

DEPARTMENT OF HOMELAND SECURITY
DALLAS LOVE FIELD



Transportation
Security
Administration

DATE: March 24, 2014
TO: File
FROM: (b)(6) *William Rye*
Deputy Assistant Federal Security Director for Screening
Subject: MBDO (b)(6) – Oral Reply

On March 24, 2014, MBDO (b)(6) provided me with an oral reply to a Five Day suspension for Inattention to Duty and Failure to Follow SOP.

For Charge 1, Inattention to Duty, specifications 1 through 4 MBDO (b)(6) provided the following information:

- Passenger Traffic was light and he was working with 2 EBDOS.
- Instead of being bunched up, he went to the TDC position.
- He had never met TSO (b)(6), so he wanted to introduce himself to her.
- When a passenger approached the TDC, he would pause his conversation to allow TSO (b)(6) to conduct TDC procedures.
- MBDO (b)(6) admitted that he should have been rotating with other BDOs.
- Admitted wrong doing, however argued that his actions were not intentional.

For Charge 2, Failure to Follow SOP, MBDO (b)(6) provided the following information:

- Passenger Traffic was light
- He was having a conversation with other officers about a medical condition that he currently suffers with.
- He was supposed to be training and (b)(6) asked a question about the medical condition.
- He stayed in the checkpoint looking for EBDOS (b)(6) to return to work so (b)(6) could then return himself.
- He stated that it was common for BDOs not to be where they were supposed to be on the evening shift.
- Felt as if EBDOS (b)(6) singled him out.

MBDO (b)(6) felt as if TSM (b)(6) retaliated against him with this action due to complaint he filed. He felt as if he did not receive proper feedback from TSM (b)(6) on his complaint. He also felt it was unfair to use the LOC for sleeping in a briefing because everyone has a hard time staying awake. And for him, he uses his brain all day long and it is a challenge to stay awake in meetings.

In closing, he did not understand the statement about not walking the line. He felt as if he never had a problem walking the line. In this instance, he proclaimed that his actions mirrored the evening shift, and he presumed he was supposed to be seamless. In addition, he was never trained on which side of the line to walk, and that Pre-Check was new and with us working the "bugs out" he was confused.

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Transportation
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March 12, 2014

To: (b)(6)
Master Transportation Security Officer - BDO

From: (b)(6)
Transportation Security Manager - BDO

Subject: Notice of Proposed 5-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 from your position of Master Transportation Security Officer – Behavior Detection Officer (BDO), SV-1802-F, in order to promote the efficiency of the Federal Service. If a decision is made to suspend you, it will not be made or effective 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:

Charge 1: Inattention to Duty

Specification 1: On November 16, 2013, you were assigned to perform Screening Passengers by Observation Techniques (SPOT) duties on the general side of the checkpoint. Video evidence shows that you stood by Pre-check Ticket Document Checker (TDC) TSO (b)(6) from 3:19 p.m. to 3:35 p.m. You were engaged in a conversation with TSO (b)(6) for most of this time and your back was frequently turned to the passengers that you were supposed to be observing.

Specification 2: On November 16, 2013, you were assigned to perform SPOT duties on the general side of the checkpoint. Video evidence shows that you stood by Pre-check TDC TSO (b)(6) from 3:37 p.m. to 3:46 p.m. You were engaged in a conversation with TSO (b)(6) for most of this time, and your back was frequently turned to the passengers that you were supposed to be observing.

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Specification 3: On November 16, 2013, you were assigned to perform SPOT duties on the general side of the checkpoint. Video evidence shows that you stood by Pre-check TDC TSO (b)(6) from 3:50 p.m. to 3:59 p.m. You were engaged in a conversation with TSO (b)(6) for most of this time, and your back was frequently turned to the passengers that you were supposed to be observing.

Specification 4: On November 16, 2013, you were assigned to perform SPOT duties. Video evidence shows you standing on the main checkpoint holding conversations with various officers who were on duty and assigned to screening positions. You were engaged in this behavior from 4:03 p.m. to 4:19 p.m. However, according to the daily summary that you submitted for November 16, 2013, you stated that you performed Training from 4:00 p.m. to 4:45 p.m.

