

~~SENSITIVE SECURITY INFORMATION~~



Transportation
Security
Administration

U.S. Department of Homeland Security
Arlington, VA 22204

Date: February 5, 2013
To: (b)(6)
Behavior Detection Officer
Des Moines International Airport (DSM)
From: Tamara Michaud
SPOT Transportation Security Manager
Des Moines International Airport (DSM)
Subject: Letter of Reprimand
Ref: ER # (b)(6)

The purpose of this Letter of Reprimand is to officially reprimand you for the following issue(s).

Charge 1: Failure to Follow Standard Operating Procedures (SOP)

Specification 1: On January 8, 2013, at approximately 0625 hours, you contacted Behavior Detection Officer (BDO) (b)(6) to respond to gate C4 of the Des Moines International Airport (DSM) to assist with a potential BDO Law Enforcement Officer (LEO) referral. The behaviors for the passenger under observation met the threshold for an LEO referral and you were looking to confer and concur with BDO (b)(6) who is more experienced in the process. After discussion with BDO (b)(6) you and he improperly decided that the passenger would not undergo an LEO referral, as required by the SPOT (Screening of Passengers by Observation Techniques) SOP. Additionally, the passenger was allowed to board the aircraft and depart despite not being cleared for travel by the Federal Security Director (FSD) or FSD designee, which is also a requirement of the SOP.

On January 17, 2013, I held a pre-decisional discussion (PDD) with you to discuss this incident. During the PDD, you acknowledged that you were aware that the passenger's behavior met the threshold for an LEO referral. While you contacted a more seasoned BDO to confer and concur on the situation, you admitted that you were aware of the SOP requirement and that the proper procedures were not followed.

~~SENSITIVE SECURITY INFORMATION~~

~~WARNING: This record contains Sensitive Security Information (SSSI) pursuant to 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know" as defined in 49 CFR parts 15 and 1520, except with the written permission of the Administrator or the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.~~

SENSITIVE SECURITY INFORMATION



Transportation
Security
Administration

U.S. Department of Homeland Security
Arlington, VA 22202

I find that your actions violate the SPOT SOP. This SOP states that BDOs must immediately request a Law Enforcement Officer's assistance when the SPOT behaviors reach a total (b)(3) 49 (b) points. That occurred during this situation and the proper SOP process was not followed.

Penalty Determination:

In deciding the appropriate penalty, I have considered the penalty factors set out in the handbook to MD 1100.73-5.

- a. *The nature and seriousness of the offense, and its relationship to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated.*

You are a Behavior Detection Officer (BDO) who has been with TSA since February 13, 2011. This offense is not viewed as intentional, malicious, or for personal gain, and you have no prior occurrences of SOP violations on record. I considered this as a mitigating factor.

- b. *The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position.*

You are a full-time BDO who has been in position for approximately two months. Many times you are unsupervised in making your initial decisions and it is critical that you follow all SOPs, procedures, and policies. As a BDO, your position involves the highest level of integrity and compliance with procedures and policies. Failure to follow the SOP interferes with our operational capability and your ability to conduct your job of securing the public for air transportation.

- c. *The employee's past disciplinary record.*

You have not received prior formal discipline.

- d. *The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.*

I have considered as a mitigating factor that you have been with TSA since February 13, 2011. You get along well with co-workers and have a dependable attendance record. While you have received two corrective actions for tardy events, these were not considered relevant to this issue and were not considered as aggravating factors.

SENSITIVE SECURITY INFORMATION

WARNING: This document contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1610. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1610, except to the extent necessary to the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, please direct all requests to the Office of Information Security, Department of Homeland Security, 205 E. St., Washington, DC 20535. This document is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1610.

