

U.S. Office of Personnel Management
Office of Merit Systems Oversight and Effectiveness
Classification Appeals and Programs



San Francisco Oversight Division
120 Howard Street, Room 760
San Francisco, CA 94105

Classification Appeal Decision
Under Section 5112 of Title 5, United States Code

Appellant: [The appellant]

Agency classification: Police Officer
GS-083-5

Organization: [The appellant's installation]
Veterans Affairs Medical Center
Department of Veterans Affairs

OPM decision: Police Officer
GS-083-5

OPM decision number: C-0083-05-01

Carlos A. Torrico
Classification Appeals Officer

March 3, 2000
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:

[The appellant's address]

[The appellant's servicing personnel office]
Veterans Affairs Medical Center
Department of Veterans Affairs

[The appellant's representative]

Mr. Ronald E. Cowles
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Introduction

On September 9, 1999, the San Francisco Oversight Division of the U.S. Office of Personnel Management (OPM) accepted an appeal from [the appellant]. Subsequently, the appeal was forwarded to OPM's Classification Appeals Program office for adjudication and returned to the San Francisco Oversight Division for final release of the decision. [The appellant's] position is currently classified as Police Officer, GS-083-5. However, he believes his duties warrant upgrading to the GS-6 level. The appealed position is assigned to the [appellant's organization and installation], Veterans Affairs Medical Center (VAMC), Department of Veterans Affairs (DVA). We have accepted and decided this appeal under the provisions of section 5112 of title 5, United States Code (U.S.C.).

General issues

This appeal decision is based on a thorough review of all information submitted by both the appellant and his agency. In addition, an OPM representative conducted telephone interviews with the appellant on January 24 and February 2, 2000. His immediate supervisor was also interviewed by telephone on January 27, 2000. Both the appellant and his supervisor have certified to the accuracy of the appellant's official position description (PD) number 668-861A.

In his appeal, [the appellant] compares his position to police officer positions at other DVA Medical Centers throughout the country. 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 as a basis for deciding this appeal.

Both the appellant and his agency discuss his position by comparison to Personnel Circular Letter, No. 90-22. This is internal DVA guidance which was written as further interpretation of OPM's Grade Evaluation Guide for Police and Security Guard Positions. We, however, must classify positions solely by comparing the duties and responsibilities of the appellant's position to OPM standards and guidelines. Therefore, we cannot use the internal agency guidance in deciding this appeal.

Position information

The appellant performs police officer duties, which are associated with the rotational work assignment of a 24-hour per day, seven days per week schedule, in a VAMC environment. This includes performing traffic and/or pedestrian control and foot and/or vehicle patrol; responding to duress alarms and violations; assisting others; responding to disturbances; conducting investigations; making arrests when necessary; and similar activities requiring police intervention.

The incumbent enforces appropriate Federal and State criminal codes and DVA regulations in the physical protection of U.S. government property at the medical center and the protection of the

personal safety and civil rights of all visitors, employees, and patients. The supervisor stated that over the past year, the VAMC handled 98 cases; one-third of which were investigated and handled by the appellant. In conversations with the appellant and his supervisor, a percentage of time was given for each of the appellant's major duties as follows:

- Promoting crime prevention and safe environment - 30%
- Responding to crime scenes - 10%
- Conducting follow-up investigations - 10%
- Staff/Patient Assistance - 20%

The remainder of the appellant's time was spent on administrative paperwork and lower-level miscellaneous duties such as reporting fire/safety hazards, providing training, and testing security alarms.

