

November 7, 2012

To: Sheyi Ogunleye,
Assistant Federal Security Director
George Bush Intercontinental Airport (IAH)

From: (b)(6)
Expert Behavior Detection Officer (EBDO)
George Bush Intercontinental Airport (IAH)

Subject: 1st Step Grievance to Notice of Proposed Five (5) Day Suspension

Ref: (b)(6)

On behalf of EBDO (b)(6) please accept this letter as Reply to the Notice of Proposed Five (5) Day Suspension that EBDO received on October 18, 2012, pursuant to Transportation Security Administration (TSA) Management Directive Number 1100.75-3. The proposed suspension is based on three charges: (1) Failure to Follow Standard Operating Procedure (SOP); (2) Failure to Follow Instructions; and (3) Inappropriate Conduct.

EBDO (b)(6) has designated the American Federation of Government Employees (AFGE) as her representatives to pursue this reply on her behalf.ⁱⁱ EBDO respectfully requests that you reject the proposed notice of suspension. She further asks that you eliminate any reference to this proposed disciplinary action from her personnel records.

EBDO (b)(6) should not be suspended without pay because: (1) the alleged misconduct is not supported by a preponderance of the evidence; (2) suspension for the alleged misconduct fails to adhere to TSA's policy of progressive discipline; and (3) Management improperly considered/only considered the mitigating factors when proposing this suspension.

I. Statement of Facts

EBDO (b)(6) and her assigned partner MBDO (b)(6) while performing their duties in terminal c decided that they also needed to do a check on the passengers on C-bridge checkpoint. In route to C-bridge they encountered a male (b)(3) 49 U.S.C. § 114(n). (b)(3) 49 U.S.C. § 114(n) As part of their training and engagement techniques EDBO (b)(6) and MBDO (b)(6) offered to assist the male (b)(3) 49 U.S.C. § 114(n), which certainly happens often in the airport. Once they approached the male (b)(3) 49 U.S.C. § 114(n), (b)(3) 49 U.S.C. § 114(n), as they attempted to engage with the male EDBO (b)(6) (b)(3) 49 U.S.C. § 114(n). EDBO (b)(6) observed the male and so did her partner while they did assessments. But, due the fact that the male said (b)(3) 49 U.S.C. § 114(n) (b)(3) 49 U.S.C. § 114(n)

They began to converse over the male (b)(3) 49 U.S.C. § 114(n) other points noticed. They decided that even (b)(3) 49 U.S.C. § 114(n) (b)(3) 49 U.S.C. § 114(n) MBDO (b)(6) contacted BDOC and notified them of the situation and time. At that moment (b)(3) 49 U.S.C. § 114(n) Both EDBO (b)(6) and MBDO (b)(6) went after the individual and could not locate him in the baggage area, inside the terminal or outside the terminal or at train level. They inquired with several TSOs and several AirServe personnel if they had seen the male and asked if they could contact them if they should happen to see the male. EDBO (b)(6) and MBDO (b)(6) continued to look for the male but were unable to locate him. EDBO (b)(6) and MBDO (b)(6) contacted BDOC again to notify them that they had been unable to locate the male. EDBO (b)(6) and MBDO (b)(6) decided to contact their other partners EDBO (b)(6) and (b)(6) about the male were notified that they had went on break and went to terminal C to inform them of the matter.

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As they approached terminal C breakroom the three BDOs came out of the breakroom and were notified of the male and the situation. They had taken their breaks ahead of (b)(6) and (b)(6) EBDO (b)(6) had contacted BDOC and they were not advised to continue looking for the male or not go on break until the male was found. The protocol for contacting the LEO's has always been the same, you, the BDO, contact BDOC with your assessment and they in turn contact the SOCC who contacts the LEO's. It has never been the duty of the BDO to contact the LEO's. EBDO (b)(6) has worked in BDOC a couple of years and knows the procedure to follow for BDOC. She would have certainly made the call to the LEO if that was the procedure to follow. BDOC personnel were well aware of the situation and had the authority to say continue looking for the male instead of taking a break. EBDO (b)(6) and MBDO (b)(6) stayed in constant contact with BDOC just as they have been trained to do.

