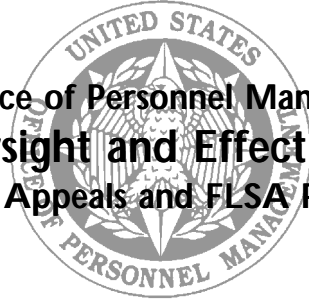


U.S. Office of Personnel Management  
Office of Merit Systems Oversight and Effectiveness  
Classification Appeals and FLSA Programs



Dallas Oversight Division  
1100 Commerce Street, Room 4C22  
Dallas, TX 75242

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

**Appellant:** [appellant's name]

**Agency classification:** Criminal Investigator  
GS-1811-12

**Organization:** Office of the Inspector General for Tax  
Administration  
Department of the Treasury  
[city, state]

**OPM decision:** Criminal Investigator  
GS-1811-12

**OPM decision number:** C-1811-12-13

/s/ Bonnie J. Brandon  
Bonnie J. Brandon  
Classification Appeals Officer

6/15/99  
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:**

[appellant's name and address]

Chief  
Consolidated Position Classification/  
Position Management Site  
Internal Revenue Service  
Department of the Treasury  
401 W. Peachtree Street, NW., Stop 821-D  
Atlanta, Georgia 30365

Director of Personnel  
Department of the Treasury  
Washington, DC 20240

## **Introduction**

On February 19, 1999, the Dallas Oversight Division of the U.S. Office of Personnel Management (OPM) received a classification appeal from [the appellant], an employee in the Office of the Inspector General for Tax Administration, Department of the Treasury, [city, state]. The appellant is currently employed as a Criminal Investigator, GS-1811-12. The appellant believes his position should be classified as Inspector (Special Investigator), GS-1811-13.

The appeal has been accepted and decided under section 5112 of title 5, United States Code. To help decide the appeal, an Oversight Division representative conducted a face-to-face interview with the appellant and his immediate supervisor. In reaching our classification decision, we have reviewed the audit findings and all information of record furnished by the appellant and his agency, including Internal Revenue Service (IRS) Standard Position Description 91086E, which is a standard position description used by the IRS.

## **Position information**

The appellant is one of eight Criminal Investigators (three GS-13's, four GS-12's, and one GS-7) in the Office of the Inspector General for Tax Administration. These employees report to a GS-14 Supervisory Criminal Investigator.

The appellant has responsibility for independently executing complete, very complex investigations of a criminal and noncriminal nature involving IRS employees and non-IRS persons. These investigations involve alleged or suspected violations of title 18, United States Code (Criminal Code); title 26, United States Code (Internal Revenue Code); or other criminal statutes including investigation of attempts to interfere with administration of IRS laws through threats, assaults, or impersonation; the unauthorized disclosure of Federal tax information; and the unauthorized disclosure or use of information by preparers of tax returns. In carrying out such investigations, the appellant works as a "case agent" and is assigned responsibility for conducting and/or directing all aspects of a given criminal investigation. This can include overseeing the activities of other agents when such coworkers have been assigned to assist him in conducting investigations.

The appellant conducts noncriminal investigations which include alleged misconduct on the part of IRS employees and investigations of certain applicants for enrollment to practice before the IRS. The appellant may perform duties involving apprehending and arresting persons violating U.S. laws; searching and seizing incident to arrest; interrogating accused persons, witnesses, and third parties both informally and at formally recorded conferences; interviewing applicants for IRS positions concerning derogatory or questionable information; checking credit sources and public records; conferring with U.S. Attorneys, IRS officials and employees, and representatives of other law enforcement agencies; assisting U.S. Attorneys and district attorneys in the preparation of criminal cases for trial; and testifying before U.S. Magistrates and Grand Juries or testifying as an expert witness for the Government in the trial of criminal cases and preparing reports covering the results of investigations.

