



UNITED STATES OFFICE OF PERSONNEL MANAGEMENT

Washington, DC 20415

Human Capital Leadership
and Merit System
Accountability Division

Classification Appeal Decision
Under section 5112 of title 5, United States Code

Appellant: [appellant's name]

Agency classification: Detective
GS-083-7

Organization: Detective Branch
Law Enforcement Division
Directorate of Emergency Services
U.S. Army Garrison
[name] Region Installation Management
Agency, Department of the Army
[location]

OPM decision: Detective
GS-083-7

OPM decision number: C-0083-07-04

/s/ Robert D. Hendler

Robert D. Hendler
Classification and Pay Claims
Program Manager
Center for Merit System Accountability

November 16, 2006

Date

As provided in section 511.612 of title 5, Code of Federal Regulations, this decision constitutes a certificate that is mandatory and binding on all administrative, certifying, payroll, disbursing, and accounting officials of the government. The agency is responsible for reviewing its classification decisions for identical, similar, or related positions to ensure consistency with this decision. There is no right of further appeal. This decision is subject to discretionary review only under conditions and time limits specified in the *Introduction to the Position Classification Standards*, appendix 4, section G (address provided in appendix 4, section H).

Decision sent to:

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Introduction

The Dallas Field Services Group of the Office of Personnel Management (OPM) accepted a position classification appeal on July 14, 2006, from [appellant's name], who is employed in the Detective Branch, Law Enforcement Division, Directorate of Emergency Services, U.S. Army Garrison, [name] Regional Installation Management Agency (IMA), located at [city and state]. [Appellant's name] position is currently classified as Detective, GS-083-7. He believes his position should be classified to the Criminal Investigator Series, GS-1811, based on the impact of his duties, responsibilities, and qualifications. He believes he has made the job materially different from what it otherwise would have been, invoking the concept of "impact of the person on the job." We have accepted and decided this appeal under section 5112 of title 5, United States Code.

Background

In December 2005, the appellant initially requested, through his chain of command, that the occupational series of his position be changed from the GS-083 Police Series to the GS-1811 Criminal Investigator Series. He stated that, based on his prior employment as a Criminal Investigator, he was being tasked with training duties and conducting internal investigations. He further stated that on his May 2006 mid-point performance appraisal review, his first-level supervisor indicated his official position description (PD) was not correct and provided a supplemental listing of duties and indicated areas of special emphasis as Training Officer/Internal Affairs Detective. The change of series was denied by the Deputy Provost Marshal after consultation with the local Civilian Personnel Advisory Center which advised that there were no operational responsibilities for GS-1811 Investigators assigned within the DES.

General issues

The appellant provided a list of other installations employing Criminal Investigators within their Provost Marshal organizations. He believes they are performing the same or similar duties that he performs. He believes the denial of his change in series was not based on duties or PD related grounds, but IMA's proposed plan to eliminate 1811 positions from Provost Marshal organizations. By law, we must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Since comparison to standards is the exclusive method for classifying positions, we cannot compare the appellant's position to others that may or may not have been properly classified as a basis for deciding his appeal.

The appellant provided copies of Criminal Investigator, GS-1811-9 PDs for Provost Marshal organizations at five different locations. One appeared to reflect responsibility for serving as a Branch Chief. Although some of the general duties and processes appear similar in the remaining examples, without a full understanding of the organizational setting and more specific information about the nature of cases routinely handled by the employees in those positions, it is not possible to make any determination as to appropriateness of the occupational series.

Like OPM, the appellant's agency must classify positions based on comparison to OPM standards and guidelines. However, the agency also has primary responsibility for ensuring that its positions are classified consistently with OPM appeal decisions. If the appellant considers his position so similar to others that they all warrant the same classification, he may pursue the matter by writing to his headquarters human resources office. In doing so, he should specify the precise organizational location, classification, duties, and responsibilities of the position in question. If the positions are found to be basically the same as his, the agency must correct their classification to be consistent with this appeal decision. Otherwise, the agency should explain the differences between his position and the others.

Position information

The Directorate of Emergency Services is headed by the Provost Marshal and serves a major IMA installation with a combined military and civilian population of approximately [number]. The Directorate includes two Divisions: Law Enforcement and Security. The Law Enforcement Division includes the Police Patrols; Plans, Training and Operations; Traffic Investigation; Desk; and the Detectives Branches. Until April 2005, the law enforcement function was staffed by military service members. The workforce was converted to a civilian police force of approximately 75 persons.

