

From: [Bauer, John D <TSA OCC>](#)
To: [Flory, Gillian <TSA OCC>](#); [Prosnitz, Susan <TSA OCC>](#); [Ruggeri, Amy <TSA OCC>](#); [Bester, Margot <TSA OCC>](#); [Wheaton, Kelly <TSA OCC>](#); [Kent, Linda <TSA OCC>](#); [Itami, Brian](#)
Cc: [Pilcher, Marc <TSA OCC>](#)
Subject: RE: Behavioral Indicator Changes
Date: Monday, June 17, 2013 12:02:00 PM
Attachments: [SPOT Behavioral Indicators -- showing Lit's proposed changes.docx](#)

I have made one comment on the attached.

From: Flory, Gillian <TSA OCC>
Sent: Wednesday, June 12, 2013 3:34 PM
To: Prosnitz, Susan <TSA OCC>; Ruggeri, Amy <TSA OCC>; Bester, Margot <TSA OCC>; Wheaton, Kelly <TSA OCC>; Bauer, John D <TSA OCC>; Kent, Linda <TSA OCC>; Itami, Brian
Cc: Pilcher, Marc <TSA OCC>
Subject: RE: Behavioral Indicator Changes

Margot, as you requested, here is the version of the document that we sent to Donnie Mancuso (the SME that Sarah told us to work with) for feedback (without their comments). Please let me know if you need anything else.

Gillian Flory
Office of Chief Counsel
571.227 (b)(6) desk

(b)(6)

From: Prosnitz, Susan <TSA OCC>
Sent: Wednesday, June 12, 2013 2:43 PM
To: Ruggeri, Amy <TSA OCC>; Bester, Margot <TSA OCC>; Wheaton, Kelly <TSA OCC>; Bauer, John D <TSA OCC>; Kent, Linda <TSA OCC>; Itami, Brian
Cc: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>
Subject: Re: Behavioral Indicator Changes

Amy, Gillian, and Marc,

Thanks for all of your work on putting draft language together. If everyone can take a look at the draft language and comments ASAP, I will attempt to schedule a meeting with the program office (and everyone on this email) tomorrow afternoon to attempt to reach agreement.

Susan

From: Ruggeri, Amy <TSA OCC>
Sent: Wednesday, June 12, 2013 02:35 PM
To: Bester, Margot <TSA OCC>; Wheaton, Kelly <TSA OCC>; Prosnitz, Susan <TSA OCC>; Bauer, John D <TSA OCC>; Kent, Linda <TSA OCC>; Itami, Brian
Cc: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>
Subject: FW: Behavioral Indicator Changes

All –

As requested, after meeting with the SMEs, Litigation drafted revised language for the factors. We

sent the proposed language to the SMEs requesting that they provide general comments regarding the concept on the understanding that there would be more detailed review down the line. As you can see, the program came back with extensive comments. We are not quite sure where to proceed from here. Litigation is coming in on the tail end, but obviously we do not have the expertise that Susan, Linda or John do, who not only work with the program but deal with these kinds of documents on a much more regular basis. It might make sense at this point, if we need to get something to OGC soon, for someone else to take the reins and for us to review for litigation risk later in the process. Thank you

From: Mancuso, Donald
Sent: Wednesday, June 12, 2013 01:31 PM
To: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>
Cc: Smith, Darryl M
Subject: RE: Behavioral Indicator Changes

This took a while longer to get back to you because I felt it was important to seek out additional peer input and give everyone a chance to get their comments to me. The document I'm sending has Darryl's (DM) and my (MD) comments from the OSC side of things. I did send it over to OSO as well, so there may be more input coming from their group in the near future. I think we're still a ways off from getting this to where it needs to be. (b)(5)

(b)(5)

Darryl and I had plenty of comments and suggestions to start with and I know this was just the first draft. I definitely want to get this right before it moves forward.

Donnie Mancuso

Program Analyst – OSC/BDAD

571-227-(b)(6) (b)

(b)(6) (c)

From: Flory, Gillian <TSA OCC>
Sent: Wednesday, June 12, 2013 12:14 PM
To: Pilcher, Marc <TSA OCC>; Mancuso, Donald
Cc: Smith, Darryl M
Subject: RE: Behavioral Indicator Changes

Hi Donnie and Darryl – Any thoughts on Marc's first draft?

Gillian Flory
Office of Chief Counsel
571.227-(b)(6) desk
(b)(6) cell

From: Flory, Gillian <TSA OCC>
Sent: Tuesday, June 11, 2013 5:36 PM
To: Pilcher, Marc <TSA OCC>; Mancuso, Donald
Cc: Smith, Darryl M
Subject: RE: Behavioral Indicator Changes

Donnie and Darryl, it would be great if you could send us any feedback by mid-day tomorrow so that we can incorporate any changes and circulate more widely. We understand that there will be many additional layers of approval, but in the short term our goal is to get people to buy into the concept. Thanks so much for your time and attention to this request.

