MANUAL OF OPERATION FOR PROCESSING ARRESTED/INTERCEPTED FOREIGNERS

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WHEREAS, there is a need to consolidate existing guidelines for processing of arrested/ Intercepted foreigners for consistency.

NOW THEREFORE, pursuant to the rule-making authority of the Commissioner of Immigration under CA 613, Section 3, this Manual of Operation in Processing Arrested/Intercepted Foreigners shall be observed.

PART I
ARRESTED FOREIGNERS PURSUANT TO A MISSION ORDER

Section 1. Issuance of a Mission Order - Upon a well-founded and reasonable determination based on available and verifiable civilian, immigration, law enforcement, or military intelligence report that a foreigner has committed, is actually committing or is about to commit a violation of immigration laws, or any of the Philippine laws, rules and regulations, which may constitute grounds for deportation, the Commissioner, or in his absence, the Acting Commissioner, in the interest of national security, public health, public safety and/or national interests, may issue a Mission Order directing appropriate officers of the Bureau of Immigration (BI) to conduct verification and investigation operations against the foreigner concerned, and if probable cause exists, to effect a warrantless arrest of such foreigner in accordance with Section 5, Rule 113 of the Revised Rules of Criminal Procedure, if found in flagrante violating Philippine Immigration laws.

The Commissioner may issue a Mission Order motu propio or upon written request of other law enforcement agencies.

Section 2. Submission of Written Request from Other Law Enforcement Agencies - Law enforcement agencies seeking assistance for a joint-operation with the BI may file a written request containing the following: (i) purpose of the joint-operation; (ii) the place and time of the joint-operation; (iii) other relevant information about the operation.

Without prior coordination, the BI shall not accept the turn-over of foreigners from other law enforcement agencies except when the foreigners (i) pose a clear and present danger to public safety; or (ii) are fugitives.

Section 3. Contents and Validity of a Mission Order - A Mission Order shall be valid for seven (7) working days from its issuance and shall contain the following information:

- Full name and known alias/es (if the information is available) or john doe/s (if the information is not available),

- Specific address/es and other known personal circumstances of the subject foreigners (if the information is available);

- Complete names and designation of the BI personnel who will serve and execute the Mission Order.

- Date of issuance of the Mission Order; and

- A directive to the BI personnel to conduct verification and investigation operations against the foreigners concerned, and if probable cause exists, to effect a warrantless arrest of such foreigners in accordance with Section 5, Rule 113 of the Revised Rules of Court, if found in flagrante violating Philippine immigration laws.

Section 4. Service and Execution of Mission Order – Only duly authorized permanent/organic personnel of the BI or permanent government on detail to the BI shall serve and execute the Mission Order against the subject foreigners.

Provided, that, assistance may be sought from the BI's confidential agents and other law enforcement officers if the circumstances so warrant.

No Mission Order shall be served and executed on Saturdays, Sundays, non-working holidays or during non-office hours, unless the subject foreigners are fugitives from justice or are engaged in acts inimical to the public safety and national security as the Commissioner may determine.

Section 5. Procedure in carrying out Mission Order - The Mission Order shall be carried out without delay and with due regard to the human rights of the foreigners. If probable cause exists to effect a warrantless arrest of the foreigners, the arresting officers shall advise the latter of their rights under RA 7438, including but not limited to, (i) their rights to know the reason for their arrest; (ii) their right to counsel of their own choice; and (iii) their right to remain silent.

On the day of the arrest, the arresting officers shall bring the foreigners to the Intelligence Division for booking, imaging, fingerprinting and record check. The Chief of the Intelligence Division, or his duly authorized representative, shall inform the foreigner's embassy/ies or consular offices in the Philippines, if there is any, of the arrest.

Section 6. Duties of the Arresting Officers, Intelligence Division. Post Mission Report - The arresting officers shall, within twelve (12) hours from the time of arrest forward the case records to the Legal Division which include:

- Post Mission Report - (i) with an Affidavit of Arrest (of the arresting officers) specifically and clearly stating the ground date, time, place and manner of arrest; or (ii) with Service of Mission Order;

- Mission Order and the Intelligence Report which became the basis for the issuance of such Mission Order;

- Complete inventory of the properties, things and papers, including immigration documents, provisionally taken from the foreigners, if any;

- Other relevant documentary, object and testimonial evidence.

