

U.S. Department of Homeland Security
Los Angeles International Airport
5767 W. Century Blvd, Suite 300
Los Angeles, CA 90045



Transportation
Security
Administration

Date: March 13, 2013

To: (b)(6)
Expert Behavior Detection Officer
Los Angeles International Airport

From: Jason Pantages
Assistant Federal Security Director for Screening
Los Angeles International Airport

Subject: Notice of Decision on Proposed Five (5) Calendar Day Suspension and Issuance
of Letter of Reprimand

Reference: (b)(6)

You are hereby notified that I have decided not to suspend you for five (5) calendar days. Based in part on your lack of prior discipline, I have decided to issue you a formal Letter of Reprimand. This decision is based on the following to promote the efficiency of the service:

Charge: Failure to Follow Standard Operating Procedures

Specification: On November 18, 2012, you and Master Behavior Detection Officer (MBO) Rajinder Ahluwalia were assigned to Terminal 4. Simultaneously, at approximately 1948 hours, MBDO, (b)(6) and Expert Behavior Detection Officer (EBDO) (b)(6) were conducting Plain Clothes Operations in Terminal 4. At that time, MBDO (b)(6) and EBDO (b)(6) observed two (2) male passengers exhibiting behaviors. MBDO (b)(6) immediately contacted you to transfer the passenger's behaviors. Although the passengers behaviors did not meet the threshold for SPOT referral screening, you were informed to continue to your observation on the passengers. Moments later, MBDO (b)(6) contacted you a second time and informed you of an additional behavior the passengers were exhibiting. At that point, the passengers exhibited enough behaviors that warranted SPOT referral screening. Despite receiving the information from MBDO (b)(6), you failed to take action and ensure the passengers received SPOT referral screening.

Your conduct is in violation of TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), Section 5 – Employee Responsibilities: 5.A (7); Policy – Section 6.A and 6.C. You are also in violation of TSA SPOT Screening Standard Operating Procedures (SOP), Sections 3.7.A and 3.15.B.3).

On February 7, 2013, Deputy Assistant Federal Security Director (DAFSD) for Screening Janis Nagy issued you a written Notice of Proposed Five (5) Calendar Day Suspension for your failure to follow proper screening procedures. That written notice also advised you of your right to

make an oral and/or written reply. You submitted a written response dated February 13, 2013, and held an oral reply on February 20, 2013.

In your written reply, you deny that you failed to follow proper screening procedures as the individual referred to you and your partner did not obtain enough cumulative points to warrant SPOT referral screening. You state the plain clothed officers (PCO) did not have the authority to continue observations and/or add points after they referred the individual.

In your oral reply, you stated the SPOT SOP has a "gray area" as it does not clarify if PCOs can continue observations after handing-off the passenger to the on-duty BDO. You then stated when you accepted the initial call, the points referred were not enough for SPOT referral screening; therefore, you did not conduct it. Thereafter, the PCOs placed a second call to you and tried to add an additional behavioral point. You stated that neither you nor your partner observed the additional observation; therefore, you did not treat the passenger as a referral. You further stated you were never informed regarding the proper procedures for taking secondary calls from a PCO, and that it was your understanding that you are not obligated to take additional behaviors after the passenger goes under your observation. You denied any wrongdoing and did not accept any responsibility for your actions.

After carefully considering all the available information, I find the evidence of record supports you failed to follow proper screening procedures. Therefore, it is my decision to uphold the Charge and its Specification.

In determining the appropriateness of the penalty, I considered a number of factors. I noted your satisfactory job performance and that you have been employed at TSA for over eight (8) years. I do not believe, however, that your length of service or satisfactory performance outweigh the nature of your offense. You were previously counseled on January 8, 2012, regarding your failure to take action after receiving behaviors. On July 22, 2012, you were given a verbal discussion for unacceptable attendance. These corrective actions placed you on notice that further misconduct could lead to further corrective and/or disciplinary action, up to and including termination of your TSA employment.

I also considered you have no prior discipline, which I find mitigating. Therefore, it is my decision to issue you a formal Letter of Reprimand for your misconduct. This decision is the mitigated penalty range on the TSA Table of Offenses and Penalties.

As an Expert Behavior Detection Officer (EBDO), your failure to follow proper screening procedures had an adverse effect on TSA management's confidence in you to perform your duties and to serve as a positive role model for other BDOs. As an employee of the TSA, you are expected and held to high standards of professionalism and conduct. Your actions have failed to meet this standard.

It is hoped that this Letter of Reprimand will impress upon you the seriousness of your actions and that future discipline will not be necessary. Future misconduct may lead to further and more severe disciplinary action, up to and including removal from Federal service.