~~SENSITIVE SECURITY INFORMATION~~



Transportation
Security
Administration

U.S. Department of Homeland Security
Arlington, VA 22202

- e. *The effect of the offense upon the employee's ability to perform at a satisfactory level, and its effect upon supervisors' confidence in the employee's ability to perform assigned duties.*

At times, your duties as a BDO require that you function with minimal supervision. You must be able to follow Standard Operating Procedures without assumption or deviation from established guidance. Your decision to disregard the SPOT SOP compromises your ability to effectively perform your job and negatively affects TSA's mission. However, I considered that you took full ownership during your PDD and were remorseful for your actions. For these reasons, I am confident you will be able to learn and improve from this mistake. I considered this as a mitigating factor.

- f. *Consistency of the penalty with those imposed upon similarly situated employees for the same or similar offenses.*

This is consistent with agency guidelines set forth in the TSA Table of Offenses and Penalties.

- g. *The notoriety of the offense or its impact upon the reputation of the agency.*

There is no particular notoriety of this offense.

- h. *The clarity with which the employee was on notice of any rules violated in committing the offense or had been warned about the conduct in question.*

You acknowledged that you were aware of the screening requirement for a passenger who meets the behavioral threshold for an LRO referral. This is not an issue of you being unaware of the process, but instead you allowed yourself to be talked out of what you knew was the proper decision. This was considered as an aggravating factor.

- i. *The clarity with which the employee was on notice of performance expectations and problems with his or her performance.*

The BDO SPOT SOP consists of three applicable chapters that relate to your BDO position. You attend daily recorded briefings held with all BDOs and the SPOT Security Manager. These briefings include training specific to the referral process. As a mitigating factor, I did consider that you have only been performing the BDO position for approximately two months and had requested the assistance of an experienced BDO concerning this incident. As an aggravating factor, I considered that you admitted that after conferring with the experienced BDO, you did not follow the SOP although you were aware of the correct procedure for an LRO referral.

~~SENSITIVE SECURITY INFORMATION~~

~~WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1520. No part of this record may be disclosed to persons without a "need to know" as defined in 49 CFR parts 15 and 1520, except when the disclosure is authorized by the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, publication is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1520.~~

~~SENSITIVE SECURITY INFORMATION~~



Transportation
Security
Administration

U.S. Department of Homeland Security
Arlington, VA 22202

J. Potential for the employee's rehabilitation.

The expectation is that this Letter of Reprimand will be a sufficient reminder to you for ensuring that all screening procedures and processes are followed in the future.

k. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice, or provocation on the part of others involved in the matter.

As a mitigating factor, I considered that you have only been in your position as a BDO for approximately two months and you brought in a veteran BDO to confer and concur. However, even though you knew that an LEO referral was required for this situation, you allowed yourself to be talked out of it by your teammate after discussion with him.

l. The adequacy and effectiveness of alternative actions to deter such conduct or improve performance in the future by the employee or others.

Management feels that this mitigated penalty for an SOP violation will be a sufficient reminder to you to follow standard operating procedures, even when a teammate or co-worker gives you input that is contrary.

In deciding this action, I took into consideration the guidance of the TSA Table of Offenses and Penalties for Appropriate Discipline for Common Offenses. For the applicable charge, the Recommended Penalty Range is a 5-day suspension to a removal with a Mitigated Penalty Range of a Letter of Reprimand (LOR). As a mitigating factor, I took into consideration that you have only been performing the BDO function independently for approximately two months. Additionally, I considered that you recognized that you allowed yourself to be talked out of what you knew was the correct procedure, but that you still took full accountability for your actions. For these reasons, I have elected to issue you an LOR, which falls in the Mitigated Penalty Range.

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 termination of your TSA employment. This Letter of Reprimand will be placed in your electronic Official Personnel Folder (eOPF) for up to a two-year period, during which 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

~~SENSITIVE SECURITY INFORMATION~~

~~WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1510. No part of this record may be disclosed to persons without a "need to know," as defined in 49 CFR parts 15 and 1510, except with the express permission of the Administrator of the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public documents governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1510.~~

~~SENSITIVE SECURITY INFORMATION~~



Transportation
Security
Administration

U.S. Department of Homeland Security
Arlington, VA 22202

retain the letter in the local supervisory file as documentation that you have been placed on notice regarding the performance or conduct referenced above.