Information was also obtained from Uniform Offense Reports (UORs) pertaining to specific criminal acts at the VAMC. Although several UORs were submitted by the appellant and his supervisor, the appellant did not serve as the investigating officer on all of these cases. The cases where [the appellant] did serve as an investigating officer included one Acontraband/weapons/firearms@ charge, one Adangerous assault@ charge, and one Adisturbance@ charge. During the telephone audit, the appellant was asked for a sample of his most complex cases. He cited the following cases:

- theft of credit card - involved the work of three officers; required a large amount of time and a lot of legwork, including going off-site to view videotapes of possible suspects and to acquire receipts for merchandise which was purchased with the stolen credit card
- knife incident in emergency room - officer spent a lot of time (approximately 25 minutes) trying to negotiate with patient into disarming himself
- theft of a pager - required follow-up because potential suspect was evasive and attempted to allude authorities for a few days

Based on additional information obtained from the appellant and the supervisor, the frequency of violent crimes at the VAMC over the past year was minimal -- three bomb threats, two suicides, and one hostage situation.

The information of record and that gathered during our interviews provides additional information about the appellant's duties and how they are carried out.

Series and standard determination

The appellant does not disagree with the series of his position. We concur with the agency's determination that the duties performed by the appellant and the knowledge required for the position are best covered by the Police Officer Series, GS-083. That series includes all positions whose primary duties consist of the performance or supervision of law enforcement work in the

preservation of the peace; the prevention, detection, and investigation of crimes; the arrest or apprehension of violators; and the provision of assistance to citizens in emergency situations, including the protection of civil rights. Therefore, the appellant's position is properly assigned to the GS-083 series. The GS-083 standard notes that the criteria for determining the grade of GS-083 positions is contained in the Grade Evaluation Guide for Police and Security Guard Positions, dated April 1988, which we have applied to evaluate the grade of the position.

Title determination

Although the appellant does not question the title of his position, he does liken his duties to detective-like work. According to the Grade Evaluation Guide for Police and Security Guard Positions, most police officers are engaged in patrol duties and/or traffic control. In performing patrol duties, they serve as a deterrent to crime and other violations of laws, rules, and regulations. Crime prevention is enhanced by the presence of uniformed officers in an area and by their being continually alert in observing, inspecting, and investigating circumstances or individuals who appear unusual and suspicious. Police officers regulate pedestrian and vehicular traffic; prevent accidents, congestion, and parking problems; give warnings; issue citations for traffic violations; and make arrests if necessary. They conduct preliminary investigations of crimes, investigate accidents, dispose of complaints, recover stolen property, counsel adults and juveniles, and assist persons needing help.

In contrast, detectives conduct long-term investigations of crimes and maintain surveillance over areas with high rates of crime. Typical investigative work performed by a detective includes development of informants and informant networks, development of cover conditions and working undercover, and coordination with U.S. attorneys and other law enforcement agencies on case development. Although the appellant conducts follow-up investigations in almost all of his cases, he states that only 10 percent of these follow-up investigations are long-term and extensive. This does not constitute a significant and substantial portion of his work nor are there any other examples of detective-like work involving informants, undercover work, and other law enforcement agencies. The *Introduction to the Position Classification Standards* explains that duties comprising less than 25 percent of an employee's work time cannot be grade controlling. Thus the detective-like work performed by the appellant cannot be considered grade-controlling in evaluating his position.

Based on the above comparison, the appellant's duties are most closely aligned to police work, rather than detective work. Therefore, the appellant's position is properly titled Police Officer.

Grade determination

The Grade Evaluation Guide for Police and Security Guard Positions uses the Factor Evaluation System (FES) which places positions in grades by comparing their duties, responsibilities, and qualification requirements with nine factors common to nonsupervisory General Schedule positions.

A point value is assigned to each factor based on a comparison of the position's duties with the factor level descriptions in the standard. The factor point values mark the lower end of the ranges for the indicated levels. For a position factor to warrant a given point value, it must be fully equivalent to the overall intent of the selected factor level description. If the position fails in any

significant aspect to meet a particular factor level description in the standard, the point value for the next lower factor level must be assigned, unless the deficiency is balanced by an equally important aspect which meets a higher level. The total points assigned are converted to a grade by use of the grade conversion table in the standard.

The appellant does not disagree with his agency's evaluation of factors 1, 2, 3, 4, and 7. We therefore discuss these factors briefly, while discussing factors 5, 6, 8 and 9 more thoroughly. Our evaluation with respect to the nine factors follows.

