

Memorandum Order No. 3, s. 2016

Signed on [September 7, 2016](#)

Office of the President
Of the Philippines
Malacañang

PROVIDING GUIDELINES FOR THE ARMED FORCES OF THE PHILIPPINES AND THE PHILIPPINE NATIONAL POLICE IN THE IMPLEMENTATIONS OF MEASURES TO SUPPRESS AND PREVENT LAWLESS VIOLENCE.

WHEREAS, on 04 September 2016 President Rodrigo Roa Duterte promulgated Proclamation No. 55 declaring a state of national emergency on account of lawless violence in Mindanao and calling out the Armed Forces of the Philippines (AFP) and the Philippine National Police (PNP) to undertake all necessary measures to suppress any and all forms of lawless violence in Mindanao and prevent the spread and escalation thereof elsewhere in the country;

WHEREAS, there is a need for an effective and expeditious implementation of the President's directive in order to prevent further loss of innocent lives and destruction of property and bring the whole country back to a state of complete normalcy as quick as possible;

WHEREAS, to ensure respect and protection of the fundamental civil and political rights of our citizens, there is also a need to define and delimit the measures that the AFP and PNP can undertake during the state of lawless violence.

NOW, THEREFORE, I, SALVADOR C. MEDIALDEA, by the authority and order of the President, do hereby promulgate the following directives and guidelines to be observed during the subsistence of a state of lawless violence;

SECTION 1. The Department of National Defense (DND) and the Department of Interior and Local Government (DILG) shall coordinate the immediate deployment of additional forces of the AFP and the PNP to suppress lawless violence and acts of terror in Mindanao and prevent such violence from spreading and escalating elsewhere in the country. To the extent possible, the DND and the DILG shall deploy AFP and PNP personnel on major streets and thoroughfares, as well as near crowded places such as malls and train stations, in order to increase troop and military visibility for deterrence and quick-response purposes, without causing undue alarm to the general public.

SECTION 2. The AFP and the PNP shall intensify their local and transnational intelligence operations against individuals or groups suspected of, or responsible for, committing or conspiring to commit acts of lawless violence in the Philippines, and may draw on budgetary funds duly appropriated for this purpose.

SECTION 3. The Department of Justice (DOJ) shall closely coordinate with the PNP and other law-enforcement agencies for the prompt investigation and prosecution of all individuals or groups apprehended for committing, or conspiring to commit, acts of lawless violence.

SECTION 4. All local government units are enjoined to give their full support and utmost cooperation to ensure the effective implementation of this Memorandum Order.

SECTION 5. At all times, the constitutional rights of every individual shall be respected and given due regard by the AFP and the PNP in the implementation of this Memorandum Order. No civil or political rights are suspended during the existence of a state of lawless violence.

In particular, no warrantless arrests shall be effected unless the situation falls under any of the following circumstances, among others:

- (i) when the person to be arrested has committed, is actually committing, or is attempting to commit an offense in the presence of the arresting officer;
- (ii) when an offense has just been committed and the arresting officer has personal knowledge of facts indicating that the person to be arrested has committed the offense;
- (iii) when the person to be arrested is a prisoner who escaped from a penal establishment or place where he is serving final judgment or temporarily confined with his case is pending;
- (iv) when the person arrested, or to be arrested, has voluntarily waived his rights against warrantless arrests.

Similarly, existing rules and jurisprudence shall be strictly observed in effecting warrantless searches and seizures, such as in the following instances:

- (i) when the person to be searched has consented to the search or has voluntarily waived his right against warrantless searches and seizures.
- (ii) as an incident to a lawful arrest and the search is made contemporaneous to the arrest and within a permissible area of search;
- (iii) search of vessels and aircraft for violation of immigration and customs laws;
- (iv) search of automobiles at borders of “constructive” borders for violation of immigration or smuggling laws;
- (v) where the objects and effects to be seized are in plain view;
- (vi) stop-and-frisk situations; and
- (vii) search arising from exigent and emergency circumstances.

In the case of police/military checkpoints, inspection shall be limited to a request to roll down vehicle windows, search for things in plain view only, and production of identification and vehicle registration papers. No further intrusive actions shall be taken, such as demanding the opening of trucks or lids or asking person(s) on board to step out, unless the subject individual consents or agrees thereto.

In stop-and-frisk situations, search shall be limited to light patting on the outer garments of the subject individual to detect the possession of weapons or similar effects.

SECTION 6. Any AFP/PNP personnel found violating any of the foregoing constitutional rights shall be held administratively and civilly/criminally liable therefor.

SECTION 7. This Memorandum Order shall take effect immediately.

By Order of the President:

(Sgd.) **SALVADOR C. MEDIALDEA**

Executive Secretary

Ref.: <http://www.gov.ph/2016/09/07/memorandum-order-no-3-s-2016/>

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