STSM (b)(6) states in the personnel reportⁱⁱⁱ that they violated the SOP when not contacting the LEO's or remaining in constant visual contact with the male. EBDO (b)(6) and MBDO (b)(6) stayed in contact with BDOC of their whereabouts and what was going on with the male. EBDO (b)(6) and MBDO (b)(6) had no legal right to detain the male as he had not committed a crime (b)(3) 49 U.S.C. § 114(n) It was only later when the (b)(3) 49 U.S.C. § 114(n) did this become more of an issue. EBDO Givens and Johnson had no way of knowing that the male was going (b)(3) 49 U.S.C. § 114(n)

(b)(1) The male, to the best of their knowledge, never bothered or harassed anyone. It is true that (b)(3) 49 U.S.C. § 114(n) but that is not a call that a BDO is to use as an assessment.

It is also noted that in the time sheet that was prepared on that day from BDOC it appears that the time that EBDO (b)(6) and MBDO (b)(6) took their breaks have been altered^{iv} to where as they took their breaks ahead of EBDO (b)(6) when in fact they had taken

their break first and had met them coming out of terminal C's breakroom when they made notification of the male to them. They had already contacted BDOC and notified EBDO (b)(6) and Johnson that they would be on break. I also noted that the other team members EBDO (b)(6) (b)(6) were never questioned or counseled or disciplined for their role of not looking for them male. In none of the statements, did they indicate that they went looking for the male at any time while EBDO (b)(6) took a break. Why were they not out looking for the male?^v They had been notified by BDOC of the situation, not by the LTSO. Why did STSM Villafone single (b)(6) out for disciplinary action and not the other team as well? Even though, they may have not been directly involved, they could have done a search for the male as well, but did not until they were informed that a situation was occurring in the baggage claim area, which clearly shows that EBDO (b)(6) had not gotten a chance to take a break before the other three BDO's. As soon as they went into the breakroom, EBDO (b)(6) and (b)(6) were made aware that a male was acting strangely in the baggage area and proceeded down to the area and observed the male riding on the carousel for baggage? By Then, the male was being detained by LEO's.

STSM did instruct EBDO (b)(6) to do a timeline of events regarding the male and to do a referral report on the male. EBDO (b)(6) and MBDO (b)(6) went and started preparing for the report and to make a statement of facts to the entire incident and give a timeline of events. At that time, EBDO (b)(6) was contacted by EMS saying that her husband and son had been in a serious car accident and she needed to meet them at the hospital right away. EBDO (b)(6) was stunned to hear that her family had been hurt so seriously that the EMS had to contact her and not themselves.^{vii} EBDO (b)(6) immediately notified STSM (b)(6) of the situation and left the airport to be with her family.

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MDBO (b)(6) told her that he would take care of everything and that she was needed to be at her family's side. The injuries sustained were quite severe and traumatic to the point that her son and husband had to be hospitalized for a number of days.^{viii} At no time did STSM (b)(6) attempt to contact EBDO (b)(6) regarding the timeline. EBDO (b)(6) was out approximately three days and she never received a call asking for help or assistance in completing the paperwork. Although, the situation with her family was serious, she would have been more than happy to assist anyway that she could by phone. She did so unintentionally not follow instructions, but any reasonable person would understand, if you receive a call from an EMS personnel saying you are needed at the hospital that your family has sustained serious injuries. If you are able you are going to go and look after your family. As she was informed by the EMS personnel it could be a life or death situation and she was needed.^{ix} STSM Villafone, you or I would do the same thing. STSM (b)(6) or MBDO (b)(6) could have contacted EBDO (b)(6) for additional information or ask her to contact them once the situation was stable in order to assist them in filing the necessary paperwork. STSM Villafone never reached out to EBDO (b)(6) as she should have under the circumstance and given her the benefit that she was unable to complete the instructions due to an unforeseen and unavoidable emergency that was been her control.

STATEMENT OF FACTS: Inappropriate conduct

On the date of July 25, 2012 was notified by (b)(6) (b)(6) EBDO (b)(6) was quite stunned and sadden by the news because the prognosis was not good and having had other family member's succumbed to cancer. She knew all too well that her time with her father was going to be limited^x. A father that she loves dearly, quite naturally, she was devastated and heartbroken, but thought that she could finish out the day. She

was on a morning shift and would be off work in a while and could deal with everything soon. She notified her partner MBDO (b)(6) of the situation with her father and (b)(3)(49 U.S.C. § 114(i)). (b)(3)(49 U.S.C. § 114(i)) decided they would do the grounds check outside the terminal to get some air and to do their job. It would just so happen as they were making their way back inside the airport. They saw a car that pulls up and Ann Testa and others start departing from the vehicle, since they were already in the process of going back in EBD0 (b)(6) waved at them and continued into the building.

