

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

Atlanta Oversight Division  
75 Spring Street, SW., Suite 1018  
Atlanta, GA 30303-3109

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

**Appellant:** [Appellant]

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

**Organization:** Bureau of Alcohol, Tobacco and  
Firearms  
Department of the Treasury

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

**OPM decision number:** C-1811-12-17

\_\_\_\_\_  
Virginia L. Magnuson  
Classification Appeals Officer

September 3, 2002\_\_\_\_\_

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]

Mr. John G. Duclos  
Chief, Personnel Division  
Department of the Treasury  
Bureau of Alcohol, Tobacco and  
Firearms  
650 Massachusetts Avenue, NW.  
Room 4100  
Washington, DC 20226

Mr. Ronald A. Glaser  
Director, Office of Personnel Policy  
Department of the Treasury  
1500 Pennsylvania Avenue, NW.  
ATTN: Metropolitan Square  
Room 6075  
Washington, DC 20220

## **Introduction**

On April 22, 2002, the Atlanta Oversight Division, U.S. Office of Personnel Management (OPM) accepted a classification appeal for the position of Criminal Investigator, GS-1811-12, [organization], Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury, [geographical location]. The appellant believes the position should be classified as Criminal Investigator, GS-1811-13.

We have accepted and decided this appeal under section 5112(b) of title 5, United States Code (U.S.C.). We received a complete appeal administrative report on June 6, 2002.

## **General issues**

The appellant filed a classification appeal with his agency in August 2001. The agency determined that only work performed while at the appellant's full performance level could be considered in the appeal. It identified approximately 12 months of the work submitted in the appeal package as appropriate for consideration. The 12 months, however, did not meet the ATF "cycle of work" requirement. ATF has interpreted its minimum time period for the "cycle of work" requirement to be 18 – 24 months. ATF did not accept the appeal for adjudication.

The appellant states that he has completed in excess of 3300 documented hours of GS-13 level investigative work that is well above the required hours needed for promotion. By law, OPM must classify positions solely by comparing their current duties and responsibilities to OPM standards and guidelines (5 U.S.C. 5106, 5107, and 5112). Therefore, we do not use internal ATF promotion qualification guidelines in deciding this appeal. For the same reason, we do not consider the Vault Custodian work the appellant performed for fiscal year 2001. This was a collateral duty performed to safeguard evidence for the office.

The appellant notes that he served as Group Supervisor for several short periods of time. He also includes annual performance evaluations, award narratives, and letters of commendation as documents sustaining a GS-13 rating. These pertain to quality of performance. Quality of work and duties performed in another employee's absence cannot be considered in determining the grade of a position (*The Classifier's Handbook*, chapter 5). We considered the performance documents only insofar as they contain case information that is relevant to the classification process.

In reaching our classification decision, we have carefully reviewed all information furnished by the appellant and his agency. This includes information obtained from telephone interviews with the appellant; the Assistant Special Agent-in-Charge, the appellant's second level supervisor; a senior criminal investigator who served as Acting Group Supervisor for an extended period in 1999; and a representative from the human resources office. At the request of the appellant, we also contacted the appellant's former immediate supervisor.

## **Position information**

The appellant is assigned to position description number [#]. The supervisor has certified the accuracy of the position description. The appellant did not certify accuracy because he feels that the complexity of assignments and level of responsibility meet GS-13 criteria. Based on the

rationale in this evaluation, we determined that the position description is accurate for classification purposes.

The appellant independently conducts investigations that encompass the full range of violations under the laws enforced by ATF. He typically spends more than half of his time on firearms and explosives control work. He frequently serves as case agent and the ATF lead on joint investigations with other agencies. The appellant plans and conducts investigations, raids, searches, seizures, and arrests. These often require him to direct and coordinate the activities of several experienced ATF investigators and/or other Federal, state, and local law enforcement officials assigned to assist him in carrying out investigations. Subjects under investigation are single individuals or, more likely, groups that are affiliated, related, or dealing with groups in other locations, including international [geographical location] sites. Some subjects have their own organized operations in multiple cities or sites. The appellant coordinates with law enforcement agencies in other states and regions or with Federal agents located in other countries. Subjects are frequently prominent persons, known hoodlums or figures associated with militant or activist groups.

The appellant works with very general administrative and technical independence. He reports to the Supervisory Criminal Investigator who serves as Group Supervisor for the [organization].

