

Regulation of the Executive Board of the Thai Maritime Enforcement Command Center

On the Performance of Duties, Investigation and Inquiry,
B.E. 2563 (2020)

To expedite systematic and efficient performance of duties, investigation and inquiry of competent officials and by virtue of Section 23 (7) of the National Maritime Interests Protection Act, B.E. 2562 (2019), the Executive Board of the Thai Maritime Enforcement Command Center hereby issues a regulation as follow:

Clause 1 This Regulation is called the "Regulation of the Executive Board of the Thai Maritime Enforcement Command Center on the Performance of Duties, Investigation and Inquiry, B.E. 2563 (2020)".

Clause 2 This Regulation shall come into force on the date following its publication in the Government Gazette onward.

Clause 3 The Director of the Office of Investigation and Legal Affairs of the Thai Maritime Enforcement Command Center shall have charge and control for the execution of this Regulation and the power to prescribe and notify the forms and operational guidelines for this Regulation.

Clause 4 In this Regulation,
"competent official" means the competent official under the National Maritime Interests Protection Act, B.E. 2562 (2019);

"inquiry official" means the competent official who holds the following office:

- (1) Director of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center;
- (2) Deputy Director of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center;
- (3) Director of the Central Investigation Division in the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center;
- (4) Deputy Director of the Central Investigation Division in the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center;
- (5) Head of the Central Investigation Group in the Central Investigation Division under the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center;
- (6) Head of the Central Investigation Team under the Central Investigation Group in the Central Investigation Division under the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center;
- (7) Deputy head of the Central Investigation Team under the Central Investigation Group in the Central Investigation Division under the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center;

(8) Central investigation officials of the Central Investigation Group under the Central Investigation Division in the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center;

(9) Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center;

(10) Deputy Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center;

(11) Head of the Inquiry Group in the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center;

(12) Head of the Inquiry Team under the Inquiry Group in the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center;

(13) Deputy Head of the Inquiry Team under the Inquiry Group in the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center;

(14) Inquiry officials of the inquiry teams under the Inquiry Group in the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center.

An inquiry official under paragraph one shall include competent officials who are affiliated with and assigned by the Director of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center or Director of the Legal Affairs and Inquiry Division in the Administrative Office at the Area Thai Maritime Enforcement Command Center or the Secretary-General of the Thai Maritime Enforcement Command Center or Deputy Director-General of the Thai Maritime Enforcement Command Center to conduct an inquiry;

“investigation” means the search for and collecting of facts and evidence by a competent official within his or her powers and duties in order to ascertain the particulars of an offence;

“ad hoc investigation” means an investigation that is specifically carried out under a superior’s instruction;

“inquiry” means the collection of evidence and implementation of all other operations in accordance with the Criminal Procedure Code, the National Maritime Interests Protection Act, B.E. 2562 (2019) and related laws by an inquiry official in connection with an alleged crime, in order to ascertain the truth or establish the guilt and bring the offender to trial;

“exhibit” means any object or asset that a competent official or an inquiry official has exercised his or her legal power to confiscate, seize, obtain or take into possession as evidence in the prosecution of a case such as vehicles, fishing tools, corals, sea fans, aquatic animals, aquatic plants, oil, etc.

“keep in custody” means the restraining or confinement of an arrested person by a competent official or an inquiry official during the course of an investigation and inquiry;

“alleged offender” means a person who is alleged to have committed an offence but has not yet been charged in Court;

“place of detention” means a place for detainment of an alleged offender under the powers and duties of competent officials.

General Principles
Section 1
General Provisions

Clause 5 The performance of duties, investigation and inquiry of competent officials shall be as prescribed by the National Maritime Interests Protection Act, B.E. 2562 (2019) and this Regulation.

The provisions of the Criminal Procedure Code shall apply *mutatis mutandis* to any matter that has not been specifically provided in the National Maritime Interests Protection Act, B.E. 2562 (2019) and this Regulation.

Section 2
Provisional Release

Clause 6 A petition for provisional release shall be filed to the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or to the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center, as the case may be.