None of the other people in the car made statements that they observed or felt that they had ran when they saw it was Ms. Testa. So when she was summoned to the office both (b)(6) and (b)(6) were stunned at the suggestion that they ran when they saw her arrive. There was nothing else for them to do on the outside as there was no traffic or people on the sidewalks to observe. They noticed the car that stopped and that Ms. (b)(6) departed from that car and they waved then continued on with their duties.

To be called into the office and questioned about why they ran was just unbelievable to (b)(6). It seemed that since the situation occurred with the male it seemed as if they were being constantly harassed. I find that neither of the STSMs know their workers well or they would have known that this was totally out of character for (b)(6) to react in such a manner. She is remorseful and apologizes for the outbursts but was under a tremendous amount of stress with the thought of losing her father. While she is not using this as an excuse for her behavior, she believes that the STSMs should have known her character better and know that it was more than her being defensive about the matter that there was something more going on. She also states that on the next day, she met with STSM (b)(6) and discussed the situation with her and she said that she understood her reaction, but still chose to give her corrective action

even after they talked about it and cleared the air. At best it should have been a verbal counseling to be mindful even under stress not to be discourteous to others and let it go!

Send EBDO (b)(6) has no history of being combative with co-workers and as we have stated throughout this statement she had some very difficult days and should have been offered assistance through EAP, but instead once again the answer is to give disciplinary action instead of being proactive and knowing your workers. A good manager knows when there is something wrong or out of character with their employees. STSM (b)(6) knew that (b)(6) had just learned of her father illness, and the emergency with her son and husband and with the male passenger and now this, being accused of running away from your PSD. While, I understand that the language was not appropriate, it was just so out of character for (b)(6) to display. She is a very quiet and soft spoken person who never raises her voice.

EBDO (b)(6) realizes that she was under a lot of pressure and stress from the news of her father and his eventual death. She accepts responsibility for her out bursts and not being able to follow instructions on the timeline, but it was clearly beyond her control in light of the fact that she had a family emergency develop just as she was about to begin the timeline. Again, her STSM could have tried to reach out to her via phone and ask for the time line which she was able to submit once she returned back to duty.

EBDO (b)(6) has been employed with TSA since the beginning and after 10 years of service shows that her character is without question, worthy of understanding from her STSM's. EBDO (b)(6) is a very dedicated employee who has proven that she is role model material; she has won numerous awards and citations for her work. She has excelled in her position as EBDO and has no history of disciplinary action other than a letter of counseling issued earlier this year for attendance related issues. EBDO (b)(6) is not trying to excuse or condone her behavior but

instead, give you a better understanding of her. In none of the statements from her managers, did they stop and offer her counseling through EAP or at least suggest that she may want to speak with a professional regarding the emotions that were being displayed that was so out of character for her.

EBDO (b)(6) respectfully requests that you remove the Notice of Proposed Suspension. She further asks that any reference to this disciplinary action be removed from personnel records. Management's proposed disciplinary action is legally insufficient because : (1) the alleged misconduct is not supported by a preponderance of the evidence; (2) Management failed properly consider the aggravating and mitigating factors surrounding this proposed suspension. EBDO (b)(6) looks forward to a favorable resolution to this matter. Please include AFGE Representative on all correspondence regarding this grievance. Do not hesitate to contact me to discuss the issues contained herein at (713) 725-(b)(6) or via email at

(b)(6) Thank you for time and consideration in this matter.

Respectfully Submitted,

On Behalf of EBDO (b)(6)

Cc: (b)(6)

ⁱ The Notice of Proposed Five Day Suspension attached as Exhibit 1

ⁱⁱ Personal Representative Designation-TSA Form 1163-1 attached as Exhibit 2

ⁱⁱⁱ IAH Personnel Report Memorandum-STSM (b)(6) attached as Exhibit 3

^{iv} Time Slip for July 2, 2012- See lighted area for altered time line attached exhibit 4

^v Statement from (b)(6) attached as exhibit 5

^{vi} Statement from (b)(6) attached as exhibit 6

^{vii} EMS report attached as exhibit 7

^{viii} Hospital reports of accident attached as exhibit 8

^{ix} Police report attached as exhibit 9

* Program from funeral services of Father attached as exhibit 10

Additional exhibits:

Statement from MBDO (b)(6)