In addition to his investigations-related assignments, the appellant functions as his work unit's Technical Support Officer. This involves assisting other investigators and teams with setting up a variety of investigative tools and equipment, e.g., pen register (monitoring incoming and outgoing telephone numbers), video surveillance, tracking devices, and body wires/recorders and their methods of operation.

Since January 1, 1997, the appellant has closed 24 cases with the IRS Internal Security Division and the Treasury Inspector General for Tax Administration. The appellant completed 10 conduct investigations involving IRS employees, 1 bribery case, 6 assault cases, 1 impersonation case, 1 theft case, 4 nonemployee cases, and 1 integrity case. The appellant provided 6 case synopses during the period October 1, 1997, to present that he believed substantiated his request for reclassification. Following is a summary of these cases for which the appellant was the case agent.

#### *AARP Project*

This case was designed to obtain information and sources from individuals and law enforcement organizations aware of persons attempting to victimize senior citizens, by misrepresenting themselves as agents of the IRS or other scams to obtain funds by calling those funds Federal taxes. The appellant identified the need for this project through reading publications regarding the elderly and crimes committed on the elderly. The appellant developed a plan, budget, and toll-free number; served as a liaison with local law enforcement officials; and met with the national officers for AARP. The project was developed into a regionwide project [names of states within the region], complete with public service announcement videos produced by Radio Shack. After approximately eight months, the project was assumed by the U.S. Treasury national office for continued development and monitoring of the toll-free line. The appellant is not aware of any arrests, seizures, convictions, or indictments having resulted from this case.

#### *Workers' Compensation Fraud*

This case was designed to gather facts on the top 100 IRS employees who had been out on workers' compensation for approximately 18 to 24 months. The appellant originally assisted another agent on the development of this case; however, within six months the case was turned over solely to the appellant. The appellant worked with State and Federal workers' compensation offices and the U.S. Attorney's office to learn about the technical and legal requirements of these cases. The appellant put the suspects under surveillance using a variety of investigative tools and equipment, e.g., pen register, video surveillance, tracking devices, and body wires/recorders. The appellant coordinated with a number of Federal (IRS, Department of Labor, Social Security Administration) and State agencies (employment services, medical boards, insurance boards). Several "spin-off" cases developed from this case; e.g., three cases were identified where the applicant was dead, several cases were identified where the employees were subsidizing their income while drawing workers' compensation, and some cases were identified where the medications being prescribed and submitted for payment did not relate to the workers'

compensation claim. As a result of this project, a national office was set up in Virginia. The appellant is not aware of any arrests, seizures, convictions, or indictments having resulted from any of the cases. Normally, this type of case results in the employee being terminated, restitution in lieu of prosecution, and refusal by the state to insure the employee any longer.

#### *Bribery of a Public Official*

This case was developed after an IRS employee identified some strange behavior in a taxpayer, who wanted to meet away from the office to discuss his case. The subject in this case is a confirmed member of the Gambino organized crime family and has ties with the Bruno and Sicilian organized crime families. This investigation involved the use of an undercover IRS Revenue Officer, who received three bribes totaling \$22,000, and numerous agents within three states [names of the three states] to assist in this investigation. This investigation also involved physical surveillance, electronic monitoring, and liaison with other Federal (U.S. Attorney offices, Social Security Administration, and IRS) and State agencies ([names of states] Alcohol Beverage Commissions and [names of states] State Police). The subject in this case operated several legitimate restaurant businesses that were not conforming to tax reporting requirements. This case involved a high level of difficulty in ensuring confidentiality in all three states. Another “spin-off” case resulted from this case where the [name of a large city] Police Department asked the appellant to follow up on another potential suspect in the Bruno crime family. The appellant supervised the work of the undercover agent in this case and testified before the Grand Jury, including serving as the Government’s witness for the U.S. Attorney’s office. This case resulted in a plea bargain with the subject being sentenced to one year and one day, fined \$20,000, and three years’ supervised probation.