Factor 1, Knowledge required by the position, Level 1-3, 350 points

This factor measures the nature and extent of knowledge, e.g., concepts, policies, procedures, and rules, needed to perform the position's duties and responsibilities.

At Level 1-3, police officers use knowledge of a body of standardized rules, methods, procedures, and operating techniques that require considerable training and experience to perform a full range of operations in preventing or resolving offenses or in conducting preliminary investigations of incidents ranging from simple rules violations to felonies. This level includes the following police tasks:

- subduing individuals causing disturbances;
- identifying and arresting violators based on eyewitness accounts;
- taking charge of crime or accident scenes and restricting access to those persons required on the scene;
- seeking, detecting, and protecting evidence and witnesses at the scene of an incident;
- taking statements from witnesses;
- detaining witnesses and suspects; and
- participating in short-term investigations.

At Level 1-4, employees use a knowledge of an extensive body of standardized, optional, and innovative investigative procedures, techniques, and methods to resolve a wide range of conditions or criminal activities which typically require conducting extensive research; interviewing, planning, observing, conducting stakeout operations; and executing investigative techniques.

The appellant performs the duties listed in Level 1-3 as a regular and recurring part of his position. Only 10 percent of the appellant's follow-up investigations are extensive. There is no evidence that he resolves a wide range of criminal activities, or performs many of the tasks typical of Level 1-4 on a regular and recurring basis. Therefore, Level 1-4 cannot be credited to the position.

Level 1-3 is assigned and 350 points are credited.

Factor 2, Supervisory controls, Level 2-2, 125 points

This factor measures the nature and extent of supervision exercised over the position.

At Level 2-2, the employee uses personal initiative in carrying out recurring assignments independently without specific instructions about how to do the work or the precise methods to apply. Completed work is reviewed for technical adequacy, adherence to standard procedures and methods, and compliance with any special instructions.

At Level 2-3, the supervisor makes assignments such as long-term investigations and undercover work within the employee's scope of responsibilities. The employee plans and carries out the steps required according to specific case conditions (consideration for confidentiality and exposure of witnesses; coordination with other law enforcement agencies; and cover, need for and nature of stakeouts). Assignments may require the employee to perform investigations extending for periods of time beyond a single shift and to ascertain interrelationships with other cases and/or law enforcement agencies that may affect the methods and procedures used.

Supervisory controls over the appealed position fully meets but does not exceed those described at Level 2-2. The appellant works independently in determining the appropriate method to apply to each specific situation and for resolving each investigation. However, the scope of his responsibilities does not typically include long-term investigations, undercover work, or coordination with other law enforcement agencies which are depicted at Level 2-3.

Level 2-2 is assigned with a value of 125 points.

Factor 3, Guidelines, Level 3-2, 125 points

This factor measures the nature of guidelines and the judgment needed to apply them.

At Level 3-2, procedures, instructions, and a number of specific guidelines for doing the work have been established by the organization and are readily available to the employee. The number and relationships of guidelines requires the employee to use judgment in identifying and applying the proper procedures and techniques for application to specific actions when protecting property, enforcing the law, or assisting people. The employee also exercises judgment in making minor deviations from available guidelines according to the specific circumstances encountered at the scene of activity. At this level, officers may also determine which of several established alternatives to use; for example, removing unauthorized personnel from an area without further legal or administrative action, using a level of force depending on perceived threat to self or others, calling for backup, or handling a situation alone. The level of judgment used will vary according to the circumstances or persons confronted and the availability and clarity of established guidelines and procedures.

At Level 3-3, guidelines are not always applicable or there are gaps in specific applicability in

circumstances such as those encountered in volatile emergency situations such as terrorist attacks, armed robbery, and prolonged investigations. Because of the nature of the work assignments, the employee must use personal judgment in interpreting, adapting, applying, and deviating from guidelines and usually analyzes the results of such adaptations and recommends changes in established methods and procedures.

