

Penalty Determination Factor Worksheet

Employee Name: EBDO (b)(6)

Case Number: (b)(6)

1. 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.

On May 16, 2013 while performing Travel Document Checker (TDC) duties during (b)(3)-(b)(6) U.S.C. § 114 at the West Checkpoint, you failed to properly screen a Jet Blue Airlines passenger's boarding pass which reflected the passenger was designated as a "selectee". You cleared the passenger into the screening checkpoint (b)(3)-(b)(6) U.S.C. § 114(n). (b)(3)-(b)(6) U.S.C. § 114(n).

In your position as an EBDO, following proper procedures to ensure that no prohibited item(s) or person's with intent to harm gets on board an aircraft is paramount. You were inattentive to your assigned duties as a TDC. Negligent performance of security duties subjects your fellow officers, airport employees, and passengers to unknown risks. Individually, you become a security vulnerability that may be exploited by anyone with ill intent if they observe and identify your security negligence. Your failure in TDC screening procedures resulted in an improper screening of a selectee passenger impacting screening operations; causing additional resources to be deployed impacting the normal operations, taking management from normal duties causing the operation to suffer.

2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position. For example, certain employees such as supervisors or law enforcement officers may be held to higher standards than other employees.

EBDO (b)(6) performance of duties has always been satisfactory. He has at times been placed into the position of BDO Point-of-Contact (POC). His duties require constant contact with the public.

3. The employee's past adverse or disciplinary action record. If past discipline is used, it must be mentioned in the notice of proposed action.

EBDO (b)(6) has no record of disciplinary or corrective action.

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

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DELIBERATIVE PROCESS PRIVILEGE

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Employee's Name: EBDO (b)(6)

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EBDO (b)(6) past work record is one of professionalism and success. He is a reliable Officer that performs his tasks to standard.

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

This incident will not affect EBDO (b)(6) ability to perform his assigned duties. This incident in no way reduces my confidence in his abilities to execute his mission.

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

The penalty is consistent with those imposed upon similarly situated employees for the same or similar offenses.

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

Notoriety of this incident is only with the involved passenger and airline representative(s).

8. **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.**

All officers, to include BDOs, are well aware of the consequences for failing to identify a selectee at the TDC position. The internal notoriety of missing selectee and its disciplinary results are well known among the workforce.

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

This Officer had no problems with his performance of duties to this point. I do not believe this singular incident will lead to any duty performance problems in the future either.

10. **Potential for the employee's rehabilitation.**

Without any doubt!

11. **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.**

You have been employed with TSA since April 16, 2006. Your performance record is void of any corrective or disciplinary action. You are an Expert Behavior Detection Officer with specialized

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Employee's Name: E8DO (b)(6)

Case Number: (b)(6)

training. You are also a member of the SPOT national training team and you expressed remorse for this incident. I do not find these factors sufficient enough to mitigate the issuance of this Letter of Reprimand.

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

Alternative sanctions have been employed previously in similar incidents and have not been successful in deterring such conduct. Officers have been remediated and re-briefed to emphasize the significance of missing a designated selectee.

The penalty issued reinforces TSA's commitment to holding employees accountable for their actions and serves as a deterrent to such conduct by this individual and other employees in the future.

STSM Edgar Medina
Proposing Official's Name/Title

May 29, 2013
Date

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Transportation
Security
Administration

TSA EMPLOYEE STATEMENT FORM

DATE OF INCIDENT 5/16/2013 TIME OF INCIDENT _____

REPORTER'S NAME (b)(5)

EMPLOYEE INVOLVED _____

TYPE OF COMPLAINT _____

NARRATIVE

On 5/16/2013 I was conducting SPOT operations at the East checkpoint. At approximately 1252 hours I was informed that Tsm Fleming had called (b)(3) 49 U.S.C. § 114(a) and I was instructed to take over TDC. All BDO's stopped performing SPOT and began TDC functions. I performed TDC functions from approximately 1252 hours until 1335 hours. After I was tapped from TDC at the West checkpoint I returned to the East checkpoint to resume SPOT operations. Later in the day I was informed that a selectee had been missed at the West checkpoint. STsm Madine showed me a boarding pass that appeared to be marked with my initials and badge number.

REPORTER'S SIGNATURE

(b)(6)

DATE 5/18/13

Attachment (1)

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(b)(3) 49 U.S.C. § 114(r), (b)(6)

of the Freedom of Information and Privacy Act.



Transportation
Security
Administration

Date: June 6, 2013
To: (b)(6)
Expert Behavior Detection Officer
Orlando International Airport
From: Edgar G Medina
SPOT Transportation Security Manager
Orlando International Airport
Subject: Letter of Reprimand
Ref #: (b)(6)

The purpose of this memorandum is to officially reprimand you for your negligent performance of duties regarding your failure to properly screen a passenger's boarding pass document. On May 16, 2013 while performing Travel Document Checker (TDC) duties during (b)(3) 49 U.S.C. § 114 at the West Checkpoint, you failed to properly screen a Jet Blue Airlines passenger's boarding pass which reflected the passenger was designated as a "selectee". You cleared the passenger into the screening checkpoint (b)(3) 49 U.S.C. § 114(r)

You failed to follow established screening procedures as per TSA's Travel Document Check Standard Operating Procedures, Revision 1, Change 2, dated September 21, 2012, implemented September 25, 2012, sections 2C and 4C, which can be reviewed at the Security Checkpoint or Center of Excellence upon request.