#### *Theft of Property by a Tax Preparer*

This case was developed after a taxpayer complained to an IRS employee, who subsequently informed the appellant. This case involved numerous taxpayers and a tax preparer, who was attempting to defraud the IRS by submitting fraudulent tax documentation and clergy exemptions. Forensic examination of documents and handwriting analysis along with extensive research of State and Federal tax accounting records were required. The tax preparer involved conducted illegal activities out of a legitimate tax preparation business. The appellant used surveillance techniques to monitor the subject’s house prior to obtaining search warrants. A number of other “spin-off” cases resulted from this case where churches and ministers were identified who may have been unknowingly involved in fraudulent clergy exemptions, contributions, and loan applications. The appellant discussed this case with the U.S. Attorney’s office, testified before the Grand Jury, and coordinated case development with one other agent from the IRS Criminal Investigation Division (CID). This case resulted in a plea bargain with the subject being sentenced to home confinement for six months, fined, and prohibited from representing tax preparers ever again.

### *Impersonation*

This case involved three persons who were committing refund fraud against taxpayers and wire and mail fraud against the U.S. Government by sending out their own IRS collection letters for past due taxes. This case was initially developed from a complaint from a taxpayer who received a fraudulent letter from the subject posing as a representative of the IRS. The dollar figures on this case have already identified a loss to the IRS and taxpayers in excess of half a million dollars and involved several IRS Service Centers. Records indicated that State agencies (tax and welfare offices) may also be victims of this crime. The case covers at least three states and numerous IRS Service Centers and involves U.S. Secret Service, U.S. Postal Service, and IRS CID. This case involved extensive research in forensic science regarding handwriting samples and analysis. The subjects of this case operated several legitimate businesses (tax preparation, food service, and consulting) in connection with their illegal activities. This case involved 3 principal subjects initially with 78 others being identified during the course of the investigation. The subjects used a variety of fictitious names, bank accounts and mailing addresses. The appellant put the suspects under surveillance using a variety of investigative tools and equipment, e.g., pen register, video surveillance, tracking devices, mail cover, and body wires/recorders. The appellant met with the U.S. Attorney's office and the Office of General Counsel and testified before the Grand Jury on several occasions. There have been multiple indictments in this case with convictions still pending. This investigation also revealed flaws in the IRS mainframe/database that will result in a systemic change; e.g., PO Box could be listed multiple ways (PO, P.O., PO.) which could result in more than one check incorrectly going to the same PO Box.

### *IRS Employee Conduct*

The subject in this case accessed the IRS Integrated Data Retrieval System without authorization. This case was initially started when an IRS report identified one of its employees in the Taxpayer Service who had accessed his mother's and sister's accounts. During this investigation, the appellant discovered and identified a total of 14 accounts (by social security number) throughout the United States that the subject had accessed. The total number of document inquiries made by the subject was approximately 700. This case involved violations throughout the United States and extensive research of official documents. The appellant worked with the U.S. Attorney's office and Secret Service in this case. This case was extremely sensitive because of the potential for claimants to file a lawsuit or class action suit against the IRS that would create negative publicity and damage to the IRS image. The subject of this investigation resigned; however, criminal prosecution has not been ruled out.

### **Series, title, and guide determination**

The agency has determined that the appellant's position is classified properly to the Criminal Investigating Series, GS-1811, with which the appellant has not disagreed, and with which we concur. Based on the titling practices contained in the GS-1810/1811 Grade-Level Guides for

Classifying Investigator Positions (GLGIP), the appellant's position is properly titled as Criminal Investigator.

### **Grade level determination**

The GLGIP uses two factors to distinguish between grade levels: Complexity of Assignments and Level of Responsibility. The GLGIP provides for the classification of positions based on assignments that are typical and representative of the cases for which the investigator has primary responsibility over a period of time, i.e., only the case agent position may be credited with performing the full grade level of the cases.

