TEMPORARY PASS OF WARDS COMMITTED AT THE BI HOLDING FACILITIES

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Adopted: 14 August 2015
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WHEREAS, Article 3, Section 14 of the 1987 Constitution of the Philippines provides that in all criminal prosecutions, the accused has a right to have a speedy, impartial, and public trial, and to meet the witnesses face to face;

WHEREAS, Republic Act No. 9745 otherwise known as the “Anti-Torture Act of 2009” and its Implementing Rules and Regulations (IRR) mandate the Right to Physical Examination of every person arrested, detained, or under custodial investigation immediately before and after any transfer of the person to places of detention;

WHEREAS, the Bureau of Immigration (BI) recognizes the right of a ward with pending criminal case in court to have a speedy, impartial, and public trial, to meet the witnesses face to face;

WHEREAS, the BI recognizes the necessity of assuring that proper medical attention is given to a ward with reasonable need for treatment and assistance;

NOW THEREFORE, pursuant to the rule-making authority of the Immigration Commissioner under CA 613, Sec. 3, the following shall be observed:

Section 1. Duties of BI Warden Facility (BIWF) or other BI Holding facilities in sub-port. – Notices, subpoenas, or produce orders requiring the attendance of a ward detained at BIWF or other BI Holding facilities in sub-ports to appear before the Office of the Prosecutor or in court shall be indorsed to the Office of the Commissioner not later than three (3) days from its receipt for appropriate action.

Section 2. Approval by the Commissioner. All notices, subpoenas, or produce orders requiring the attendance of a ward shall require the approval of the Commissioner prior to its implementation.

Section 3. Presence of the Accused, when mandatory. – Presence of the accused is indispensable only at the following stages:

(1)

At the arraignment;

(2)

At the time of the defendant’s answering the complaint, if he pleads guilty, and

(3)

At the pronouncement of the judgment;

Section 4. Presence of the Accused, when discretionary. – The presence of the accused at any other stage is not indispensable, and may be waived by the accused.[1] Thus, the issuance of temporary pass under circumstances

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not enumerated above shall be under the discretion and approval of the Commissioner.

Section 5. Duties of Medical Section Chief. – The Medical Section Chief shall:

(i)

conduct weekly medical examination of wards detained at BIWF;

(ii)

prepare weekly report regarding medical condition of all wards detained at BIWF;

(iii)

issue a recommendation for the temporary pass to any ward who needs immediate medical attention, upon determination of the seriousness of his medical condition;

(iv)

indorse the recommendation to the Office of the Commissioner not later than three (3) days from the time of examination;

Section 6. Duties of the Warden, BIWF, in case of Medical Section Chief's non-availability. – In case of non-availability of the Medical Section Chief to conduct medical examination or prepare recommendation in case of serious or emergency situations, the BIWF shall secure the services of a duly- licensed doctor in a nearest government health facility to perform the duties of the Medical Section Chief under Section 3.

Section 7. Duties of Alien Control Officers. – Alien Control Officers shall secure the services of a duly-licensed doctor in a nearest government facility in case a ward needs immediate medical attention;

Section 8. Operational Expenses. – All operational expenses incurred for the ward's attendance in court or for his medical examination shall be chargeable against such ward.

In case of emergency medical situations, the expense shall first be charged against the appropriation provided by BI, subject to reimbursement against the ward.

Section 9. Effectivity – This Operations Order shall take effect fifteen (15) days from receipt of the Office of the National Administrative Register (ONAR), U.P. Law Center, U.P. Diliman, Quezon City.

August 14, 2015.

(SGD) SIEGFRED N. MISON
Commissioner

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[1] People of the Philippines vs. Cristobal Francisco, G.R. No. L-22061, October 11, 1924.

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