

§ 287.6

8 CFR Ch. I (1–1–12 Edition)

(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

custody of the record or by an authorized deputy.

[50 FR 37834, Sept. 18, 1985, as amended at 54 FR 39337, Sept. 26, 1989; 54 FR 48851, Nov. 28, 1989]

§ 287.7 Detainer provisions under section 287(d)(3) of the Act.

(a) *Detainers in general.* Detainers are issued pursuant to sections 236 and 287 of the Act and this chapter 1. Any authorized immigration officer may at any time issue a Form I-247, Immigration Detainer-Notice of Action, to any other Federal, State, or local law enforcement agency. A detainer serves to advise another law enforcement agency that the Department seeks custody of an alien presently in the custody of that agency, for the purpose of arresting and removing the alien. The detainer is a request that such agency advise the Department, prior to release of the alien, in order for the Department to arrange to assume custody, in situations when gaining immediate physical custody is either impracticable or impossible.

(b) *Authority to issue detainers.* The following officers are authorized to issue detainers:

- (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 issue detainers under section 287(d)(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, the Assistant Secretary for ICE, or the Director of the USCIS.

(c) *Availability of records.* In order for the Department to accurately determine the propriety of issuing a detainer, serving a notice to appear, or taking custody of an alien in accordance with this section, the criminal justice agency requesting such action or informing the Department of a conviction or act that renders an alien in-

admissible or removable under any provision of law shall provide the Department with all documentary records and information available from the agency that reasonably relates to the alien's status in the United States, or that may have an impact on conditions of release.

(d) *Temporary detention at Department request.* Upon a determination by the Department to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by the Department.

(e) *Financial responsibility for detention.* No detainer issued as a result of a determination made under this chapter I shall incur any fiscal obligation on the part of the Department, until actual assumption of custody by the Department, except as provided in paragraph (d) of this section.

[68 FR 35279, June 13, 2003, as amended at 76 FR 53797, Aug. 29, 2011]

§ 287.8 Standards for enforcement activities.

The following standards for enforcement activities contained in this section must be adhered to by every immigration officer involved in enforcement activities. Any violation of this section shall be reported to the Office of the Inspector General or such other entity as may be provided for in 8 CFR 287.10.

(a) *Use of force*—(1) *Non-deadly force.*
(i) Non-deadly force is any use of force other than that which is considered deadly force as defined in paragraph (a)(2) of this section.

(ii) Non-deadly force may be used only when a designated immigration officer, as listed in paragraph (a)(1)(iv) of this section, has reasonable grounds to believe that such force is necessary.

(iii) A designated immigration officer shall always use the minimum non-deadly force necessary to accomplish the officer's mission and shall escalate to a higher level of non-deadly force only when such higher level of force is warranted by the actions, apparent intentions, and apparent capabilities of the suspect, prisoner, or assailant.