The GLGIP recognizes that an investigator, at any grade level, may work from time to time on particular investigative tasks associated with cases assigned to other investigators. Similarly, an investigator may lead or coordinate the work of other investigators who are temporarily assigned to work on cases for which he or she has primary responsibility, e.g., when additional staff is needed to maintain surveillance in several places on a 24-hour basis or when a large number of separate leads must be tracked down in a short amount of time, when an investigation is centered in one geographic area but involves issues that require inquiries in other geographic areas. These temporary conditions are a normal part of completing investigative assignments and have no particular impact with respect to determining the grade level worth of an investigator's position. Similarly, there is no particular relationship between the grade level of the investigator who has primary responsibility for a case and the grade levels of the positions of the other investigators who are temporarily called upon to help with particular investigative tasks.

### *Complexity of assignments*

This factor measures the scope, complexity, and sensitivity of investigative assignments in terms of six elements.

*Element 1. This element is concerned with the level of difficulty involved in resolving conflicting facts or evidence.*

At the GS-12 level, cases typically involve several principals for whom suspicion is initially aroused by circumstantial evidence, e.g., word of mouth, tips, observations, rather than by directly verifiable evidence, e.g., paid bills, passports, licenses, testimony. Evidence is fragmentary or cold. Improper development of the case could cause significant repercussions, e.g., cause public embarrassment for the agency involved or the principals under investigation.

In contrast, GS-13 level cases are of extreme complexity and scope. For example, the assignments involve investigations of legal or illegal organizations that are very complex in structure with a large number of primary and secondary activities, e.g., several principals of organized crime or subversive groups that are officially recognized in law enforcement as national threats to the peace and stability of the nation. Investigations are of major interregional

dimensions or are nationwide in origin or coverage with occasional international implications. There are typically actual or potential threats or challenges to major segments of the national welfare or security, e.g., threats to the fabric of society caused by the previously described large scale drug or other illegal items distribution conspiracies, the potential threat of large scale terrorist or other multicell integrated organizations. The results, effects, or consequences of the investigation, to a major degree, constitute deterrents to crimes or violations and may often influence changes in laws or future court actions.

The GS-13 investigator typically must piece together evidence that comes from other investigators stationed throughout several States or the nation. From this evidence, the investigator must recognize the suspect's pattern of operation to anticipate or even influence events as they unfold by instructing separate investigators or units of investigators working on segments of the case. This complicates the case because the investigator must at the same time avoid entrapment of the suspects, as at the lower grade levels of the occupation, who are more prominent and numerous and engage in more complex and serious activities. Similarly, the GS-13 investigator must be more aware of the implications of precedent court decisions over a broader area, i.e., in more judicial and law enforcement jurisdictions.

We find the cases forming the core of the appellant's appeal rationale reflect some aspects of the GS-13 level in that the evidence must often be pieced together from various parts of the country and the appellant has responsibility for instructing separate investigators or units of investigators working on segments of these cases. For example, in the Bribery of a Public Official case, the appellant was responsible for interviewing witnesses in Federal and State agencies in [names of states]. Liaison between the appellant and law enforcement officials in these cities had to be established and maintained to gather this evidence. However, we find the appellant's evidence-gathering activities relate to cases that do not fully meet the extreme complexity or scope of investigation as described at the GS-13 level.

The appellant's cases involve several principals for whom suspicion is initially aroused by circumstantial evidence, e.g., word of mouth, tips, observations, with some directly verifiable evidence. The information the appellant gathers from his informants enables him to trace threads of directly and indirectly related criminal activity both locally and nationally. The groups the appellant penetrates have a limited number of primary and subsidiary activities, i.e., primarily the use of tax preparation services, restaurants, and consulting businesses, as described at the GS-12 level.

The appellant's cases cross into other regions on account of the relationships among principals involved; however, these cases do not entail the range and variety of activities of potential harm to national security or involve the extremely complex structure and diversity of interest of organizations found at the GS-13 grade level. We find the illegal activities associated with the appellant's cases are limited in terms of organizational sophistication, mix of legal and illegal activities, and operational scale and do not meet the intent of activities found at the GS-13 grade level. Accordingly, this element is credited at the GS-12 grade level.