Upon receiving a petition, the inquiry official shall promptly present it to the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center, as the case may be, who is empowered to consider and grant a provisional release order. Such consideration must be completed within one hour of its receipt except when there is an unavoidable necessity that prevents it from being completed within the prescribed period. In such case, the said necessity shall be recorded on the petition or the bail bond note. The consideration shall be completed within 24 hours of its receipt.

The Regulation of the Chief Justice on Rules, Procedures and Conditions on the setting of bail or security for provisional release of the alleged offender or the accused in a criminal case shall apply *mutatis mutandis* to the consideration of bail or security for provisional release.

Section 3
Place of detention and custody of alleged offenders

Clause 7 Alleged offenders shall be detained at a place of detention of the Thai Maritime Enforcement Command Center or the Area Thai Maritime Enforcement Command Center, as the case may be.

In the case where the places of detention at the Thai Maritime Enforcement Command Center or Area Thai Maritime Enforcement Command Center are insufficient in number, inadequate or unsuitable or where there is any other necessity, the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center may keep the alleged offender in custody at the place of detention of other operation units with whom the Thai Maritime Enforcement Command Center has coordinated or made an agreement with.

Clause 8 Custodians of a place of detention shall classify alleged offenders as deemed appropriate by taking into consideration the place of detention's readiness as well as the unique nature and characteristics of the alleged offenders' case.

In the case where an alleged offender is a child or juvenile, the offender shall be considered under the Juvenile and Family Court and Procedure Act, B.E. 2553 (2010) and its amendment.

Clause 9 Custodians of a place of detention shall record the alleged offenders in a criminal registrar in which important and known data of each alleged offender regarding their name, surname, appearance, age and National Identity Card number are collected.

Clause 10 Custodians of a place of detention shall have security guards on duty to supervise alleged offenders for the entire period of their stay.

The performance of duties of competent officials

Clause 11 In the case where a competent official has arrested an offender, the competent official must inform the offenders of their rights and perform other tasks as stipulated in the Criminal Procedure Code.

Clause 12 In the case where a competent official discovers a crime, the competent official shall report it to the Thai Maritime Enforcement Command Center without delay. If the offender is found he or she shall be detained and surrender the exhibits to the inquiry official at the Area Thai Maritime Enforcement Command Center.

If the Director of the Legal Affairs and Investigation Division of the Administrative Office at the Thai Maritime Enforcement Command Center deems it

appropriate, he or she shall instruct the competent official who discovers the crime to lodge a complaint and denunciation against the offender to an inquiry official under the Criminal Procedure Code together with the arrested offender and exhibits. These tasks shall be carried out with consideration to work efficiency, justice facilitation, speed and reduction of procedures as well as the cost-effectiveness of government budgets and human resources without prejudice to the power of the Director of the Area Thai Maritime Enforcement Command Center to directly instruct inquiry officials.

Investigation
Section 1
General Investigation

Clause 13 The conducting of general investigation shall be in accordance with the powers and duties prescribed in the National Maritime Interest Protection Act, B.E. 2562 (2019), the Criminal Procedure Code and this Regulation.

Section 2
Ad hoc investigation

Clause 14 In the case where a competent official in any Area deems the case under the investigation to be of great importance, he or she shall collect as much facts and evidence as possible and report them through the command chain to the Director of the Legal Affairs and Investigation Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center for consideration and establishment of an ad hoc investigation team.

When the Director of the Legal Affairs and Investigation Division of the Administration Office at the Area Thai Maritime Enforcement Command Center deems it appropriate to do so, he or she shall present the case to the Director of the Investigation and Intelligence Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center for consideration and establishment of an operation team with consideration to the complexity and importance of the case.

The Director of the Legal Affairs and Investigation Division of the Administration Office at the Area Thai Maritime Enforcement Command Center may recommend the Director of the Investigation and Intelligence Division of the Administration Office at the Area Thai Maritime Enforcement Command Center to appoint one or more inquiry officials to join the ad hoc investigation team. The Director of the Investigation and Intelligence Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center shall act as recommended by the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center, and recommend the Director of the Area Thai Maritime Enforcement Command Center to authorize establishment of an ad hoc investigation team.

