Arrest Authority

Arrest – a critical component of your job is arresting individuals who have committed a crime
Homeland Security Investigations (HSI)

Investigative Phases

HSI SA Case Assignment

Investigative Plan Development

ICE Academy

2021-ICLI-00031 1651
Investigative Phases, cont’d
Agenda

- Arrest authority Demonstration Practice activity
Terminal Performance Objective

Given a law enforcement scenario with the arrest of a subject, determine arrest authority in accordance with Titles 8 and 19 of the U.S. Code.
Enabling Performance Objectives

• Explain federal authorities. Explain state arrest authorities.
Federal Arrest Authorities

19 U.S.C. § 1589a: An “officer of the customs” (as defined by 19 U.S.C. § 1401) is authorized to:

- Carry a firearm.
- Execute and serve any order, warrant, subpoena, summons, or other process issued under the authority of the United States.
- Make an arrest without a warrant for any offense against the United States committed in the officer’s presence, or
- Make an arrest without a warrant for a felony, cognizable under the laws of the United States committed outside the officer’s presence if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony.
Federal Arrest Authorities, cont’d

8 U.S.C. § 1357(a)(2) – An “immigration officer” is authorized to make a warrantless arrest of an alien who: In his presence or view, enters or attempts 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 is in the United States, if he has reason to believe (probable cause) 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.
Federal Arrest Authorities, cont’d

8 U.S.C. § 1357(a)(4) – An “immigration officer” is authorized to make a warrantless arrest of: Anyone who has committed an immigration-related felony; If he has probable cause to arrest; and The person is likely to escape before a warrant can be obtained.
Federal Arrest Authorities, cont’d

8 U.S.C. § 1357(a)(5)(A) – An “immigration officer” is authorized to: Arrest anyone for committing any federal crime; in the agent’s presence; where the person is likely to escape before obtaining a warrant; but only if the agent was performing immigration duties at the time of the arrest. The general arrest authority provided by § 1387(a)(5)(B) has not been implemented.
Warrantless Arrests

<table>
<thead>
<tr>
<th>All Arrests must be based on PC</th>
<th>Immigration Felony</th>
<th>Immigration Misdemeanor/Administrative</th>
<th>Non-Immigration Felony</th>
<th>Non-Immigration Misdemeanor</th>
</tr>
</thead>
<tbody>
<tr>
<td>If act occurs in presence of agent</td>
<td>Warrantless Arrest</td>
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Demonstration
State Arrest Authority

- States grant state arrest authority to a HSI SAPeace Officer Status. Limited Arrest Authority Private Citizens Arrest ICE Policy permits Arrests for outstanding state felony warrants. Responses to lawful requests for assistance from state or local law enforcement officers. Arrests for serious violent crimes.

See Student Guide p. 6
Example
Homeland Security Investigations (HSI)

Practice
Summary

Federal arrest authority
1. 19 U.S.C. § 1589a – An “officer of the customs”
2. 8 U.S.C. § 1357(a)(2) – An “immigration officer”
3. 8 U.S.C. § 1357(a)(4) – An “immigration officer”

State arrest authority
1. State Peace Officer status, state statute, and citizen’s arrest
Looking Ahead

• This lesson addressed Special Agents’ arrest authorities. The next lesson will discuss Special Agents’ post-arrest obligations.
Protecting the Borders Against Illicit Trade, Travel, and Finance