The stated mission of the Detectives Branch is to provide service to their community by conducting quality criminal and administrative investigations, enforcing laws in an equitable fashion, and protecting the civil rights and dignity of all with whom they come in contact. The staff includes a total of eleven employees in GS-083 Detective positions: six at the GS-6 level; three GS-7s, including the appellant; one GS-8 that assists the supervisor; and a GS-9 supervisor.

The PD of record, #[number], describes serving as a team leader for detectives working a 7-day-a-week, rotating shift schedule; responsible for coordinating and assigning work. The appellant serves as Officer with Primary Responsibility for juvenile crimes and the Juvenile Review Board programs. He investigates crimes or offenses, conducts inquiries of military and Federal employees concerning information during on and off post incidents, and provides personal security to visiting dignitaries. The appellant serves as lead detective responsible for conducting investigations of certain felonies and all non-felony matters for crimes against property or persons occurring at the installation. This lead work is estimated to occupy 20 percent of the time.

Thirty-five percent of his time is allocated to serving as primary investigator for cases involving juveniles. He serves as a representative on the family advocacy case management team and the child abuse committee, monitoring all reports of child abuse, neglect, etc., received by the Branch. The appellant is responsible for coordinating all juvenile cases with the Staff Judge Advocate, coordinating with local juvenile probation personnel and county social work service personnel when appropriate.

Thirty percent of the time is allocated to investigations work, in accordance with Army regulations, of misdemeanor and felony crimes and incidents that include, but are not limited

to larcenies of Government or private property; possession and use of marijuana; making false official statements; selling or disposing of military property; damaging, destroying, losing through neglect, selling, or wrongfully disposing of Government property; passing or issuing worthless checks; simple and aggravated assaults; and failure to pay indebtedness. The PD describes the processes used to complete the cases, including collecting evidence, explaining rights, using information sources, preparing reports, coordinating with Army Criminal Investigation Division (CID) as indicated, etc. The work requires skills and in-depth knowledge of investigative techniques; knowledge of the laws of evidence, the rules of criminal procedure, precedent court decisions on admissibility of evidence, constitutional rights, and related matters.

The remaining 15 percent describes working as a uniformed police officer, driving patrol vehicles, directing traffic, serving as escort, issuing tickets, etc. The appellant indicated he has worn a uniform on approximately three occasions in the past year.

The appellant stated because of his civilian law enforcement experience, he has been asked to serve as training coordinator for the Branch, preparing the newly hired detectives to work independently as duty detectives. He said he is relied upon to lead and serve as mentor for less experienced detectives who have primarily a military police background. The Branch holds weekly two or three hour training sessions. The appellant has conducted or provided leadership in several internal inquiries involving DES police personnel and conducted investigations in cases within the Army's Criminal Investigation Command (CID) jurisdiction which they declined to investigate. He stated that at least 50 percent of his cases are administrative, e.g., incidents with employees may not go to full criminal charges but may be subject to civil action. The appellant believes his knowledge, skills, abilities, and experience gained in his prior employment as a Criminal Investigator as well as his experience in civilian law enforcement have allowed him to add to the duties of his position and provide guidance to DES management personnel to ensure professional investigative products and protect the agency from liability concerns.

The first-level supervisor concurred with the appellant's request for reclassification of the position to the GS-1811 series. After discussions with the appellant when he was first assigned, the supervisor determined that he would be an invaluable asset regarding investigations in the federal civilian environment; internal investigations, both administrative and criminal; and training issues, as well as an advisor concerning Texas State law and federal laws, rules of evidence, etc. The supervisor indicated the appellant's knowledge has allowed him to draft several standard operating procedures such as for internal investigations, procedures for investigating use of counterfeit identification cards, etc. The supervisor also stated that the Branch's mission has required the appellant to go beyond his PD on a regular basis, conducting investigations declined for investigation by the CID, allowing the organization better serve the community.

We find the PD of record contains the major duties and responsibilities assigned by management and performed by the appellant and we incorporate it by reference into this decision. While the percentages of time may have changed because of shifting priorities, e.g.,

more emphasis on internal investigations and somewhat less on investigations involving juveniles, we find the basic PD is adequate for classification purposes.

In reaching our decision, we have carefully considered all of the information provided by both the appellant and his agency, including a telephone audit with the appellant on October 31, 2006, and follow-up conversations on November 3 and 8. We also conducted telephone interviews on October 30 and November 8 with the first-level supervisor and with the second-level supervisor on November 8 and 13. In reaching this decision, we have carefully considered all of the information gained from these interviews, as well as all other information of record furnished by the appellant and his agency, including the PD of record.