Clause 15 In the case where there is a reasonable doubt that an offence that is within the power of competent officials under the National Maritime Interests Protection Act, B.E. 2562 (2019) has been committed in their responsible area and is an important case, the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or the Director of the Investigation and Intelligence Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center shall recommend the Director-General of the Thai Maritime Enforcement Command Center to establish an ad hoc investigation team.

For the Thai Maritime Enforcement Command Center, the Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center or the Director of the Central Investigation and Intelligence Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center shall recommend the Director of the Office of Investigation and Legal Affairs Division of the Thai Maritime Enforcement Command Center to establish an ad hoc investigation team.

In the case where the Director of the Area Thai Maritime Enforcement Command Center or Director of the Office of Investigation and Legal Affairs of the Thai Maritime Enforcement Command Center deems it appropriate, an ad hoc investigation team may be established to conduct investigation in its responsible areas.

Section 3 Integrated operations of the Investigation and Intelligence Division and the Inquiry Division

Clause 16 When the Director of the Area Thai Maritime Enforcement Command Center has authorized establishment of an ad hoc investigation team, the Director of the Investigation and Intelligence Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center shall hold a meeting to determine the scope of an investigation without delay.

In the case where there is no inquiry official in an ad hoc investigation team, the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center shall send a representative to the meeting to provide legal opinions.

The provision of paragraph two shall apply *mutatis mutandis* to the planning meetings of the Central Investigation and Intelligence Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center.

Section 4 Investigation Report

Clause 17 In case of an ad hoc investigation, the Central Investigation and Intelligence Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center shall report its operation outcome together with all kinds of evidences

obtained in order to ascertain the facts and circumstances and to give preliminary case opinions to the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center within 90 days of receiving the instruction. In the case where there is a reasonable ground, such timeframe may be extended no more than 45 days at a time with the authorization of the Director of the Area Thai Maritime Enforcement Command Center.

Upon receiving an investigation report, the Director of the Legal Affairs and Inquiry Division at the Administrative Office of the Area Thai Maritime Enforcement Command Center shall proceed as follows:

(1) in the case where there are reasonable facts and evidence to believe that an offence that is within the powers and duties of competent officials has been committed, a legal action shall be taken;

(2) in the case where there are reasonable facts and evidence to believe that an offence that is not within the powers and duties of the competent officials has been committed, a competent official shall be assigned to lodge a complain and denunciation to the competent official who is empowered to take a legal action;

(3) in the case where there is insufficient facts or evidence, the Head of an ad hoc investigation team shall be notified to conduct an investigation to search for additional facts and evidence. The operation outcomes shall be reported within 30 days of being notified;

(4) in the case where there is neither fact nor evidence to indicate that an offence has been committed, termination of the investigation shall be ordered.

The Director of the Legal Affairs and Investigation Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center shall perform the tasks in paragraph two and report to the Director of the Area Thai Maritime Enforcement Command Center for acknowledgement within 30 days of receiving the investigation report. In the case where there is a reasonable cause, the investigation shall be extended for no more than 30 days from the deadline.

Inquiry
Section 1
General Inquiry

Clause 18 When an arrested person is brought to the inquiry official's office, the competent official to whom the arrested person is surrendered shall inform the arrested person of his or her rights under the Criminal Procedure Code.

Clause 19 When a competent official has lodged a complaint and denunciation to an inquiry official, inquiry officiala shall begin an inquiry without delay.

The inquiry official shall collect all kinds of evidences as much as possible in order to ascertain the facts and circumstances involved in the alleged offence, to find the offender and establish his or her guilt or innocence.

Clause 20 In informing an alleged offender of his or her rights before the start of an interrogation, it is the duty of the inquiry official to inform the rights under the Criminal Procedure Code to the alleged offender, which shall be recorded in the inquiry file.

