

05.98.00 ENFORCEMENT OF FEDERAL IMMIGRATION STATUTES

U. S. Attorney General Griffin Bell in 1978 issued a policy statement declaring that the enforcement of the immigration laws rests with the Immigration and Naturalization Service. He suggested that local police forces observe the following guidelines: 1. Do not stop and question, detain, arrest, or place "an immigration hold" on any persons not suspected of crimes, solely on the grounds that they may be deportable aliens; 2. Upon arresting an individual for a non-immigration criminal violation, notify the service immediately if it is suspected that the person may be an undocumented alien so that the service may respond appropriately.

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The Texas Attorney General has held (AG Opinion No. H-1029) that while "the power to regulate immigration is unquestionably exclusively a federal power" that the federal law has "nowhere indicated an intention to eliminate the power of state officers to arrest aliens illegally in the country where authorized by state law." However, the applicable Texas statutes together with the federal immigration laws make it necessary for arresting officers to have a complete understanding of the federal laws and circumstances under which they are applicable. As enforcement of U. S. immigration laws is not the primary responsibility of the Department of Public Safety, the following policy is adopted to guide Department members.

98.01

Members of this Department will not engage in the enforcement of Federal Immigration Statutes by conducting road checks or business and residence searches unless assisting appropriate federal officers who have properly requested such assistance.

98.02

Members may arrest aliens under the following situations: 1. When serving a valid warrant after checking to see that the warrant is current. 2. For violation of state laws the same as any U. S. citizen.

98.03

Members will not arrest without a warrant an alien solely on the suspicion that he has entered the country illegally.