

## **8 C.F.R. § 287.5 Exercise of power by immigration officers**

(a) Power and authority to interrogate and administer oaths. Any immigration officer as defined in 8 C.F.R. § 103.1(b) 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 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 C.F.R. § 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 BCIS.

(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 C.F.R. § 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, individually or as a class, by the Commissioner of CBP, the Assistant Secretary for ICE, or the Director of the BCIS.

(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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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 C.F.R. § 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, transport, 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 C.F.R. § 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 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;
- (xlii) Directors of field operations;
- (xlili) 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
- (l) Other officers or employees of the Department or the United States who are delegated the authority as provided in 8 C.F.R. § 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 C.F.R. § 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
- (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.

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