Clause 21 In informing an alleged offender of his or her charge, the inquiry official shall specify the type of offence and record details of the charge regarding what, where, when and how of the matter or incident that the alleged offender has committed. When the alleged offender is willing to make a statement, it shall be recorded. If the alleged offender is not willing to make any statement at all, it shall also be recorded.

The provisions of the Criminal Procedure Code shall apply *mutatis mutandis* to the conducting of an interrogation. The alleged offender's statements shall be recorded in all cases.

Clause 22 In conducting an interrogation and recording injured person or alleged offender or witness statements, it is the duty of the inquiry official to determine which questions to ask that may be useful or beneficial to the case.

Clause 23 In preparing lists of violated properties, recovered violated properties, unrecovered violated properties and exhibits, the inquiry official shall list damaged properties in appropriate property lists without having to record details of their descriptions.

Clause 24 In making notes the inquiry official shall specify the place where and the date, month and year in which the note is made as well as his or her official position at the time that the note is made, except in case of necessity when they cannot be immediately recorded. In such case, involved parties shall always affix their signatures of approval to the note every time. Notes made unilaterally by an inquiry official must be promptly made at the time of its execution by recording details of the inquiry procedures and summarizing the facts of the case.

In the case where the inquiry official cites the alleged offender's criminal record in order to petition for additional penalty under the Criminal Code, increased penalty under the Criminal Procedure Code or any other laws, the inquiry official shall examine whether the criminal record and outcome of the actually belong to the alleged offender. The findings shall be recorded in the note.

Clause 25 Ordering of documents and issuance of document numbers to inquiry filed. Upon completion of the inquiry, the inquiry official shall collect inquiry documents in the inquiry file. Other articles shall be listed and included in the inquiry file.

Clause 26 Upon completion of an inquiry, the inquiry official shall prepare an inquiry report and attach it to the case file by including the facts in the inquiry file under the following headings:

- (1) Date, time, and place of the incident and preliminary charge;
- (2) Statements of the alleged offender, witness and a person who lodges the complainant and denunciation;
- (3) Documentary and material evidences. In case of a large number of evidence, specify their numerical order numbers;

(4) Case evidence and case opinions of the inquiry official. The inquiry official shall summarize the evidence and make case opinions on whether the evidences are believable or not and the reasons for such opinions. Include the reasons for an opinion of prosecution or non-prosecution. The inquiry official shall cite relevant facts and legal arguments for such opinions, and make final decision on the basis of probable cause and effect. Case summary is divided into four parts as follows:

(a) Part 1: A paragraph summarizing facts and evidence of the case.

(b) Part 2: A paragraph examining case opinions by analyzing case evidence to determine whether there is any evidence confirming the alleged offender as the actual offender or not.

(c) Part 3: Discuss whether there is sufficient evidence to prosecute the alleged offender or not, whether the reasons cited by the inquiry official, regarding facts and legal arguments, are believable or not and the reasons for such opinion as well as for a prosecution or non-prosecution order. Specify the type of offence and the provisions of law involved. If such provisions have been amended, cite all amendments before recommending a prosecution or non-prosecution order based on the cited provisions of law. In the case where the offender is unknown, specify the circumstances and the acts of the offender, type of offence and relevant provisions of law. Then state that after continuous investigation over a reasonable period of time, the offender is still unknown and the inquiry official deems that the inquiry or the inquiry performed under the Criminal Procedure Code, as the case may be, should cease.

(d) Part 4: If any of the following incidents appear in an inquiry file:

1) when the alleged offender's criminal record reveals previous crime that meets the criteria for a prosecution order or a petition for increased penalty or imprisonment term due to the alleged offender being a repeated offender or a natural criminal with several charges who deserves increased penalty or imprisonment term. Clearly specify the Court that the case was prosecuted so that the public prosecutor can conveniently inform the Court. If such facts become known at later date, inform the public prosecutor in charge of the first case file;

2) when an alleged offender remains in custody under a court order, clearly state the starting and end date of the custody;

3) when there is a reasonable ground to not grant a provisional release, such as the possibility of an offender to flee or harm witness or cause damage to the case, give reasons for such opinion in the inquiry file for acknowledgement by the public prosecutor who may use it to make an objection to the Court;

4) when the alleged offender is an alien and meets the criteria for deportation, inform the public prosecutor in writing in the inquiry file that a deportation request has already been filed;

5) when there is a case exhibit, the inquiry file must mention whether it is kept or surrendered to the public prosecutor with the inquiry file, or if it has been returned, to whom it has been returned and the reason for the return;

6) in the case where monetary reward must be given, indicate the person it should be awarded to, the relevant law, and the amount of reward involved.

