

## Department of Homeland Security

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the books, papers, or documents specified in the subpoena. A subpoena may direct the taking of a deposition before an immigration officer of the Department.

(c) *Service.* A subpoena issued under this section may be served by any person, over 18 years of age not a party to the case, designated to make such service by the District Director; Deputy District Director; Chief Patrol Agent; Deputy Chief Patrol Agent; Assistant Chief Patrol Agent; Patrol Agent in Charge; Officer in Charge; Assistant District Director, Investigations; Supervisory Criminal Investigator, Anti-Smuggling; Regional Director; Special Agent in Charge; Deputy Special Agent in Charge; Resident Agent in Charge; District Field Officer; Field Office Director; Deputy Field Office Director; Supervisory Deportation Officer; Supervisory Detention and Deportation Officer; and Port Director having administrative jurisdiction over the office in which the subpoena is issued. The Director, Detention and Removal, shall also have the authority to make such designation. Service of the subpoena shall be made by delivering a copy thereof to the person named therein and by tendering to him/her the fee for one day's attendance and the mileage allowed by law by the United States District Court for the district in which the testimony is to be taken. When the subpoena is issued on behalf of the Department, fee and mileage need not be tendered at the time of service. A record of such service shall be made and attached to the original copy of the subpoena.

(d) *Invoking aid of court.* If a witness neglects or refuses to appear and testify as directed by the subpoena served upon him or her in accordance with the provisions of this section, the officer or immigration judge issuing the subpoena shall request the United States Attorney for the district in which the subpoena was issued to report such neglect or refusal to the United States District Court and to request such court to issue an order requiring the witness to appear and testify and to

produce the books, papers, or documents designated in the subpoena.

[50 FR 30134, July 24, 1985; 50 FR 47205, Nov. 15, 1985, as amended at 60 FR 56937, Nov. 13, 1995; 62 FR 10390, Mar. 6, 1997; 67 FR 39260, June 7, 2002; 68 FR 35276, June 13, 2003]

### § 287.5 Exercise of power by immigration officers.

(a) *Power and authority to interrogate and administer oaths.* Any immigration officer is hereby authorized and designated to exercise anywhere in or outside the United States the power conferred by:

(1) Section 287(a)(1) of the Act to interrogate, without warrant, any alien or person believed to be an alien concerning his or her right to be, or to remain, in the United States, and

(2) Section 287(b) of the Act to administer oaths and to take and consider evidence concerning the privilege of any person to enter, reenter, pass through, or reside in the United States; or concerning any matter which is material or relevant to the enforcement of the Act and the administration of the immigration and naturalization functions of the Department.

(b) *Power and authority to patrol the border.* The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power to patrol the border conferred by section 287(a)(3) of the Act:

(1) Border patrol agents, including aircraft pilots;

(2) Special agents;

(3) Immigration inspectors (seaport operations only);

(4) Adjudications officers and deportation officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections (seaport operations only);

(5) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(6) Immigration officers who need the authority to patrol the border under section 287(a)(3) of the Act in order to effectively accomplish their individual

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missions and who are designated, individually or as a class, by the Commissioner of CBP, or the Assistant Secretary for ICE.

(c) *Power and authority to arrest*—(1) Arrests of aliens under section 287(a)(2) of the Act for immigration violations. The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(2) of the Act and in accordance with 8 CFR 287.8(c):

- (i) Border patrol agents, including aircraft pilots;
- (ii) Special agents;
- (iii) Deportation officers;
- (iv) Immigration inspectors;
- (v) Adjudications officers;
- (vi) Immigration enforcement agents;
- (vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(viii) Immigration officers who need the authority to arrest aliens under section 287(a)(2) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, the Assistant Secretary for ICE, or the Director of the USCIS.

