

法規名稱(Title) : Police Power Exercise Act  公發布日(Date) :

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1. Promulgated by Presidential Order of Hua Zong 1 Yi Zi No. 09200116580 on December 1, 2003

2. Amended by Presidential Order of Hua Zong 1 Yi Zi No. 10000079361 on April 27, 2011 法規內文(Content) :

## Chapter 1 General Principles

Article 1 This Act is enacted to govern the exercise of power by the police in accordance with applicable laws for the safeguard of people's rights, maintenance of public order, and protection of social security.

Article 2 "Police" hereinafter used in this Act is a collective term referring to all police agencies and police officers.

The term "police power" hereinafter used in this Act refers to identity verification, forensic identity testing, data collection, notification, detention, dispersion, direct imposition, the seizure, custody, sale, auction, destruction, use, disposal, restricted use of objects, entering a residence, building, public place, and public-accessible place or other necessary concrete measures for the police to carry out their tasks in accordance with law for the purpose of fulfilling their statutory missions.

The term “supervisors in charge” hereinafter used in this Act refers to precinct chiefs or others with equivalent rank or above.

Article 3 When the police exercise their power, it may not exceed what is necessary for accomplishing their goals, and they shall employ the approaches that can minimize infringement upon people’s rights.

When the police have accomplished their goals through the use of their power or after judging the situation, believe that the goals cannot be accomplished, they shall stop their operation as allowed by their power or upon the request of the obligor or the interested party.

When the police exercise their power, they shall not lure or abet people to commit crimes or engage in other illegal acts.

Article 4 When exercising their power, the police shall wear their uniforms or present their credentials that show their identity and they shall reveal the intent.

When the police fail to follow the provisions set forth in the preceding paragraph while exercising their power, people may refuse to cooperate.

Article 5 When the police injure people while exercising their powers, they shall offer necessary aid or take the injured to the hospital for medical treatment.

## Chapter 2 Identity Verification and Data Collection

Article 6 The police may verify the identity of the following people in public places or public-accessible places:

1. People who are reasonably suspected of having committed a crime or having the likelihood of committing a crime.
2. People, who according to the known facts, are believed to be aware of the crimes that has already been committed or is to be committed imminently.
3. People whose identity, according to the known facts, must be verified in order to prevent concrete hazards from endangering lives and physical safety of themselves or others.
4. People who stay in places where according to the known facts, serious crimes are being conspired, prepared, or committed or where fugitives are being harbored.
5. People who have no permit for a temporary stay or residence and stay in places where a stay requires the said permit.
6. People who pass through designated public places, road sections, and check points.

The designation stipulated in the subparagraph 6 of the preceding paragraph shall be made only when considered necessary to prevent crimes or deal with events that may effect major public safety or social order.

The designation shall be determined by supervisors in charge.

The police can enter public-accessible places only during business hours and shall not arbitrarily obstruct business operations.

Article 7        To verify people's identities, the police in accordance with the provisions stipulated in the preceding article may take the following necessary measures:

1. To stop people, vehicles, ships, and other means of transportation.
2. To inquire about the name, date of birth, birth place, nationality, residence, and national ID number.
3. To demand presentation of the personal ID card.
4. To frisk a person or check his/her belongings when there are clear indications that the person may carry objects that may be used to commit suicide or inflict injury on himself/ herself or kill or injure others.

When it is definitely impossible to verify a person's identity by using the measures set forth in subparagraphs 2 and 3 of the preceding paragraph, the police may take the person to the police agency for further verification. The

police shall not use coercive power unless they are resisted and the duration of the verification shall not exceed three hours starting from the time the person is stopped. The police shall also immediately report the identity verification to the Duty Command Center and inform the relative, friend, or lawyer as requested by the person.

Article 8 The police may stop any form of transportation that has pose a hazard or is likely to pose a hazard according to objective and reasonable judgment and adopt the following measures:

1. To require a driver or passengers to show their IDs or verify their identities.
2. To check the VIN (Vehicle Identification Number), engine number or other identifiable features of the vehicle.
3. To require the driver to take a breathalyzer test.

