

EXHIBIT M



Arizona Peace Officer Standards and Training Board

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May 19, 2010

Honorable Janice Brewer
Governor
State of Arizona
1700 W. Washington, Ninth Floor
Phoenix, AZ 85007

RE: EXECUTIVE ORDER 2010-09 - Establishing Law Enforcement Training for
Immigration Laws

Dear Governor Brewer:

On April 23, 2010, under Executive Order 2010-09, the Arizona Peace Officer Standards and Training Board (Board) was tasked with developing a course of training for law enforcement officers in the state and all political subdivisions to implement Senate Bill 1070.

The Board has determined that given the challenges of time, geography, and officer availability, the medium of choice for the training will be Digital Media supported by handouts. The total time is not determined, but it will be segmented for use in briefing training or e-learning systems. With the exception of one federal training aid, all other handouts for the officers will be included on the DVD in a form which will allow them to be printed and distributed by the agencies. The course of training will be provided to all of the 170 law enforcement agencies in the state with sufficient copies for each officer to be given the training.

The course of training will provide clear guidance to law enforcement officers regarding the factors which might be used to establish reasonable suspicion. These factors will closely resemble the factors described in the federal immigration enforcement training. Experts in the legal field have been retained to provide a portion of this training.

Officers will be reminded of their oath of office, and the inherent duty of the badge, to always protect the civil rights of all persons and to respect the privileges and immunities of United States citizens. This will be a recurrent theme in the training program.

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In order to insure consistency with federal immigration law, experts in this area have been retained to participate in the training development and presentation. An expert in immigration documents has been retained to provide officers training on valid immigration documents which are required to be carried by documented aliens. Officers will also be provided a list of documents that can suffice to create the presumption of lawful presence.

A cadre of Police Legal Advisors is being used to provide the review of all of the new laws impacted by SB 1070 to insure accurate and procedurally correct instructions to the officers.

The Board is asking for a slight adjustment from the timeline for promulgating the training course that was outlined in the Executive Order. The creation of the course in the digital distribution form will require slightly more time than the sixty days allotted, so we would ask that the course completion date be June 30, 2010. Because the effective date for the law is July 29, 2010 which extended the training time, the ninety day goal outlined in the Executive Order will be achieved.

Assuming approval of the adjustment, the timeline will be:

April 23, 2010 – May 19, 2010

- Review the law and determine areas of expertise assistance,
- Identify resources,
- Gather information on existing programs,
- Select and retain experts,
- Conduct meetings with experts and stakeholders,
- Create the training outline to sufficient specificity for Board review and action,
- Board discussion and approval in open meeting on May 19, for transmittal to the Governor.

May 21, 2010 – June 30, 2010

- Finalize scripts,
- Video trainers for each segment,
- Create handouts,
- Edit draft version of training,
- Conduct review of video,
- Transmit for replication,
- Distribute to agencies.

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June 30, 2010 – July 29, 2010

Provide agencies with electronic rosters to track officer participation,
Monitor returns from agencies concerning participation,
Contact agencies as needed to offer assistance to promote participation,
Report to the Board at both July and August meetings,
Submit report to Governor's Office following August Board meeting.

Attached is the preliminary course outline for your review. Due to the nature of the editing process, the final course may be in a slightly different order. In addition, this course will be added to the Board Approved Basic Peace Officer Curriculum so all future officers will be trained in this arena.

The Board and its staff appreciate your confidence in our abilities. This is an opportunity for the men and women of Arizona law enforcement to showcase their professionalism and the Board believes they will make you and the citizens of this state proud.

Sincerely,

Joseph Duarte
Chair

Attachments

Arizona Peace Officer Standards and Training Board (AzPOST)
Law Enforcement Training on Immigration Laws - 2010
Training Program Outline

This training program will be created in a digital media format to allow it to be presented to the majority of the approximately 15,000 officers in the state. It will be segmented to allow access in multiple ways, to include briefing training, self paced learning, or E-learning. The program will have supporting documents which will either be distributed to agencies for their dispersal or imbedded in the DVD in a format which will allow them to be printed at the time of training.