This Letter of Reprimand will be placed in your electronic Official Personnel Folder (eOPF) for up to a two-year period, during which time it may be cited as a prior formal disciplinary action in any future disciplinary matter. However, your supervisor may decide to remove the letter prior to the expiration of the two-year period. Once it is removed from your eOPF, your supervisor may retain a copy of the letter in the local supervisory file as documentation that you have been placed on notice regarding the performance or conduct referenced above.

If you choose to grieve this action under the grievance procedures in TSA HCM 771-4, Handbook, your grievance must be submitted in writing to the National Resolution Center (NRC) within fifteen (15) calendar days of receipt of this letter. The written grievance can be filed by email at resolutioncenter@tsa.dhs.gov, or facsimile at (703) 603-4057 using TSA form 1115, Grievance Request. A copy of HCM 771-4 Grievance Procedures is attached. The Designated Grievance Official (DGO) is Geoff Shearer, Acting Deputy Federal Security Director for Security Operations, 5767 W. Century Boulevard, Suite 300, Los Angeles, CA 90045, (310) 242-(b)(6)

If you are interested in participating in mediation of this action, you can initiate the mediation process by calling the National Resolution Center at (571) 227-(b)(6) or emailing Resolutioncenter@tsa.dhs.gov to discuss whether your case is eligible for mediation. You should not file a written request for mediation with the NRC until after this discussion has occurred.

The Employee Assistance Program (EAP) is available to you to provide counseling services and/or assistance and may be contacted at 1-800-222-0364. The EAP is a confidential resource designed to help employees address a wide range of personal or family issues.

Please sign the acknowledgement of receipt below. Your signature does not indicate agreement with this action; it only represents receipt of this notice on the date signed.


Jason Pantages
Assistant Federal Security Director for Screening

03-14-2013
Date

(b)(6)

03-17-2013
Date

Delivery Information:
(b)(6)

3-17-2013
Date

U.S. Department of Homeland Security
Los Angeles International Airport
5767 W. Century Blvd., Suite 300
Los Angeles, CA 90045



Transportation
Security
Administration

Date: February 27, 2013
To: LAX Human Resources Department
From: Jason Pantages
Assistant Federal Security Director for Screening
Subject: BDO (b)(6)
Reference: (b)(6)

I met with BDO (b)(6) on February 20, 2013 at approximately 1645 hours with STSO (b)(6). I advised the employee of the charges and of the process involving the oral reply.

I have considered the relevant facts with respect to (b)(6). Specifically, BDO (b)(6) Oral Reply, BDO (b)(6) written reply, and the administrative documentation submitted as part of this case. BDO (b)(6) was represented by TSO (b)(6).

My decision is to mitigate the suspension to a Letter of Reprimand (LOR). This decision is consistent with similar offenses and is within agency guidelines.


Jason Pantages
Assistant Federal Security Director for Screening

02-27-2013
Date



Transportation
Security
Administration

MEMORANDUM

DATE: February 21, 2013

FROM: STSO (b)(6)

RE: Oral Reply -- BDO (b)(6)

Participants: AFSD Jason Pantages, BDO (b)(6) TSO (b)(6) STSO (b)(6)

On Wednesday, February 20, 2013 at approximately 1645, I sat in on an Oral Reply with AFSD Jason Pantages for BDO (b)(6) on a proposed discipline case for Failure to Follow Standard Operating Procedures. BDO (b)(6) submitted a written reply and was represented by TSO (b)(6)

The meeting started with TSO (b)(6) reviewing the SPOT Standard Operating Procedures (SOP) and citing what he believed to be a "gray area". The SOP did not clarify if Plain Clothed Officers (PCO) could continue observations after a passenger has been handed off to the on-duty BDO Team. In this particular situation, BDO (b)(6) made in initial call to BDO (b)(6) and reported (b)(3);49 U.S.C. points. BDO (b)(6) accepted the initial call. A few minutes later, according to TSO (b)(6), BDO (b)(6) made a second call to BDO (b)(6) to add an additional behavioral point and therefore make the passenger a BDO referral. BDO (b)(6) accepted the secondary call but neither her or her partner (BDO (b)(6)) observed the additional behavioral point, and as a result, the passenger was not made to be a referral by BDO (b)(6).

AFSD Pantages noted that the SOP does not state that PCOs had to stop observations once a passenger was handed off to the on-duty BDO team. AFSD Pantages then briefly stated that different BDOs will tend to see different behaviors depending on their vantage points, and went on to state that he has not seen anyone not accept a secondary call or additional behavior point.