Section 7. Duties of the CSU - The Civil Security Unit (CSU), after proper endorsement from the Intelligence Division, shall secure and guard all arrested foreigners upon arrival at the BI Main office or BI Sub-port Offices.

Section 8. Duties of the Special Prosecutor - The Chief, Legal Division, shall immediately assign the case record to the Prosecution and Legal Assistance Section (PLAS). The Special Prosecutor/s shall then conduct an investigation and shall have thirty six (36) hours from the time of arrest to file a Charge Sheet or to recommend the foreigner's release. The Charge Sheet (with Watchlist Order) or the Release Order shall be subject to the approval of the Chief, Legal Division.

The foreigner's or their counsel, if any, and their embassy/ies shall be provided with the copies of the Charge Sheet (with the evidence to be used against them) or the Order of Release.

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Before the Charge Sheet is filed, the arrested foreigners may ask for a regular preliminary investigation but they must sign a waiver of the provisions of Article 125 of the Revised Penal Code in the presence of their counsel. The investigation must then be terminated within fifteen (15) days from the time of arrest.

Section 9. Turn-over to the BI Warden's Facility - After the conduct of the inquest investigation and the Special Prosecutor deems the necessity of filing a Charge Sheet or after requesting for a regular preliminary investigation, the CSU shall turn-over the foreigner's custody to the Warden, BI Warden's Facility (BIWF). The Chief, LD shall issue the Commitment Order.

Section 10. Duties of the BIWF - Prior to receiving custody of the arrested foreigner's, the Warden, or his duly authorized agent, shall register the following entries in its official logbook:

- Complete names of all the BI personnel who turned-over the foreigner's custody;

- Personal circumstances of the arrested foreigners;

- Copy of the Mission Order and Affidavit of arrest;

- Original copy of the Commitment Order;

- Complete inventory of the foreigner's properties things and papers that will be turned over to the Warden.

Section 11. Turn-over to the BIWF in Case of Lack of Time - In case of lack of material time for the arresting officers to bring the foreigners to the Legal Division for investigation on the same day of their arrest, the foreigners shall be delivered to the BIWF.

The arresting officer shall still comply with the twelve (12) hour period to prepare the case record under Section 6. The arresting officers shall then submit the case record to the Legal Division as soon as practicable.

Prior to receiving custody of the foreigners from the arresting officers, the Warden, or his duly authorized agent, shall comply with Section 10 except for the Commitment Order. Likewise, the Warden shall demand a copy of the case record.

The Warden shall deliver the arrested foreigners to the Legal Division for inquest investigation in the immediately following working day.

In case the immediately following working day will go beyond the thirty six (36) hour period, the Chief, Legal Division, shall assign a Special Prosecutor to conduct an investigation at the BIWF.

The Special Prosecutor shall comply with Section 8 of this Operations Order.

PART 2
INTERCEPTED FOREIGNERS AT THE AIRPORTS AND SEAPORTS

Section 12. Foreigners with fake or fraudulent immigration documents intercepted at the airports or seaports - Foreigners with fake or fraudulent immigration documents intercepted at the airports or seaports shall be arrested by the Airport Operations Division (AOD) personnel in accordance with Section 5, Rule 113 of the Revised Rules of Criminal Procedure since they are found in Flagrante violating Philippine Immigration Laws.

Section 13. Handling of Intercepted Foreigners - The intercepted foreigners' human rights shall be fully respected. If probable cause exists to effect a warrantless arrest of the intercepted foreigners, the arresting officers shall advise the latter of their rights under RA7438, including but not limited to, (i) their right to know the reason for their arrest: (ii) their right to counsel of their own choice, (iii) their right to remain silent.

Section 14. Intercepted Foreigners with fake TVV extensions, Exit Clearances, Border Stamps and Receipts Thereof - Within twelve hours (12) from the time of interception of foreigners with fake Temporary Visitor Visas (TVV), Exit Clearances, Border Stamps and Receipts thereof, the arresting officers shall indorse the Interception Report with an Affidavit of Arrest to the Legal Division. The Affidavit of Arrest shall specifically and clearly state the ground, date, time, place and manner of arrest.

