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**U.S. Immigration
and Customs
Enforcement**

**MEMORANDUM FOR ALL SPECIAL AGENTS-IN-CHARGE
ALL FIELD OFFICE DIRECTORS**

FROM: Michael J. Garcia
Assistant Secretary

SUBJECT: Superceding Guidance re. Implementation of General Arrest Authority

The purpose of this memorandum is to implement General Arrest Authority for legacy Immigration and Naturalization Service (INS) enforcement officers. It replaces the November 4, 2003 memorandum on this issue. This memorandum will ensure all U.S. Immigration and Customs Enforcement (ICE) officers have the required tools, authorities, and training to perform their duties. Legacy Customs Special Agents will continue to use their existing authority under Customs law, regulations and policies, including specific guidelines for responding to violations of state laws, so no additional actions are required for those employees at this time.

Immigration enforcement officers often encounter violators of federal laws in the course of their normal duties. Recognizing this, Congress included provisions in the Immigration Act of 1990 to enhance the authority of INS officers to make arrests for non-immigration offenses.

Section 287(a)(5)(A) of the Act provides immigration officers with the statutory authority to make arrests without a warrant "for any offense against the United States, if the offense is committed in the officer's...presence...if the officer...is performing duties relating to the enforcement of the immigration laws at the time of the arrest..." This enhanced arrest authority is commonly referred to as "General Arrest Authority."

This memorandum modifies the August 29, 1994, policy memorandum regarding the implementation of section 287(a)(5)(A) as it pertains to the legacy INS enforcement components now assigned to ICE. ICE Special Agents, Deportation Officers, and Immigration Enforcement Agents who have successfully completed basic immigration law enforcement training may make arrests without warrants for federal non-immigration offenses committed in their presence when there is a likelihood the person will escape before an arrest warrant can be obtained. General Arrest Authority under section 287(a)(5)(A) does not apply to state laws or local ordinances, or to offenses not committed in an officer's presence.

Please ensure that all offices under your jurisdiction implement these instructions immediately.