*Element 2. This element is concerned with the difficulty and complexity imposed by the subjects of the investigation.*

At the GS-12 level, difficulties or complexities imposed by the prominence or characteristics of the subjects investigated include (1) a suspected or known racketeers, gamblers, smugglers, etc., who are known through associates, behavior, or background as prominent figures in organized crime or subversion; (2) the principal or financial backer in an organization consisting of separate manufacturers, distributors, and transporters of illegal goods, drugs, alcohol, counterfeit money, fraudulent documents, explosives, or weapons (normally the separate parties do not know each other or the overall backer); (3) a figure with financial interests overlapping several activities both legal and illegal, e.g., funds from a legal concern are diverted and used to finance illegal activity; or (4) the head of an organization involved in legitimate business who is suspected of fraudulent use of invoices, operating fraudulent marriage rings, etc., which are carried out under the cover of the legitimate organization, and the suspected violation requires assistance from several accomplices, e.g., attorneys or accountants who are themselves in positions of public trust.

In contrast, at the GS-13 level, subjects are involved in the range and variety of such interrelated activities as (1) a suspected foreign agent who, with several associates, is planning acts extremely harmful to national security, e.g., theft of national defense documents for benefit of a foreign government, or compromise of persons who have access to highly classified information concerning national defense; or (2) the organization under investigation has an extremely complex structure with diversified interests, e.g., the manufacture, distribution, and sale of legal or illegal goods in a national market involving a complex network of widespread distribution and sales outlets.

The difficulty and complexity of the appellant's investigations in the Bribery of a Public Official, Theft of Property by a Tax Preparer, and Impersonation cases involved figures with financial interests overlapping several legal and illegal activities, e.g., financial interests in a legitimate concern were diverted and used to finance illegal activities. These types of activities are found in the GLGIP at the GS-12 level. The GLGIP describes a principal or financial backer in an organization consisting of separate manufacturers, distributors, and transporters of illegal drugs who normally do not know each other or the overall backer. Also described at the GS-12 level is the use of legitimate businesses to cover up illegal activities. In the Bribery of a Public Official and Impersonation cases, the organizations were using several restaurants and food service activities as "fronts" for their illegal activities. It was only through the appellant's undercover operations and surveillance that the scope of this investigation was determined and that Federal indictments and arrests of the subjects along with 78 other individuals took place during the course of the investigations. Further, the GS-12 level of the GLGIP discusses the target of these types of investigations as a prominent figure in organized crime or subversion. Similar to the description at the GS-12 level, the principal of the Bribery of a Public Official case was a known prominent figure in organized crime. The assignments presented as representative of the appellant's work do not entail the range and variety of activities of potential extreme harm to national security, nor do they involve the extremely complex structure and diversity of interests

of organizations found at the GS-13 level. Accordingly, this element is credited at the GS-12 level.

*Element 3. This element is concerned with the nature of separate investigative matters that grow from the original assignment.*

At the GS-12 level, a substantial number of separate investigative matters typically grow from the original assignment. For example, an investigation beginning with the pusher or passer of stolen or illegal goods (e.g., drugs, counterfeit money, or fraudulent documents) is expanded by piecing together bits of evidence (e.g., from interviews, surveillance, documentary examinations, informants), proceeds through the intermediate distributor, and eventually involves the manufacturer, backer, organizer, importer, etc.

In contrast, investigations at the GS-13 level involve suspected violators who are highly organized crime groups whose criminal activities are interwoven with legitimate business activities. For example, seemingly legitimate construction firms may have ostensibly legal contracts with States, and there is suspicion of bribery of State officials or fraud. The GS-13 investigator develops leads from known criminal activities and finds that these leads cross to legitimate businesses, with suspicion finally being cast on seemingly respected legitimate political, business, or professional leaders. Cases at the GS-13 level also often unfold to involve large scale raids and seizures throughout several states, which normally requires the GS-13 investigator to lead and coordinate several units of investigators from his own and other agencies in tracing leads and gathering information.