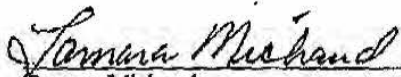
If you choose to grieve this action under the grievance procedures in TSA HCM 771-4, Handbook, your grievance must be submitted in writing to the National Resolution Center (NRC) within fifteen (15) calendar days of receipt of this letter. The written grievance can be filed by email at resolutioncenter@tsa.dhs.gov, 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 Danise Daville, AFSD, 2120 Rittenhouse, Suite B, Des Moines, IA 50321. Phone 515-974-1781

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)227-5097 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.

If you are Grieving an action for misconduct or a workplace issue that occurred on or prior to Oct 31, 2012 please contact the National Resolution Center for your Peer Review eligibility. If the misconduct occurred on or after November 1, 2012, you may only grieve this action under the grievance procedures; the Peer Review process is not available.

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.


Tamara Michaud
SPOT Transportation Security Manager

02/06/2013
Date

Acknowledgement of Receipt:

(b)(6)


02/06/2013
Date

Behavior Detection Officer

~~SENSITIVE SECURITY INFORMATION~~

WARNING: This record contains Sensitive Security Information (SSSI) as defined in 49 CFR parts 15 and 1510. No part of this record may be disclosed to persons without a "need to know" as defined in 49 CFR parts 15 and 1510, except with the written permission of the Administrator or the Transportation Security Administration or the Secretary of Transportation. Unauthorized release may result in civil penalty or other action. For U.S. government agencies, public disclosure is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1510.

Summary of Pre-Decisional Discussion with Employee

On January 17 2013, I met with BDO (b)(6) to have a Pre-Decisional Discussion. At that time I, TLM, advised the employee of the following allegations and the possible consequences of the following allegation(s):

Allegation #1: Failure to follow SOP
Table of Penalties Page 24,
M.1 w/ a recommended penalty range – 5 day suspension to removal.
Mitigated penalty range – Letter of Reprimand

TLM I provided the employee an opportunity to respond orally and/or in writing.

The employee responded as follows:

TLM Orally on January 17, 2013, and stated as follows:

1. On Tuesday 01/08/13 you had a LEO referral at a boarding gate correct?
Yes

2. Tell me what happened with this passenger at the gate?

I was walking the concourse and saw a passenger (b)(3), 49 U.S.C. § 114(r)

(b)(3), 49 U.S.C. § 114(r)

I watched him go to the gate he started to exhibit more behaviors, I had enough points to make him a LEO referral.

3. What did you do once you had the referral points?

I called BDO (b)(6) to the gate, I thought it was to confer and concur since we had enough points to make the referral. Steve (BDO Overton) said the (b)(3), 49 U.S.C. § 114(r)

(b)(3), 49 U.S.C. § 114(r)

(b)(3), 49 U.S.C. § 114(r)

Steve talked to the passenger (b)(6) then passenger boarded the plan.

4. Did you at any time report this passenger to a LEO as a referral or complete referral screening with this passenger? No, we did not.

5. Did you report this referral or passenger behavior to a manager or supervisor while you were at the gate?

No.

~~WARNING: This record contains Sensitive Security Information that is controlled under 49 CFR parts 15 and 1620. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1620, except with the written permission of the Administrator of the Transportation Security Administration, or the Secretary of Transportation. Unauthorized disclosure may result in criminal or civil penalties or other action. For U.S. Government agencies, public release is governed by 5 U.S.C. 552 and 49 CFR parts 16 and 1620.~~

6. Did you get clearance from the FSD for this passenger to proceed on his flight?

No, we did not.

7. Did you know that you should do a LEO referral at this point, per the SPOT SOP?

Yes, regardless of what experience I had, I know what the SOP says. I take responsibility for it.

8. Did you follow the SOP?

No.

9. When did you first report this passenger and incident to management?

After the plane departed I suggested that we call you (STSM Michaud) to see how we should record this.