Series, title, and standard determination

The Grade Level Guide for Classifying Investigator Positions, GS-1810/1811 (GLGCIP) provides series definitions, describes distinctions between general and criminal investigating occupations, and defines grading criteria. Positions classified to the General Investigating Series, GS-1810, plan and conduct investigations covering the character, practices, suitability or qualifications of persons or organizations seeking, claiming, or receiving Federal benefits, permits, or employment when the results of the investigation are used to make or invoke administrative judgments, sanctions, or penalties. In contrast, the Criminal Investigating Series, GS-1811, includes positions that plan and conduct investigations relating to alleged or suspected violations of criminal laws.

The GLGCIP lists some specific knowledge, skills, and abilities that distinguish GS-1810 and GS-1811 positions. They include: (1) knowledge of what constitutes a crime or violation as defined in pertinent statutes, including the Uniform Code of Military Justice, and statutes with anti-fraud or similar criminal penalties; and the kind of evidence required to prove that a crime was committed; (2) relationships among the criminal investigative jurisdictions of various agencies; (3) decisions and precedent cases involving: admissibility of evidence, search and seizure, and arrest authority; (4) sources of information, i.e., informants, and methods of obtaining required evidence; (5) the methods and patterns of criminal operations; (6) the availability and use of modern detection devices and laboratory services; (7) awareness of continuing advances in investigative technology; and (8) maintaining surveillance, performing undercover work, making arrests, and taking part in raids.

However, many of the cited GS-1811 knowledge, skills and abilities are required, to a more limited extent, by related investigative occupations. The Police Series, GS-083, includes positions that enforce law, maintain law and order, preserve the peace, and protect the life and civil rights of persons. Police are typically trained to deal with misdemeanors and felonies that can range from petty theft and verbal assault through murder, rape, simple and aggravated assault, domestic disputes, kidnapping, hostage taking, theft of national defense information and materials, theft of office equipment, drug trafficking, assault on Government facilities, arson and bomb threats, crowd control, and other conditions involving violations of law and threats to human life. They prevent, detect, and investigate violations of laws, rules, and regulations involving accidents, crimes, and misconduct involving misdemeanors and felonies; arrest violators; and assist in the prosecution of criminals. Within their jurisdiction, police officers

enforce many Federal, State, county, and municipal laws and ordinances, and agency rules and regulations relating to law enforcement. They must be aware of the rights of suspects, the laws of search and seizure, constraints on the use of force (including deadly force), and the civil rights of individuals. GS-083 personnel are commissioned, deputized, appointed, or otherwise designated as agency and/or local law enforcement officer by statute, delegation, or deputization by local governments, or other official act. Arrest and apprehension authority includes the power to formally detain and incarcerate individuals pending the completion of formal charges (booking); request and serve warrants for search, seizure, and arrest; testify at hearings to establish and collect collateral (bond); and/or participate in trials to determine innocence or guilt.

The distinction between high-level police work, discussed in the Grade Level Guide for Police and Security Guard Positions (GS-083/085 Guide) as detective assignments and lower level criminal investigating work can be difficult to make because the case work is often similar. The GLGCIP, published in February 1972, must be read in conjunction with the more recent information contained in the April 1988, GS-083/085 Guide. That guide clarifies that the GS-1811 series covers positions primarily responsible for investigating alleged or suspected *major offenses or violations of specialized laws of the United States*. The GS-083/085 Guide defines major crimes found in the GS-1811 occupation as “capital crimes, those involving prescribed monetary values, or others that may vary in different jurisdictions.” Officers assigned to detective work conduct investigations of crimes and maintain surveillance over areas with high rates of crime. Investigations involve searching crime scenes for clues, interviewing witnesses, following leads, analyzing and evaluating evidence, locating suspects, and making arrests. In cases involving major crimes, the FBI or other specialized law enforcement agencies may assume jurisdiction and control over the investigation. Detectives handle cases that occur within a prescribed local jurisdiction where violations are clearly within the authority of the local police force. Police investigations are limited by agreements according to the seriousness of crimes committed and monetary values involved, are conducted totally within the local jurisdiction, and are commonly of relatively short duration. Criminal investigators, by contrast, tend to handle cases that clearly involve felonies, violate Federal law, extend over other Federal and civil jurisdictions or involve large monetary values, and extend over periods of weeks, months, or even years.