The following individuals have agreed to appear on camera for this training program:

Joseph Duarte, Chairman, AzPOST Board
Lyle Mann, Executive Director, AzPOST
Diana Stabler, Assistant Attorney General
Beverly Ginn, Edwards and Ginn P.C.
Chief Roberto Villasenor, Tucson Police Department
Sheriff Paul Babeu, Pinal County Sheriff's Office
Neville Cramer, United States Customs (Ret.)
Hipolito Acosta, United States Customs (Ret.)
Levi Bolton, Phoenix Police Officer (Ret.), Arizona Police Association
Brian Livingston, Phoenix Police Officer (Ret.), Executive Director Arizona Police Association
Jimmy Chavez, President, Arizona Highway Patrol Association
Gerald Richard, Special Assistant to the Attorney General

Video clips of the following individuals, whose opinions were captured by sources in the public domain, will be used to support the training:

Governor Jan Brewer, Arizona Governor
Senator Russell Pearce, Arizona State Senator

1. Introduction

The goal of the first section of the video will be two fold, set the tone concerning professionalism and then outline what the viewer can expect from the training.

The key themes in this section will be racial profiling, professionalism within the Arizona law enforcement community, ethics and integrity as they apply to bias, and the magnitude of the situation facing officers.

2. Racial Profiling

Opening this section will be the definition of racial profiling as the prohibited activity of relying on race, skin color, and/or ethnicity as an indication of criminality, reasonable suspicion, or probable cause, except when part of a description of a suspect, and said description is timely, reliable, and geographically relevant.

There will be an explanation from Gerald Richard describing the law as it applies to racial profiling in a macro application and then as it applies to these laws. He will present specific factors and concerns the officers will face in this area.

There will be a presentation by Mr. Acosta explaining how federal officers are trained in this area along with advice to officers from the perspective of a Hispanic person.

This will be followed by a section from Levi Bolton and Brian Livingston presenting the issue from their perspective. There may be clips from legislative session as well as the Governor's press conference.

To speak from a management perspective, Chief Villasenor and Sheriff Babeu will provide statements. Chief Villasenor will also include statements from the perspective of a Latino officer. There will also be a review of the key points from the training created by the Arizona Department of Public Safety as a result of its settlement of the Racial Profiling lawsuit. The goal for this piece is to provide perspective to solidify for the officers the breath of agreement across the board in this matter.

There will be a piece presented on the ethical issues including the slippery slope, the temptation of noble cause corruption, and the implications for false testimony.

3. Review of A.R.S. § 11-1051 and A.R.S. § 13-1509

This section will open with Beverly Ginn discussing in general how the law creates new criminal offenses and imposes two new responsibilities on peace officers in the state.

After a reading of the statute, there will be a discussion of what constitutes a stop, detention or arrest of a person, and then factors which may be used to develop "reasonable suspicion" to believe a person is both an alien and unlawfully present in the United States. This segment will be supplemented by information from the training provided to federal immigration officials by an expert in that field, Mr. Hipolito Acosta.

~~Ms. Ginn will explain that the new legislation prohibits any official or agent of the state or its political subdivisions from limiting or restricting the enforcement of federal immigration laws to "less than the full extent permitted by federal law."~~

Ms. Ginn will discuss the steps an officer should take in lawful stops based on reasonable suspicion of a criminal or traffic violation. She will discuss the presumptive identification and what an officer should do if presented with an item from the presumptive list.

The screen will show a link on the AzPOST website that will provide access to the latest iteration of the list of documents that qualify as presumptive identification that show lawful presence. This will also be provided as one of the handouts.

Ms. Ginn will discuss what should happen if the person does not have presumptive identification, and reasonable suspicion exists that the person is unlawfully present.