Charge 2: Failure to Follow Standard Operating Procedures (SOP)

Specification: On November 16, 2013, you were assigned to the Managed Inclusion (MI) line. Video evidence shows that from 6:31 a.m. through 6:45 a.m. you were in the Pre-check queue line and frequently remained in a stationary position. There were times when your back was turned to passengers, and you were speaking to the TDC officer. You did not walk the MI line as required by the SOP.

As background, on November 18, 2013, TSM Leo Kelly informed me that while he was viewing video of a TDC failure involving STSO (b)(6) that occurred on November 16, 2013, he saw that you were engaged in conversation with STSO (b)(6) at the time of the test TDC failure. The TDC failure occurred while you were talking to STSO (b)(6) when he was checking passenger's identification and boarding passes. On November 21, 2013, you notified me that BBDO (b)(6) was being verbally abusive to you. During my investigation of your allegation, BBDO (b)(6) provided me with a statement saying that on November 16, 2013, you spent a significant amount of time not performing your assigned SPOT duties. This prompted me to review CCTV for November 16, 2013. While I was reviewing the video, I noticed a number of instances when you interfered with other officers while they were performing screening duties, as well as instances in which you did not perform your required SPOT duties.

In regard to Charge 1, Specifications 1 – 3, you were assigned to the general side of the checkpoint and were supposed to be performing SPOT duties for those passengers in the general line which requires you to walk the line, while observing and engaging the passengers in the TDC line or in the divesting area; and communicating with your partner(s). However, video evidence shows that you remained in a stationary position

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with your back turned to the passenger for a majority of the time cited, and conversing with Pre-check TDC TSO (b)(6). While I understand that the passenger load was not heavy, that is not a valid reason for spending the majority of the time talking with the Pre-check TDC officer who was processing passengers.

In regard to Charge 1, Specification 4, you submitted on your daily summary that you performed Training from 4:00 p.m. to 4:45 p.m. Video evidence shows that you were on the Main checkpoint from 4:03 p.m. to 4:19 p.m. talking to various officers while they were supposed to be performing security screening functions.

In regard to Charge 2, video evidence shows that while MI was running, you were not performing the walk-the-line in accordance with the MI2 SOP. Instead, the video shows that you were walking the Pre-check line.

After viewing the video, I find that you were inattentive and negligent in performing your duties. By engaging in conversations with several officers throughout the day, you lost focus of the mission and failed to perform the SPOT duties to which you were assigned. I met with you on November 27, 2013, to review the video and to conduct a pre-decisional meeting in which I informed you of the charges concerning your misconduct. In the meeting, you admitted that you were guilty of talking to the other officers while they were performing their duties and that you all were discussing your medical issues. You also stated that you and STSO (b)(6) were talking about the screening operation and that you were not aware that you were supposed to walk in the managed inclusion queue line. You asked for mercy, apologized, and said given another opportunity this would not happen again.

I find that your excuse that you were not aware that you were supposed to walk in the MI line to be without merit. Video evidence showed that you walked the MI line in accordance with the SOP from 6:27 a.m. to 6:30 a.m. so I find that you were well aware of the proper procedures to follow when MI is running.

Your actions are a violation of TSA MD 1100.73-5. Section 6.B. of that MD states that employees' conduct at work directly affects the proper and effective accomplishment of their official duties and responsibilities. Employees must perform their duties in a professional and business-like manner throughout the workday. Employees in direct contact with the public bear a heavy responsibility, as their conduct and appearance have a significant impact on the public's attitude toward the Federal government and TSA. Section 5.A. (7) of the MD states, "TSA employees are responsible for observing and abiding by all laws, rules, regulations and other authoritative policies and guidance, written and unwritten."

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Your actions also violate section 1.5.H., Process Overview, of the MI2 SOP. That section of the SOP states that BDOs must walk the line in the MI-specific queue to create a mobile stress point.

I have considered all of the evidence of record, including your responses. I find that the evidence supports the reasons and specifications as stated above.