In the Impersonation case, the indictment of three subjects posing as representatives of the IRS, along with the identification of 78 others involved in this case, resulted in the execution of Federal search and arrest warrants in three states and several IRS Service Centers. There have been multiple indictments in this case; however, convictions are still pending. In the Bribery of a Public Official case, through the use of an undercover IRS Revenue Officer and the appellant's own investigative efforts the appellant was able to identify the subject as a confirmed member of the Gambino organized crime family. The appellant was also able to identify another potential suspect in the Bruno crime family which may lead into further investigation. While some of the casework on these cases is similar to the type of work discussed at the GS-13 level, the majority of work is representative of the type and scope of investigative matters found at the GS-12 grade level. The appellant's casework reflects the piecing together of evidence and information from interviews, surveillance, documentary examinations, and informants that allows him to penetrate an organization such as the Gambino organized crime family. The separate investigative matters that evolve from the appellant's cases do not meet the greater scope and complexity envisioned at the GS-13 level. Accordingly, this element is credited at the GS-12 level.

*Element 4. This element is concerned with the difficulty involved in establishing the relationship of facts or evidence.*

At the GS-12 level, investigations involve subjects who are suspected of major and complex criminal activity who are separated from the overt violation by an intermediary or organization, requiring the use of such techniques as surveillance, radio communication, toll-call checks, and scientific identification and scientific matching of various specimens to establish a direct link between the suspect and other violators. At this level, developing defensible testimony is dependent upon such techniques as pitting one violator, criminal, or witness against another; extensively checking the word of one against another; and exercising great care in establishing facts and evidence because of the prominence of the subject or the importance of the case.

In contrast, at the GS-13 level, the interrelationship between fact and evidence is extremely difficult to establish. For example, subjects use fictitious names or are otherwise clearly separated from each other and from the illegal activities under investigation. They deal exclusively through subsidiaries and holding companies engaging in diversified mixtures of legal and illegal activities throughout wide sections of the country, e.g., businesses throughout wide sections of the country run by organized crime families with subsidiaries engaged in a mixture of legal and illegal activities (e.g., legitimate enterprises that are multisite in scope and that obtain business through fraud or bribery). The work of other investigators or teams of investigators coordinated at the GS-13 grade level involve segments of cases that fully equate to cases that are described at the GS-12 level.

The cases presented by the appellant parallel the difficulty involved in establishing the relationships of facts or evidence described at the GS-12 level. These cases, while they entail the investigation of businesses engaged in a mixture of legal and illegal activities (e.g., the restaurants in the Bribery of a Public Official case; the tax preparation, food service, and consulting in the Impersonation case; the tax preparation in the Theft of Property by a Tax Preparer; and the use of fictitious names, addresses, and documents for these cases), do not reflect the complex construct of activities carried on throughout wide sections of the country as found at the GS-13 grade level. In addition, at the GS-13 level, the principals of the investigations deal exclusively through subsidiaries and holding companies and are clearly separated from the illegal activities under investigation. In the Bribery of a Public Official case, the taxpayer who is a member of the Gambino crime family discussed the illegal activities with an IRS employee and an IRS undercover agent who obtained evidence that led to indictment and subsequent conviction of the taxpayer. As discussed previously in this decision, the very structure and scale of the criminal activities in these cases fall short of the GS-13 level. Accordingly, this element is credited at the GS-12 level.

*Element 5. This element concerns the degree of sensitivity that the assigned cases involve.*

At the GS-12 level, cases involve subjects so prominent that after the first witness is interviewed, word of the interview precedes the investigator with the result that subsequent witnesses are

evasive because of reluctance to or fear of becoming involved in giving information that witnesses view as exploding into an important Federal case. The subject and his or her peers are very often the subject of major news media and, therefore, any investigation is likely to result in publicity and would to some degree cast suspicion on the reputation of the subject, or prejudice the investigator's case in court, or implicate subsequent administrative decisions.

