

STANDARD OPERATING PROCEDURE 5 ARREST

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PURPOSE

The purpose of this Standard Operating Procedure (SOP) is to provide direction to investigators when exercising a power of arrest for the offence of obstruction under section 33(2) of the *Independent Commissioner Against Corruption Act 2012* (the ICAC Act) and provide appropriate information about the rights, obligations and liabilities of persons in relation to whom powers under that section are exercised.

SCOPE

This SOP applies to all investigators seconded or appointed under section 14 of the ICAC Act.

PROCEDURE

The power of arrest for obstruction given under section 33(2) of the ICAC Act may be exercised where the investigator reasonably suspects that a person has committed, is committing, or is about to commit an offence against section 33(1) of the ICAC Act and when that person, having been required to do so by an investigator, has failed to state truthfully his or her personal details or produce true evidence of those details or the investigator has reasonable grounds to believe one of the matters mentioned in section 33(2)(b).

If an investigator is considering arresting a person in accordance with section 33(2), the investigator ought to advise the person of the conduct with which the person has engaged that amounts to 'Obstruction' and warn him or her of the consequences of continuing that conduct.

The following procedures will apply whenever the power of arrest is exercised.

If reasonably practicable to do so, the arrested person must be immediately delivered into the custody of a SAPOL seconded ICAC investigator.

The SAPOL seconded ICAC investigator will immediately convey the arrested person to the nearest police station with prisoner holding facilities or to the City Watch House, whichever is most practicable. The arrested person will be processed according to SAPOL procedures.

If a SAPOL seconded ICAC investigator is not readily available then the investigator must immediately deliver the person, or cause the person to be delivered, into the custody of a police officer (and the person will, for the purposes of any other law, then be taken to have been apprehended by the police officer without warrant).

Where an investigator arrests a person in accordance with section 33(2) of the ICAC Act, the investigator must ensure that the Director for Public Prosecutions (DPP) is advised as soon as reasonably practicable.

RIGHTS

All arrested persons are to be afforded the rights that apply to apprehended persons pursuant to section 79A of the *Summary Offences Act 1953*.

INTERVIEW

Interviews of arrested persons must comply with the obligations and procedures contained in section 74D of the *Summary Offences Act 1953*.

REFERENCES

Independent Commissioner Against Corruption Act 2012

Summary Offences Act 1953

SOP 3 Enter and search warrants

DOCUMENT HISTORY

DATE	ACTION	PREPARED BY
04 Jul 2013	SOP created	Director Operations
28 Jul 2014	SOP reviewed	Director Operations
05 Nov 2015	SOP reviewed and Amended	Director Operations
31 Oct 2016	SOP reviewed and amended	Director Investigations
11 Aug 2017	SOP reviewed and amended	Director Investigations
20 Mar 2018	SOP name reviewed and amended	Director Investigations
09 Jun 2020	SOP reviewed and amended	Director Investigations