AFSD Pantages also noted that this was not the first time a situation of this nature had occurred between BDO (b)(6) and BDO (b)(6) noting a previous incident in January of 2012. BDO Higgins replied by stating that BDO (b)(6) did not communicate to her that that was a referral, and went on to point out that the second call made in this situation was not made until (b)(3);49 U.S.C. § 114(r)

BDO (b)(6) stated that she was never informed as to proper procedure with regards to taking additional or secondary calls from the PCO, it was her understanding that once a PCO hands off a passenger to the on-duty BDO Team, the BDO Team takes over the observation, and that the SOP does not state that the on-duty BDO team was obligated to take additional behaviors after they took over an observation. BDO (b)(6) denied refusing the secondary call but stated that she never observed the behaviors stated in that second call from BDO (b)(6) and did not make the passenger a BDO referral. BDO (b)(6) went on to state that by the time BDO (b)(6) made the secondary call, (b)(3);49 U.S.C. § 114(r)

BDO (b)(6) denied any wrongdoing with regards to this situation, and therefore did not accept any responsibility for her actions.

Nothing further to report.

~~SENSITIVE SECURITY INFORMATION~~

February 13, 2013

Jason Pantages
Assistant Federal Security Director for Screening/Deciding Official
U.S. Department of Homeland Security
Transportation Security Administration
Los Angeles International Airport
5767 West Century Boulevard, Suite 300
Los Angeles, California 90805

AFSDS Pantages,

This letter constitutes the written reply of EBDO (b)(6) ("Respondent") to the Notice of Proposed Five (5) Calendar Day Suspension ("Notice") issued to her on or about February 7, 2013 by Deputy Assistant Federal Security Director for Screening Janis Nagy ("Proposing Official").²

For the reasons set forth more fully below, respondent contends that the proposing official failed to establish by a preponderance of evidence the charges and specifications described in the Notice.³ Even assuming arguendo that the proposing official has established the alleged misconduct by a preponderance of evidence (and he has not), respondent submits that respondent's proposed seven (7) day suspension ("Proposed Penalty") is excessive and a lesser penalty should be imposed in this case.

I. RESPONDENT DENIES THE CHARGE OF FAILURE TO FOLLOW STANDARD OPERATING PROCEDURES AS ALLEGED.

The Notice charges respondent with "[f]ailure to follow standard operating procedures." In support of this charge, the proposing official offers the following specifications:

~~**1. WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 49 CFR PART 1520. NO PART OF THIS DOCUMENT MAY BE RELEASED TO PERSONS WITHOUT A NEED TO KNOW, AS DEFINED IN 49 CFR 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR, WASHINGTON D.C. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC AVAILABILITY TO BE DETERMINED UNDER 5 U.S.C. 552.**~~

² Respondent is an African-American female over the age of forty (40).

³ TSA Management Directive No. 1100.75-3, section A.(18) defines "preponderance of evidence" as "[t]hat degree of relevant evidence that a reasonable person, considering the record as a whole, would accept as sufficient to find that a purported fact is more likely to be true than untrue."

~~**SENSITIVE SECURITY INFORMATION**~~

"Specification: On November 18, 2012, you and Master Behavior Detection Officer (MBDO) (b)(6) were assigned to Terminal 4. Simultaneously, at approximately 1948 hours, MBDO (b)(6) and Expert Behavior Detection Officer (EBDO) (b)(6) were conducting Plain Clothes Operations in Terminal 4. At that time, MBDO (b)(6) and EBDO (b)(6) observed two (2) male passengers exhibiting behavior. MBDO (b)(6) immediately contacted you to transfer the passenger's behavior. Although the passenger's behavior did not meet the threshold for SPOT referral screening, you were informed to continue your observation on the passengers. Moments later, MBDO (b)(6) contacted you a second time and informed you of an additional behavior the passengers were exhibiting. At that point, the passengers exhibited enough behavior that warranted SPOT referral screening. However, despite receiving the information from MBDO (b)(6) you failed to take action and ensure the passengers received SPOT referral screening."

The Notice goes on to allege that because of the reason and specification described above, "[respondent's] conduct is in violation of TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), Section 5 – Employee Responsibilities: 5.A.(7); Policy - Section 6.A and 6.C. The Notice further alleges that respondent's conduct allegedly violates TSA SPOT Screening Standard Operating Procedures, Sections 3.7.A and 3.15.B.3).

For the reasons set forth below, respondent submits that she did not violate any of the provisions described above.

A. Respondent Did Not Violate TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 5.A.(7).⁵

Respondent zealously disagrees that she violated TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 5.A.(7) because there is neither any specific "law, rule, regulation, or other authoritative policy and guidance" with

~~**WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 49 CFR PART 1520. NO PART OF THIS DOCUMENT MAY BE RELEASED TO PERSONS WITHOUT A NEED TO KNOW, AS DEFINED IN 49 CFR 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR, WASHINGTON D.C. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC AVAILABILITY TO BE DETERMINED UNDER 5 U.S.C. 552."**~~

⁵ TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 5.A.(7) states that TSA employees are responsible . . . for observing the following basic on-the-job rules:

"Observing and abiding by all laws, rules, regulations and other authoritative policies and guidance, written and unwritten."