In contrast, at the GS-13 level, investigations (1) receive sustained and widespread coverage in the major news media because of the prominence of the suspects or victims of the crime or threat if the investigation became public knowledge prematurely which could severely hamper the speed of the investigator's progress and endanger lives of victims, e.g., investigation of a major member of an organized crime family that must be tightly controlled to prevent the elimination of witnesses, to protect victims who are willing to testify, etc.; (2) have suspects whose financial involvements extend to enterprises that have a significant impact on the national economy, e.g., the transportation or banking industry; or (3) have suspects who are principals in financial or other enterprises that reach into State and Federal affairs, e.g., through attempted bribery, fraud, collusion, or extortion of public officials.

Because of the nature of the majority of the appellant's cases, no publicity is involved. However, the IRS Employee Conduct case could possibly result in publicity if the case goes to civil court where testimony by other witnesses who had their taxpayer accounts accessed by the subject could cause severe damage to the IRS image by showing one of its own employees was accessing taxpayer accounts without authorization. Although the subject of this investigation resigned, he may be criminally prosecuted at a later date, which could also result in publicity about the case. Since the subject in the Bribery of a Public Official case is a prominent member of the Gambino organized crime family, subsequent witnesses may be evasive because of reluctance to or fear of becoming involved in giving information which witnesses view as having possibilities of exploding into an important Federal case. This level of sensitivity is described at the GS-12 level, where the witnesses are fearful of becoming involved because of the prominence of the subject and the scope of the investigation. The protection afforded the appellant's informants and agents planted to infiltrate these various enterprises also reflects the caution necessary to penetrate the multiple level organizations investigated at the GS-12 level. The scope of the appellant's investigations and the subject's financial involvements do not reflect the impact on the national economy or the depth and breadth of potential governmental discredit and/or agency functional impact found at the GS-13 level. The news media attention afforded the appellant's cases falls short of sustained and widespread major news media coverage typical of GS-13 case figures. The scope and scale of criminal activities in the appellant's cases also fall short of the GS-13 level. Accordingly, this element is credited at the GS-12 grade level.

*Element 6. This element is concerned with the jurisdictional problems involved in case assignments.*

At the GS-12 level, jurisdictional problems involve subjects engaged in activities that are the concern of several local, county, State, and Federal agencies, e.g., drug use, traffic and

smuggling, forgery, and alleged subversion. The cases involve a web of relationships that require an extensive knowledge of the laws, rules, and policies of various jurisdictions because the investigator often plans and times raids and surveillance that involve use of local law enforcement agencies.

In contrast, cases at the GS-13 level involve extremely difficult planning and coordination problems because of extensive jurisdictional problems. For example, evidence may warn the investigator that his or her contacts in other jurisdictions are themselves involved in wide-scale criminal conspiracies, which requires the investigator to use such suspects in double or triple capacities, e.g., in getting and exchanging information without permitting such suspects to realize how they are being used.

As discussed previously, our fact-finding revealed the appellant was the primary case agent for and coordinated the multijurisdictional aspects of his investigations. In the cases forming the core rationale of the appellant's appeal, his suspects were engaging in activities concerning several local, county, State, and Federal agencies. For example, in the Workers' Compensation Fraud case, the appellant used contacts in Federal agencies from the U.S. Department of Labor, Social Security Administration, IRS, State employment agencies, and State medical and insurance boards for licensing and examination of medical/insurance records. In the Bribery of a Public Official Case, the appellant used contacts in Federal and State agencies from the Social Security Administration; IRS; [names of states] Alcohol Beverage Commissions; and [names of states] State Police. These types of jurisdictional problems and involvement described in the appellant's appeal rationale approach the level described at the GS-13 level. However, the information he provided does not suggest the cases entailed the use of suspects in double or triple capacities, and, as discussed in Element 1, the appellant's cases do not meet the breadth and depth of complexity envisioned at the GS-13 level necessitating the use of these techniques to penetrate GS-13 level wide scale criminal conspiracies. Therefore, although the appellant's cases may approach the GS-13 level in terms of jurisdictional issues, they do not meet the intent of the GS-13 level in that the cases involved are not of the scale and complexity envisioned at that level.