10. If this situation occurs in the future what will you do?

I will still call Steve (BDO (b)(6)) but I will do the referral, and make sure management is notified and the passenger is cleared by the FSD before flying

END OF STATEMENT.

TLM The employee was provided the opportunity to provide a written statement. That statement will be attached with this form when completed.

Signed: TSM Tamara L Michaud 01/17/13

WARNING: This record contains sensitive security information that is controlled under 49 CFR parts 15 and 1620. No part of this record may be disclosed to persons without a "need to know", as defined in 49 CFR parts 15 and 1620, without the written permission of the Administrator of the Transportation Security Administration, or the Secretary of Transportation. Unauthorized disclosure may result in civil penalty or criminal sanctions. For U.S. Government agencies, public release is governed by 5 U.S.C. 552 and 49 CFR parts 15 and 1620.



Transportation Security Administration

U.S. Department of Homeland Security
Transportation Security Administration
DSM Office Des Moines, IA 50321
Continuing Narrative

Note: Narrative Report shall include the following data; Date, Time, Facts Pertaining to Incident and Authors Name.

Date: 01/17/2013

Time: 10:17

Authors Name: (b)(6)

Facts: On Tuesday, January 8th, at approximately 05:45a male passenger approached TDC and handed them what he thought were boarding passes. The officer at TDC informed him that they were not boarding passes but his itinerary and that he would need to either try the kiosk next to the TDC or go back downstairs to the ticket counter to obtain his boarding passes. At this point the passenger (b)(3) 49 U.S.C. § 114(r) he bought his tickets and needed to get on the plane. We assessed the passenger (b)(3) 49 U.S.C. § 114(r) A supervisor was called to TDC and calmed him down and asked him to go back downstairs to obtain his ticket. When the passenger went back to the ticket counter he became irate with them and made statements that warranted for the airlines to call a LEO. After the LEO calmed the passenger down he escorted him back up to the checkpoint and the passenger was processed through without incident.

At approximately 06:00 I went out to walk the concourse and encountered the passenger walking up the concourse (b)(3) 49 U.S.C. § 114(r)

(b)(3) 49 U.S.C. § 114(r) I made a pass through the concourse and returned to gate C4 where the passenger was. A (b)(3) 49 U.S.C. § 114(r) came down to the gate shortly before boarding began. As I stood there at the gate observing the passenger, he continued to exhibit more behaviors (b)(3) 49 U.S.C. § 114(r) and (b)(3) 49 U.S.C. § 114(r) he met our threshold for a LEO referral.

At approximately 06:25 am I requested that BDO (b)(6) come to gate C4. I had not had any experience with a referral at the gate in OJT or any time since I have been here in DSM. So I wanted to confer and concur with BDO (b)(6) (someone who has more experience) about what my observations were and how I reached that threshold with that passenger and what we would do from there. Once I explained the behaviors to BDO (b)(6) I asked if we should call a LEO to the gate. BDO (b)(6) state (b)(3) 49 U.S.C. § 114(r)

At this point BDO (b)(6) engaged the passenger in casual conversation. The passenger (b)(3) 49 U.S.C. § 114(r) and stated that because he missed his earlier flight he was going to miss a job interview and was unlikely that he wasn't going to get the job. The passenger proceeded to the gate where (b)(3) 49 U.S.C. § 114(r) checked his ID and boarding pass without incident and then he boarded the plane. I want to apologize for this incident occurring. I want to be someone everyone can count on and know that I know how to do my job and this incident did not show that. I can assure you that it will not happen again.

~~SENSITIVE SECURITY INFORMATION FOR OFFICIAL USE ONLY~~

Warning: This document contains Sensitive Security Information that is controlled under 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 of the Transportation Security Administration, Arlington, VA, 22202. Unauthorized release may result in civil penalty or other action. For U.S. Government agencies, public release is governed by 5 U.S.C. 552.

TSA FORM DSM-CN, 11.18.04 (Revised)