(2) Arrests of persons under section 287(a)(4) of the Act for felonies regulating the admission or removal of aliens. The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(4) of the Act and in accordance with 8 CFR 287.8(c):

- (i) Border patrol agents, including aircraft pilots;
- (ii) Special agents;
- (iii) Deportation officers;
- (iv) Immigration inspectors;
- (v) Adjudications officers;
- (vi) Immigration enforcement agents;
- (vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(viii) Immigration officers who need the authority to arrest persons under section 287(a)(4) of the Act in order to effectively accomplish their individual missions and who are designated, indi-

vidually or as a class, by the Commissioner of CBP, the Assistant Secretary for ICE, or the Director of the USCIS.

(3) Arrests of persons under section 287(a)(5)(A) of the Act for any offense against the United States. The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(5)(A) of the Act and in accordance with 8 CFR 287.8(c):

- (i) Border patrol agents, including aircraft pilots;
- (ii) Special agents;
- (iii) Deportation officers;
- (iv) Immigration inspectors (permanent full-time immigration inspectors only);
- (v) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;

(vi) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(vii) Immigration officers who need the authority to arrest persons under section 287(a)(5)(A) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, or the Assistant Secretary for ICE.

(4) Arrests of persons under section 287(a)(5)(B) of the Act for any felony. (i) Section 287(a)(5)(B) of the Act authorizes designated immigration officers, as listed in paragraph (c)(4)(iii) of this section, to arrest persons, without warrant, for any felony cognizable under the laws of the United States if:

(A) The immigration officer has reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

(B) The immigration officer is performing duties relating to the enforcement of the immigration laws at the time of the arrest;

(C) There is a likelihood of the person escaping before a warrant can be obtained for his or her arrest; and

(D) The immigration officer has been certified as successfully completing a

training program that covers such arrests and the standards with respect to the immigration enforcement activities of the Department as defined in 8 CFR 287.8.

(ii) The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the arrest power conferred by section 287(a)(5)(B) of the Act and in accordance with 8 CFR 287.8(c):

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors (permanent full-time immigration inspectors only);

(E) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;

(F) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(G) Immigration officers who need the authority to arrest persons under section 287(a)(5)(B) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(iii) Notwithstanding the authorization and designation set forth in paragraph (c)(4)(ii) of this section, no immigration officer is authorized to make an arrest for any felony under the authority of section 287(a)(5)(B) of the Act until such time as he or she has been certified by the Director of Training as successfully completing a training course encompassing such arrests and the standards for enforcement activities as defined in 8 CFR 287.8. Such certification shall be valid for the duration of the immigration officer's continuous employment, unless it is suspended or revoked by the Commissioner of CBP or the Assistant Secretary for ICE, or their respective designees, for just cause.

(5) Arrests of persons under section 274(a) of the Act who bring in, trans-

port, or harbor certain aliens, or induce them to enter.

(i) Section 274(a) of the Act authorizes designated immigration officers, as listed in paragraph (c)(5)(ii) of this section, to arrest persons who bring in, transport, or harbor aliens, or induce them to enter the United States in violation of law. When making an arrest, the designated immigration officer shall adhere to the provisions of the enforcement standard governing the conduct of arrests in 8 CFR 287.8(c).

(ii) The following immigration officers who have successfully completed basic immigration law enforcement training are authorized and designated to exercise the arrest power conferred by section 274(a) of the Act:

(A) Border patrol agents, including aircraft pilots;

(B) Special agents;

(C) Deportation officers;

(D) Immigration inspectors;

(E) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;

(F) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(G) Immigration officers who need the authority to arrest persons under section 274(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(6) Custody and transportation of previously arrested persons. In addition to the authority to arrest pursuant to a warrant of arrest in paragraph (e)(3)(iv) of this section, detention enforcement officers and immigration enforcement agents who have successfully completed basic immigration law enforcement training are hereby authorized and designated to take and maintain custody of and transport any person who has been arrested by an immigration officer pursuant to paragraphs (c)(1) through (c)(5) of this section.

(d) *Power and authority to conduct searches.* The following immigration officers who have successfully completed

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basic immigration law enforcement training are hereby authorized and designated to exercise the power to conduct searches conferred by section 287(c) of the Act:

- (1) Border patrol agents, including aircraft pilots;
- (2) Special agents;
- (3) Deportation officers;
- (4) Immigration inspectors;
- (5) Adjudications officers;
- (6) Immigration enforcement agents;
- (7) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

(8) Immigration officers who need the authority to conduct searches under section 287(c) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP, the Assistant Secretary for ICE, or the Director of the BCIS.