Clause 27 The inquiry official who collects the evidence shall give signature and case opinions to the inquiry file, then present them to the Head of the Inquiry Group under the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Head of the Central Investigation Group under the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center, as the case may be. The relevant Head shall then prepare case opinions and present them to the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center, as the case may be, for consideration and case opinions.

In the case where there are more than one inquiry official, all inquiry officials shall give their signatures and make case opinions before forwarding the opinions and inquiry files to a person who is empowered to prepare case opinions.

Clause 28 In the case in which the offender is unknown and there are facts or evidence that need to be investigated in order to identify the offender and the case in which the offender is known, the inquiry official shall investigate, collect all kinds of evidences and perform other tasks to ascertain the facts and circumstances of the alleged offence in order to identify the offender and establish the alleged offender's guilt or innocence.

Clause 29 In the case where the inquiry official has conducted an inquiry, summarized the inquiry file and presented case opinions to the Head of the Inquiry Group under the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or to the Head of the Central Investigation Group in the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center. If the person who is empowered to prepare case opinions instructs the inquiry official to conduct additional inquiry, the inquiry official must promptly do so. The documentary evidences that the inquiry official obtained from the additional inquiry shall be placed next to the additional inquiry instruction memorandum.

In the case where an inquiry file has been sent to a public prosecutor and the public prosecutor instructs the inquiry official to conduct additional inquiry, the inquiry official shall strictly follow the implication of such instruction and promptly send the inquiry findings to the public prosecutor within the prescribed timeframe. If there is any problem, the inquiry official shall promptly inform the public prosecutor.

Clause 30 Inquiry period. In the case where the offender is unknown, the inquiry official shall conduct an investigation for a period of six months from the receiving date of the complaint and denunciation. In case of a reasonable ground, such timeframe may be extended no more than six months at a time.

After the inquiry official has applied for two extensions but the offender is still unknown and deems it appropriate to cease the inquiry, the inquiry official shall present the inquiry file together with his or her opinions along the chain of command to the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center for consideration and execution under the Criminal Procedure Code within 30 days of its deadline.

In the case where the offender is known but cannot be summoned or arrested, the inquiry official shall complete the investigation within three months from the receiving date of the complaint and denunciation. In case of a reasonable ground, such period can be extended for no more than three months at a time.

After the inquiry official has conducted an investigation for the duration of the prescribed period and finishes collecting evidence but is still unable to bring the offender to trial, the inquiry official shall present the inquiry file together with his or her opinions along the chain of command to the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center for consideration and execution under the Criminal Procedure Code within 10 days of its deadline.

Clause 31 For cases that the Court has exercised its power to issue a remand order under the Criminal Procedure Code, the Head of the Inquiry Group under the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Head of the Central Investigation Group under the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center shall urge the inquiry official to complete the inquiry before the power of the remand order expires under the Criminal Procedure Code. Upon completion of an inquiry, the inquiry official shall summarize the inquiry file and give his or her opinions, then present it to the superiors along the chain of command to the person who is empowered to prepare case opinions. The file is also submitted to the public prosecutor for consideration.

In the case where the Court has not exercised its power to issue a remand order under the Criminal Procedure Code and the investigation has not yet been completed, the Head of the Inquiry Group under the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Head of the Central Investigation Group under the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center

shall promptly report it to the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center, as the case may be, in order to find a way to prevent damage to the inquiry. It shall also determine whether the inquiry official is at fault in the conducting of the inquiry or not. The inquiry shall then continues until its completion.