In determining the appropriateness of the penalty, I have considered several factors. I have considered first and foremost, the nature and seriousness of the misconduct and its relationship to your duties. As a MTSO - BDO, you are responsible for knowing the directives and procedures and adhering to them. You are also required to remain vigilant at all times. As a BDO, you work with little supervision and are expected to perform your duties with integrity. I find that you failed to meet those expectations. Your inappropriate conduct in holding conversations with other officers while they were performing screening duties shows poor judgment on your part and had a negative effect on the efficiency of security screening at DAL and, therefore, TSA's mission to provide world-class security to the traveling public. Your actions have also eroded my confidence in your abilities to carry out the wide range of responsibilities required of your position in a reliable manner. Video evidence shows that on several occasions on November 16, 2013, you completely neglected your screening duties and circumvented the SOP, thereby undermining the safety and security of the traveling public. I considered that when you engaged in the conversations with the other officers, you had no regard for projecting a professional image. I also considered that on July 17, 2013, you were issued a Letter of Counseling for sleeping during meetings.

Additionally, I considered that you completed SPOT Basic training on April 14, 2009, and Advanced Behavior Detection Training for BDOs on August 15, 2009. You also completed Screening by Observation Techniques Refresher training on August 10, 2013, and completed MI2 training October 13, 2013. On November 20, 2013, you signed acknowledgment of reading TSA MD 1100.73-5, its accompanying Handbook and the *Standards of Ethical Conduct for Employees of the Executive Branch*. I find that you were well aware of screening procedures and what is expected of you as a TSA employee.

As mitigating factors, I considered that you have been with TSA for over eleven (11) years and that you received an Achieves Expectations rating for Fiscal Year 2013 under TSA's current Transportation Officer Performance System (TOPS). I also considered that you took responsibility for your actions and apologized. However, I find these factors do not outweigh the seriousness of your misconduct. This proposed penalty is within the recommended range of penalties in TSA's Table of Offenses and Penalties, II.5. *Neglect of Duty* and M.1. *Screening and Security*.

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You have the right to reply to this proposal orally and/or in writing and furnish any evidence in support of your reply within seven (7) calendar days after the date you receive this proposal. Consideration may be given to extending this time limit if you submit a written request stating your reasons for needing more time. Your written reply and any evidence should be sent to the Deciding Official, William Rigden, Deputy Assistant Federal Security Director – Screening. You may make arrangements for an oral reply by contacting Mr. Rigden at (214)459-(b)(6). Any replies submitted will be given full consideration. You will be notified in writing of the final decision.

You have the right to be represented by an individual of your choice in preparing and presenting any reply. As a bargaining unit employee, you may select a representative from AFGE to serve as your personal representative, but you are not required to do so. You may designate any individual, whether or not that person is affiliated with AFGE, to serve as your personal representative. However, you may not select an individual employed by any union other than AFGE to serve as your personal representative.

If you choose to have a representative, you must provide the name, title, address, and phone number in writing to Mr. Rigden before the expiration of the reply period, and you must provide written notice of any change in representation. If the representative is a TSA employee, you must also provide the work location. All TSA representatives must follow the provisions and requirements of TSA Management Directive No. 1100.63-3, Employee Representation, dated June 8, 2011 (attached). Management has the right to disallow your representative if the representative creates a conflict of interest or position, 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 travel expenses.

You and your representative, if a TSA 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, and to prepare and present an oral and/or written reply. You and your representative, if a TSA employee, must contact your immediate supervisor(s) to make advance arrangements for the use of official time.

I have attached the material relied upon to support this suspension. This material will only be released to you and/or your designated representative. Since some of the material relied on contains Sensitive Security Information (SSI), this material will be made available for review by you and/or your designated representative, if any, by contacting the Deciding Official to arrange a mutually convenient time.

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

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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 denote agreement with this action; it only represents receipt of this notice on the date signed.

(b)(6)

3-12-14
Date

Transportation Security Manager - BDO

Acknowledgement of Receipt:

(b)(6)

3-12-14
Date

Master Transportation Security Officer - BDO

Delivery Information:

(b)(6)

3-12-14
Date

Hand Delivered By (name/signature)

Material relied upon:

1. Video clips 11/16/2013
2. Pre-decision meeting
3. MBDO (b)(6) statement 11/16/2013
4. EBDO (b)(6) statements 11/22/2013 and 11/27/2013
5. MBDO (b)(6) statement 12/5/2013
6. Code of Conduct acknowledgement 11/20/2013
7. MBDO (b)(6) Daily Summary 11/16/2013
8. Letter of Counseling 7/17/2013
9. Training Records

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Attachment(s):

TSA Management Directive No. 1100.63-3, *Employee Representation*

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(b)(6)