~~SENSITIVE SECURITY INFORMATION⁶~~

which respondent is accused of failing to comply nor was any particular charge incorporated by reference into this particular charge, leaving respondent to question what "law, rule, regulation, or other authoritative policy and guidance" she has allegedly violated and how to respond to these accusations. The problem is that TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 5.A.(7) is not a substantive charge. It does not have any elements or other attributes of a specific charge.

The Fifth Amendment to the United States Constitution also requires a federal employee to receive adequate notice of charges alleged and adequate hearing on that charge before being subject to discipline that affects his/his property interest. As it relates to the TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 5.A.(7) charge, respondent is clearly being denied adequate notice of charges. The TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 5.A.(7) charge is simply too vague, ambiguous, and/or overbroad.

If, however, the TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 5.A.(7) charge is not too vague, ambiguous, and/or overbroad it is certainly cumulative because respondent is charged with another more specific charges.

B. Respondent Did Not Violate TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 6.A.⁷

Respondent categorically denies that she violated TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 6.A. In fact, this charge is absolutely frivolous in at least two (2) ways.

First, the first portion of TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 6.A is not a substantive provision that can be violated because TSA Management Directive No. 1100.73-5 (Employee Responsibilities and

~~**"WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 49 CFR PART 1520. NO PART OF THIS DOCUMENT MAY BE RELEASED TO PERSONS WITHOUT A NEED TO KNOW, AS DEFINED IN 49 CFR 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR, WASHINGTON D.C. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC AVAILABILITY TO BE DETERMINED UNDER 5 U.S.C. 552"**~~

⁷ TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 6.A states:

"TSA employees shall comply with all standards and responsibilities established by this directive and shall report any violation(s) of this directive to appropriate management officials. Failure to comply with this directive and/or failure to report violations of this directive may result in appropriate corrective action, including discipline up to and including removal.

~~SENSITIVE SECURITY INFORMATION⁸~~

Conduct), § 6.A is simply a general statement establishing that "TSA employees shall comply with all standards and responsibilities established by this directive. . ." As mentioned above, respondent did all she could do to comply with her obligations on November 18, 2012. The proposing official cannot simply state that respondent violated this provision without stating which standard and/or responsibility respondent allegedly violated or by incorporating by reference a specific violation into this charge.

Second, respondent is not charged with failure to report any violation of TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct) to management. There is absolutely no evidence attached in the Notice that proves that respondent failed to report anything to management.

C. Respondent Did Not Violate TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 6.C.⁹

Respondent vehemently disagrees that she violated TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 6.C. In fact, this charge is also absolutely frivolous in at least four (4) ways.

First, there is not a preponderance of evidence attached to the Notice that establishes that respondent did anything at all that "adversely reflect[ed] on TSA."

Second, there is not a preponderance of evidence attached to the Notice that establishes that respondent did anything at all that "negatively impact[ed] [TSA's] ability to discharge its mission."

Third, there is not a preponderance of evidence attached to the Notice that establishes that respondent did anything that "cause[d] embarrassment to the agency."

~~***WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 49 CFR PART 1520. NO PART OF THIS DOCUMENT MAY BE RELEASED TO PERSONS WITHOUT A NEED TO KNOW, AS DEFINED IN 49 CFR 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR, WASHINGTON D.C. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC AVAILABILITY TO BE DETERMINED UNDER 5 U.S.C. 552.~~

⁹ TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 6.C states:

"While on or off-duty, employees are expected to conduct themselves in a manner that does not adversely reflect on TSA, or negatively impact its ability to discharge its mission, cause embarrassment to the agency, or cause the public and/or TSA to question the employee's reliability, judgment or trustworthiness."

~~SENSITIVE SECURITY INFORMATION¹⁰~~

Finally, there is not a preponderance of evidence attached to the Notice that establishes that respondent did anything that "cause[d] the public and/or TSA to question the employee's reliability, judgment or trustworthiness."

D. Respondent Did Not Violate TSA SPOT Screening Standard Operating Procedures, § 3.7.A.¹¹

Respondent vehemently disagrees that she violated TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), § 3.7.A because the threshold (b)(3):49 points was not satisfied in accordance with the TSA SPOT Screening Standard Operating Procedures. As will be discussed further below, once the individual's (b)(3):49 behaviors were transferred to the BDO team comprised of respondent and her partner, the plain clothes operation BDO no longer had any authority to continue observations of the relevant individual. If respondent and her partner did not observe any additional behaviors and the total cumulative points did not reach (b)(3):49 points, there was no violation of TSA SPOT Screening Standard Operating Procedures, § 3.7.A.