When the police reasonably suspect that the driver or passenger of the means of transportation provided in the preceding paragraph is going to pose a hazard based on his/her abnormal acts, the police may order him/her to exit the vehicle. When there are sufficient facts indicating the possibility that he/she may commit a crime, the police may also search the vehicle.

Article 9 When the police have enough facts to believe that acts of people who participate in assemblies, parades or other public events, may endanger

public safety or order, they may collect on-the-spot information about the events of participants by videotaping, recording or using other technology tools. When it is impossible not to involve a third party during the said data collection process, the third party may be recorded as well.

Data collected in accordance with the provisions stipulated in the preceding paragraph shall be destroyed immediately after the said assemblies, demonstrations, or other public activities are over unless they must be kept for the investigation of crimes or other illegal acts.

Data preserved as per the proviso to paragraph 2 shall be destroyed no later than one year after they are needed unless they are required for cases that have already been prosecuted but not yet finalized in judiciary proceedings or cases involving violation of the Organized Crime Prevention Act.

Article 10 The police for the purpose of maintain public safety may coordinate with authorities concerned by installing CCTV cameras or utilizing existing recording equipment or other technology tools to collect data in public places or publicly-accessible places where crimes occur frequently or they believe crime is reasonably assumed to be likely to occur.

Data collected as per the provisions set forth in the preceding paragraph shall be destroyed no later than one year after they have been made unless they must be kept for the investigation of criminal suspects or illegal acts.

Article 11 The police may observe people in the following activities through visual inspection or technology tools, to collect data over the reasonably expected behaviors or life activities irrelevant to personal privacy or secrecy within a certain period of time that is deemed necessary and permitted by the Chief of the police department in prior writing in order to prevent crimes:

1. People who are believed on the basis of sufficient facts to be likely to commit a crime that is punishable by at least five years' imprisonment.
2. People who are believed on the basis of sufficient facts to be likely involved in professional, habitual, syndicated, or organized crimes.

Each period of time stipulated in the preceding paragraph may not exceed one year but may be extended once at the most when deemed necessary. When such data collection is no longer necessary, it must be stopped immediately.

Data collected as stipulated in paragraph 1 shall be destroyed immediately after the purpose is fulfilled unless the data must be kept for the investigation of criminal acts.

Article 12 To prevent hazards or crimes, the police may select a third party to secretly collect related data on someone who is believe to be engaged in acts that will endanger public safety, public order or individual lives, physical safety, freedom, reputation, or property or likely to violate criminal laws.

When considered necessary, the data collection stipulated in the preceding paragraph may be extended to people whom the party concerned has contacted or accompanied.

The so-called third party stipulated in paragraph 1 refers to a person who is not a police officer but has been screened and selected by the police before working for the police on a voluntary basis. The selected third party may receive compensation needed to pay for operating expenses but shall not be granted any title and credential or police powers derived from this Act or other laws and regulations. While collecting data secretly, the said third party may not violate any laws and regulations.

The Ministry of the Interior shall draft regulations governing the screening and selection, communication and deployment, training and assessment, data evaluation and other matters to be followed by the said third party.

Article 13 To select the third party to secretly collect data related to a particular person in accordance with the provisions prescribed in the

proceeding article, may be carried out after the police have specified the grounds and facts and the approval of the chief of the police department or police precinct has been secured.

Once the data collection is completed, the police shall terminate their cooperative relationship with the said third party. However, if new grounds and facts set forth in paragraph 1 of the preceding Article emerge and necessitate continued data collection, the cooperative relationship may be continued after being approved.

When the data on the suspect or the facts that wait to be checked are collected in accordance with paragraph 1 of the preceding article and are to be used as evidence in related legal proceedings, applicable procedural laws shall apply. If the third party is a witness, the provisions of the Witness Protection Act shall apply.

Article 14 The police may inform the following people to appear at the police agency through an oral or written notice that states the grounds of their appearance:

1. People who are believed, based on the sufficient facts, to be able to provide the police with crucial information which substantial danger or harm.

2. People who according to the known facts, shall be submitted to non-intrusive forensic tests to prevent tangible hazards.