In performing his assignments, the appellant uses Federal, State, and DVA guidance as well as a set of standard operating procedures, which were developed by his supervisor. For the more difficult cases, Memorandum 139-09-30 regarding Violent Behavior Prevention and Response Program, approved by the VAMC Director in September 1998, is available for use. Procedures and instructions for doing the work of the appealed position are established and readily available to the appellant. Although the appellant does use personal judgment in following the guidelines, he does not deviate from these guidelines on a regular and recurring basis nor does he frequently encounter volatile emergency situations such as terrorist attacks, armed robbery, and prolonged investigations. Guidelines fully meet but do not exceed Level 3-2.

Level 3-2 is assigned with a value of 125 points.

Factor 4, Complexity, Level 4-2, 75 points

This factor measures the nature and variety of methods in the work performed and the kinds of decisions made to accomplish the work.

At Level 4-2, the work includes duties requiring the employee to perform related steps, processes, or methods for the completion of each assignment. Decisions regarding what needs to be done involve assessing each situation as it occurs and determining the existence of and difference among easily recognizable situations where law enforcement, assistance, or some form of informal situational counseling may be required. Decisions are made by the officer at the scene of an incident. The employee identifies the conditions involved and decides what kind of action to take, including the level of force required. Actions to be taken by the employee differ depending on such things as: the source of information (distress call, call for assistance, request for information); the nature and level of perceived threat to self and others; the nature of facility involved (office building, manufacturing facility, hospital); the seriousness of the violation or potential violation (robbery, assault, speeding, drunk, disorderly); or other differences of a factual nature. The employee identifies the conditions involved and decides what kind of action to take, including the level of force required.

At Level 4-3, the employee performs various duties requiring the application of different and unrelated methods, practices, techniques, or criteria. The work typically involves extensive investigative responsibilities and assignments that vary frequently in the nature of cases handled. Decisions made vary according to the nature of a perceived threat from demonstrators or anticipated terrorist actions, by the nature of hazards imposed by local terrain and/or weather or other conditions that affect lighting and communications, and the ability to observe or pursue violators.

The complexity of the appellant's work fully meets but does not exceed that described at Level 4-2.

The appellant's work does not involve extensive investigation responsibilities on a regular and recurring basis. His decisions pertain to calls from VAMC staff regarding patients and/or visitors. There is no evidence that he makes decisions pertaining to demonstrators, anticipated terrorist attacks, or hazardous terrain/weather conditions, as is depicted at Level 4-3.

Level 4-2 is assigned with a value of 75 points.

Factor 5, Scope and effect, Level 5-2, 75 points

This factor measures the purpose of the work and its effect both within and outside the organization.

At Level 5-2, the employee performs a full range of police duties by following and executing specific rules, regulations, or procedures covering law and rules enforcement, patrol duties, and/or crime prevention activities for the local jurisdiction. Work products or services affect the acceptance of law enforcement and security program services and actions, contribute to crime prevention programs, influence employees and visitors to cooperate with the security force, and set an example for conforming with laws, rules, and regulations at the installation. The results of the work or services also provide for a sense of personal security that enhances productivity of individuals in the work place.

At Level 5-3, the employee treats a variety of law enforcement problems ranging from simple rules violations to felony crimes in conformance with established criteria, methods, techniques, and procedures. They also perform criminal investigative work such as that performed by detectives. The results of the work contribute to crime prevention objectives in the local installation and the adequacy of the local law enforcement program.

A good percentage of the appellant's duties affect the acceptance of law enforcement services and actions at the installation. These include foot patrols, stop and question activities, warrant activities, etc. The appellant also influences employees, patients, and visitors to cooperate with the police force by providing training, handing out coloring books which promote safety and a positive environment to all visiting children, and displaying an overall on-site presence of police authority. These types of duties clearly meet Level 5-2.

