



Republic of the Philippines
COMMISSION ON ELECTIONS
Manila

EN BANC

CONSOLIDATED RESOLUTION
FOR:

- 1) GUIDELINES ON THE ESTABLISHMENT AND OPERATION OF COMELEC CHECKPOINTS; AND
- 2) INSTRUCTIONS FOR THE CONDUCT OF PRELIMINARY EXAMINATION OF VIOLATIONS OF THE BAN ON FIREARMS, OTHER DEADLY WEAPONS AND SECURITY PERSONNEL; IN CONNECTION WITH THE MAY 9, 2016 AUTOMATED NATIONAL AND LOCAL ELECTIONS

BAUTISTA, J. ANDRES D	<i>Chairman</i>
LIM, CHRISTIAN ROBERT S.	<i>Commissioner</i>
PARREÑO, AL. A	<i>Commissioner</i>
GUIA, LUIE TITO F.	<i>Commissioner</i>
LIM, ARTHUR D.	<i>Commissioner</i>
GUANZON, MA. ROWENA AMELIA V.	<i>Commissioner</i>
ABAS, SHERIFF M.	<i>Commissioner</i>

Promulgated:

December 22, 2015

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RESOLUTION NO. 10029

WHEREAS, to effectively implement the firearms ban during the election period, it is necessary to establish Commission on Elections (“COMELEC” or “Commission”) checkpoints;

WHEREAS, the Commission recognizes the necessity of promulgating guidelines and instructions consistent with existing Philippine National Police (PNP) Standard Operating Procedures, and existing rules and regulations, for the establishment of checkpoints, and conduct of preliminary examination for election

offenses in connection with the May 09, 2016 National and Local Elections;

WHEREAS, there is a need to ensure that in the implementation of the proper search procedures and seizure at the COMELEC checkpoints, civil, political and human rights are not violated;

WHEREAS, for the prompt and proper investigation and successful prosecution of alleged violations of the ban on firearms and other deadly weapons, and the employment of security personnel, it is necessary to authorize the Chiefs of Police in cities and municipalities to conduct the preliminary examination.

WHEREAS, the Commission is mandated under the Constitution to investigate and where appropriate, prosecute cases of violations of election laws;

WHEREAS, the Commission aims to further enhance and maintain uniform procedures in the law enforcement, investigation and special police operations of the PNP in connection with the with the May 09, 2016 National and Local Elections;

NOW, THEREFORE, pursuant to the powers vested in it by the **Constitution**, the **Omnibus Election Code** (B.P. 881, as amended), and other election laws, the Commission **RESOLVED**, as it hereby **RESOLVES**, to promulgate the following guidelines and instructions:

RULE I
GUIDELINES ON THE ESTABLISHMENT AND OPERATION
OF COMELEC CHECKPOINTS

SECTION 1. Authority to establish COMELEC Checkpoints. - There shall be at least one COMELEC checkpoint in each city/municipality. However, additional checkpoints, including those coming from other PNP/AFP commands outside the city/municipality, shall be established in coordination with the Election Officer (EO) having jurisdiction over the city/municipality.

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SECTION 2. Notice of location of COMELEC checkpoints. - The Election Officer (EO) shall post the locations of COMELEC checkpoints at the Office of the Election Officer, and the respective offices of the PNP and AFP. Whenever possible, notices thereof will also be disseminated to the non-government organizations, civil society groups and members of the media in the locality.

SECTION 3. Spot checkpoint. - Where the circumstances warrant, spot checkpoints may be established in locations other than those mentioned in the preceding section. Before establishing such checkpoints, the coordinating officer/team leader shall give prior notice and coordinate with the Election Officer (EO) having jurisdiction over the area. The establishment of spot checkpoints shall follow the same guidelines for COMELEC checkpoints under Section 6 of this Rule.

SECTION 4. Personnel to man checkpoint. - Any unit designated to man a COMELEC checkpoint must be led by a regular member of the AFP or the PNP with a rank of at least Lieutenant/Inspector. In cases where there is no available AFP/PNP member of said rank, the highest ranking officer shall make a special designation of a lower ranking officer to act as team leader of the COMELEC Checkpoint.

Adequate number of AFP and PNP personnel shall man the checkpoints and must be in complete service uniform with the name plates and other identification tags clearly visible and readable, and shall not be under the influence of liquor/drug. Any violation hereof shall make the offender and his commanding officer jointly liable for administrative action, without prejudice to the prosecution of any criminal offense.

