

**[ BI OFFICE MEMORANDUM ORDER NO. ELM-97-013, June 30, 1997 ]**

**1997 DEPORTATION RULES OF PROCEDURE**

**EXCLUSIVE JURISDICTION OF THE BOARD OF COMMISSIONERS**

Under Book IV, Title III, Chapter 10, Sec. 31 of Executive Order No. 292, otherwise known as the Revised Administrative Code of 1987, the Board of Commissioners (hereinafter called the BOARD, for brevity), a collegial body, composed of the Commissioner of Immigration and the two Associate Commissioners, was granted *exclusive jurisdiction* over all deportation cases.

**BOARD OF COMMISSIONERS *EN BANC***

Pursuant to the mandate of Executive Order No. 292 and in the interest of public service, effective immediately, all deportation cases shall be heard and determined by the Board of Commissioners sitting *en banc*. The Commissioner shall act as Chairman and the two Associate Commissioners as Members, except in the absence of the Commissioner, one of the Associate Commissioners shall act as Chairman. In any case coming before the BOARD, the decision of any two members shall prevail. Hence, the BOARD exercises authority, *inter alia*, to:

1. Hear charges, evaluate evidence, formulate conclusions and decide deportation cases, including self-deportation and summary deportation judgment.
2. Compel the attendance of the alien charged before BOARD, order the cancellation and forfeiture of the bail bond in favor of the government and order the arrest of the accused for willful disregard of any lawful order of the BOARD, summon and/or subpoena witnesses and require the production of documents by subpoena *duces tecum*.
3. Review on appeal or *motu proprio* the decision of the Board of Special Inquiry (hereinafter called BSI, for brevity) on admission and exclusion cases, including citizenship and other cases within the jurisdiction of the BSI as provided for in LOI 20

**AUTHORITY OF THE COMMISSIONER OF  
IMMIGRATION TO PRESCRIBE DEPORTATION RULES OF PROCEDURE**

Under the Section 37(c) of the Immigration Act, "no alien shall be deported without being informed of the specific grounds for deportation nor without being given a hearing under the rules of procedure to be prescribed by the Commissioner of Immigration."

Pursuant to the authority granted by Section 37(c) of the Immigration Act, the *1997 Deportation Rules of Procedure* promulgated under this Office Memorandum shall be observed. All rules of procedure affecting deportation cases that are inconsistent

with this new rules of procedure on deportation cases are hereby revealed and revoked.

### **COMPLAINT FOR DEPORTATION**

Deportation is not the preferred remedy for criminal charges which can be filed with the Office of the Prosecutor or for administrative charge which can be filed with the proper administrative agency. A written complaint for deportation shall be referred to the Law & Investigation Division, Office of the Special Prosecutor.

Complaints for criminal offenses and civil obligations shall not be entertained. The complainant shall be advised to file his complaint with the proper administrative agency handling preliminary investigation or to the court in case of civil obligations.

Complaints for deportation filed by private persons must be in writing and under oath. It must specify the violation or violations committed by the alien and the name and address of the alien. Complaints not under oath and without the address of the complainant shall not be entertained. Complaints for deportation whether filed by private persons or an office investigation case shall be referred to the Intelligence Division or to the Law & Investigation Division for case build-up and gathering of evidence. The case as well as the evidence gathered shall then be forwarded to the Office of the Special Prosecutor of the Bureau for determination of a *prima facie* case for deportation. Legal Officers of this Bureau, by virtue of their functions with authority to take testimony or receive evidence, are hereby designated as Special Prosecutors. They shall have the power, to administer oath, summon witnesses as provided for in Book I, Chapter 9, Sec. 37, E.O. No. 292.

### **FILING OF CHARGE SHEETS**

Special Prosecutors from the Law and Investigation Division are hereby directed to file with the Office of the Secretary of the Board of Commissioners the Charge Sheets for violation of Immigration laws and/or for undesirability under Book III, Title I, Chapter 3 of E.O. 292. The Special Prosecutor shall certify in the Charge Sheet, under oath that he has conducted the custodial and/or preliminary investigation and a *prima facie* case exist for violation of immigration laws and/or for undesirability. The BOC Secretary shall administer the oath pursuant to Book 1, Chapter, Sections 37 and 41 of E.O. 292.

### **SECRETARY OF THE BOARD OF COMMISSIONERS**

The Board shall be assisted by a Lawyer who shall be designated as BOARD Secretary (hereinafter called BOC Secretary, for brevity) and shall avail the services of stenographers, interpreters and clerks.

The BOC Secretary shall keep a docket book for deportation cases, indicating therein: the docket number; the name of the person charged, including his date and place of birth, his nationality and if the passport is available, the country that issued the passport, the number and the expiry date; the date of the filing of charge sheet; and the alleged violation. He shall keep tract of the status of the case and prepare three copies of the records of the case. The original case records shall be kept by the BOC Secretary.

### **FILING OF PLEADINGS**