

Any person who has been subpoenaed by the investigating judge shall appear.

In the case of refusal to appear, the investigating judge can request the public forces to cause the witness to appear. The investigating judge shall issue an order to appear. This order shall include identity of the witness and shall be dated and signed by the investigating judge with stamp.

Article 154. Oath of Witnesses

Before the interview, each witness shall swear in accordance with their religion or beliefs that he/she only speaks the truth. The formality of the oath shall be defined in the annex of this Code.

Article 155. Assistance of an Interpreter

The investigating judge can request for an interpreter to interview the witness as provided in Article 144 (Assistance of Interpreter/Translator) of this Code.

Article 156. Authorized Witness without Swearing

The following witnesses are authorized to make a statement without swearing:

1. The father, mother and ascendants of the accused person;
2. The sons, daughters and all other descendants of the accused person;
3. The brothers and sisters of the accused person;
4. The brother-in-laws and sister-in-laws of the accused person;
5. The spouse of the accused person, even if they have been divorced;
6. Any child who is less than 14 years old.

Article 157. Impossibility to interview Some Witnesses

To respect rights to self-defense, the investigating judge cannot call as a witness any person to whom there is a lead of evidence to charge. In such case, the judge shall apply the procedures as provided in Article 143 (Notification of Placing under Examination) of this Code.

Article 158. Visit the Resident of a Witness

If the witness is sick or cannot travel, the investigating judge and the court clerk can go to his/her resident or to the place where the witness stays to take the statement.

SECTION 5 Search and Seizure of Exhibits

Article 159. Rules to be applied in Searching

The investigating judge can conduct a search.

An investigating judge shall conduct a search in the presence of the occupant of a place or if there is no presence of the occupant, the search shall be conducted in the presence of two (2) witnesses to be selected by the judge. The witnesses cannot be police or Royal Gendarmeries which is under the joint operation forces of the search.

An investigating judge cannot begin a search before 6:00 A.M and after 6:00 P.M., except in the case of searching:

- At a place that is open to the public;
- At all places where drugs are produced, stored, trafficked, distributed or used.

The search of a lawyer's office shall only be conducted in the presence of the president of the Bar Association or his/her delegates.

The investigating judge shall prepare the search record to be signed by him/herself and the court clerk together with the occupant of the place or two (2) witnesses.

The record shall include the identification of the occupant of the place, or each witness. If the search is conducted in a lawyer's office, the record shall note the presence of the president of the Bar Association or his/her delegates.

Article 160. Affixation of Stamp on Exhibits

An investigating judge may seize exhibits. The investigating judge shall affix stamp on the exhibits.

After showing the seized exhibits to the occupant of the place or to the two (2) witnesses, the investigating judge shall make a record on the seizure, including an inventory list of the seized exhibits. The record of such seizure shall be signed by the investigating judge and court clerk together with the occupant of the place or two (2) witnesses. The record shall include the identification of the occupant of the place or of each witness.

Article 161. Return of Seized Items to Owner by an Investigating Judge

When a settlement warrant has not been issued, the investigating judge shall have the competence to return the seized items to the owner if there is no clear dispute over the ownership of the seized items. The investigating judge shall make a well motivated decision after receiving an opinion from the prosecutor. The decision shall be immediately notified to the complainant and his/her appointed lawyer, if any.

The items shall not be returned to the requesting person if this measure may create obstacles to ascertaining the truth.

Objects which cause danger to human-being or property, such as weapons, explosives, or items illegally possessed, shall not be returned to the owner. Such objects shall be confiscated as state property.

SECTION 6 Forensic Examination

Article 162. Necessity of Forensic Examination

In case of technical problems, the investigating judge may order for a forensic examination by him/herself or at the request of a prosecutor, an accused person, or a civil party.

When the investigating judge refuses a request for a forensic examination, the investigating judge shall make a well motivated decision. The decision shall be made within 5 (five)