Like Level 5-2, the appellant's work provides for a sense of personal security for VAMC patients, staff, and visitors, especially during those times when a felony is committed. However, unlike Level 5-3 the appellant does not perform the full range of investigative work that is typical of detectives.

In addition, as noted above the results of his work are more focused on contributing to a sense of personal security, rather than to the achievement of overall crime prevention objectives. For the preceding reasons Level 5-3 is not met.

Level 5-2 is assigned and 75 points are credited.

Factor 6, Personal contacts, Level 6-3, 60 points

These factors measure the type of personal contacts that occur in the work and the purpose of those contacts.

At Level 6-2, personal contacts are with employees in the same agency, but outside the immediate organization. Contacts are also with members of the general public in a moderately structured setting (e.g., the contacts are generally established on a routine basis, usually at the employee's work place). Contacts typical of this level are cooperative persons stopped for traffic violations or persons questioned as witnesses to a violation of rule or law.

At Level 6-3, contacts are with individuals or groups from outside the employing agency in a moderately unstructured setting, or with violators of laws, rules, or regulations where those contacted are reluctant to accept the officer's authority, may resist detention or attempt to flee, or with unruly individuals who pose a threat to the officer and/or other individuals present. Such contacts may include, for example, individuals involved in a serious disagreement or fight, and others where the circumstances commonly cause the violators to react negatively and violently to the enforcement officers.

The appellant has daily contact with VAMC staff, patients, and the general public. Due to his on-site presence, his role and authority is immediately known and understood. However, based on his crime prevention efforts, which includes stop and question, warrants, and standby efforts, as well as his response to crime scene calls, more than 25 percent of his time is spent with uncooperative individuals who are reluctant or unable to accept the officer's authority. The appellant's installation has an outpatient drug and alcohol program, anger management program, an outpatient psychiatric program, a eight bed inpatient psychiatric unit and a four bed detoxification unit. Of the daily patient count, 75 percent of patients have some type of psychiatric problems and offer some type of resistance on a daily basis. Based on these contacts the appellant's position meets Level 6-3 which is the highest level for this factor described in the guide.

Level 6-3 is assigned with a value of 60 points.

Factor 7, Purpose of contacts, Level 7-3, 120 points

At Level 7-3, the purpose is to influence, motivate, interrogate, or control persons or groups. Persons contacted may be fearful, skeptical, uncooperative, or dangerous. Therefore, the employee must be skillful in approaching the individual or group in order to obtain the desired effect, such as gaining compliance with established policies and regulations by persuasion or negotiation, or gaining information by establishing rapport with a suspicious informant. Contacts at this level may include, for example: uncooperative individuals involved in traffic violations, persons attempting to commit suicide, suspects and reluctant witnesses to a crime, deranged persons, or families involved in domestic disturbances.

At level 7-4, the purpose is to overcome life threatening situations such as hostage, barrier, terrorist attack, kidnap, or felony assault conditions where the persons dealt with are unstable and pose an imminent and direct threat to the life of the officer, innocent victims, or bystanders. The officer must

negotiate with individuals who clearly intend to carry out threats of violence, mayhem, or murder and because of the emotional instability involved must be convinced to cease their life threatening activities.

The appellant's work is indicative of Level 7-3 where the purpose of his contacts is to influence, motivate, interrogate, and control persons. Persons contacted may be fearful, skeptical, uncooperative or dangerous. Therefore, he must be skillful in approaching the individual or group in order to obtain the desired effect, such as gaining compliance with established policies and regulations by persuasion or negotiating or gaining information by establishing rapport with a suspicious person. However, unlike Level 7-4, the types of life threatening situations described at that level are rare occurrences at the medical center, and therefore cannot be credited to the position.

Level 7-3 is assigned with a value of 120 points.

Factor 8, Physical demands, Level 8-2, 20 points

This factor measures the physical requirements placed on the employee by the work assignment.