Established OPM guidance requires that a representative work cycle be determined to establish what work is characteristic of a position for classification evaluation. OPM has found that sometimes, e.g., long-term criminal investigations, work cycles beyond one year are appropriate. The “cycle of work” representative of the position can vary from agency to agency, or even within a given agency. The representative period for determining the nature of duties and responsibilities for classification purposes is not fixed because some cases are protracted, sometimes requiring more than a year, and many of these require substantially full-time effort. As a result, it is not uncommon for one or two cases to occupy virtually all of an investigator’s work time for several months, a year, or even more. A work cycle ending almost two years before this case was accepted for adjudication cannot be considered the appellant’s current duties and responsibilities. The earlier investigations provide useful historical background. Our adjudication, however, must focus on the more recent work performed by the appellant, i.e., within the past two years given the extended period of time over which complex criminal investigations frequently evolve.

The appellant identified the timeframe for his appeal as April 2000 to the present. This is consistent with the “cycle of work” principle. As a part of his appeal, the appellant provided case summaries and documents for 20 cases he identified as complex investigations. In our telephone discussion, he identified 8 of these as representative of the types of cases that have been his primary responsibility for the past 2 – 3 years.

We eliminated the [case name] from our consideration. This case began in 1998 and was essentially completed by June 2000, though there is a spin-off case and informant leads for other possible cases. All defendants were arrested and, all but one, indicted by November 1999. The full scope of investigative work was completed outside the timeframe of the work cycle.

Two bombing cases identified by the appellant for consideration are not specifically included in our analysis. Both the [case names] began in 1999 with the appellant as a co-lead and in a developmental status with a second ATF agent, who is an explosives expert and signed the

investigative reports for the initial bombing investigation. In classifying investigative positions, it is particularly important, because of the variety of tasks and assignments normally carried out during an investigation, to consider the work assignments that are typical and representative of the cases for which the position has primary responsibility over a period of time. While the appellant is now the single ATF case lead in the two cases cited, the appeal record indicates that he assisted on the cases in the early stages. The cases are still evolving and the record does not identify significant activity other than investigative work since the initial bombing.

Some of the appellant's cases are continuing or have spin-off cases. He is/was the ATF case agent on all of them and, on some, was case lead in joint investigations with other law enforcement agencies. Following is a summary of these cases:

Case #764015-99-0035 [case name]

This case began when the [geographical location] Police Department ([geographical location] PD) and Drug Enforcement Administration (DEA) seized cocaine, firearms and cash from two houses under surveillance. The appellant's active involvement as the ATF case agent began in March 1999 (approximately 147 hours expended).

This case involved armed home invasions, illegal firearms trafficking, and a substantial, international, armed heroin and cocaine smuggling and distribution operation. The investigation resulted in the arrest of three defendants and the seizure of six firearms, 16 kilograms of cocaine, and over \$400,000. Two defendants pled guilty and testified against the third. The third fled in April 2000 while the jury was deliberating, but was found guilty in absentia. The fugitive capture occurred following information by a confidential informant to the appellant. It was developed through use of mobile and electronic surveillance, a title III electronic wire tap, cellular intercept, international firearms trace requests, and other investigative techniques. The appellant obtained the title III Electronic Wire Intercept and monitored it, in turn, with [geographical location] PD and DEA agents. The appellant also utilized a "trigger fish" device, which tracked the fugitive's location in [geographical location] through a cell phone provided by the confidential informant. The appellant coordinated with DEA, [geographical location] PD's narcotics agents, and the U.S. Attorney's Office. During the course of the investigation, the appellant traveled to [geographical location] where he coordinated with the U.S. Marshal Service (USMS) and a High Intensity Drug Trafficking Area (HIDTA) task force group there. The USMS arrested the fugitive. Information from the [case name] led to a still evolving second case involving five defendants.

Case # 764015-00-0037 [case name]

This investigation (approximately 1036 hours) began in June 2000 and ended in early 2001. The appellant developed the case from information provided by a confidential informant in June 2000. He notified DEA of large-scale drugs. ATF and DEA conducted a joint investigation with the appellant as both ATF and case lead. During more than 35 consensually monitored phone calls and meetings, the suspects implicated themselves in armed home invasions, illegal firearms trafficking, and a substantial, international, armed heroin and cocaine smuggling and distribution operation. The operation was primarily in the [geographical location] area with distribution to New York. The [drug group] was an organized drug family with suspected ties to an infamous drug cartel. The suspects were involved in an alleged business exporting computer parts to Columbia and used coded shipping terms for drug activities. During the case, the appellant coordinated with ATF and DEA agents in New York, Venezuela, and Columbia. The police in