According to Army Regulation (AR) 190-30, Department of Army Civilian (DAC) detectives/investigators are responsible for filling the need for an investigative element within the military police to investigate many incidents, complaints, and matters not within Criminal Investigation Command (CID) jurisdiction but which cannot be resolved immediately through routine military police operations. Matters requiring investigative development will be referred for offenses where maximum punishment is confinement for 1 years or less, property-related offenses where the value is less than \$1,000, offenses involving use or possession of non-narcotic controlled substance where amounts are determined to be for personal use, and activities required for the security and protection of persons and property under Army control. Allegations against law enforcement personnel, offenses committed by juveniles, and gang or hate crime activities when not within the responsibilities of the CID are also assigned to Provost Marshal staff. Provost Marshal staff authority is limited to incidents occurring on the installation. Under AR 195-2, the CID has primary responsibility for investigating felony offenses punishable by death or confinement for more than 1 year, property related offenses involving more than \$1,000

in damage or when property is of a sensitive nature, drug offenses involving controlled substances, non-combat deaths, war crimes, felony offenses involving senior personnel, and aggravated assaults resulting in hospitalization for treatment for more than 24 hours.

The duties and responsibilities assigned to a position flow from the mission assigned to the organization in which the positions are found. While the Provost Marshal's police are the first to respond to incidents on base, the detectives are called upon to investigate the more involved and/or serious incidents. The CID must be notified when incidents or crimes are of the nature/seriousness to be within their level of authority to investigate. If the CID office declines to investigate a case for reasons such as staffing, workload, and/or priority, the installation's detectives may pursue the case with the approval of the Provost Marshal's office.

The appellant and his supervisor described examples of the type of cases investigated by the appellant during the year he has been in the position. These include five internal inquiries concerning the DES police staff ranging from simple violations of installation regulations and procedures to a possible color of law issue based on race. The examples included taking a police vehicle off-post to follow a shoplifting suspect, alleged use of excessive force, and inappropriate language used by officer. We were told as a result three officers were terminated and others were given reprimands. Other investigations include a possible theft from the pharmacy and use of a surveillance camera, and a suitability question concerning a Morale, Welfare, and Recreation employee which was resolved using a computer records check. These cases fall within the purview of the Provost Marshal investigative authority process and are within the scope of GS-083 Detective work.

The appellant and his supervisor described one case the CID declined to investigate which concerned a former military service family member using fraudulent identification and military orders to receive health care at the installation. The appellant obtained approval from the U.S. Attorney's Office to pursue investigation of the case. The subject plea bargained and over \$5,000 was recovered. Another case involved allegations of possible sedition among students at a language training unit who were upset with instructors and damaged property in the barracks. Because of the pending deployment of the students, the appellant along with a team of other detectives, interviewed all the students and instructors, and inspected the damaged property and student storage areas. Most allegations were disproved. While the monetary value or nature of allegations in these cases may fall with the CID area of responsibility, we find the case complexities and depth of investigation required do not exceed those required of the GS-083 Detective.

The appellant believes his knowledge and experience gained as a criminal investigator in other positions has enabled him to impact the duties, responsibilities, and qualifications of his present position sufficient to change the position. Impact of the person on the job is discussed in the *Introduction to the Position Classification Standards*. Briefly, this guidance indicates that when the unique capabilities, experience, or knowledge of an employee broadens the nature or scope and effect of the work performed, this may impact the classification. For example, when the exceptional ability of the employee leads to the attraction of especially difficult work assignments, unusual freedom from supervision, special authority to speak for and commit the agency, continuing contribution to organizational efficiency and economy, recognition as an

“expert” sought by peers, or similar considerations. These changes affect the classification only when and because it actually makes the job materially different than it otherwise would have been.

We find the job includes some responsibilities for serving as a team leader for less experienced detectives and being assigned internal investigations and cases that may normally fall within the lower limits of CID authority. However, jurisdiction by CID does not, in and of itself, mean such work is covered by the GS-1811 series. While the appellant is providing advice and guidance to less experienced detectives, such work is typical of more experienced co-workers. Some of this advice is based on the appellant’s own personal qualifications and experience from prior employment going beyond that required to perform the present work assigned. We do not find that the requirements of the assigned duties or the organization’s mission have changed because of the incumbent’s prior experience and qualifications. Other staff members also have higher level investigative experience. We find the work required of the appellant’s position falls within the parameters of investigative work typical of the GS-083 Police Series. The appropriate title is Detective. Grade level is determined by comparison with the GS-083/085 Guide.

Grade determination

The appellant does not question the grade level of his position and stated he is not seeking an increase in pay. His primary issue is the series determination. The agency’s evaluation of the position credited Levels 1-4, 2-3, 3-2, 4-3, 5-3, 6-3, 7-3, 8-2, and 9-2. We carefully reviewed the levels assigned by the agency and fully considered all the appellant’s duties of record. We find these determinations to be appropriate based on the duties assigned to and performed by the appellant including his most complex cases.

Decision

The position is properly classified as Detective, GS-083-7.