SECTION 5. Briefing by the commanding officer/team leader. - A briefing must be given by the commanding officer/team leader to all members of the unit who will be designated to man the checkpoints, with emphasis on the proper manner of searching with reasonableness.

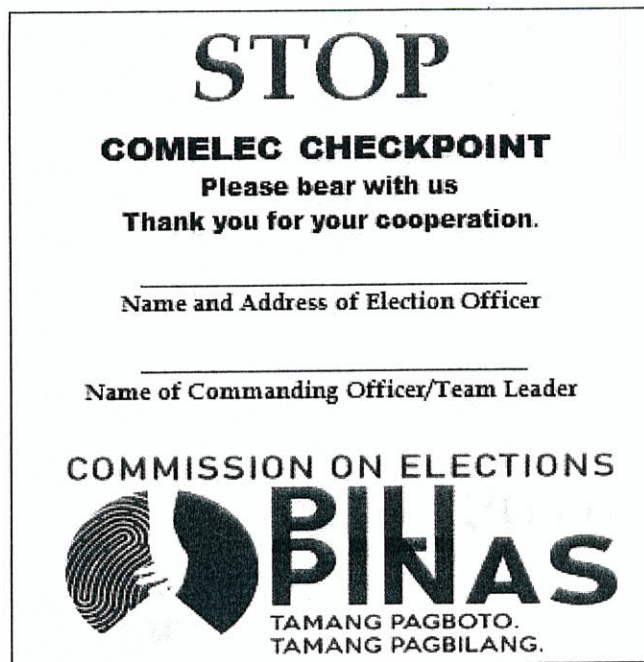
SECTION 6. Guidelines in the establishment of COMELEC Checkpoints. - The following guidelines must be observed in the establishment of COMELEC Checkpoints:

- a. A COMELEC Checkpoint must be well-lighted, properly identified and manned with uniformed personnel. It must be well-lighted so as to allow those who will pass through it to

easily identify the AFP/PNP uniformed personnel manning the checkpoints with their name plates and other identification tags clearly visible and readable;

- b. Every COMELEC checkpoint shall have a signboard measuring three feet by four feet (3'x4'), to clearly identify the place as a COMELEC checkpoint from a reasonable distance.

The following shall be printed/painted on both sides of the signboard in bold letters on a white background:



There must also be signboards directing motorist(s) to slow down with an indication that there is a COMELEC checkpoint ahead. Warning signs should be utilized (e.g., Slowdown Checkpoint Ahead, Checkpoint 20 Meters Ahead, etc) to give sufficient notice to the public as they approach a checkpoint.

- c. Upon approach to any COMELEC Checkpoint, the team manning it must require the motorist(s) 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;
- d. Only visual search¹ is required. The search which is normally permissible is limited to visual search where the officer simply

¹ *Visual search* refers to an eye search using the 'plain view' doctrine¹ that is, limited to visual search only which may be done with the aid of flashlights or any other similar means provided that the officer has the authority to command tinted windows to be rolled down in order to effect the search.

looks into the vehicle and flashes a light therein without opening the car's door;

- e. No person may be subjected to a 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;
- f. The public is not obliged to open the glove compartment, trunk or bags. The personnel manning the checkpoint cannot compel the motorist to open the trunk or glove compartment of the car or any package contained therein;
- g. Ordinary/routine questions may be asked with courtesy. Checkpoint may involve only a brief detention of travelers during which the vehicle's occupants are required to answer a brief question or two;
- h. Report violations, incidents or untoward circumstance in the conduct of COMELEC Checkpoints within twenty four (24) hours to the Election Officer (EO) to ensure proper monitoring and reporting of violations.

SECTION 7. Searches at COMELEC checkpoint. - Any search at any COMELEC checkpoint must be made only by members of the unit designated to man the same. It should be done in a manner which will impose minimum inconvenience upon the person or persons so searched, to the end that civil, political and human rights of any person is not violated.

As a rule, a valid search must be authorized by a search warrant duly issued by an appropriate authority. However, a warrantless search can be made in the following cases:

- a. When the occupant/s of the vehicle appear/s to be suspicious or exhibit unnatural reaction, such that the police officer observes unusual conduct which convinces him that a criminal activity exists; or
- b. On the basis of prior confidential information which are reasonably corroborated by other attendant matters.