Gillian Flory
Assistant Chief Counsel (Litigation)
Office of Chief Counsel
Transportation Security Administration
601 South 12th Street, E12-120S
Arlington, VA 20598-6002
571.227.(b)(6) desk
571.227.1377 fax

(b)(6)

From: Pilcher, Marc <TSA OCC>
Sent: Tuesday, June 11, 2013 4:40 PM
To: Mancuso, Donald; Flory, Gillian <TSA OCC>
Cc: Smith, Darryl M
Subject: RE: Behavioral Indicator Changes

Donnie & Gillian:

(b)(5)

Current standard p/w should open it.

- Marc

From: Mancuso, Donald
Sent: Tuesday, June 11, 2013 9:53 AM
To: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>
Cc: Smith, Darryl M
Subject: Behavioral Indicator Changes

Good morning,

As a follow up to yesterday's meeting regarding our two SPOT indicator changes,

(b)(5);(b)(3);49 U.S.C. § 114(r)

(b)(5)

Audio Overview:

(b)(3):49 U.S.C. § 114(r);(b)(5)

SME Discussion:

(b)(3):49 U.S.C. § 114(r);(b)(5)

I hope this helps,

Donnie Mancuso

Program Analyst – OSC/BDAD

571-227-(b)(6) (o)

(b)(6) c)

From: [Bauer, John D <TSA OCC>](#)
To: [Wheaton, Kelly <TSA OCC>](#)
Cc: [Itami, Brian](#)
Subject: RE: Behavioral Indicator Changes
Date: Wednesday, June 12, 2013 4:58:00 PM

Roger; Brian has already sent me a draft bullet.

From: Wheaton, Kelly <TSA OCC>
Sent: Wednesday, June 12, 2013 4:57 PM
To: Bauer, John D <TSA OCC>
Cc: Itami, Brian
Subject: RE: Behavioral Indicator Changes

Thanks. Please let me know how the meeting goes. Put together a weekly bullet for the meeting.

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

From: Bauer, John D <TSA OCC>
Sent: Wednesday, June 12, 2013 4:56 PM
To: Wheaton, Kelly <TSA OCC>
Cc: Itami, Brian
Subject: RE: Behavioral Indicator Changes

Not for this one. Now that it has been approved, this is more of a nuts-and-bolts meeting to discuss how the course should look. If we were still awaiting approval from OSO/OTWE, we might have wanted you there.

From: Wheaton, Kelly <TSA OCC>
Sent: Wednesday, June 12, 2013 4:53 PM
To: Bauer, John D <TSA OCC>
Cc: Itami, Brian
Subject: RE: Behavioral Indicator Changes

Thanks.

Do you think that I need to be at the OTWE meeting? I was invited but wasn't planning on attending unless you think I need to be there.

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

From: Bauer, John D <TSA OCC>
Sent: Wednesday, June 12, 2013 4:52 PM

To: Wheaton, Kelly <TSA OCC>
Cc: Itami, Brian
Subject: RE: Behavioral Indicator Changes

Yes, we will be there. Good day for meetings. FYI, we are also meeting with OTWE in the morning on our much-awaited TSO Admin Search training. It has been officially sanctioned by OSO and OTWE, and I have asked for copies of the approval docs, so we have it for the file.

From: Wheaton, Kelly <TSA OCC>
Sent: Wednesday, June 12, 2013 4:46 PM
To: Bauer, John D <TSA OCC>
Cc: Itami, Brian
Subject: FW: Behavioral Indicator Changes

John,

I assume that you can make this meeting? Brian should go also. I will be out of the office.

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

From: Prosnitz, Susan <TSA OCC>
Sent: Wednesday, June 12, 2013 4:45 PM
To: Bester, Margot <TSA OCC>; Wheaton, Kelly <TSA OCC>; Ruggeri, Amy <TSA OCC>; Bauer, John D <TSA OCC>; Kent, Linda <TSA OCC>; Itami, Brian
Cc: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>
Subject: RE: Behavioral Indicator Changes

I have reserved E9-008 for an internal OCC meeting tomorrow at 2pm to discuss the language. Invitation to follow.

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)

ATTORNEY-CLIENT PRIVILEGED/ATTORNEY WORK PRODUCT

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Cc: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>
Subject: Re: Behavioral Indicator Changes

Susan Prosnitz is in charge of organizing this effort. We need to look at the language ourselves at OCC before we meet with the SMEs. And then a meeting should take place with the client. I wish we had the opportunity to have met with among ourselves before the language was shared.

Thank you.

Margot F. Bester

Principal Deputy Chief Counsel

Transportation Security Administration

571-227-(b)(6) desk)

(b)(6) (cell)

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Cc: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>

Subject: RE: Behavioral Indicator Changes

Amy,

I would recommend that

(b)(5)

(b)(5)

If you would like, we can take on the task of organizing the meeting.