The Border Monitoring and Security Unit (BMSU) shall temporarily hold the foreigners at the appropriate BI Holding Area.

Section 15. Duties of Legal Division - The Chief, Legal Division, shall immediately assign the case record to the PLAS. The Special Prosecutor shall conduct an investigation and shall have thirty six (36) hours from the time of interception to recommend the foreigners release or to direct the foreigners to leave the Philippines within twenty four (24) hours. The recommended order shall be subject to the approval of the Commissioner.

The Order to Leave shall direct the foreigners to each pay within 24 hours (i) their TVVs updating fees, if applicable; (ii) Immigration Arrears Release Certificate [IARC] of Fifty Thousand Pesos (Php50,000); and (iii) express lane fees of Ten Thousand Pesos (Php10,000). Likewise, the Order to Leave shall direct the inclusion of the foreigners name in the Blacklist.

The foreigners or their counsel shall be provided with the copy of the Release Order or the Order to Leave with Blacklist.

Section 16. Failure to Comply with the Order to Leave - In case of failure to comply with the conditions of the Order to Leave, the foreigners shall undergo regular deportation proceedings.

The Legal Division shall immediately file the Charge Sheet and the BMSU shall turn-over the foreigners' custody to the Warden, BIWF.

Section 17. Intercepted Foreigners who Do not fall under Sec. 14. - Within six (6) hours from the time of interception of foreigners who do not fall under Section 14, the arresting officers shall bring the foreigners to the BMSU for booking, imaging, fingerprinting and records check. The BMSU shall inform the foreigner's embassy/ies or consular, offices in the Philippines, if there is any, of the arrest.

The BMSU shall, within six (6) hours from receipt of the intercepted foreigners and their case records, shall forward the foreigners and the case records to the Legal Division which shall include:

- Interception Report with an Affidavit of Arrest specifically and clearly stating the ground, date, time, place and manner of arrest;

- Complete inventory of the properties, things and papers, including immigration documents, provisionally taken from the foreigners, if any;

- Other relevant documentary, object and testimonial evidence.

Section 18. Duties of the CSU over the Intercepted Foreigners- The CSU shall secure and guard all intercepted foreigners upon arrival at the BI Main Office or BI-Sub-port Offices.

Section 19. Investigation of Intercepted Foreigners - The Legal Division shall investigate the intercepted foreigners who are subject of deportation proceedings pursuant to Section 8.

Section 20. Turn-IOver to the BIWF of Intercepted Foreigners - After the conduct of the inquest investigation and the Special Prosecutor deems the necessity of filing a Charge Sheet or after requesting for a regular preliminary investigation, the CSU shall turn-over the intercepted foreigners custody to the Warden, BI Warden's Facility

(BIWF). The Chief, LD shall issue the Commitment Order.

Section 21. Duties of the BIWF - Prior to receiving custody of intercepted foreigners, the Warden, or his duly authorized agent, shall comply with Section 10.

Section 22. Turn-over to the BIWF of Intercepted Foreigners in Case of Lack of Time - In case lack of material time for the BMSU to bring the intercepted foreigners (who do not fall under Section 14) to the Legal Division on the same day of their arrest, the foreigners shall immediately be delivered and committed to the BIWF.

The arresting officers and the BMSU shall still comply with the twelve (12) hour period to prepare the Interception Report with Affidavit of Arrest. The BMSU shall then submit the Report to the Legal Division as soon as Practicable.

Prior to receiving custody of the intercepted foreigners, the Warden, or his duly authorized agent, shall comply with Section 10 except for the Commitment Order. Likewise, the Warden shall demand a copy of the Interception Report with Affidavit of Arrest.

The Warden shall deliver the intercepted foreigners to the Legal Division for inquest investigation in the immediately following working day.

In case the immediately following working day will go beyond the thirty six (36) hour period, the Chief, Legal Division, shall assign a Special Prosecutor to conduct an investigation at the BIWF.

The Special Prosecutor shall comply with Section 8.

Section 23. Effectivity - This Operations Order shall take effect fifteen (15) days from the receipt of the Office of the National Administrative Register (ONAR), U.P. Law Center, U.P. Diliman Quezon City.

25 September 2014

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Commissioner

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