Your actions, as mentioned above, fail to meet the expectations of a TSA employee as set forth in TSA management directive 1100.73-5, Employee Responsibilities and Conduct, dated May 21, 2009, specifically but not limited to:

§5.A. "TSA employees are responsible for behaving in a way that does not bring discredit upon the Federal Government or TSA, and for observing the following basic on the job rules"

§5.A. (7) "Observing and abiding by all laws, rules, regulations and other authoritative policies and guidance, written and unwritten"

On May 16, 2013 you were assigned to performed TDC duties at the West Check Point during a (b)(3) 49 U.S.C. § 114 called by TSM Fleming. You conducted TDC duties from 12:55 hours to 13:35 hours. During the period that you were assigned to TDC, you failed to identify a passenger as a selectee (b)(3) 49 U.S.C. § 114(r). The boarding pass was marked with your initials and your metal badge number. Due to your failure to identify the passenger as a selectee at the TDC position additional resources had to be diverted from their

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JUN 11 2013

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(b)(6)

Expert Behavior Detection Officer

(b)(6)

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assigned task and deployed to Gate 23 to secure the situation. The passenger was located by TSM Bernard and the Risk Emphasized Flight (REFs) Team, properly screened the passenger at the gate, and cleared the passenger. The passenger made their scheduled flight.

In determining the appropriateness of the penalty, I took into consideration a number of factors. First, I considered the nature and seriousness of your actions. In your position as an Expert Behavior Detection Officer (EBDO), following proper procedures to ensure that no prohibited item(s) or person's with intent to harm gets on board an aircraft is paramount. You were inattentive to your assigned duties as a TDC. Negligent performance of security duties subjects your fellow officers, airport employees, and passengers to unknown risks. Individually, you become a security vulnerability that may be exploited by anyone with ill intent if they observe and identify your security negligence. Your failure in TDC screening procedures resulted in an improper screening of a selectee passenger impacting screening operations; causing additional resources to be deployed impacting the normal operations, taking management from normal duties causing the operation to suffer.

I also gave serious consideration for mitigating factors of; you have been employed with TSA since April 16, 2006. Your performance record is void of any corrective or disciplinary action. You are a Expert Behavior Detection Officer with specialized training. You are also a member of the SPOT national training team and you expressed remorse for this incident. However, I do not find these factors sufficient enough to mitigate the issuance of this Letter of Reprimand.

I have decided to issue this Letter of Reprimand, which is the lowest form of disciplinary action, to impress upon you the importance of being attentive and diligent in the performance of your duties and following proper procedures.

This penalty is consistent with the TSA Table of Offenses and Penalties, which recommend a LOR to a 10 day suspension for the offense of Negligent Performance of Duties.

As an employee of the Transportation Security Administration you are expected to meet high standards of conduct. 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 may be cited as evidence of prior disciplinary action, should future discipline be warranted.

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.

You may grieve this action under the TSA Unitary Dispute Resolution System.

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 1115-1, Grievance Request. A copy of HCM 771-4 Grievance

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(b)(6)

Expert Behavior Detection Officer

(b)(6)

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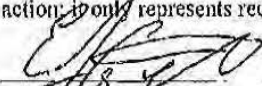
Procedures is attached. The Designated Grievance Official (DGO) is Deputy Assistant Federal Security Director for Screening Carmen Burgos, (407) 563-5968.

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.


Edgar G. Medina

SPOT Transportation Security Manager


Date

Attachments:

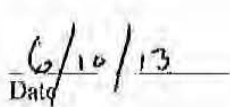
1. Statement of BBDO (b)(6) dated May 30, 2013
2. Jet Blue Airlines Boarding Pass, dated May 16, 2013
3. Travel Document Check SOP, Revision 1, Change 2 implemented September 25, 2012.
Section: 2C and 4C (SSI- Available for Review Upon Request)
4. TSA MD 1100.73-5, Employee Responsibilities and Conduct, May 21, 2009
5. TSA MD 1100.63-3, Employee Representation, dated June 8, 2011
6. HCM 771-4, Subject: National Resolution Center and Handbook, dated January 6, 2013

cc: eOPF
HR Specialist

Acknowledgement of Receipt:

(b)(6)

Expert Behavior Detection Officer


Date

OR

If refuse to Sign:

Witnessed By: (Signature)

Date

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(b)(6)

Expert Behavior Detection Officer

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Witnessed By: (Print Name)

Hand delivered by:

Hand Delivered By: (Signature)

Date/Time

Hand Delivered By: (Print name)

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