Clause 32 In the case where the alleged offender has been granted provisional release, the inquiry official shall complete the inquiry within three months of the first date of the provisional release. If there is any necessity that prevents the inquiry from being completed within the prescribed period, the inquiry official shall present the inquiry file together with details of the necessity and his or her opinions for an extension request to the Head of the Inquiry Group of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Head of the Central Investigation Group under the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center.

The Head of the Inquiry Group under the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Head of the Central Investigation Group under the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center shall consider granting an extension of 30 days at a time for such necessity. However, the total extension period shall not be more than six months of the first day of the provisional release. The necessity that leads to each extension request and authorization shall be recorded in the inquiry file.

After a period of six months has lapsed from the first day of the provisional release but it is still necessary to keep the alleged offender in custody, the Head of the Inquiry Group under the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Head of the Central Investigation Group under the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center shall record details of the necessity in the inquiry file before taking the alleged offender to appear before the Court for a petition of a detention warrant for the alleged offender. The case shall then be reported to the superiors along the chain of command to the Director of the Office of Investigation and Legal Affairs of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division under the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center, as the case may be.

In the case where a period of six months for an investigation has lapsed but it is still necessary to keep the alleged offender in custody, if after applying for a detention the superiors along the chain of command in order to find a way to prevent damage to the inquiry and to determine whether the inquiry official is at fault in the conducting of the inquiry and causes the Court to decline permission to keep the alleged offender in custody or not. The matter shall then be promptly reported to the Director of the Legal

Enforcement Command Center or Director of the Central Investigation Division of the warrant under the Criminal Procedure Code, the Court does not grant permission to keep the alleged offender in custody, the public prosecutor shall promptly report it to Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center, as the case may be.

Clause 33 In taking an alleged offender to the Court to apply for a detention warrant, the inquiry official shall accompany the alleged offender to the Court in order to give statement to the Court about the reasons and necessity that prevent the inquiry from being completed and the need to continue keeping the alleged offender in custody.

For the case in which an alleged offender has been kept in custody or detained during an inquiry, the Head of the Inquiry Group under the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center shall urge the inquiry official to complete the inquiry before the power to postpone the prosecution and keep the alleged offender in custody expires under the District Court Criminal Procedure Act, B.E. 2499 (1956), its amendments and the Criminal Procedure Code.

Section 2

Inquiry or joint performance of duties with the public prosecutor or inquiry official

Clause 34 When the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or the Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center deems that for the efficiency of an inquiry, in any case where a public prosecutor or an inquiry official under the Criminal Procedure Code is required to join the inquiry official in the conducting of an inquiry or the performance of duties in conjunction with the inquiry official, the inquiry official shall present the case to the Director-General of the Thai Maritime Enforcement Command Center or a person assigned by the Director-General of the Thai Maritime Enforcement Command Center for approval.

Upon receiving the approval under paragraph one, the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center shall request the Provincial Attorney or Police Commander of the province in which the inquiry takes place or the Attorney General or Commander of the Police Central Investigation Bureau in the area under the inquiry to appoint a public prosecutor or an inquiry official under the Criminal Procedure Code, who is empowered to conduct inquiries in such area, has the power to conduct an inquiry in such area, to join the inquiry official in the conducting of an inquiry or the performance of duties.

Clause 35 In a joint inquiry, the inquiry official and the public prosecutor or the inquiry official under the Criminal Procedure Code shall perform the following duties:

- (1) The inquiry official shall contact the public prosecutor or the inquiry official

under the Criminal Procedure Code for joint consultation since the onset of a case in order to set up guidelines or operation plans for the inquiry.

(2) Interrogation of witnesses or alleged offenders and examination of evidence shall be jointly conducted by the public prosecutor or inquiry official under the Criminal Procedure Code who must give signatures to witness statement or alleged offender statement notes and to notes on joint examination or collection of other evidences.

In case of emergency and in the interest of an inquiry or in the case of petty offences, the public prosecutor or inquiry official under the Criminal Procedure Code may assign, either verbally or in writing, another official to conduct an inquiry. The assignement shall be recorded in the inquiry file.

