held to answer for a criminal offense without due process of law.
- Section 14. (2) In all criminal prosecutions, the accused shall be presumed innocent until the contrary is proved, and shall enjoy the right to be heard by himself and counsel, to be informed of the nature and cause of the accusation against him, to have a speedy, impartial, and public trial, to meet the witnesses face to face, and to have compulsory process to secure the attendance of witnesses and the production of evidence in his behalf.
- Section 16. All persons shall have the right to a speedy disposition of their cases before all judicial, quasi-judicial, or administrative bodies.
- Section 17. No person shall be compelled to be a witness against himself.
- Section 19. (2) The employment of physical, psychological, or degrading punishment against any prisoner or detainee or the use of substandard or inadequate penal facilities under subhuman conditions shall be dealt with by law.
- Section 20. No person shall be imprisoned for debt or non-payment of a poll tax.
- Section 22. No ex post facto law or bill of attainder shall be enacted.

Miranda Rights

- The Miranda Rights (or Miranda Warning) are legal protections that law enforcement officers must convey to a suspect before initiating a custodial investigation. These rights originate from the 1966 U.S. Supreme Court case *Miranda v. Arizona*, which sought to safeguard individuals from self-incrimination under the Fifth Amendment and guarantee their right to legal representation under the Sixth Amendment.
- The standard Miranda Warning in the Philippines generally consists of the following statements:
 1. ***You have the right to remain silent.*** (*Ikaw adunay katungod nga magpabiling hilom*)
 2. ***Anything you say can and may be used against you in a court of law.*** (*Bisan unsa nga imong isulti mahimong gamiton batok kanimo sa korte*)
 3. ***You have the right to an attorney.*** (*Adunay ka'y katungod nga mukuha og abogado*)
 4. ***If you cannot afford an attorney, one will be provided for you.*** (*Kung dili ka makapabayad og abogado, usa ang itudlo sa gobyerno para kanimo*)
- In a custodial investigation, or when a person is taken into custody, subjected to questioning, or significantly deprived of their freedom, the Miranda Doctrine takes effect. In our jurisdiction, if law enforcement fails to provide the Miranda warnings, any confession or statement obtained afterward cannot be admitted as evidence in court.
- The Miranda Rights cannot be waived, except in writing and in the presence of counsel.

Rule on Cybercrime Warrants



Applicability

- Scope and Applicability - This Rule sets forth the procedure for the application and grant of warrants and related orders involving the preservation, disclosure, interception, search, seizure, and/or examination, as well as the custody, and destruction of computer data, as provided under Republic Act No. (RA) 10175, otherwise known as the "Cybercrime Prevention Act of 2012." (Section 1.2)

Types of Cybercrime Warrants

- **Warrant to Disclose Computer Data (WDCD).** -A WDCD is an order in writing issued in the name of the People of the Philippines, signed by a judge, upon application of law enforcement authorities, authorizing the latter to issue an order to disclose and accordingly, require any person or service provider to disclose or submit subscriber's information, traffic data, or relevant data in his/her or its possession or control. (Section 4.2)
- **Warrant to Intercept Computer Data (WICD).** -A WICD is an order in writing issued in the name of the People of the Philippines, signed by a judge, upon application of law enforcement authorities, authorizing the latter to carry out any or all of the following activities: (a) listening to, (b) recording, (c) monitoring, or (d) surveillance of the content of communications, including procuring of the content of computer data, either directly, through access and use of a computer system or indirectly, through the use of electronic eavesdropping or tapping devices, at the same time that the communication is occurring. (Section 5.2)

Types of Cybercrime Warrants (con't)

- **Warrant to Search, Seize and Examine Computer Data (WSSECD).** - A Warrant to Search, Seize and Examine Computer Data (WSSECD) is an order in writing issued in the name of the People of the Philippines, signed by a judge, upon application of law enforcement authorities, authorizing the latter to search the particular place for items to be seized and/ or examined. (Section 6.1)
- **Warrant to Examine Computer Data (WECD).** - Upon acquiring possession of a computer device or computer system via a lawful warrantless arrest, or by any other lawful method, law enforcement authorities shall first apply for a warrant before searching the said computer device or computer system for the purpose of obtaining for forensic examination the computer data contained therein. The warrant therefor shall be denominated as a Warrant to Examine Computer Data (WECD). (Section 6.9)



Thank you and study well