[geographical location] were not contacted because of the organization leader's high connections in [geographical location]. During the drug exchange period, the appellant had to coordinate the confidential informant's meetings, phone conversations, coordination of constant surveillance, and operational personnel issues among ATF, DEA, and [geographical location] PD's Narcotics Bureau, which assisted in the investigation. The case required constant monitoring of the confidential informant. A second, confidential source was also used in Venezuela. All surveillance tapes were in Spanish and had to be translated for use. Under the appellant's direction, the confidential informant was successful in diverting 1200 grams of heroin into law enforcement custody while maintaining the integrity and secrecy of the investigation. A Federal search warrant, initiated by the appellant and executed by ATF, DEA and the [geographical location] PD, resulted in the arrest of one of the primary suspects. The agents seized two firearms, ammunition, a sports car, \$2000 and initiated proceedings against the residence. One undercover agent in the case was pulled off due to potential danger and the appellant utilized agency funds to relocate the confidential informant's family based on the impending safety issues. This case resulted in a spin-off case involving another armed, Colombian narcotics trafficker. One of the other suspects in the investigation is also under investigation for operating a five-man armed robbery crew suspected of several homicides and linked to the [case name] gang in Florida.

Case # 76401-00-0029 [case name]

This case (approximately 354 hours) was initiated in June 2000 by a confidential informant's tip to the appellant. ATF was lead agency for the investigation and the appellant was the ATF lead. The case involved a known, armed trafficker in narcotics and illegal firearms who subsequently was arrested. He indicated that his source for the firearms is a police officer. The suspect operated independently and was sending firearms to Colombian guerillas. The case began as a firearms case and the appellant later involved DEA and the [geographical location] PD's narcotics officers. During ten consensually monitored and recorded conversations and meetings among the defendant, an ATF undercover agent and an AFT cooperating informant, the defendant implicated himself with illegal firearms and heroin trafficking. He offered to deliver cocaine, negotiated the intended sale of 30 automatic rifles and several handguns, and provided a firearm/ammunition to a known convicted felon. The case involved use of an informant, undercover agent, cellular intercept, electronic video and mobile surveillance, international firearms trace, pager intercept, \$225,000 flash-roll requested from DEA and other investigative techniques. The case is ongoing.

Case # 764015-01-0055 [case name]

This case (now at approximately 300 hours) began with an investigation of members of the [organization name] by U.S. Customs Service (Customs) and [geographical location] PD. The appellant became involved as the ATF case agent in early 2000.

This investigation began with a crane operator moving sham cocaine through the port of [geographical location]. He created an organization of co-workers. During monitored and recorded meetings with a confidential informant, three suspects implicated themselves in armed narcotics trafficking. All three pled guilty. The case is continuing with an informant now working as an informant and providing contacts with longshoremen in other port cities. The appellant has initiated activity in New York City. The appellant is coordinating with law enforcement agencies there. Coordination requires planning and identifying necessary actions to

forward the case. This case involves an informant and several types of surveillance with the intent of getting to higher levels of suspected criminal involvement in the [organization name].

Case # 764015-01-0029 [case name]

This is an ongoing, armed narcotics trafficker case (approximately 251 hours) that began in April 2001 with a tip from a confidential source of information. It was worked as a joint investigation with the [geographical location] PD. The appellant is the ATF lead on the case. The case received considerable attention and was featured on the “America’s Most Wanted” television show.

A confidential informant identified a marijuana grow house to the appellant and a [geographical location] PD officer. Following surveillance, the agents executed a search warrant for the grow house and, later, the suspect’s second residence. The house contained various types of handguns, a shotgun, silencers, and ammunition, large amounts of drugs, \$248,000, counter-surveillance electronic device and other items. The suspect was operating as a police officer and was robbing dealers. The case also involved a possible kidnapping of the suspect’s son. The appellant coordinated with [geographical location] Police Department and law enforcement agencies in Pennsylvania in search of the suspect. The suspect operates with other narcotic dealers, but not with organized crime. He remains at large and the case is open. The case involved a variety of investigative techniques such as use of cellular and pager intercepts, various types of surveillance, records subpoena, and international firearms trace.

### **Series, title, and standard determination**

The agency classified the position in the Criminal Investigating Series, GS-1811. The appellant does not contest his series determination, and we agree. The title *Criminal Investigator* is authorized for nonsupervisory positions included in the GS-1811 series.

The Grade-Level Guides for Classifying Investigator Positions (GLGCIP), GS-1810/1811, February 1972, is used to evaluate the grade level worth of GS-1811 positions.