(e) *Power and authority to execute warrants*—(1) *Search warrants*. The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to execute a search warrant:

- (i) Border patrol agents, including aircraft pilots;
- (ii) Special agents;
- (iii) Deportation officers;
- (iv) Immigration enforcement agents;
- (v) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph, and
- (vi) Immigration officers who need the authority to execute search warrants under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(2) *Issuance of arrest warrants for immigration violations*. A warrant of arrest may be issued by any of the following immigration officials who have been authorized or delegated such authority:

- (i) District directors (except foreign);
- (ii) Deputy district directors (except foreign);

(iii) Assistant district directors for investigations;

(iv) Deputy assistant district directors for investigations;

(v) Assistant district directors for deportation;

(vi) Deputy assistant district directors for deportation;

(vii) Assistant district directors for examinations;

(viii) Deputy assistant district directors for examinations;

(ix) Officers in charge (except foreign);

(x) Assistant officers in charge (except foreign);

(xi) Chief patrol agents;

(xii) Deputy chief patrol agents;

(xiii) Assistant chief patrol agents;

(xiv) Patrol agents in charge;

(xv) Assistant patrol agents in charge;

(xvi) Field operations supervisors;

(xvii) Special operations supervisors;

(xviii) Supervisory border patrol agents;

(xix) The Assistant Commissioner, Investigations;

(xx) Institutional Hearing Program directors;

(xxi) Area port directors;

(xxii) Port directors;

(xxiii) Deputy port directors;

(xxiv) Assistant Area port directors;

(xxv) Supervisory deportation officers;

(xxvi) Supervisory detention and deportation officers;

(xxvii) Group Supervisors;

(xxviii) Director, Office of Detention and Removal Operations;

(xxix) Special Agents in Charge;

(xxx) Deputy Special Agents in Charge;

(xxxi) Associate Special Agents in Charge;

(xxxii) Assistant Special Agents in Charge;

(xxxiii) Resident Agents in Charge;

(xxxiv) Field Office Directors;

(xxxv) Deputy Field Office Directors;

(xxxvi) District Field Officers;

(xxxvii) Supervisory district adjudications officers;

(xxxviii) Supervisory asylum officers;

(xxxix) Supervisory special agents;

(xl) Director of investigations;

(xli) Directors or officers in charge of detention facilities;

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- (xlii) Directors of field operations;
- (xliii) Deputy or assistant directors of field operations;
- (xliv) Unit Chief, Law Enforcement Support Center;
- (xlv) Section Chief, Law Enforcement Support Center;
- (xlvi) Director, Field Operations;
- (xlvii) Deputy Director, Field Operations;
- (xlviii) Assistant Director, Field Operations;
- (xlix) Immigration Enforcement Agents; or

(1) Other officers or employees of the Department or the United States who are delegated the authority as provided in 8 CFR 2.1 to issue warrants of arrest.

(3) *Service of warrant of arrests for immigration violations.* The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power pursuant to section 287(a) of the Act to execute warrants of arrest for administrative immigration violations issued under section 236 of the Act or to execute warrants of criminal arrest issued under the authority of the United States:

- (i) Border patrol agents, including aircraft pilots;
- (ii) Special agents;
- (iii) Deportation officers;
- (iv) Detention enforcement officers or immigration enforcement agents (warrants of arrest for administrative immigration violations only);
- (v) Immigration inspectors;
- (vi) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;
- (vii) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
- (viii) Immigration officers who need the authority to execute arrest warrants for immigration violations under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(4) *Service of warrant of arrests for non-immigration violations.* The following immigration officers who have successfully completed basic immigration law enforcement training are hereby authorized and designated to exercise the power to execute warrants of criminal arrest for non-immigration violations issued under the authority of the United States:

- (i) Border patrol agents, including aircraft pilots;
- (ii) Special agents;
- (iii) Deportation officers;
- (iv) Immigration enforcement agents;
- (v) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and
- (vi) Immigration officers who need the authority to execute warrants of arrest for non-immigration violations under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