A dialogue will follow identifying and discussing the caveats provided to the officer within the law concerning "reasonable attempt," "when practicable," and the exceptions in the law, if the officer believes that the determination may hinder or obstruct an investigation.

Officer discretion will be discussed as it applies to the situations surrounding the mandate to enforce the law except when practicable. There will be additional discussion on factors which officers might use in the application of their discretion provided by Levi Bolton and others.

Ms. Ginn will discuss the steps to contact Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP); or a 287g certified officer, as they apply in all sections of the law.

Officers will then be instructed that any person arrested may not be released until their immigration status being verified by Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), or a 287g certified officer and the steps to take to accomplish that verification.

Ms. Ginn will describe the application of the section, the parameters for release or a citation in lieu of detention. She will list the agencies or officers who may verify immigration status under the statute. She will discuss the scope of the requirement and

the necessity for officers to be familiar with that department policies regarding cite-in-lieu.

Ms. Ginn will provide direction to officers concerning documentation needs when applying the law and also discuss the steps officers should take to prepare themselves for any testimony required of them.

To discuss the law concerning alien documents, Neville Cramer, retired INS Senior-Agent-in-Charge, will describe the U.S. Travel and Identity Documents which must be carried under federal law. All officers will be provided the M-396 Guide produced by ICE for distribution and their reference. Mr. Cramer will also discuss how ICE officers are trained in this area.

Ms. Ginn will discuss subsection D which permits the transportation of a verified unlawfully present alien into federal custody. This will include a special note concerning the difference between aliens held on civil violations versus those held on criminal violations.

This section will close with a discussion on the issues unique to tribal agencies and their enforcement of the new laws.

4. Other Issues

There are additional new laws, modification to other existing laws and these will be discussed by Ms. Ginn, using the same model of instruction as used in the academy, i.e. elements of the crime, culpable mental state, and any unique considerations.

These will include the new criminal offenses in A.R.S. § 13-2928 which establishes three new offenses relating to picking up persons for work (one for the driver, one for the worker) and working without authorization. A.R.S. § 13-2929 establishes three new offenses relating to transporting, moving, concealing, harboring or shielding unlawful aliens.

The changes to A.R.S. § 13-2319, Smuggling, codifies the law permitting traffic stops for reasonable suspicion, as it currently exists. This will be discussed as a practical matter by Diana Stabler.

The change to A.R.S. § 23-212, Knowingly Employing Unauthorized Aliens, has been clarified as to issues of entrapment. Ms. Ginn will briefly touch on the changes, but will instruct officers to work closely with their prosecutors when conducting these very complex investigations.

There has been a new subsection added to A.R.S. 28-3511, Removal and Immobilization or Impoundment of Vehicle, which is the section officers currently use to impound vehicles driven by operators with a suspended license. It will now include anyone arrested for A.R.S. 13-2929. Officers will be instructed to use the same procedures in use currently for other subsections of that law.

This section will close with a dialogue on the documentation needs associated with these new laws.

5. Conclusion

The conclusion will highlight the need for officer discretion in the application of these laws. Mr. Mann will discuss the issues surrounding domestic violence and sexual assault investigations, highlighting the ability of officers to protect those critical investigations. Victim sensitivity will be discussed as will the need to protect witnesses. Clips from legislative testimony and statements from Mr. Bolton and Mr. Livingston will also be used to discuss how officers should use their discretion.

There will be a reiteration of the key points on Reasonable Suspicion and the obligation to prevent racial profiling. AzPOST Board Chairman will be one of the last to present and he will speak to the professionalism and integrity of officers. The close will be the moderator reminding viewers of the handouts and forms associated with the broadcast.

As a special note; not covered in this training are changes to A.R.S. 1-501, Eligibility for federal public benefits, A.R.S. 1-502, Eligibility for state or local public benefits, and the establishment of the Gang and Immigration Intelligence Team Enforcement Mission Fund.