E. Respondent Did Not Violate TSA SPOT Screening Standard Operating Procedures, § 3.15.B.3.¹²

Respondent vehemently disagrees that she violated TSA SPOT Screening Standard Operating Procedures, § 3.15.B.3. In fact, this charge is also absolutely frivolous because the same TSA SPOT Screening Standard Operating Procedures

~~¹⁰ "WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 49 CFR PART 1520. NO PART OF THIS DOCUMENT MAY BE RELEASED TO PERSONS WITHOUT A NEED TO KNOW, AS DEFINED IN 49 CFR 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR, WASHINGTON D.C. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC AVAILABILITY TO BE DETERMINED UNDER 5 U.S.C. 552."~~

¹¹ TSA SPOT Screening Standard Operating Procedures, § 3.7.A requires (b)(3):49 points for a referral.

¹² TSA SPOT Screening Standard Operating Procedures, § 3.15.B.3) states:

(b)(3):49 U.S.C. § 114(r)

SENSITIVE SECURITY INFORMATION

section that respondent is accused of violating (e.g. TSA SPOT Screening Standard Operating Procedures, § 3.15.B.3); exonerates her.

According to TSA SPOT Screening Standard Operating Procedures, § 3.15.B.3, it was the initial responsibility of the Plain Clothes Operations ("PCO") Behavior Detection Officers ("BDOs") ("PCO BDOs") Master Behavior Detection Officer (MBDO) (b)(6) ("MBDO (b)(6)") and Expert Behavior Detection Officer ("EBDO") (b)(6) ("EBDO (b)(6)") to (b)(3);49 U.S.C. § 114(r) (b)(3);49 U.S.C. § 114(r) (b)(3);49 U.S.C. § 114(r) Respondent does not dispute these duties of MBDO (b)(6) and EBDO (b)(6)

However, once the passenger approached the screening checkpoint, MBDO (b)(6) and EBDO (b)(6) sole responsibility was to (b)(3);49 U.S.C. § 114(r) (b)(3);49 U.S.C. § 114(r)

Once the PCO BDOs transferred the (b)(3);49 points to respondent, (b)(3);49 U.S. (b)(3);49 U.S.C. § 114(r) (b)(3);49 U.S.C. § 114(r) At this point, it was the responsibility of the BDO team (e.g. respondent and her partner; not the PCO BDOs), (b)(3);49 U.S.C. § 114(r) Respondent and her partner used the points from the PCO BDOs and continued (b)(3);49 U.S.C. § 114(r)

Finally, TSA SPOT Screening Standard Operating Procedures, § 3.15.B.3 (b)(3);49 U.S.C. § 114(r)

According to TSA SPOT Screening Standard Operating Procedures, § 3.15.B.3, (b)(3);49 U.S.C. § 114(r) (b)(3);49 U.S.C. § 114(r) TSA SPOT Screening Standard Operating Procedures, § 3.15.B.3 (b)(3);49 U.S.C. § 114(r) (b)(3);49 U.S.C. § 114(r) (b)(3);49 If respondent and her partner did not see any additional behaviors after the

~~WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 49 CFR PART 1520. NO PART OF THIS DOCUMENT MAY BE RELEASED TO PERSONS WITHOUT A NEED TO KNOW, AS DEFINED IN 49 CFR 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR, WASHINGTON D.C. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC AVAILABILITY TO BE DETERMINED UNDER 5 U.S.C. 552.~~

SENSITIVE SECURITY INFORMATION¹⁴

(b)(3) 49 U.S.C. § 114(n) behaviors were transferred to them, the cumulative points never got to (b)(3) points; the threshold for a referral.

II. **THERE IS NO REASON TO DISCUSS THE REASONABLENESS OF THE PROPOSED PENALTY BECAUSE IT IS UNDISPUTED THAT RESPONDENT DID NOT DO ANYTHING WRONG.**

Respondent will discuss the proposed penalty because there can be no dispute that respondent did not violate any TSA policy or procedure.

CONCLUSION

For all the reasons mentioned above, respondent respectfully requests that you take no disciplinary action against her at all.

Dated: February 13, 2013

Respectfully submitted,

(b)(6)

Designated Personal Representative for
EBDO (b)(6)

~~**14 "WARNING: THIS DOCUMENT CONTAINS SENSITIVE SECURITY INFORMATION THAT IS CONTROLLED UNDER THE PROVISIONS OF 49 CFR PART 1520. NO PART OF THIS DOCUMENT MAY BE RELEASED TO PERSONS WITHOUT A NEED TO KNOW, AS DEFINED IN 49 CFR 1520, EXCEPT WITH THE WRITTEN PERMISSION OF THE ADMINISTRATOR, WASHINGTON D.C. UNAUTHORIZED RELEASE MAY RESULT IN CIVIL PENALTY OR OTHER ACTION. FOR U.S. GOVERNMENT AGENCIES, PUBLIC AVAILABILITY TO BE DETERMINED UNDER 5 U.S.C. 552.**~~

February 10, 2013

Jason Pantages
Assistant Federal Security Director for Screening/Deciding Official
Transportation Security Administration
Los Angeles International Airport
5767 West Century Boulevard, Seventh Floor, Suite 300
Los Angeles, California 90045

AFSDS Pantages,

I hereby give you notice that I wish to reply (orally and in writing) to the Notice of Proposed Seven (7) Calendar Day Suspension issued to me on or about February 7, 2013.

