

**[OPERATIONS ORDER NO. SBM-2015-034,
November 03, 2015]**

RULES GOVERNING WARRANTS OF DEPORTATION

*Adopted: 08 October 2015
Date Filed: 03 November 2015*

This supplements Operations Order No. SBM-2015- "Implementation of Deportation Order". entitled

Rule 1. Basis of Warrants for Deportation. – Warrants for deportation (WOD) shall be issued by the Commissioner of Immigration or any officer designated by him, after a final determination by the Board of Commissioners or any competent authority of the existence of a ground for deportation as charged against the foreigner.

Rule 2. WOD Contents and Validity Period. - The WOD, which is valid for 30 days from its issuance, shall include the: (a) Foreigner's known name and, if any, alias/aliases; (b) Residence/Domicile; (c) Other significant personal circumstances and/or physical features; (d) Deportation case docket no.; (e) WOD date of issuance and (f) An Arrest Order from the Commissioner of Immigration or any officer designated by him.

Rule 3. Duties of the Legal Division. Proof of Service. Waiver. - Within 48 hours upon finality of a deportation order, judgment or resolution the Legal Division (LD) shall prepare a WOD, with proof of service, for the Commissioner's approval.

Proof of service shall be waived in case the foreigner of a WOD is a: (a) Fugitive; (b) Illegal entrant; or (c) Undocumented^[1].

Rule 4. Duty of LD. WOD Approval, Implementation and Arrest. Record of WOD. - LD shall without delay forward the approved WOD to the Intelligence Division, for immediate implementation and arrest of the foreigner. LD shall retain a copy of the WOD in the foreigner's deportation records.

Rule 5. WOD Service by Intelligence Division. Assistance of Law-enforcement Agencies. - Upon receipt of the WOD under Rule 4, the Commissioner's duly-authorized intelligence personnel shall serve the WOD upon the foreigner. The assistance of law-enforcement agencies may, when necessary, be requested for the WOD's service.

Rule 6. Special Directives for WOD's Service. - Foreigners arrested under Rule 4 shall without delay be brought to the Intelligence Division for biometric- capturing and Post-mission Report proceedings.

The Commissioner's duly-authorized intelligence personnel, who shall serve the WOD under Rule 5, shall strictly comply with RA 7438.^[2]

The Chief of Intelligence Division shall also ensure effective conformity under related laws, rules and regulations governing the arrest of foreigners.

Section 2. Rights of Persons Arrested, Detained or Under Custodial Investigation; Duties of Public Officers. -

(a) Any person arrested detained or under custodial investigation shall at all times be assisted by counsel.

(b) Any public officer or employee, or anyone acting under his order or his place, who arrests, detains or investigates any person for the commission of an offense shall inform the latter, in a language known to and understood by him, of his rights to remain silent and to have competent and independent counsel, preferably of his own choice, who shall at all times be allowed to confer privately with the person arrested, detained or under custodial investigation. If such person cannot afford the services of his own counsel, he must be provided with a competent and independent counsel by the investigating officer.

(c) The custodial investigation report shall be reduced to writing by the investigating officer, provided that before such report is signed, or thumb-marked if the person arrested or detained does not know how to read and write, it shall be read and adequately explained to him by his counsel or by the assisting counsel provided by the investigating officer in the language or dialect known to such arrested or detained person, otherwise, such investigation report shall be null and void and of no effect whatsoever.

(d) Any extrajudicial confession made by a person arrested, detained or under custodial investigation shall be in writing and signed by such person in the presence of his counsel or in the latter's absence, upon a valid waiver, and in the presence of any of the parents, elder brothers and sisters, his spouse, the municipal mayor, the municipal judge, district school supervisor, or priest or minister of the gospel as chosen by him; otherwise, such extrajudicial confession shall be inadmissible as evidence in any proceeding.

(e) Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel; otherwise the waiver shall be null and void and of no effect.

(f) Any person arrested or detained or under custodial investigation shall be allowed visits by or conferences with any member of his immediate family, or any medical doctor or priest or religious minister chosen by him or by any member of his immediate family or by his counsel, or by any national non-governmental organization duly accredited by the Commission on Human Rights or by any international non-governmental