(3) In the case where an inquiry official needs to impose control measures on a person by applying for a search warrant or an arrest warrant, the inquiry official and public prosecutor or the inquiry official under the Criminal Procedure Code must reach mutual agreement before proceeding with a legal action.

Clause 36 In their joint performance of duties, the inquiry official shall be responsible for an inquiry while the public prosecutor or the inquiry official under the Criminal Procedure Code shall give advice and examine evidence from the onset of an inquiry. However, in case of emergency where any delay may cause damage to the inquiry, the inquiry official shall start an inquiry without the presence of the public prosecutor or inquiry official under the Criminal Procedure Code, but the inquiry official shall promptly notify them at later date.

In the case where collection of evidence is required for the benefit of an inquiry or a prosecution, the inquiry official shall notify the public prosecutor or inquiry official under the Criminal Procedure Code to assist in the consideration and examination of evidence to decide whether they are beneficial to the inquiry or prosecution or not. In such case, the public prosecutor or inquiry official under the Criminal Procedure Code may give opinions on the evidence and submit them with the inquiry file.

Clause 37 In performing the duties under Clause 35 and Clause 36, the inquiry official shall always record them in the inquiry file.

Clause 38 The inquiry official shall be the person who gives case opinions and signature to the inquiry file.

Upon completion of an inquiry, the inquiry official responsible for the preparing of opinions shall submit the inquiry file to the public prosecutor, who has the jurisdiction over the areas in which the inquiry takes place, for consideration and prosecution.

Section 3 Making dissenting opinions

Clause 39 In the case where a non-prosecution order is not issued by the Attorney General, the Director of the Legal Affairs and Inquiry Division of the

Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center, as the case may be, shall promptly send the inquiry file together with the non-prosecution order to the Director of the Office of Investigation and Legal Affairs to give case opinions for the consideration of the Director-General or Deputy Director-General of the Thai Maritime Enforcement Command Center.

If the Director-General or Deputy Director-General of the Thai Maritime Enforcement Command Center disagrees with the public prosecutor's order, the inquiry file together with the dissenting opinions shall be sent to the Attorney General for final decision.

Section 4

Preparation of alleged offender's criminal record

Clause 40 Upon completion of an inquiry, the alleged offender shall be photographed, have his or her personal information recorded and fingerprints taken and kept on the fingerprinting form. These information shall be submitted to the Criminal Records Division at the Royal Thai Police. There shall also be a follow up on the criminal record check and the information obtained shall be included in the inquiry file. If the alleged offender is found to have pending arrest warrant or prior conviction, a legal action shall be taken.

Clause 41 It is the duty of the inquiry official to arrange for the fingerprinting of alleged offenders on all types of criminal charges and of a person who died of an unnatural cause or while in custody of the competent official or in case of death from homicide by a competent official who claims to do so in the course of his or her performance of duties. This procedure shall be performed with the exception of petty offence cases, cases with penalty not higher than that of a petty offence or offences under any other laws in which the fines have been paid.

Section 5

Exhibit maintenance

Clause 42 The inquiry official shall include exhibits of cases under the inquiry power of the Area Thai Maritime Enforcement Command Center or the Thai Maritime Enforcement Command Center in their inquiry files with the exception of the property that cannot be included, which shall be surrendered to the responsible exhibit maintenance unit for safekeeping at the location prescribed by the Area Thai Maritime Enforcement Command Center or the Thai Maritime Enforcement Command Center or at any other locations as prescribed by law.

The exhibits under the administrative power of other agencies as prescribed by law shall be surrendered to the agencies which are empowered by law to maintain the exhibits.

The inquiry official shall take photographs of material evidences before surrendering them to the person responsible for exhibit safekeeping.