I also designate (b)(6) as my personal representative for the purpose of assisting me in reviewing the material relied upon to support the reason and specifications contained in the proposed action; to prepare and submit my written reply; to secure affidavits and/or other documentary evidence; and to assist me in preparing and/or presenting my oral reply. Mr. Sonnier is a Transportation Security Officer working in Tom Bradley International Terminal and his mailing address is P.O. Box 90757, Los Angeles, California 90009. If you need to contact Mr. Sonnier by phone; he can be reached at (562) 882-(b)(6)

Thank you for your attention to very important matter.

Sincerely,

(b)(6)

Transportation Security Officer



(b)(6)

Supporting Documents Checklist

- Memo to File – (b)(6) – Dated 11/30/2012
- Statement – (b)(6) – Dated 11/18/2012
- Statement – (b)(6) – Dated 11/18/2012
- Statement – (b)(6) – Dated 11/18/2012
- Statement – (b)(6) – Dated 11/18/2012
- Statement – (b)(6) – Dated 12/3/2012
- BDO TSM Daily Narrative by TSM (b)(6) – Dated 1/8/2012
- Signed Acknowledgement of MD 1100.73-5 – Dated 9/2/2012

(b)(6)

Acknowledgement of Receipt

2/7/2013
Date

(b)(6)

2-7-13
Date

U.S. Department of Homeland Security
Los Angeles International Airport
5767 W. Century Blvd., Suite 300
Los Angeles, CA 90045



Transportation
Security
Administration

Date: February 4, 2013

To: (b)(6)
Expert Behaviour Detection Officer
Los Angeles International Airport

From: Janis Nagy
Deputy Assistant Federal Security Director
Los Angeles International Airport

Subject: Notice of Proposed Five (5) Calendar Day Suspension

Reference: (b)(6)

You are hereby notified that I am proposing you be suspended from duty without pay for five (5) calendar days in order to promote the efficiency of the Federal service. If a decision is made to suspend you, it will not be made or effected earlier than your reply. If you do not reply, a decision will not be made earlier than seven (7) calendar days from the date you receive this letter. This proposal is based on the following to promote the efficiency of the service:

Charge 1: Failure to Follow Standard Operating Procedures

Specification: On November 18, 2012, you and Master Behavior Detection Officer (MBDO) (b)(6) were assigned to Terminal 4. Simultaneously, at approximately 1948 hours MBDO (b)(6) and Expert Behavior Detection Officer (EBDO) (b)(6) were conducting Plain Clothes Operations in Terminal 4. At that time, MBDO (b)(6) and EBDO (b)(6) observed two (2) male passengers exhibiting behavior. MBDO (b)(6) immediately contacted you to transfer the passenger's behavior. Although the passenger's behavior did not meet the threshold for SPOT referral screening, you were informed to continue to your observation on the passengers. Moments later, MBDO (b)(6) contacted you a second time and informed you of an additional behavior the passengers were exhibiting. At that point, the passengers exhibited enough behavior that warranted SPOT referral screening. However, despite receiving the information from MBDO (b)(6) you failed to take action and ensure the passengers received SPOT referral screening.

Your conduct is in violation of TSA Management Directive No. 1100.73-5 (Employee Responsibilities and Conduct), Section 5 – Employee Responsibilities: 5.A (7); Policy – Section 6.A and 6.C. You are also in violation of TSA SPOT Screening Standard Operating Procedures, Sections 3.7.A and 3.15.B.3).

On November 18, 2012, SPOT Transportation Security Manager (STSM) Aircco Farmer met with you to discuss the incident above. You were given an opportunity to respond orally and/or in writing. You provided a written and oral response. You stated that when MBDO (b)(6) contacted you the second time with the additional behavior, you did not take action because all along the passengers were under your observation and during that time, you personally did not observe the passengers exhibit the additional behavior.

In determining the appropriateness of the penalty, I considered a number of factors. I note your job performance and that you have been employed at TSA for over eight (8) years. I do not believe, however, that your length of service or satisfactory performance outweigh the nature of your offense.

Previously, on July 22, 2012, you were given a verbal discussion for unacceptable attendance. Also, on January 8, 2012, you were counseled by STSM Stephen L. Johnson and STSM Stephen Miller for a similar incident. Specifically, in the previous incident you failed to take action after receiving behavior from MBDO (b)(6).

