TITLE 8--ALIENS AND NATIONALITY

CHAPTER 12--IMMIGRATION AND NATIONALITY

SUBCHAPTER II--IMMIGRATION

Part IX--Miscellaneous

Sec. 1357. Powers of immigration officers and employees

(a) Powers without warrant

Any officer or employee of the Service authorized under regulations

prescribed by the Attorney General shall have power without warrant--

(1) to interrogate any alien or person believed to be an alien

as to his right to be or to remain in the United States;

(2) to arrest any alien who in his presence or view is entering

or attempting to enter the United States in violation of any law or regulation made in pursuance of law regulating the admission,

exclusion, expulsion, or removal of aliens, or to arrest any alien in the United States, if he has reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest, but the alien arrested shall be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States;

(3) within a reasonable distance from any external boundary of

the United States, to board and search for aliens any vessel within

the territorial waters of the United States and any railway car,

aircraft, conveyance, or vehicle, and within a distance of twenty-

five miles from any such external boundary to have access to private

lands, but not dwellings, for the purpose of patrolling the border

to prevent the illegal entry of aliens into the United States;

(4) to make arrests for felonies which have been committed and

which are cognizable under any law of the United States regulating

the admission, exclusion, expulsion, or removal of aliens, if he has

reason to believe that the person so arrested is guilty of such

felony and if there is likelihood of the person escaping before a

warrant can be obtained for his arrest, but the person arrested

shall be taken without unnecessary delay before the nearest

available officer empowered to commit persons charged with offenses

against the laws of the United States; and

(5) to make arrests--

(A) for any offense against the United States, if the

offense is committed in the officer's or employee's presence, or

(B) for any felony cognizable under the laws of the United

States, if the officer or employee has reasonable grounds to

believe that the person to be arrested has committed or is

committing such a felony,

if the officer or employee is performing duties relating to the

enforcement of the immigration laws at the time of the arrest and if

there is a likelihood of the person escaping before a warrant can be

obtained for his arrest.

Under regulations prescribed by the Attorney General, an officer or

employee of the Service may carry a firearm and may execute and serve

any order, warrant, subpoena, summons, or other process issued under the

authority of the United States. The authority to make arrests under

paragraph (5)(B) shall only be effective on and after the date on which

the Attorney General publishes final regulations which (i) prescribe the

categories of officers and employees of the Service who may use force

(including deadly force) and the circumstances under which such force

may be used, (ii) establish standards with respect to enforcement

activities of the Service, (iii) require that any officer or employee of

the Service is not authorized to make arrests under paragraph (5)(B)

unless the officer or employee has received certification as having

completed a training program which covers such arrests and standards

described in clause (ii), and (iv) establish an expedited, internal

review process for violations of such standards, which process is

consistent with standard agency procedure regarding confidentiality of

matters related to internal investigations.

(b) Administration of oath; taking of evidence

Any officer or employee of the Service designated by the Attorney

General, whether individually or as one of a class, shall have power and

authority 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 this chapter and the

administration of the Service; and any person to whom such oath has been

administered, (or who has executed an unsworn declaration, certificate,

verification, or statement under penalty of perjury as permitted under

section 1746 of title 28) under the provisions of this chapter, who

shall knowingly or willfully give false evidence or swear (or subscribe

under penalty of perjury as permitted under section 1746 of title 28) to

any false statement concerning any matter referred to in this subsection

shall be guilty of perjury and shall be punished as provided by section

1621 of title 18.

(c) Search without warrant

Any officer or employee of the Service authorized and designated

under regulations prescribed by the Attorney General, whether

individually or as one of a class, shall have power to conduct a search,

without warrant, of the person, and of the personal effects in the

possession of any person seeking admission to the United States,

concerning whom such officer or employee may have reasonable cause to

suspect that grounds exist for denial of admission to the United States

under this chapter which would be disclosed by such search.

(d) Detainer of aliens for violation of controlled substances laws

In the case of an alien who is arrested by a Federal, State, or

local law enforcement official for a violation of any law relating to

controlled substances, if the official (or another official)--

(1) has reason to believe that the alien may not have been

lawfully admitted to the United States or otherwise is not lawfully

present in the United States,

(2) expeditiously informs an appropriate officer or employee of

the Service authorized and designated by the Attorney General of the

arrest and of facts concerning the status of the alien, and

(3) requests the Service to determine promptly whether or not to

issue a detainer to detain the alien,

the officer or employee of the Service shall promptly determine whether

or not to issue such a detainer. If such a detainer is issued and the

alien is not otherwise detained by Federal, State, or local officials,

the Attorney General shall effectively and expeditiously take custody of

the alien.