Kelly D. Wheaton

Deputy Chief Counsel, Enforcement

571 227-(b)(6)

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Sent: Wednesday, June 12, 2013 2:36 PM

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Cc: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>

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All –

As requested, after meeting with the SMEs, Litigation drafted revised language for the factors. We sent the proposed language to the SMEs requesting that they provide general comments regarding the concept on the understanding that there would be more detailed review down the line. As you can see, the program came back with extensive comments. We are not quite sure where to proceed from here. Litigation is coming in on the tail end, but obviously we do not have the expertise that Susan, Linda or John do, who not only work with the program but deal with these kinds of documents on a much more regular basis. It might make sense at this point, if we need to get

something to OGC soon, for someone else to take the reins and for us to review for litigation risk later in the process. Thank you

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Sent: Wednesday, June 12, 2013 01:31 PM
To: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>
Cc: Smith, Darryl M
Subject: RE: Behavioral Indicator Changes

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(b)(5)

Darryl and I had plenty of comments and suggestions to start with and I know this was just the first draft. I definitely want to get this right before it moves forward.

Donnie Mancuso

Program Analyst – OSC/BDAD

571-227-(b)(6) (o)

(b)(6) (c)

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Sent: Wednesday, June 12, 2013 12:14 PM
To: Pilcher, Marc <TSA OCC>; Mancuso, Donald
Cc: Smith, Darryl M
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Hi Donnie and Darryl – Any thoughts on Marc's first draft?

Gillian Flory

Office of Chief Counsel

571.227.(b)(6) desk

(b)(6) cell

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Sent: Tuesday, June 11, 2013 5:36 PM
To: Pilcher, Marc <TSA OCC>; Mancuso, Donald
Cc: Smith, Darryl M
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Donnie and Darryl, it would be great if you could send us any feedback by mid-day tomorrow so that

we can incorporate any changes and circulate more widely. We understand that there will be many additional layers of approval, but in the short term our goal is to get people to buy into the concept. Thanks so much for your time and attention to this request.

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571.227.(b)(6) desk
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From: Pilcher, Marc <TSA OCC>
Sent: Tuesday, June 11, 2013 4:40 PM
To: Mancuso, Donald; Flory, Gillian <TSA OCC>
Cc: Smith, Darryl M
Subject: RE: Behavioral Indicator Changes

Donnie & Gillian:

Having listened to the audio, I feel more confident about the "fear" factor revisions than the deception one, but I welcome your thoughts/reactions.

Current standard p/w should open it.

- Marc

From: Mancuso, Donald
Sent: Tuesday, June 11, 2013 9:53 AM
To: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>
Cc: Smith, Darryl M
Subject: Behavioral Indicator Changes

Good morning,

As a follow up to yesterday's meeting regarding our two SPOT indicator changes

(b)(3);49 U.S.C. § 114(r);(b)(5)

Audio Overview:

(b)(3);49 U.S.C. § 114(r);(b)(5)

(b)(3):49 U.S.C. § 114(r);(b)(5)

SME Discussion:

(b)(3):49 U.S.C. § 114(r);(b)(5)

I hope this helps,

Donnie Mancuso

Program Analyst – OSC/BDAD

571-227-(b)(6) o)

(b)(6)

From: [Bauer, John D <TSA OCC>](#)
To: [Itami, Brian](#)
Subject: Re: Behavioral Indicator Changes
Date: Wednesday, June 26, 2013 10:22:58 AM

Good point; how long is your summary?

From: Itami, Brian
Sent: Wednesday, June 26, 2013 10:20 AM
To: Bauer, John D <TSA OCC>
Subject: RE: Behavioral Indicator Changes

Yes to the first question; on the second, I'm concerned it might be SSI (it is similar to the bullet points provided below, but goes more into detail regarding what is/is not supposed to be assessable) – what do you think?

From: Bauer, John D <TSA OCC>
Sent: Wednesday, June 26, 2013 10:14 AM
To: Itami, Brian
Subject: Re: Behavioral Indicator Changes

Brian- is the attachment your summary (ie, responsive to Kelly's request)? If so, can you send in the body of an e-mail?

From: Itami, Brian
Sent: Wednesday, June 26, 2013 09:06 AM
To: Bauer, John D <TSA OCC>
Subject: FW: Behavioral Indicator Changes

John,

Attached is my swing at it.

Thank you,
Brian

From: Pilcher, Marc <TSA OCC>
Sent: Tuesday, June 25, 2013 5:32 PM
To: Bauer, John D <TSA OCC>; Itami, Brian
Subject: FW: Behavioral Indicator Changes

Gentlemen: enjoy!

From: Mancuso, Donald
Sent: Tuesday, June 11, 2013 9:53 AM
To: Flory, Gillian <TSA OCC>; Pilcher, Marc <TSA OCC>
Cc: Smith, Darryl M
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I hope this helps,

Donnie Mancuso

Program Analyst – OSC/BDAD

571-227- (b) (o)

(b)(6) (c)

From: [Bauer, John D <TSA OCC>](#)
To: [Prosnitz, Susan <TSA OCC>](#)
Subject: RE: Behavioral Indicator Changes
Date: Monday, June 17, 2013 12:03:00 PM

Susan, I have a doctor's appointment at 2:00; I made one comment that I just sent around.
Otherwise, looks good.

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To: Bester, Margot <TSA OCC>; Wheaton, Kelly <TSA OCC>; Ruggeri, Amy <TSA OCC>; Bauer, John D <TSA OCC>; Kent, Linda <TSA OCC>; Itami, Brian
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571 227

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Program Analyst – OSC/BDAD

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