

From: [Wheaton, Kelly](#)
To: [Kerner, Francine](#)
Cc: [Ruggeri, Amy <TSA OCC>](#); [Thompson, Mardi](#); [Bester, Margot](#); [Schlegel, Thomas](#); [Bauer, John](#); [Kent, Linda <TSA OCC>](#); [Prosnitz, Susan](#); [Pilcher, Marc](#); [Itami, Brian](#); [Powell, Barbara](#)
Subject: RE: SPOT Indicators - Revised Language
Date: Wednesday, June 26, 2013 2:49:49 PM

Francine,

We are working it.

Kelly D. Wheaton
Deputy Chief Counsel, Enforcement
571 227-(b)(6)

From: Kerner, Francine
Sent: Wednesday, June 26, 2013 2:36 PM
To: Wheaton, Kelly <TSA OCC>
Cc: Ruggeri, Amy <TSA OCC>; Thompson, Mardi <TSA OCC>; Bester, Margot <TSA OCC>; Schlegel, Thomas <TSA OCC>; Bauer, John D <TSA OCC>; Kent, Linda <TSA OCC>; Prosnitz, Susan <TSA OCC>; Pilcher, Marc <TSA OCC>; Itami, Brian; Powell, Barbara <TSA OCC>
Subject: RE: SPOT Indicators - Revised Language

Interesting, but I'd like something more. Have we checked with S&T and Sarah Tauber?

From: Wheaton, Kelly <TSA OCC>
Sent: Wednesday, June 26, 2013 2:26 PM
To: Kerner, Francine
Cc: Ruggeri, Amy <TSA OCC>; Thompson, Mardi <TSA OCC>; Bester, Margot <TSA OCC>; Schlegel, Thomas <TSA OCC>; Bauer, John D <TSA OCC>; Kent, Linda <TSA OCC>; Prosnitz, Susan <TSA OCC>; Pilcher, Marc <TSA OCC>; Itami, Brian; Powell, Barbara <TSA OCC>
Subject: RE: SPOT Indicators - Revised Language

Francine,

Yesterday Marc Pilcher forwarded to us an audio recording of discussions between OTWE and an expert in Boston regarding the reasons for the (b)(3), 49 U.S.C. § 114(r) factor. OTWE interviewed this expert to assist in drafting the SPOT Behavioral Reference Guide. This is the best product we've found so far providing justification for the criteria. I've attached a written summary of this audio recording drafted by Brian Itami. The summary is password protected. (b)(3), 49 U.S.C. § 114(r)

(b)(3), 49 U.S.C. § 114(r)

I've got Brian continuing to dig on program justification and will report back when I have better information.

Kelly D. Wheaton

Deputy Chief Counsel, Enforcement

571 227- (b)(6)

From: Kerner, Francine
Sent: Wednesday, June 26, 2013 2:00 PM
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Subject: RE: SPOT Indicators - Revised Language

This is what I am sending to Joe Maher.

(b)(5)
(b)(5)
(b)(5)

From: Kerner, Francine
Sent: Wednesday, June 26, 2013 9:45 AM
To: Prosnitz, Susan <TSA OCC>
Cc: Wheaton, Kelly <TSA OCC>; Ruggeri, Amy <TSA OCC>; Thompson, Mardi <TSA OCC>; Bester, Margot <TSA OCC>; Schlegel, Thomas <TSA OCC> (b)(6)
Subject: RE: SPOT Indicators - Revised Language

(b)(5)

From: Prosnitz, Susan <TSA OCC>
Sent: Tuesday, June 25, 2013 5:31 PM
To: Kerner, Francine
Cc: Wheaton, Kelly <TSA OCC>; Ruggeri, Amy <TSA OCC>; Thompson, Mardi <TSA OCC>; Bester, Margot <TSA OCC>
Subject: SPOT Indicators - Revised Language
Importance: High

Francine,

Attached please find revised SPOT indicator language reflecting this afternoon's discussion with you.

(b)(3):49 U.S.C. § 114(r)
(b)(3):49 U.S.C. § 114(r)
(b)(3):49 U.S.C. § 114(r)

Kelly is separately following up regarding the background information as to why the (b)(3):49 U.S.C. § 114(r) indicator was included and the original source for its inclusion.

Susan

Susan M. Prosnitz, Esq.
Assistant Chief Counsel for Legal Policy and Education

Office of Chief Counsel
Transportation Security Administration

571.227.(b)(6) (office)

(b)(6) mobile)

(b)(6)

ATTORNEY-CLIENT PRIVILEGED/ATTORNEY WORK PRODUCT

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Cc: [Ruggeri, Amy <TSA OCC>](#); [Thompson, Mardi](#); [Bester, Margot](#); [Schlegel, Thomas](#); [Bauer, John](#); [Kent, Linda <TSA OCC>](#); [Prosnitz, Susan](#); [Pilcher, Marc](#); [Itami, Brian](#); [Powell, Barbara](#); [Genter, Constance <TSA OCC>](#)
Subject: Re: SPOT Indicators - Revised Language
Date: Wednesday, June 26, 2013 5:03:43 PM

Ok

From: Wheaton, Kelly <TSA OCC>
Sent: Wednesday, June 26, 2013 05:01 PM
To: Kerner, Francine
Cc: Ruggeri, Amy <TSA OCC>; Thompson, Mardi <TSA OCC>; Bester, Margot <TSA OCC>; Schlegel, Thomas <TSA OCC>; Bauer, John D <TSA OCC>; Kent, Linda <TSA OCC>; Prosnitz, Susan <TSA OCC>; Pilcher, Marc <TSA OCC>; Itami, Brian; Powell, Barbara <TSA OCC>; Kent, Linda <TSA OCC>; Genter, Constance <TSA OCC>
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Francine,

An update. Carl Maccario informs Brian that Carl believes that a document was produced early in the program that provides justifications for each of the factors. Carl didn't have immediate access. We are pursuing finding that document. I will let you know when we have run it to ground.

As Susan related separately, as part of the program's optimization study, the program has contracted with the American Institutes for Research (AIR) to analyze existing BDO program statistics for the factors. Some of that analysis is complete. I would recommend that (b)(5)

(b)(5)

Finally, as you mentioned separately,

(b)(5)

Kelly D. Wheaton
Deputy Chief Counsel, Enforcement
571 227-(b)(6)

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(b)(6);(b)(3):49 U.S.C. § 114(r)

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Kelly D. Wheaton
Deputy Chief Counsel, Enforcement
571 227-4721

From: Kerner, Francine
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To: Prosnitz, Susan <TSA OCC>
Cc: Wheaton, Kelly <TSA OCC>; Ruggeri, Amy <TSA OCC>; Thompson, Mardi <TSA OCC>; Bester, Margot <TSA OCC>; Schlegel, Thomas <TSA OCC>; Bauer, John D <TSA OCC>; Kent, Linda <TSA OCC>
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Importance: High

Francine,

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(b)(5),(b)(3):49 U.S.C. § 114(r)

Susan

Susan M. Prosnitz, Esq.

Assistant Chief Counsel for Legal Policy and Education
Office of Chief Counsel
Transportation Security Administration
571.227.(b)(6) (office)

(b)(6)

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