

Department of Homeland Security

§ 287.10

question any person whom the officer believes to be an alien concerning his or her right to be or remain in the United States.

(g) *Guidelines.* The criminal law enforcement authorities authorized under this part will be exercised in a manner consistent with all applicable guidelines and policies of the Department of Justice and the Department of Homeland Security.

[68 FR 35280, June 13, 2003]

§ 287.9 Criminal search warrant and firearms policies.

(a) A search warrant should be obtained prior to conducting a search in a criminal investigation unless a specific exception to the warrant requirement is authorized by statute or recognized by the courts. Such exceptions may include, for example, the consent of the person to be searched, exigent circumstances, searches incident to a lawful arrest, and border searches. The Commissioner of CBP and the Assistant Secretary of ICE shall promulgate guidelines governing officers' conduct relating to search and seizure.

(b) In using a firearm, an immigration officer shall adhere to the standard of conduct set forth in 8 CFR 287.8(a)(2). An immigration officer may carry only firearms (whether Department issued or personally owned) that have been approved pursuant to guidelines promulgated by the Commissioner of CBP or the Assistant Secretary for ICE. These officials shall promulgate guidelines with respect to:

(1) Investigative procedures to be followed after a shooting incident involving an officer;

(2) Loss or theft of an approved firearm;

(3) Maintenance of records with respect to the issuance of firearms and ammunition; and

(4) Procedures for the proper care, storage, and maintenance of firearms, ammunition, and related equipment.

[59 FR 42420, Aug. 17, 1994, as amended at 68 FR 35280, June 13, 2003]

§ 287.10 Expedited internal review process.

(a) *Violations of standards for enforcement activities.* Alleged violations of the

standards for enforcement activities established in accordance with the provisions of § 287.8 shall be investigated expeditiously consistent with the policies and procedures of the Department of Homeland Security and pursuant to any guidelines issued by the Secretary.

(b) *Complaints.* Any persons wishing to lodge a complaint pertaining to violations of enforcement standards contained in § 287.8 may contact the Department of Homeland Security, Office of the Inspector General, 245 Murray Drive—Building 410, Washington, DC, 20548, or telephone 1-800-323-8603. With respect to employees of the former INS, persons may contact the Office of Internal Audit, Bureau of Immigration and Customs Enforcement, 425 I Street NW., Washington, DC, 20536.

(c) *Expedited processing of complaints.* When an allegation or complaint of violation of § 287.8 is lodged against an employee or officer of the Department, the allegation or complaint shall be referred promptly for investigation in accordance with the policies and procedures of the Department. At the conclusion of an investigation of an allegation or complaint of violation of § 287.8, the investigative report shall be referred promptly for appropriate action in accordance with the policies and procedures of the Department.

(d) *Unsubstantiated complaints.* When an investigative report does not support the allegation, the employee or officer against whom the allegation was made shall be informed in writing that the matter has been closed as soon as practicable. No reference to the allegation shall be filed in the official's or employee's official personnel file.

(e) *Jurisdiction of Department of Justice organizations.* Nothing in this section alters or limits, is intended to alter or limit, or shall be construed to alter or limit, the jurisdiction or authority conferred upon the Federal Bureau of Investigation, the United States Attorneys, the Criminal Division or the Civil Rights Division, or any other component of the Department of Justice that may have jurisdiction regarding criminal violations of law.

[68 FR 35281, June 13, 2003]