

ARREST AND DETENTION OF ALIENS

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The warden shall not release an alien in detention, except when an order of release has been issued. Only the Commissioner and, in her absence, an Associate Commissioner, shall have authority to sign an order of release for a detained alien.

Until the Supreme Court decides the pending test case, we shall voluntarily refrain from issuing warrant of arrest. Instead, by means of a mission order, we shall authorize warrantless arrest, or citizen's arrest, as provided for under the 1985 Rules of Criminal Procedure, Rule 113, Section 5.

Further, by means of a mission order, we may authorize a warrantless search under the Rules of Criminal Procedure, Rule 126, Section 12, which allows a search without a warrant, as an incident to a lawful arrest.

After the alien is arrested and detained, his lawyer may file a petition for habeas corpus in court. If the judge issues an order to release the alien, the Office of the Solicitor General shall immediately file an urgent motion for reconsideration. If the judge denies the motion, the OSG shall immediately file an appeal or a petition for certiorari with the appellate court, with a prayer for temporary restraining and preliminary injunction.

Hence, even if a person shows a court order to release a detained alien, the warden shall not yet comply with the order, because the Solicitor General will take steps to reverse it.

The warden shall render these Instructions into a poster and display it at both detention stations.

Adopted: 3 March 1988

(SGD.) MIRIAM DEFENSOR SANTIAGO
Commissioner

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