SECTION 8. Procedure in case checkpoint is ignored. - If a person ignores the checkpoint, the team leader must immediately report such incident to the adjacent teams/police stations stating therein the particular details of the person/s evading the checkpoint. If

necessary, the team must immediately coordinate to such adjacent teams or stations in order to establish roadblock/s in accordance with existing standard operating procedures of the PNP under the PNP Handbook, PNPM-DO-DS-3-2-13.²

SECTION 9. Procedure in cases where there is apparent violation of the ban on firearms. - The following procedure must be followed in cases where there is apparent violation of the ban on firearms:

1. Any member of the team manning the checkpoint must ask for the corresponding Certificate/s of Authority applicable to the apparent violation so as to verify if the person concerned has sufficient authority to bear, carry or transport the firearms, ammunitions, explosives or any parts / components thereof. During the election period, any person not in possession of any Certificate of Authority issued by the CBFSP is presumed to be without authority to bear, carry or transport the firearms, ammunitions, explosives or any parts/components thereof;
2. All standard operating procedures of the PNP under the PNP Handbook, PNPM-DO-DS-3-2-13, must be observed, more particularly in the conduct of spot checks (Rule 10), regular police checkpoint (Rule 11.4), cases where the checkpoint is ignored (Rule 11.6), and dealing with hostile situation (Rule 11.8);
3. In cases where the circumstances warrant a justification for a valid arrests and/or searches incidental thereto, the procedures for arrests and searches as specified under the PNP Handbook, PNPM-DO-DS-3-2-13, must be observed, more particularly the guidelines for high-risk arrests (Rule 11.9), arrests without warrant (Rule 13.3), and procedures for effecting warrantless arrests (Rule 13.5).

SECTION 10. Rights of person arrested. - Any person arrested at a COMELEC checkpoint must be treated humanely and with utmost respect for his constitutional rights. He must be informed of the following rights:

- a. To remain silent, and be informed that anything she/he says may be used against her/him in court. This right cannot be

² *PNP Handbook, PNPM-DO-DS-3-2-13* refers to the Philippine National Police Handbook, PNPM-DO-DS-3-2-13 dated December 2013, which includes the Revised Philippine National Police Operational Procedures.

waived except in writing and in the presence of competent and independent counsel;

- b. To have competent and independent counsel preferably of his own choice, but if he cannot afford the services of counsel, he must be provided with one. The right cannot be waived except in writing and in the presence of counsel;
- c. 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 P.D. 1866, as amended, R.A. 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.
- d. When women or children are among the suspect/s or arrestees, the arresting officer shall task the Women's and Children's Protection Desks (WCPD) officer or a policewoman who is familiar with women and children protection desk duties to conduct the pat-down search, whenever necessary, in accordance with Rule 13.6 (c) of the PNPM-DO-DS-3-2-13 [PNP Manual 2013]).
- e. A separate Police Blotter shall be maintained for crime incident reports involving women and children and those cases involving a child in conflict with the law to protect their privacy pursuant to Republic Act (RA) 9262 (Anti-Violence Against Women and Children Act of 2004) and RA 9344 (Juvenile Justice and Welfare Act of 2006), respectively, following Rule 17.2 of PNPM-DO-DS-3-2-13.
- f. The AFP/PNP manning the checkpoint shall at all times ensure respect for the rights of any child in conflict with the 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 procedures in handling of Children in Conflict with the law under Rules 33.5 and 33.6 of PNPM-DO-DS-3-2-13 shall be strictly followed.
- g. In cases involving persons with disability, the prohibitions on verbal, non-verbal ridicule and vilification under R.A. 9442 and

its Implementing Rules and Regulations, and other relevant domestic and international laws shall be strictly observed.

- h. In cases involving violations 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.

SECTION 11. Record of arrest. - Any arrest made at a COMELEC checkpoint shall be immediately and chronologically recorded in a logbook for the purpose, stating the circumstances of the arrest and other particulars about the person and confiscated weapons, ammunitions and materials.

The arresting officer shall execute an affidavit of arrest stating clearly and distinctly the facts and circumstances surrounding the arrest.

