NATIONAL ADMINISTRATIVE REGISTER · SEPTEMBER 11, 2015

AMENDING SECTIONS 4.8 AND 15 OF OPERATIONS ORDER NO. SBM-2014-046 (MANUAL OF OPERATION FOR PROCESSING ARRESTED/INTERCEPTED FOREIGNERS) AND INSERTING SECTION 8-A THEREOF

BOI Operations Order No. SBM-2015-030, September 11, 2015

Read online (full-text search, related cases, audio case brief): https://batas.org/library/bm-2015-030/

Adopted: 11 September 2015
Date Filed: 15 September 2015
WHEREAS, Operations Order No. SBM-2014-046 was issued on 25 September 2014 providing for the Manual of Operation for Processing Arrested/Intercepted Foreigners;

WHEREAS, there is a need to amend certain provisions of the same Operations Order to include certain duties of the Intelligence Division and Legal Division;

NOW THEREFORE, pursuant to the rule-making authority of the Commissioner of Immigration under Commonwealth Act. No. 613, as amended, the following amendments are hereby prescribed:

Section 1. Amendment of Section 4 of Operation Order No. SBM-2014-046. – Section 4 of Operation Order No. SBM-2014-046 is hereby amended to read as follows:

> "Section 4. Service and Execution of Mission Order.– Only duly authorized permanent/organic personnel of 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; Provided further, that a foreigner arrested in accordance with, or incidental to, the Mission Order shall not be released without the written approval of the Commissioner.
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> 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 2. Amendment of Section 8 of Operations Order No. SBM 2014-046. – Section 8 of Operation Order No. SBM-2014-046 is hereby amended to read as follows:

> "Section 8. Duties of Legal Division. – 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 recommend the foreigner's release or the filing of charges for deportation. Any Order shall be subject to the approval of the Commissioner.
>
> Where the recommendation for the release of the detained foreigner is approved but the evidence on hand warrants the conduct of a regular preliminary investigation, as determined by the Commissioner, the order of release shall be served on the officer having custody of said foreigner and shall direct the said officer to serve upon the foreigner the subpoena or notice of preliminary investigation, together with the copies of the complaint, affidavits or sworn statements of the complainant and his witnesses and other supporting evidence.

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.

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 3. Insertion of Section 8-A of Operations Order No. SBM-2014-046. – A new provision is hereby inserted into Operations Order No. SBM-2014-046 to read as follows:

"Section 8-A. Duties of Legal Division in Complaints Initiated by Private Complainants.– Where a private party initiates a complaint for deportation against a foreigner/s, 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 recommend the dismissal of the complaint (for lack of probable cause) or the filing of charges for deportation. The Dismissal Order shall be subject to the approval of the Commissioner."

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 Dismissal Order."

Section 4. Amendment of Section 15 of Operations Order No. SBM-2014-046. – Section 15 of Operations Order No. SBM-2014-046 is hereby amended to read as follows:

"Section 15. Duties of the 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 issuance of a Charge Sheet or to direct the foreigner to leave the Philippines within forty eight (48) hours from receipt of the Order. The recommended order shall be subject to the approval of the Commissioner.

The Order to Leave shall direct the foreigner to: (i) pay updating fees as computed by the Visa Extension Section (ii) pay Immigration Arrears Release Certificate [IARC] not less than Fifty Thousand Pesos (PhP50,00.00); (iii) pay Express Lane Fees of Five Thousand Pesos (PhP5,000.00) to be receipted to the Trust Fund; and (iv) secure a valid Emigration Clearance Certificate, if necessary.

Likewise, the Order to Leave shall direct the inclusion of the foreigner's name in the Blacklist who shall be ineligible for readmission except upon prior payment by each of them of (i) Waiver of Exclusion Ground (WEG) Fee of Fifty Thousand Pesos (PhP50,000.00); and (ii) Express Lane Fee of Five Thousand Pesos (PhP5,000.00) to be receipted to the Trust Fund.

The foreigner or his counsel shall be provided with the copy of the Charge Sheet or the Order to Leave with Blacklist."

Section 5. Effectivity. – This Operations Order shall take effect immediately.

Furnish a copy of this Order to the Office of the National Administrative Register (ONAR), U.P Law Center, University of the Philippines, Diliman, Quezon City.

11 September 2015

(SGD) SIEGFRED B. MISON
Commissioner

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