Once the person notified to appear at the police agency as prescribed in the preceding paragraph arrives, the immediate investigation or non-intrusive measures shall be carried out.

Article 15 To maintain social order and prevent recidivism, the police may carry out periodic visits to the following persons who might pose a threat to social order:

1. People who committed homicide, robbery, snatch and grab, arson, sexual assault, extortion kidnapping for ransoms, fraud, offenses against personal freedom, or organized crime and have served their sentences or have been released on parole.

2. Offenders under rehabilitation or who have served their sentences or are on parole for producing, transporting, selling, or possessing drugs or ammunition.

The period during which the visits as prescribed in the preceding paragraph are carried out is limited to three years after the people have served their sentences or has been released on parole. For any person whose parole is revoked, the period of release on parole shall be excluded from calculation.

The ways to visit people who might pose a threat to social order, or things that need to be checked during each visit, and the rules that regulate the visits shall be decided by the Ministry of the Interior.

Article 16 The police may transfer the personal information when requested by other agencies if such transfer is necessary and does not go beyond the power they exercise. Other agencies may also transfer personal information they kept upon the requests of the police.

The agencies prescribed in the preceding paragraph shall be responsible for the accuracy of the personal data information they transfer.

Article 17 The data collected by the police in accordance with the provisions set forth in this Act shall be used within the statutory functions of the police and for the particular purpose of their collection unless otherwise specified by law.

Article 18 When the data collected by the police in accordance with laws no longer effective to the police for accomplishing their missions, it shall be nullified or destroyed unless the nullification or destruction of the data will endanger the protection worthy interests of the collection target.

Data that shall be nullified or destroyed shall not be transferred or be used in ways that are disadvantageous to the collection target.

Collected data shall be nullified or destroyed within five years after it has been created, unless otherwise specified by the law.

### Chapter 3 Real-time Compulsion

Article 19 The police may bring a person under control if he/she meets the following conditions:

1. Being insane or drunk to the degree that makes restraint necessary in order to avert a situation that may endanger his/her life or prevent danger to the life or health of another person.
2. Attempting to commit suicide in which a fatality cannot be averted without restraint.
3. Being engaged in violent acts or fighting, that will result in injury without restraint.
4. Other rescues that can't be done or other risks that can't be prevented if no restraint is imposed.

The police shall also immediately and adequately notify his family or other related people or suitable institutions or personnel of their release or release the controlled persons into their protection.

When implementing the police place a person under control in accordance with the provision prescribed in paragraph 1, they may search the body and the belongings of the person.

Article 20 The police , when necessary, may use police handcuffs or other approved physical restraining devices on people detained or placed under control in accordance with law under any of the following circumstances:

1. They resist detention or control measures.
2. They attack the police or other people, destroy the belongings of the enforcers or other people, or are at risk of launching attacks or causing damage.
3. They attempt to commit suicide or hurt themselves, or are likely to commit suicide or hurt themselves.

When the police verify people's identity or make inquiries, they shall not make people give statements in accordance with provisions that regulate control.

Article 21 For the need to prevent danger and harm, the police may seize military weapons, lethal weapons or other dangerous objects.

Article 22 The police shall issue a list of objects seized in accordance with law stating the time, place of the seizure, names of the objects seized, other necessary items, and the name of the owner, possessor, or custodian who

hands over the objects. When the list cannot be issued, given the circumstances, the grounds shall be given and placed on record and attached. Objects that are seized in accordance with law shall be sealed or labeled to ensure proper custody. When the nature of the objects makes them unsuitable to be kept by the police, other authorities or individuals may be commissioned to keep them and the owner, possessor, or custodian of the objects shall be notified. When it is necessary, the keeper may be the relevant party who can dispose.

Except for those that shall be forfeited, destroyed, or sold for a payment to be returned, the objects prescribed in the preceding paragraph shall not be seized for more than 30 days. If the ground for the seizure persists, the duration of seizure may be extended but the extension shall not exceed two months.

Article 23 Seized objects with one of the following conditions may be sold:

1. They are likely to rot or their value is likely to depreciate significantly.
2. They are too expensive or difficult to be kept, cared for, or possessed.
3. They have been seized for over six months, cannot be returned to their original owners, possessor or custodians and no longer under the condition that makes their being placed under custody necessary.

