

**WARRANTLESS ARREST, THE NEED TO REVERT TO OLD  
CONCEPT IN COMBATTING CRIMES  
(PRIVILEGE SPEECH by SENATOR ALFREDO S. LIM)  
March 9, 2005**

Mr. President, I rise on a question of personal privilege.

The dreadful terrorists attack of 9-11 in New York and the ensuing similar assaults on the hapless and helpless victims worldwide including the Philippines, the latest of which having been the ironic Valentines-day bombing of common carriers that killed innocent civilians and wrought heavy damage to properties in this archipelago, continue to heat up everyone's fervor in enacting an anti-terrorism law. Among the salient features of the proposed bill is the lawful use of warrantless arrest for terrorists. Warrantless arrest used to be an effective and swift tool to cripple and manacle criminals from inflicting further damage or injury to society or from escaping and bring them to the bar of justice.

I recall that in the olden days when I was still with the Manila's Finest, we could legally apprehend criminals without warrant by invoking Sec. 6, Rule 113, of the old Rules of Court which allows peace officers to lawfully arrest a person: "a) when the person to be arrested has committed, is actually committing, or is about to commit an offense in his presence"; or "(b) when an offense has in fact been committed, and he has reasonable ground to believe that the person to be arrested has committed it."

However, such was no longer possible in the 80's because under the Rules of Criminal Procedure of 1985, a warrantless arrest was permissible only under the same Sec. 3, Rule 113: "(a) When, in his presence, the person to be arrested has committed, is actually committing or is attempting to commit an offense"; or, "(b) when an offense has in fact just been committed,

and he has personal knowledge of facts indicating that the person to be arrested has committed it.”

Now, the Rule is more stringent because under the 2000 Rules of Criminal Procedure, although par. (a) was retained verbatim, par. (b) was modified as follows: “(b) When an offense has just been committed and he has probable cause to believe based on personal knowledge of facts and circumstances that the person to be arrested has committed it.”

Indeed, Mr. President, whereas in the original 1964 Rules of Court, under par. (a), Sec. 5, Rule 1213, we could effect a warrantless arrest when victims came to us to complain that a crime was committed or is being committed without having to witness the commission of the offense. It was only when an offense was about to be committed, that the same should be done in our presence. And, under par. (b) when we received complaints of the commission of an offense

and believed that the person to be arrested has committed it. In other words, there was no personal presence required of us.

On the other hand, now, under par. (a), it is a must that the offense must be committed, or is being committed or about to be committed in the presence of the peace officers. In *People vs. Chu*, 423 SCRA 170 and *People vs. Pendatun*, 434 SCRA 148, warrantless arrests were upheld because the offenses were committed in the presence of the policemen. Of course, these cases involved buy-bust operations carried out by policemen. But, in terrorism, there is no buy-bust that will enable our peace officers to gain access to the terrorists' operations, thus, improbable for them to personally witness an actual terrorism in action.

Under the present Rule, therefore, our intelligence operations will be useless and worthless because, no PNP nor AFP member can effect an arrest of a terrorist

unless the terroristic acts are committed in his presence. In this kind of a situation, we will then have to wait for the bombing or explosion to occur in the presence of peace officers before terrorists can be subdued from their nefarious acts; otherwise, we will have to be sitting ducks to their clandestine attacks.

The same is true in par. (b) because, under the old Rules, all that was needed to effect a warrantless arrest was for an offense to be committed and the peace officer has reasonable ground to believe that the person to be arrested has committed it.

On the other hand, under the present par. (b) it is necessary that the offense has just been committed and there is probable cause to believe based on his personal knowledge of facts and circumstances that the person to be arrested has committed it.

For one, because of the requirement of “has just been committed”, it would be impossible to arrest a terrorist who keeps on hiding after committing acts of terrorism because, by the time he is arrested, the circumstance “has just been committed” no longer subsists, thereby preventing the police from effecting his arrest henceforth. Worse, the arresting officer must establish “probable cause” based on personal knowledge of facts before effecting a warrantless arrest. But, how can he establish probable cause if he does not personally know the facts?

In fine, under this provision, it is impossible nay legally futile to lawfully effect a warrantless arrest.

In the meantime, Mr. President, terrorists can continue to roam the streets of the metropolis and strike with impunity when peace officers are caught unprepared to witness the devastations and murders that they commit.

It is therefore appropriate, Mr. President, that notwithstanding the current provision of the Rules of Court of 2000 on warrantless arrests under pars. a and b, Sec. 5, Rule 113, we should revive the provisions of the old Rules of Court of 1964 under pars. a and b, Sec. 5, Rule 113, on warrantless arrests under the proposed anti-terrorism law that we will enact to insure the effectiveness and success of our law enforcement agencies in implementing the law, immediately put under control a possible terroristic situation to occur before it gets out of control and spare our law enforcement agencies from harassment suits in the guise of questioning the validity of warrantless arrests that they will carry out.

CRIMES are not ACCIDENTS ... these are envisioned ... devised and orchestrated by EVIL and WICKED MINDS ... and they are not insane ... but simply brutal and deathly. Never were they so

DAUNTLESS ... BOLD and DARING in committing crimes but only after the new DOCTRINES on WARRANTLESS ARREST. Beyond cavil ... this is now the sanctuary of their vicious and heinous lawlessness.