I have considered all of the evidence of record, including your response(s). I find the evidence supports the reasons and specifications as stated above as appropriate. Therefore, I am proposing a five (5) calendar day suspension for your actions. This proposal is within the recommended penalty range of the TSA guidelines on Table of Offenses and Penalties.

This is a proposal and not a decision. You have the right to reply to this proposal orally and/or in writing and furnish affidavits and evidence in support of your reply within seven (7) calendar days after the date you receive this proposal. Consideration will be given to extending this time limit if you submit a written request stating your reasons for needing more time. Full consideration will be given to any reply you submit. A written reply, affidavits, and any other documentary evidence should be forwarded to the Deciding Official, Assistant Federal Security Director (AFSD) for Screening Jason Pantages, at 5767 W. Century Boulevard, Suite 300, Los Angeles, CA 90045. You may make arrangements for an oral reply with the Deciding Official by contacting the South Complex Administrative Office at 310-258-(b)(6).

You have the right to be represented by an individual of your choice provided such representation does not constitute a conflict or apparent conflict of interest with your representative's duties. Please designate your representative, if any, by name, address, position and employer in a signed statement, and forward that statement to the Deciding Official before the expiration of the reply period, and you must provide written notice of any change in representation. Management has the right to disallow your representative if the representation creates a conflict of interest or, where the representative is a TSA employee, if he or she cannot be spared because of critical

TSA work. You are responsible for all costs associated with your representation, including any travel expenses.

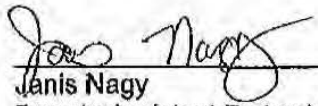
You and your representative, if an agency employee, will be allowed a reasonable amount of official time to assist you in your reply, to review the material relied upon to support the reason for the proposed action, to prepare a written reply, to secure affidavits and other documentary evidence, and to make an oral or written reply. You and your representative, if a TSA employee, must contact your immediate supervisor to make advance arrangements for the use of official time.

Enclosed is the material relied upon to support this proposed suspension. This material will be released only to you and/or your designated representative.

A final decision will not be made in this matter until your written and/or oral replies have been received and considered, or, if no reply is received, until after the time specified for the replies has passed. Any replies submitted will be given full consideration. You will be notified in writing of the final decision.

If you believe you need assistance in dealing with any personal matters, please be advised that the **Employee Assistance Program** is available to provide confidential counseling services and can be reached by calling **1-800-222-0364**.

Please sign the acknowledgement of receipt below. Your signature does not denote agreement with this action; it only represents receipt of this notice on the date signed.

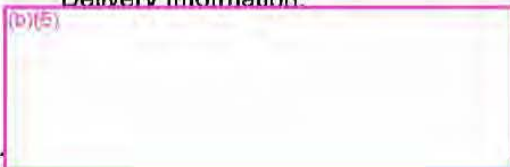

Janis Nagy
Deputy Assistant Federal Security Director

2/7/13
Date

(b)(5)


02/07/2013
Date

Delivery Information:

(b)(5)


2-7-13
Date



Transportation
Security
Administration

MEMO TO FILE

DATE: 11-30-2012

Control #

FROM: STSM Alricco Farmer

TO: STSM Stephen Miller

SUBJECT: EBDO (b)(6)

On Sunday November 18, 2012 while conducting PCO duties at terminal 4 EBDO (b)(6) and MBDO (b)(6) passed on behaviors to EBDO (b)(6) on 2 male passengers in which the passengers had not reached the threshold for a referral. The PCO team continued to observe the passenger as well as the team that was assigned to terminal 4 (EBDO (b)(6) and MBDO (b)(6)). The PCO team called the terminal 4 team back to give them the final behavior that would have made the passengers a referral. But EBDO (b)(6) told the PCO team that she did not see the behavior and did not assess the behavior. The passenger continues through the checkpoint without BDO engagement.

I met with EBDO (b)(6) after finding out what happen and to received her side of the story. She stated to me that the PCO team could not have seen the behavior due to their positioning and she did not observe the behavior that was passed on by the PCO team. I explained to her that is not her call to tell a team what they did or didn't see and if the PCO's passed on behaviors she needs to accept the behavior. I explained to EBDO (b)(6) that failure to follow through on a SPOT Referral for Screening is a violation of the SOP and that the possible consequences are disciplinary action. EBDO (b)(6) provided a written statement.

Although she has no formal disciplinary action on January 8, 2012, she was counseled by SPOT TSM Stephen Johnson for a similar failure to follow the SOP.