SECTION 12. Report and turn-over of arrested person. - Any person arrested at a COMELEC checkpoint including the confiscated material, weapon, or ammunition, 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 Officer, and their respective operation centers.

SECTION 13. Documentation of the conduct of checkpoints. - The team conducting the checkpoints, if possible, photo/video-document their operation or at least parts of it for purposes of evaluation/assessment if the checkpoint is compliant with the laws of these rules so as to ensure that the rights of persons passing through them are respected provided the documentation conducted is not intrusive.

Any incident or untoward circumstance in the conduct of COMELEC Checkpoints must be properly recorded and reported to the appropriate C/MJSCC, which in turn shall forward the status and disposition of said occurrence to the appropriate PJSCC. The PJSCC shall make a weekly status/disposition report of any incident or

untoward circumstance in the conduct of COMELEC Checkpoints in their respective province to be forwarded every Wednesday to their respective RJSCC. The RJSCC shall forward a weekly status/disposition report of the said occurrence/s to the CBFSP Secretariat every Monday for the whole election period. In every case, the C/MJSCC shall notify in writing the CBFSP main office of any incident or untoward circumstance in the conduct of COMELEC checkpoints.

SECTION 14. Prohibition of extortion/ solicitation, acceptance of voluntary offers of cash or gifts. - The team composing the checkpoint must not solicit or extort money from persons passing through checkpoints nor accept voluntary offers of cash or gifts of whatever kind.

Rule II
INSTRUCTIONS TO CHIEFS OF POLICE OF
CITIES/MUNICIPALITIES ON THE CONDUCT OF
PRELIMINARY EXAMINATION ON THE VIOLATION OF THE
BANS ON FIREARMS, OTHER DEADLY WEAPONS AND
SECURITY PERSONNEL

SECTION 1. 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, and on the employment of security personnel and bodyguards, in their respective areas of jurisdiction.

SECTION 2. Procedure. - The Chief of Police or his duly authorized investigator shall:

1. Take the affidavit of the arresting officer or policeman indicating therein the fact of arrest and the circumstances surrounding the arrest;
2. Take the statement of the respondent/s;
3. Confiscate the firearms and issue the proper receipt therefor;
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
5. Take the statement of witness/witnesses, if any.

SECTION 3. Rights of arrested person. - Any person arrested for violation of the bans specified in Sec. 1 hereof who is undergoing preliminary examination must be treated humanely and with utmost respect to his constitutional and human rights, particularly his right as specified under Section 10 of Rule I on the Guidelines on the Establishment and Operation of COMELEC Checkpoints.

SECTION 4. Disposition of documents and evidence. - The Chief of Police shall submit the investigation report, together with all documents and evidence gathered during the preliminary examination, within three (3) days from arrest to the corresponding provincial/city prosecutor, furnishing the Law Department of the Commission with copies of the report. The prosecutor shall then conduct an investigation which shall be resolved within five (5) days from its submission for resolution.

SECTION 5. Report of the Law Department. - The Law Department shall submit to the CBFSP Chairperson a progress report stating the particulars of all arrests made during the election period. The CBFSP will submit to the Commission *En Banc* a monthly report of the said arrests made during the election period.

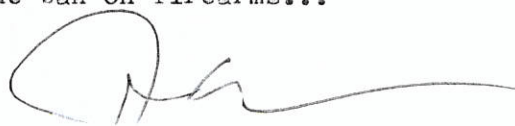
RULE III EFFECTIVITY AND DISSEMINATION

SECTION 1. *Effectivity and Dissemination.* - This Resolution shall take effect seven (7) days after its publication in two (2) daily newspapers of general circulation in the Philippines.


The Education and Information Department of the Commission is directed to cause the publication of this Resolution in two (2) daily newspapers of general circulation in the Philippines, and to furnish with copies hereof to the Secretary of Justice, Provincial and City Prosecutors, the AFP Chief of Staff, the Chief of the Philippine National Police, the Chiefs of Police of cities and municipalities, the Regional Election Directors, Provincial Election Supervisors and Election Officers of the Commission, to give this Resolution the widest dissemination.

SO ORDERED.

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J. ANDRÉS D. BAUTISTA
Chairman



CHRISTIAN ROBERT S. LIM
Commissioner



AL A. PARRENO
Commissioner



LUE TITO F. GUIA
Commissioner



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SHERIFF M. ABAS
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