Let us discard pretense. Not even the legislators could expect trust of the citizenry in our laws ... and their faith in our law enforcers has waned ... dwindled ... and still declining ... yet, we seemed inclined to safeguard the rights of the felons ... along with their systematic ruse ... rather than the cry to avenge from their AGGRIEVED, INNOCENT and HELPLESS victims.

In that golden era prior to 1985, the law enforcers command respect ... even from the criminals ... criminals who intentionally avoided even the presence of a lowly cop in the vicinity of their wrong doings ... because they knew and they expected that ... after any crime, no matter what ... they cannot escape being

arrested ... absent any warrant, by virtue of Section 6 (b) of Rule 113 of the amended 1964 Rules of Court, which states:

“x x x when an offense has in fact been committed and the law enforcer has reasonable ground to believe that the person to be arrested has committed it.”

WARRANTLESS ARREST under such situation was AUTHORIZED and thus, JUSTIFIED ... not only for any law enforcement member but even for the civilians who were sanctioned under CITIZEN'S ARREST. The criminals then were ALWAYS within the reach of laws ... anytime ... anywhere ... but not anymore since the advent of Section 5 (b) of Rule of 113 of the 1985 Revised Rules on Criminal Procedure. It is now mandated that such warrantless arrest is only VALID when the person to be arrested is actually committing or attempting to commit an offense or has

just committed it and that the said person making the arrest has “personal knowledge of the facts indicating that the person to be arrested had committed it.”

What a painstakingly and impractical imposition on the lawmen ... but it has to be obeyed ... thus, a number of lawless elements are now scot-free ... sneering at justice ... deriding the system ... and openly defying the law enforcers in our country. Personally, I know, experience wise, that the present is no longer as conducive to criminal hunt and arrest as during our days ... our time when our hands were not tied ... as today ... to trail the villains of society, for as long as we could endure the rigors of follow-up ... the risks of encounter ... the pressure of the job. And we don't care about time, for as long as we can persevere and be consoled with the glory of having a captive or captives in manacles ... to answer for his or their crimes. Today, cops are denied of the right to readily neutralize these evils in our midst ... to tail them for as far as they can

elude. To place them behind bars in the soonest possible time. Lamentably, NOW ... when a week lapsed after the crime, the criminals are beyond reach of handcuffs ... their crimes would be repulsed for inquest ... so criminals just wait outside jail ... for the imperative filing of whatever charge/s will be lodged against them ... thus, they will surface after the hiding for a week or two ... to rejoice with their freedom ... freedom to molest again victims ... to sow fear ... to curtail peace in this society. What a waste of the opportunity to go after these criminals in our midst.

Look at what happened to our heinous and sensational crimes ... just like in the ROLDAN-kidnapping case wherein the alleged suspect-mastermind, SUSAN WANG, is on the loose and could not be apprehended, unless a warrant for her arrest is issued ... how many vicious criminals are still outside detention cell, despite authored killings, rape and other abominable crimes because of these legal impositions

and technicalities ... which deter expeditious solutions of cases ... speedy dispatch of arrests and compelling incarceration behind bars of notorious felons. No doubt, the present system is flawed, hence, abused by these criminals as their legitimate tools to commit crimes ...and at times to evade conviction and gain acquittal in court ... all because of the well-scripted defense of UNLAWFUL warrantless arrest. No wonder ... we can not rekindle the eroding faith of even a common man to our heralded law, order and justice. These remain strangers in our system for as long as we do not revert to our old but effective doctrines.

So we must act ... not later but now. Let us restore those days when a law enforcer is sanctioned by the rules to effect valid arrest ... predicated on “reasonable ground to believe that the person to be arrested had committed the offense”. Let us not be hostile with its antagonism, that it will enhance police abuse ... corruption ... or brutality. Such is not a general but

occasional happenstance ... it can be forestalled ... it can be deterred ... and stopped. Our subservience must not belong to the masked rights of the criminals, but to the yelling clamor for justice ... and a speedy one ... of our INOCENT VICTIMS of criminalities ... we cannot afford to remain deaf ... to the **expense or sacrifice of effective CRIME CONTROL and CRIME SUPPRESSION if not total CRIME ERADICATION** ... So ... without let-up ... without delay ... let us revert to that old fashioned but proven effective WARRANTLESS ARREST of fugitives and criminals ... NOT tomorrow or some other time. It must be NOW with the passage of my sponsored bill.

By the way, no less than the Honorable SUPREME COURT, explained the rationale behind lawful arrest without warrant in the case of **People vs. Malasugui, 63 Phil. 221**, in the following tenor:

**“To hold that no criminal can, in any case, be arrested and searched without a warrant would be to leave society to a large extent at the MERCY OF THE SHREWDEST, the most EXPERT and the most DEPRAVED of criminals, facilitating their escape in many instances.”**

I guess this sagacious behest of our HIGHEST TRIBUNAL is compelling our concurrence to my advocated bill ... for the best interest of our people.

Thank you.