(e) Restriction on warrantless entry in case of outdoor agricultural

operations

Notwithstanding any other provision of this section other than

paragraph (3) of subsection (a) of this section, an officer or employee

of the Service may not enter without the consent of the owner (or agent

thereof) or a properly executed warrant onto the premises of a farm or

other outdoor agricultural operation for the purpose of interrogating a

person believed to be an alien as to the person's right to be or to

remain in the United States.

(f) Fingerprinting and photographing of certain aliens

(1) Under regulations of the Attorney General, the Commissioner

shall provide for the finger

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printing and photographing of each alien 14 years of age or older

against whom a proceeding is commenced under section 1229a of this

title.

(2) Such fingerprints and photographs shall be made available to

Federal, State, and local law enforcement agencies, upon request.

(g) Performance of immigration officer functions by State officers and

employees

(1) Notwithstanding section 1342 of title 31, the Attorney General

may enter into a written agreement with a State, or any political

subdivision of a State, pursuant to which an officer or employee of the

State or subdivision, who is determined by the Attorney General to be

qualified to perform a function of an immigration officer in relation to

the investigation, apprehension, or detention of aliens in the United

States (including the transportation of such aliens across State lines

to detention centers), may carry out such function at the expense of the

State or political subdivision and to the extent consistent with State

and local law.

(2) An agreement under this subsection shall require that an officer

or employee of a State or political subdivision of a State performing a

function under the agreement shall have knowledge of, and adhere to,

Federal law relating to the function, and shall contain a written

certification that the officers or employees performing the function

under the agreement have received adequate training regarding the

enforcement of relevant Federal immigration laws.

(3) In performing a function under this subsection, an officer or

employee of a State or political subdivision of a State shall be subject

to the direction and supervision of the Attorney General.

(4) In performing a function under this subsection, an officer or

employee of a State or political subdivision of a State may use Federal

property or facilities, as provided in a written agreement between the

Attorney General and the State or subdivision.

(5) With respect to each officer or employee of a State or political

subdivision who is authorized to perform a function under this

subsection, the specific powers and duties that may be, or are required

to be, exercised or performed by the individual, the duration of the

authority of the individual, and the position of the agency of the

Attorney General who is required to supervise and direct the individual,

shall be set forth in a written agreement between the Attorney General

and the State or political subdivision.

(6) The Attorney General may not accept a service under this

subsection if the service will be used to displace any Federal employee.

(7) Except as provided in paragraph (8), an officer or employee of a

State or political subdivision of a State performing functions under

this subsection shall not be treated as a Federal employee for any

purpose other than for purposes of chapter 81 of title 5 (relating to

compensation for injury) and sections 2671 through 2680 of title 28

(relating to tort claims).

(8) An officer or employee of a State or political subdivision of a

State acting under color of authority under this subsection, or any

agreement entered into under this subsection, shall be considered to be

acting under color of Federal authority for purposes of determining the

liability, and immunity from suit, of the officer or employee in a civil

action brought under Federal or State law.

(9) Nothing in this subsection shall be construed to require any

State or political subdivision of a State to enter into an agreement

with the Attorney General under this subsection.

(10) Nothing in this subsection shall be construed to require an

agreement under this subsection in order for any officer or employee of

a State or political subdivision of a State--

(A) to communicate with the Attorney General regarding the

immigration status of any individual, including reporting knowledge

that a particular alien is not lawfully present in the United

States; or

(B) otherwise to cooperate with the Attorney General in the

identification, apprehension, detention, or removal of aliens not

lawfully present in the United States.

(h) Protecting abused juveniles

An alien described in section 1101(a)(27)(J) of this title who has

been battered, abused, neglected, or abandoned, shall not be compelled

to contact the alleged abuser (or family member of the alleged abuser)

at any stage of applying for special immigrant juvenile status,

including after a request for the consent of the Secretary of Homeland

Security under section 1101(a)(27)(J)(iii)(I) of this title.