

# Rights of the accused

R.A. 7438 provides penalties for any public officer or employee who violates the rights of persons arrested, detained or under custodial investigation.

1. To be presumed innocent until the contrary is proved beyond reasonable doubt

2. To be informed of the nature and the cause of the accusation against him.

3. To be present

and defend in person and by counsel at every stage of the proceedings, from the arraignment to promulgation of the judgment.

The accused, however, may waive his presence at the trial pursuant to the stipulations as set forth in his bail

Under R.A. 7438, custodial investigation includes the practice of police officers of "inviting" persons for questioning in connection with an offense.

bond, unless his presence is specifically ordered by the court for purposes of identification.

The absence of the accused without any justifiable cause at the trial on a particular date of which he had notice shall be considered a waiver of his right to be present during that particular trial or hearing day.

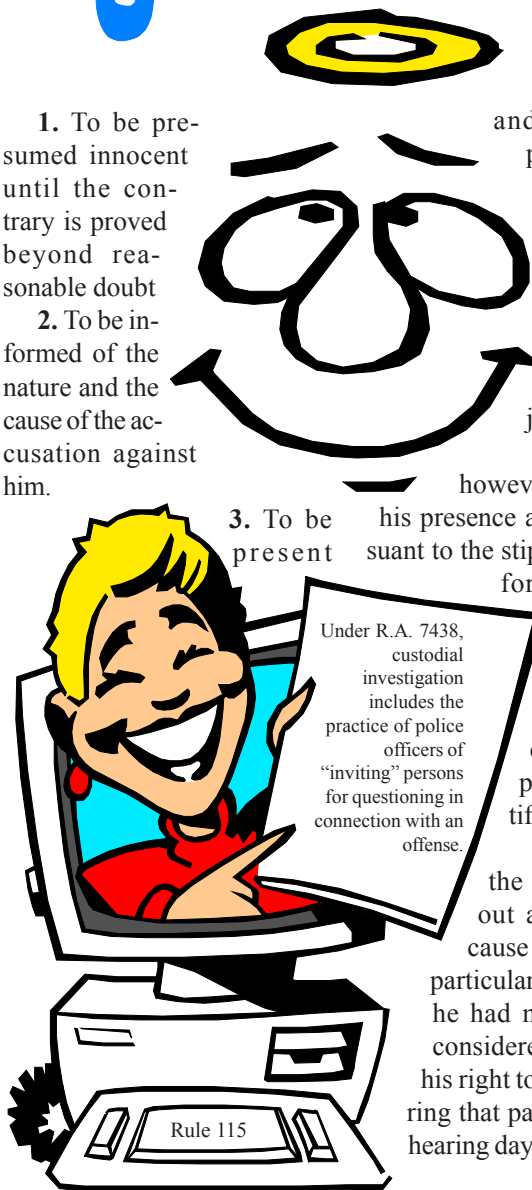
When an accused under custody had been notified of the date of the trial and escapes, he shall be deemed to have waived his right to be present on said date and on all subsequent trial dates until custody is regained.

Upon motion, the accused may be allowed to defend himself in person when it sufficiently appears to the court that he can properly protect his right without the assistance of counsel.

4. To testify on his own behalf but subject to cross-examination on matters covered by direct examination. His silence shall not in any manner prejudice him.

5. To be exempt from being compelled to be a witness against himself.

6. To confront and cross-examine the witnesses against him at the trial. Either party may utilize as part of its evidence the testimony of a witness who is deceased, out of or cannot with due diligence be found in the Philippines, unavailable or otherwise unable



to testify, given in another case or proceeding, judicial or administrative, involving the same parties and subject matter, the adverse party having had the opportunity to cross-examine him.

7. To have compulsory process issued to secure the attendance of witnesses and production of other evidence in his behalf.

8. To have a speedy, impartial and public trial.

9. To have the right of appeal in all cases allowed and in the manner prescribed by law.

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### Selected provisions of the Speedy Trial Act of 1998

**Time limit for trial** - In criminal cases involving persons charged of a crime (except for those falling under the Rules on Summary procedure) the judge shall after consultation with the public prosecutor and counsel for the accused, set the case for continuous trial on a weekly or other short-term trial calendar at the earliest possible time so as to ensure speedy trial. In no case shall the entire trial period exceed one hundred eighty (180) days from the first day of trial, except as authorized by the Chief Justice of the Supreme Court.



**Time limit between filing of information and arraignment, and between arraignment and the trial** - the arraignment shall be held within thirty (30) days from the filing of the information, or from the date the accused has appeared before the judge or court in which the charge is pending, whichever date last occurs.

Thereafter, where a plea of not guilty is entered, the accused shall have at least fifteen (15) days to prepare for trial. Trial shall commence thirty (30) days from arraignment as fixed by the court.

If the accused pleads not guilty to the crime charged, he shall state whether he interposes a negative or affirmative defense. A negative defense shall require the prosecution to prove the guilt of the accused beyond reasonable doubt, while an affirmative defense may modify the order of trial and require the accused to prove

such defense by clear and convincing evidence.

**Time limit following an order for new trial** - the trial shall commence within thirty days from the date the order for new trial becomes final, except that the court retrying the case may extend such period but in any case shall not exceed one hundred eighty (180) days from the date the order for new trial becomes final if unavailability of witnesses or other factors resulting from passage of time shall make trial within thirty (30) days impractical.