(f) *Power and authority to carry firearms.* The following immigration officers who have successfully completed basic immigration enforcement training are hereby authorized and designated to exercise the power conferred by section 287(a) of the Act to carry firearms provided that they are individually qualified by training and experience to handle and safely operate the firearms they are permitted to carry, maintain proficiency in the use of such firearms, and adhere to the provisions of the enforcement standard governing the use of force in 8 CFR 287.8(a):

- (1) Border patrol agents, including aircraft pilots;
- (2) Special agents;
- (3) Deportation officers;
- (4) Detention enforcement officers or immigration enforcement agents;
- (5) Immigration inspectors;
- (6) Adjudications officers when in the uniform of an immigration inspector and performing inspections or supervising other immigration inspectors performing inspections;
- (7) Supervisory and managerial personnel who are responsible for supervising the activities of those officers listed in this paragraph; and

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(8) Immigration officers who need the authority to carry firearms under section 287(a) of the Act in order to effectively accomplish their individual missions and who are designated, individually or as a class, by the Commissioner of CBP or the Assistant Secretary for ICE.

[68 FR 35277, June 13, 2003, as amended at 70 FR 67089, Nov. 4, 2005; 76 FR 53797, Aug. 29, 2011]

### § 287.6 Proof of official records.

(a) *Domestic.* In any proceeding under this chapter, an official record or entry therein, when admissible for any purpose, shall be evidenced by an official publication thereof, or by a copy attested by the official having legal custody of the record or by an authorized deputy.

(b) *Foreign: Countries not Signatories to Convention.* (1) In any proceeding under this chapter, an official record or entry therein, when admissible for any purpose, shall be evidenced by an official publication thereof, or by a copy attested by an officer so authorized. This attested copy in turn may but need not be certified by any authorized foreign officer both as to the genuineness of the signature of the attesting officer and as to his/her official position. The signature and official position of this certifying foreign officer may then likewise be certified by any other foreign officer so authorized, thereby creating a chain of certificates.

(2) The attested copy, with the additional foreign certificates if any, must be certified by an officer in the Foreign Service of the United States, stationed in the foreign country where the record is kept. This officer must certify the genuineness of the signature and the official position either of (i) the attesting officer; or (ii) any foreign officer whose certification of genuineness of signature and official position relates directly to the attestation or is in a chain of certificates of genuineness of signature and official position relating to the attestation.

(c) *Foreign: Countries Signatory to Convention Abolishing the Requirement of Legislation for Foreign Public Document.* (1) In any proceeding under this chapter, a public document or entry there-

in, when admissible for any purpose, may be evidenced by an official publication, or by a copy properly certified under the Convention. To be properly certified, the copy must be accompanied by a certificate in the form dictated by the Convention. This certificate must be signed by a foreign officer so authorized by the signatory country, and it must certify (i) the authenticity of the signature of the person signing the document; (ii) the capacity in which that person acted, and (iii) where appropriate, the identity of the seal or stamp which the document bears.

(2) No certification is needed from an officer in the Foreign Service of public documents.

(3) In accordance with the Convention, the following are deemed to be public documents:

(i) Documents emanating from an authority or an official connected with the courts of tribunals of the state, including those emanating from a public prosecutor, a clerk of a court or a process server;

(ii) Administrative documents;

(iii) Notarial acts; and

(iv) Official certificates which are placed on documents signed by persons in their private capacity, such as official certificates recording the registration of a document or the fact that it was in existence on a certain date, and official and notarial authentication of signatures.

(4) In accordance with the Convention, the following are deemed not to be public documents, and thus are subject to the more stringent requirements of § 287.6(b) above:

(i) Documents executed by diplomatic or consular agents; and

(ii) Administrative documents dealing directly with commercial or customs operations.

(d) *Canada.* In any proceedings under this chapter, an official record or entry therein, issued by a Canadian governmental entity within the geographical boundaries of Canada, when admissible for any purpose, shall be evidenced by a certified copy of the original record attested by the official having legal