4. The original owners, possessors or custodians do not claim their objects by the given deadline upon the notification that clearly indicates that the objects will be sold if they are not claimed within three months after the notification.

Before the objects set forth in the preceding paragraph are sold, their original owners, possessors or custodians shall be notified of the procedures, time and place of the sale unless it is an emergency.

The sale of objects shall be done openly. Objects determined to be difficult to be sold because of their nature or that the cost of the sale will exceed the income from the sale shall be disposed in a private and arbitrary manner. The objects set forth in subparagraphs 3 and 4 of paragraph 1 that are not sold within six months shall belong to their respective governments and shall be used by the community. The original owners, possessors or custodians of objects under subparagraph 4 of paragraph 1 shall be notified how the objects are disposed.

The seized objects that cannot be sold because of decomposition or decay, among other reasons, may be destroyed.

The notification provisions prescribed in paragraph 2 shall apply to the preceding paragraph.

Article 24 When it is no longer necessary to keep the seized objects, they shall be returned to their original owners, possessors, or custodians. When their original owners, possessors, or custodians are unknown, they may be returned to people proven to have the right to the said objects.

The cost of seizure and custody fees shall be borne by the original owners, possessors, or custodians. Upon the return of the seized objects, the costs of seizure and custody may be collected.

After the objects are sold, the income shall be given to the people prescribed in paragraph 1 after the costs of seizure, custody, sale, and other necessary expenses are deducted. When the people prescribed in paragraph 1 are unknown and no one applies for transfer of the money after the announcement has been posted for one year, the money shall go to the treasury of the governments at the respective level.

Article 25 To provide safeguards, the police may as a final resort use, dispose, or restrict the use of the lands, residences, buildings, or belongings of the people in cases of natural disasters, accidents, or a situation in which traffic or public safety is endangered.

Article 26 The police may as a final resort enter residences, buildings, or other places in order to protect or rescue people in imminent danger to personal life, physical safety or property loss.

Article 27 To prevent danger or harm, the police may temporarily repel or prohibit access of people or vehicles that pose obstruction while exercising their powers.

Article 28 To prevent or eliminate on-going acts or situations that may endanger public safety, public order or personal life, health, freedom, reputation, or property, the police may exercise the power stipulated in this Act or take other necessary measures.

The powers exercised or measures taken in accordance with the provisions prescribed in the preceding paragraph by the police shall be limited to the endangerment that other authorities are unable to or cannot stop or remove in time.

#### Chapter 4 Relief

Article 29 Obligors or interested parties may state reasons on site to express their objections when the police are exercising their powers in accordance with this Act with regard to how the powers thereof are exercised, the procedures that shall be followed, or other conditions.

When the objections prescribed in the preceding paragraph are believed by the police to be justifiable, the police shall discontinue or correct the exercise immediately. When they are believed to be unjustifiable, the police may continue their exercise. Upon requests from the obligors or interested parties, the police shall place the reasons for the objections on record and provide the record.

When the rights of obligors or interested parties are undermined as a result of illegal or inappropriate exercise of powers by the police, they may file an administrative petition or administrative lawsuit.

Article30 When the police exercise their powers in violation of the laws, which results in circumstances entitled to state compensation under the State Compensation Law, people may seek damage compensation in accordance with the law.

Article31 When the exercise of powers by the police involves a particular sacrifice on the part of people resulting in the loss of life, undermined health or property loss, people may seek compensation. When people are partially at fault for the sacrifice, however, the court may reduce the value of the compensation.

The compensation for the damages or loss prescribed in the preceding paragraph shall be in money and limited to actual and particular losses.

When people disagree on the compensation decision made by the police authorities, they may file an administrative petition or administrative lawsuit.

The compensation for the loss or damage shall be applied within two years to the police authorities after the party concerned becomes aware of the losses or damage. When five years have passed since the occurrence of the loss or damage, no claims may be made.

#### Chapter 5 Supplementary Provisions

Article 32 This Act came into force on December 01, 2003.