The physical demands at Level 8-2 regularly requires physical exertion such as long periods of standing, walking, driving, bending, stooping, reaching, and crawling. The appellant exerts himself when responding to alarms; pursuing, apprehending, and detaining uncooperative suspects; conducting searches and prolonged surveillance; participating in training activities; climbing stairs in office buildings; or walking foot patrols in and around large buildings. He may also lift and carry heavy objects, such as weapons, weighing as many as 50 pounds.

Work at Level 8-3 requires considerable and strenuous physical exertion, on a regular and recurring basis. At this level, the employee frequently climbs flights of stairs, lifts objects weighing more than 50 pounds, crouches or crawls in restrictive areas during search or pursuit activities, or defends himself or others against physical attack.

The appellant contends that his position meets Level 8-3 based on the DVA's internal classification guidance for police officer positions. That guidance states that at Level 8-3, substantially greater exertion would be applied in frequent climbing of multiple flights of stairs, such as in a high-rise hospital or office building (i.e., over six floors). Since the appellant works in a building with 12 floors, he contends that his position meets Level 8-3. This criterion is not, however, found in the OPM guide and cannot be used to accurately evaluate the position. In addition, the frequent climbing of flights of stairs is just one aspect of Level 8-3 and cannot solely control the evaluation of this factor. There is evidence that the appellant defends himself and others against physical attacks. However, based on information from the appellant and the supervisor, such events happen only between 3-12 times a year. Thus these physical attacks occur on an infrequent basis and, therefore, cannot control the evaluation of this factor. Level 8-3 is not fully met by the position.

Level 8-2 is assigned with a value of 20 points.

Factor 9, Work environment, Level 9-2, 20 points

This factor measures the risks and discomforts in the employee's physical surroundings.

The work at Level 9-2 is performed in settings where there is regular and recurring exposure to moderate risks, discomforts and unpleasantness. Level 9-2 is similar to the appellant's position in that he is exposed to moderate discomforts and risks, especially when performing extended traffic and patrol duties. In contrast, a Level 9-3 work environment regularly involves high risks with exposure to potentially dangerous situations which require a range of safety and other precautions (e.g., subject to possible physical attack, mob conditions, or similar situations where conditions cannot be controlled).

For Level 9-3 to be credited to a position, we must look to the intent of the factor level. Over the past few years, we have seen an increased number of volatile situations in Federal Government facilities, e.g. the Oklahoma City bombing, shootings at the U.S. Capitol Building and at CIA headquarters, etc. Based on this information, we *could* say that every Federal police officer has the potential for physical attack. However, it is not the intent of the standard to allocate Level 9-3 to every Federal police officer position nor is it appropriate to *automatically* apply Level 9-3 to all Federal installation work environments, particularly in facilities not regularly involving high risks with exposure to potentially dangerous situations.

The appellant contends that his position meets Level 9-3 due to the substantial number of criminal acts which take place at his installation, and the lack of back-up that exists during his shift. Again, our findings indicate that the number of criminal acts occurring during the past year was minimal. In addition, although there is no on-site back-up, the appellant has the discretion to call the city of [name of a local city] and request assistance if necessary. The high risks and potentially dangerous situations (including uncontrollable or mob like conditions) indicative of Level 9-3 do not constitute a regular and recurring aspect of his work environment. Because these types of demands are infrequent for the appellant, they cannot control evaluation of this factor.

This factor is credited at Level 9-2 and 20 points are assigned.

Summary

In summary, we have evaluated the appellant's position as follows:

Factor	Level	Points
1. Knowledge required by the position	1-3	350
2. Supervisory controls	2-2	125
3. Guidelines	3-2	125
4. Complexity	4-2	75
5. Scope and effect	5-2	75

6. Personal contacts	6-3	60
7. Purpose of contacts	7-3	120
8. Physical demands	8-2	20
9. Work environment	9-2	20
Total		970

A total of 970 points are assigned to the appellant's position. According to the grade conversion table in the guide, a total of 970 points falls within the GS-5 range (855-1100). Therefore, this position is graded at the GS-5 level.

Decision

The appellant's position is properly classified as Police Officer, GS-083-5.