

“ATTACHMENT A”

INTERVIEW QUESTIONS FOR SUSPECTED ALIEN

Agency:

DR#:

Officer/Detective:

Badge #:

Suspect's Name:

Any questions asked of a suspect must be in compliance with legal precedent addressing *Miranda* and voluntariness issues and should include at least the following questions regarding citizenship, in addition to any questions concerning the specific incident:

What is your name and date of birth?

Have you ever used any other names?

If so, what names have you used? Where? When?

What country were you born in?

What country was your mother born in?

What country was your father born in?

Are you a citizen of the country where you were born?

What is your current address?

How long have you been living in the United States?

When did you most recently enter the United States?

Are you a citizen of the United States?

Have you tried to become a citizen of the United States?

Do you have any document that permits you to enter or remain in the United States?

- If so, do you have those documents with you right now?
- If so, what name and date of birth is on those documents?
- If not, did you know you had to register with the United States?
- If not, did you know you had to obtain documentation to enter the United States?

Have you ever been deported or voluntarily returned before?

- If so, what name(s) and date(s) of birth did you use?
- How many times?
- When were you previously deported?

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Effective July 29, 2010, the Legislature enacted several misdemeanor offenses relating to local enforcement of immigration laws (Laws 2010, Chapter 113). In order to successfully prosecute a violation of these statutes, the State must be able to prove each element of the offense beyond a reasonable doubt. For most of these offenses, that includes proof that the suspect was in the United States in violation of state and federal law. **To sustain prosecution, a submittal must recite sufficient evidence, independent of the suspect's statements, to sustain each and every element of the offense, including the elements of applicable federal law.**

Due to the unique nature of these offenses, MCAO requests that any submittal be long form and include all of the information detailed herein. In the event a citation is issued in lieu of a long form submittal, this same information must be included in a written report accompanying the citation. Any submittal missing the required information will be returned to the law enforcement agency for further investigation. Any submittal will not be filed if there is any indicia of racial profiling. Additionally, prosecution of a misdemeanor offense will be declined if a felony charge(s) will be filed.

A. WILLFUL FAILURE TO COMPLETE OR CARRY AN ALIEN REGISTRATION DOCUMENT (A.R.S §13-1509)

A submittal for a violation of A.R.S §13-1509, must include the following minimum requirements before charges can be considered:

- (1) An explanation of the reasons for the initial stop/detention;
- (2) An explanation of the reasonable suspicion for questioning citizenship;
- (3) Verification that Immigration and Customs Enforcement (ICE), Customs and Border Patrol (CBP) or a certified 287(g) officer has determined there is no record the suspect is in the United States legally;
- (4) Attachment A completed by a law enforcement officer detailing any statements made by the suspect;
- (5) An explanation of any identification documents in the possession of the suspect;
- (6) Evidence that the suspect has been in the United States for more than 30 continuous days; and
- (7) Evidence of the suspect's age.

In regards to violations of 8 U.S.C. 1306(e), there must be evidence that the suspect willfully failed to register. While there is no statutory definition of "willful" the federal courts have interpreted this as including: a knowing violation; voluntarily and purposefully with specific intent; intentionally failing to do that which should be done; and a disregard for a statute and an indifference for its requirement.

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B. UNLAWFUL STOPPING TO HIRE AND PICK UP PASSENGERS FOR WORK (A.R.S. § 13-2928)

A submittal for a violation of A.R.S. §13-2928(A) must include the following minimum requirements before charges can be considered:

- (1) An explanation of the reasons for the initial stop/detention;
- (2) Evidence that the suspect was attempting to hire, hire or pick up passengers for work at a different location; and
- (3) Evidence that the suspect was blocking or impeding the normal movement of traffic with a motor vehicle.

A submittal for a violation of A.R.S. § 13-2928(B) must include the following minimum requirements before charges can be considered:

- (1) An explanation of the reasons for the initial stop/detention;
- (2) Evidence that the suspect entered a motor vehicle with the intent to be hired by and transported to work at a different location by an occupant of that vehicle; and
- (3) Evidence that the motor vehicle was blocking or impeding the normal movement of traffic.

A submittal for violation of A.R.S. § 13-2928(C) must include the following minimum requirements before charges can be considered:

An explanation of the reasons for the initial stop/detention;

- (1) An explanation of the reasonable suspicion for questioning the suspect's citizenship;
- (2) Evidence that the suspect knowingly applied for work, solicited work in a public place or performed work in Maricopa County;
- (3) Verification that ICE, CBP or a certified 287(g) officer has determined there is no record the suspect is in the United States legally;
- (4) Attachment A completed by a law enforcement officer detailing any statements made by the suspect; and
- (5) An explanation of any identification documents in the possession of the suspect.

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C. UNLAWFUL TRANSPORTING, MOVING, CONCEALING, HARBORING OR SHIELDING OF UNLAWFUL ALIENS (A.R.S. § 13-2929)

A submittal for a violation of A.R.S. § 13-2929(A)(1) must include the following minimum requirements before charges can be considered:

- (1) An explanation of the reasons for the initial stop/detention;
- (2) An explanation of the reasonable suspicion for questioning the citizenship of any occupant of the vehicle;
- (3) An explanation and proof of the criminal offense the suspect was engaged in at the time he/she allegedly violated the statute;
- (4) Evidence that the suspect was transporting or moving or attempting to transport or move an alien in a motor vehicle in Maricopa County;
- (5) Evidence that the suspect's actions were in furtherance of the illegal presence of the alien in the United States;
- (6) Evidence that the suspect knew or recklessly disregarded the fact that the alien entered or remained in the United States unlawfully; and
- (7) Verification that ICE, CBP or a certified 287(g) officer has determined there is no record the alien is in the United States legally; and
- (8) Attachment A completed by a law enforcement officer detailing any statements made by the alien.

A submittal for violation of A.R.S. § 13-2929(A)(2) must include the following minimum requirements before charges can be considered:

- (1) An explanation of the reasons for the initial stop/detention;
- (2) An explanation of the reasonable suspicion for questioning the citizenship of any involved person;
- (3) An explanation of proof of the criminal offense the suspect was engaged in at the time he/she allegedly violated the statute;
- (4) Evidence that the suspect was concealing, harboring, shielding or attempting to conceal, harbor or shield an alien in a building or motor vehicle in Maricopa County;
- (5) Evidence that the suspect's actions were with the intent to avoid that alien's detection;
- (6) Evidence that the suspect knew or recklessly disregarded the fact that the alien had entered or remained in the United States unlawfully; and
- (7) Verification that ICE, CBP or a certified 287(g) officer has determined there is no record the alien is in the United States legally; and
- (8) Attachment A completed by a law enforcement officer detailing any statements made by the alien.

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A submittal for violation of A.R.S. § 13-2929(A)(3) must include the following minimum requirements before charges can be considered:

- (1) An explanation of the reasons for the initial stop/detention;
- (2) An explanation of the reasonable suspicion for questioning the citizenship of any involved person;
- (3) An explanation and proof of the criminal offense the suspect was engaged in at the time he/she allegedly violated the statute;
- (4) Evidence that the suspect encouraged or induced an alien to come to or reside in Arizona;
- (5) Evidence that the suspect knew or recklessly disregarded that fact that the alien's entering or residing in Arizona would be unlawful; and
- (6) Verification that ICE, CBP or a certified 287(g) officer has determined there is no record the alien is in the United States legally; and
- (7) Attachment A completed by a law enforcement officer detailing any statements made by the alien.