In addition, at the GS-13 level, undercover and surveillance work involves serving as a key person or coordinator in assignments with complex, dangerous, or delicate elements, e.g., penetration of closely knit groups where discovery on undercover assignment would not only result in great injury or death to the investigator but would cut off information linking the evidence together and thus jeopardize or destroy a critical case that the Federal Government had been developing for months or years, involving a network of State, local, and other Federal agents and informers. The appellant's work, despite the use of undercover agents and informers, does not meet the intent of the GS-13 level in that the cases involved are not of the scale and complexity envisioned at that level. Accordingly, this element is credited at the GS-12 level.

*Level of responsibility*

This factor measures the kind and extent of supervision given to investigators and the resourcefulness required in finding and verifying information pertinent to the cases assigned.

At the GS-12 level, investigators receive or generate their own assignments. They receive few instructions on the technical aspects of the work but are given mostly policy guidance, e.g., information on understandings of jurisdictional problems being worked out among agencies, or the fact that this is one of the first of a particular type of case since a new court decision, or authorization to follow a case into another district or region, if necessary. The GS-12 investigator is responsible for planning cases independently and working out arrangements with other jurisdictions, except in policy areas. For example, in setting up a joint raid involving Federal and local law enforcement, the investigator is responsible for planning and timing, but in coordinating the commitment of resources and staff the investigator must work through superiors.

In contrast, investigators at the GS-13 level receive assignments through program discussions, e.g., conferences or written directives that outline broad objectives to stop smuggling of a particular commodity at a given port. The GS-13 investigator outlines the objectives and boundaries of the assignment, plans the resources needed, and includes plans for assuring coordination with other jurisdictions. Instructions are more generalized than at the GS-12 level, and review of work is typically in the form of discussions at certain critical points, e.g., suggestions on the commitment of resources in other domestic or foreign offices that are normally approved. Recommendations for extension, modification, or adoption of new lines of inquiry are normally accepted, although the sensitivity and importance of the cases must be cleared by the very highest individuals in the agency. GS-13 investigators devise methods, techniques, and approaches to problems that often set patterns for subsequent investigations in similar areas and are often adopted for use by investigators at lower grades. GS-13 investigators are responsible for devising breakthroughs in investigative approaches, techniques, and policies. An extremely high degree of initiative and originality is required at the GS-13 level because of the various locations throughout a wide area under investigation; suspected violators typically retain the best legal or accounting advice available; and investigations often establish important precedents, e.g., the first case of a particular type investigated under a new provision of law, the outcome of which may affect pending cases or influence the decision on such cases in the future.

We find that the appellant operates with a high degree of independence and authority. As discussed previously, the appellant generates his own case assignments through informants, tips, and observations. The appellant receives a minimal amount of instruction from his supervisor and only consults him to recommend the coordination and/or commitment of resources to a case, as described at the GS-12 level. Evaluation of this factor to the GS-13 level is dependent upon, among other criteria, the investigative position performing assignments that create conditions warranting the delegation of authority and the development of breakthrough investigative methods, approaches, and techniques. The appellant's recommendations for investigative resources or additional lines of inquiry are approved and supported by the appropriate designated bodies. The appellant is expected to initiate and terminate cases, or recommend such action, based on a comprehensive knowledge and appreciation of technical investigative considerations and

knowledge of governing policies, procedures, and practices. The appellant's work is reviewed periodically, e.g., 90-day case review, in terms of effective and efficient accomplishment within guidelines and policies. Accordingly, this element is credited at the GS-12 level.

### *Summary*

In summary, we have evaluated both factors (complexity of assignments and level of responsibility) at the GS-12 level.

### **Decision**

The position is properly classified as Criminal Investigator, GS-1811-12.