

[DEPARTMENT CIRCULAR NO. 17, March 13, 1998]

**PRESCRIBING RULES AND REGULATIONS GOVERNING THE
ISSUANCE OF HOLD DEPARTURE ORDERS**

WHEREAS, under Section 6, Article III of the 1987 Constitution, "The liberty of abode and of changing the same within the limits prescribed by law shall not be impaired except upon lawful order of the court. Neither shall the right to travel be impaired except in the interest of national security, public safety, or public health, as may be provided by law;"

WHEREAS, the indiscriminate issuance of Hold Departure Orders infringes upon the people's right to travel and should, therefore, be restrained;

NOW, THEREFORE, pursuant to the provisions of existing laws, the following rules and regulations are hereby issued to govern the issuance and implementation of Hold Departure Orders (HDOs):

1. As used in these Rules, unless the context otherwise requires —
 - a. "President" refers to the President of the Republic of the Philippines;
 - b. "Secretary" refers to the Secretary of Justice;
 - c. "Commissioner" refers to the Commissioner of the Bureau of Immigration;
 - d. "Bureau" refers to the Bureau of Immigration; and
 - e. "HDO" refers to a Hold Departure Order issued by the President, Secretary or the proper Regional Trial Court commanding the Commissioner to prevent the departure for abroad of Filipinos and/or aliens named therein by including them in the Bureau's Hold Departure List.
2. An HDO shall be implemented by the Commissioner under any of these circumstances:
 - a. When the HDO was issued by the Regional Trial Court against an accused in a criminal case which is within its exclusive jurisdiction in accordance with Circular 39-97 of the Office of the Court Administrator dated June 19, 1997.

Whenever (a) the accused has been acquitted; or (b) the case has been dismissed, the HDO issued shall be lifted by the Commissioner upon receipt from the Court concerned of a copy of (a) the judgment of acquittal promulgated; or (b) the order of dismissal issued, both of which shall include therein the order for the cancellation of such HDO.

b. When the HDO was issued upon the order/instruction of the President of the Philippines in the interest of national security, public safety or public health, as may be provided by law.

The HDO issued shall be lifted by the Commissioner upon receipt of the order/instruction from the President to lift such HDO.

c. When the HDO was issued by the Secretary of Justice, upon application of an interested party, against any of the following:

i. An accused person who is released on bail.

The Application shall be accompanied by a certified true copy of the order releasing the person on bail and a certification issued by the Clerk of Court concerned that the criminal case where the bail was issued is pending.

An Immigration Officer may cause the arrest of an accused who is released on bail without the necessity of a warrant if the latter attempts to leave the country without prior written permission of the court where the case is pending.

The HDO shall be lifted by the Commissioner upon order of the Secretary attached to which is (a) the certification issued by the Clerk of Court or other officer concerned that the case in which the bail was granted has been dismissed; or (b) a certified true copy of the decision of the court acquitting the accused or (c) a certified true copy of the order of the court allowing the departure of the accused. If the criminal case is provisionally dismissed, a certified true copy of the order of the court allowing the departure of the accused shall be required.

ii. A fugitive from justice.

The application shall be accompanied by a certified true copy of the criminal information and warrant/order of arrest against the fugitive and a certification issued by the Clerk of Court concerned that the warrant/order of arrest was returned unserved by the peace officer to whom the same was delivered for service.

The HDO shall be lifted by the Commissioner upon order of the Secretary attached to which is a certification issued by the Clerk of Court or other officer concerned allowing the departure of the accused during the pendency of the case, or that the warrant/order of arrest had been recalled, or that the case in which the warrant/order of arrest was issued has been dismissed.

iii. An alien who is the accused in a criminal case that is pending trial before a court.

The application shall be accompanied by a certification issued by the court concerned on the pendency of the trial of the criminal case