(b)(6)

Behavior Detection Program
Los Angeles International Airport

U.S. Department of Homeland Security
Los Angeles International Airport
100 World Way T-1 Door 332
Los Angeles, California 90045



Transportation
Security
Administration

MEMO TO FILE

DATE: 11/18/2012

Control #

FROM: (b)(6)

TO: Alricco Farmer

SUBJECT: A Bad Call

On 11/18/2012 at 1948 pm in Terminal 4 checkpoint Alpha the environmental baseline (b)(3) 49 U.S.C. § (b)(3) 49 U.S.C. § 114(r) PCO (b)(6) called to inform me of two male passengers (b)(3) 49 U.S.C. § 114(r) I turned to my right and observed the passengers (b)(3) 49 U.S.C. § 114(r) I informed my partner Officer (b)(6) at 1949 who observed both passengers inside the checkpoint (b)(3) 49 U.S.C. § 114(r) we continue to observed the passengers (b)(3) 49 U.S.C. § 114(r) At 1950 pm PCO (b)(6) (b)(6) called and informed me he had (b)(3) 49 U.S.C. § 114(r) after the individuals were inside the T4 Alpha checkpoint beyond the eyesight at of the PCO I informed him we had observed the passengers as well (b)(3) 49 U.S.C. § 114(r) We maintain observance (b)(3) 49 U.S.C. § 114(r) At 7:50 pm I called (b)(6) to inform him of our behaviors of the passengers. Hence both passengers did not reach BDO threshold for a referral.

(b)(6)

Los Angeles International Airport

www.tsa.gov

TSA 15-00014 - 010975



Transportation
Security
Administration

MEMO TO FILE

DATE: November 18th, 2012

Control #

FROM: MBDO

(b)(6)

TO: STSM Alricco Farmer

SUBJECT: Terminal 4

On November 18, 2012 at about 19:48 while working Terminal 4, my partner EBDO (b)(6) and I were at T4 Alpha. I was inside the checkpoint past TDC officer when my partner EBDO (b)(6) informed me of two male passengers, she told me that she received a call from PCO team and the PCO team (b)(3) 49 U.S.C. § 114(r) (b)(3) 49 U.S.C. § 114(r). Both male passengers were inside the checkpoint past TDC officer and waiting to go through the screening process. I continued to observe both passengers and observed no further behaviors. EBDO (b)(6) informed me later on about the second call by PCO team (b)(3) 49 U.S.C. § 114(r) (b)(3) 49 U.S.C. § 114(r).

Respectfully,

(b)(6)

Behavior Detection Program
Los Angeles International Airport



Transportation
Security
Administration

MEMO TO FILE

DATE: 11/18/2012

Control #

FROM: (b)(6)

TO: Farmer, Alricco

SUBJECT: BDO Referral

I, MBDO (b)(6) was at Terminal 4 with EBDO (b)(6) conducting SPOT observation as a PCO. I conferred and concurred with my partner Officer (b)(6) that a passenger in queue had (b)(6) (b)(3) 49 U.S.C. § 114(r) At 1947 I called EBDO (b)(6) and passed down the behaviors. After speaking with Officer (b)(6) my partner, Officer (b)(6) conferred and concurred with me that (b)(3) 49 U.S.C. § 114(r) and has therefore met the threshold for a BDO referral. At 1949 I called Officer (b)(6) again and passed down the additional behavior at which point officer (b)(6) stated, "I didn't see that." I told her we passed down enough points for a BDO referral. She said again she did not see that. Officer (b)(6) then walked past TDC and entered the screening checkpoint. Approximately 5 minutes later, Officer (b)(6) exited the checkpoint, called me and said that she had seen (b)(3) 49 U.S.C. § 114(r) (b)(3) 49 U.S.C. § 114(r) I reiterated that my partner and I had passed down enough points for a BDO referral. My partner and I then left the terminal.

Respectfully,

(b)(6)

Behavior Detection Program
Los Angeles International Airport

(b)(6)



Transportation
Security
Administration

MEMO TO FILE

DATE: 11/18/2012

Control #

FROM: (b)(6)

TO: Farmer, Alricco

SUBJECT: BDO Referral

On Sunday November 18, 2012 @ around 1945 my partner MBDO (b)(6) and I conferred and concurred on an individual with behaviors. He (b)(3) 49 U.S.C. § 114(r) MBDO (b)(6) called EBDO (b)(6) (b)(6) to pass the behaviors. As MBDO (b)(6) was on the phone with her I kept watch for more signs of behaviors. I then noticed the passenger (b)(3) 49 U.S.C. § 114(r) I told MBDO (b)(6) that the passenger (b)(3) 49 U.S.C. § 114(r) and concurred that he had reached the BDO (b)(6) for a referral. MBDO (b)(6) then called EBDO (b)(6) to inform her that the passenger had reached the BDO threshold for a referral. As soon as he got off the phone with her, he stated to me that she told him that she had not seen the last behavior and repeated it to him again. We watched her go past the TDC podium behind the passenger. A few minutes later she came back out and called MBDO (b)(6) to explain to him that she did not see the final behavior. MBDO (b)(6) and I then left the terminal. I then called TSM Farmer, Alricco to explain to him what just happened at terminal 4

(b)(6)

Behavior Detection Program
Los Angeles International Airport