Clause 43 The person who is responsible for exhibit safekeeping shall have the following duties:

- (1) examine the accuracy and conditions of the exhibits and to take photographs of them before safekeeping;
- (2) prepare lists of exhibits;
- (3) prepare proofs of exhibit acceptance and surrendering;
- (4) examine conditions of the exhibits at six month intervals or as required by the exhibit conditions, record and report the examination findings to Head of the Exhibit and Evidence Unit for acknowledgement;
- (5) keep keys or codes to the exhibit maintenance area;
- (6) surrender exhibits to inquiry officials upon receiving their request or court order.

Clause 44 In the case where the owner or proprietor of an exhibit is a Thai national or a juristic person registered under the Thai laws or a Thai national or a juristic person registered under the Thai laws who is an eligible claimant and where the exhibit owner or eligible claimant wishes to have the exhibit returned for safekeeping, the inquiry official may allow the owner or eligible claimant to take it back with or without a guarantee or with or without a security. If there is specific provision on this issue in any law, such provision shall be observed.

Clause 45 In collecting or examining evidence, if it is necessary to involve experts from other organizations, such as the Office of Police Forensic Science, the Royal Thai Police or the Central Institute of Forensic Science, the inquiry official shall liaise with such agencies for prompt collecting or examining of evidence by such experts. The experts shall be informed about the specific purposes of such actions.

Clause 46 Evidence that inquiry official needs to send off to other agencies for examination must be promptly sent with follow ups on the examination findings in order to include them in the inquiry file.

Clause 47 The inquiry official shall prepare a list of exhibits and include it in the inquiry file.

Section 6 Exhibit return

Clause 48 Subject to the provisions on a petition for exhibit safekeeping during an inquiry, an exhibit shall be kept until the case is final unless the public prosecutor issues an order to handle it under the Criminal Procedure Code or when it is no longer necessary to seize the exhibit.

If the seized exhibit is not the asset prescribed by law that any person making or keeping it is guilty or that the Court has ordered otherwise, the exhibit shall be returned to its owner or proprietor or eligible claimant. In the case where the owner or proprietor or eligible claimant of an exhibit is unknown, an announcement calling for its owner or proprietor or eligible claimant shall be made for a period of 30 days from the date that there is reason for a return of the exhibit, to allow owner or proprietor or eligible claimant of the exhibit to file a petition for its return to the Director of the Legal Affairs

and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center or Director of the Central Investigation Division of the Office of Investigation and Legal Affairs at the Thai Maritime Enforcement Command Center, as the case may be.

In the case where the owner or proprietor or eligible claimant of an exhibit has not collected it within a period of one year from the announcement date or from the date that the sentence is final in the case that has been brought to trial. If the exhibit owner or proprietor or eligible claimant is unknown, such period may be extended to five years from the announcement date and the exhibit shall become state property under the Civil and Commercial Code, as the case may be. Upon the expiration of such periods under the provision of law, the exhibit shall be managed as prescribed by law.

In the case where a person has come to collect the exhibit, he or she must present proof of identity and affix signature together with the date, month and year that the exhibit is collected on the exhibit receipt document. Such proofs of evidence shall be attached to the case file and the list of exhibits.

Section 7

Post mortem examination

Clause 49 When there is a reasonable ground for a post mortem examination under the Criminal Procedure Code, the inquiry official shall arrange to have it done and prepare post mortem examination opinions in accordance with the rules of the Criminal Procedure Code. Such inquiry official shall also be responsible for the preparing of the post mortem examination file.

Clause 50 In preparing a post mortem examination file for cases where death is caused by a competent official who claims that it occurs during the performance of his or her duties or while the deceased is in the custody of a competent official who claims that it occurs during the performance of his or her duties, the inquiry official in such area shall himself or herself conduct and complete the inquiry within 30 days from the start date of the post mortem examination. If such examination cannot be completed within the prescribed period, an extension petition shall be filed to the Director of the Legal Affairs and Inquiry Division of the Administrative Office at the Area Thai Maritime Enforcement Command Center. Indicate reasons for its incompleteness in the petition. No more than two extensions, for a period not exceeding 30 days each, shall be granted.

Issued on 21 February 2020.

Admiral Luechai Ruddit

Chairman of the Executive Board of the
Thai Maritime Enforcement Command Center