### **Grade determination**

The GLGCIP uses two factors to distinguish between grade levels: *Complexity of Assignments* and *Level of Responsibility*. It 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. These situations occur especially when additional staff is needed to maintain surveillance in several places on a 24-hour basis, when a large number of separate leads must be tracked down in a short amount of time, or when an investigation that is centered in one geographic area 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 will typically involve several principals for whom suspicion is initially aroused by circumstantial evidence, e.g., word of mouth, tips, or observations, rather than by directly verifiable evidence, e.g., paid bills, licenses, passports, or testimony. The evidence tends to be fragmentary or cold. Improper development and conduct of the case could cause significant repercussions, e.g., cause public embarrassment for the agency involved or the principals under investigation, or discredit the agency's investigative program.

At the GS-13 level, cases are of extreme complexity and scope. For example, the assignments involve investigations of legal or illegal organizations having very complex structures 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 threats to the nation's peace and stability. 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 resulting from conspiracies to engage in large scale distribution of drugs or other illegal items, the potential threat of large, multi-cell terrorist or other organizations. The results, effects, or consequences of the investigation, to a major degree, constitute deterrents to crimes or violations and may often directly influence changes in laws or future court actions.

The GS-13 investigator 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. The GS-13 investigator must also be more aware of the implications of precedent court decisions over a broader area, i.e., in more judicial and law enforcement jurisdictions.

The appellant became involved in or advanced the cases cited based on information provided by confidential informants [case names] and by other government organizations [case names]. In developing these cases, the appellant used a variety of investigative techniques including a title III wiretap and a "trigger fish." This is typical of the GS-12 level where initial evidence is circumstantial and requires the employment of sophisticated investigative techniques to develop hard evidence of the relationships and illegal activities.

Only one of the organizations investigated approaches the GS-13 level of complexity. The [drug group] organization, though not as large as anticipated at the GS-13 level, was a substantial drug family with a computer import/export business as cover for illegal activity. The appellant was the case lead over all agencies involved in the investigation and coordinated with agents in New York, Venezuela and Columbia in obtaining information. He had to anticipate events in



managing the case, e.g., he was able to divert drug money back to the law enforcement agency without adversely impacting the investigation. The [case name] case, however, did not have the full depth and scope of operations or numerous prominent suspects identified at the GS-13 level. The organization's activity was primarily in the [geographical location] area with shipment and distribution to New York. The organization was not identified as a threat to the nation's peace and security and did not have a large number of private and secondary subsidiaries.

Some of the appellant's cases had international ties and known drug dealers; none involved extremely complex structures comparable to the GS-13 level. The [case name] case is still evolving as a larger investigation of the [organization name] and has not reached a major interregional dimension or given indication of illegal activity posing potential threats or challenges to major segments of the national welfare or security. The other cases identified involved small or independent operations.

This element is credited at the GS-12 level.

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

At the GS-12 level, subjects typically are (1) suspected or known smugglers, etc., who are known as prominent figures in organized crime or subversion; (2) principals or financial backers in an organization consisting of separate manufacturers, distributors, and transporters of illegal drugs, alcohol, explosives, or weapons (where the separate parties do not normally know each other or the overall backer); (3) figures with financial interests overlapping several activities both legal and illegal; or (4) heads of organizations involved in legitimate business who are suspected of fraudulent activities which are carried out under the cover of the legitimate organization.

At the GS-13 level, subjects are suspected of being foreign agents who, with several associates, are planning acts extremely harmful to national security. Also, organizations under investigation have 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 appellant's investigations involved organizations or figures suspected or known to have major involvement in home invasions and armed, drug or firearms trafficking operations. The difficulty and complexity imposed by the subjects of these investigations meet the GS-12 level. In the [case name] case, the suspects were known as an organized drug family with a substantial, international, armed heroin and cocaine smuggling and distribution operation. They primarily operated in the [geographical location] County area, but also distributed drugs in New York. Though the organization operated an import/export business, its operation did not have the diversified interests and widespread distribution and sales outlets identified at the GS-13 level. Neither this nor the other assignments presented as representative of the appellant's work entail the range and variety of activities of potential extreme harm to national security, or 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 deals 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 begins with the pusher or passer of stolen or illegal goods, e.g., drugs or firearms. It expands by piecing together bits of evidence, e.g., from interviews, surveillance, documentary examinations, or informants; proceeds through the intermediate distributor; and eventually involves the manufacturer, backer, organizer, importer, etc.

At the GS-13 level, many separate investigative matters of great scope and complexity grow from the original assignment as typified by an investigation into highly organized criminal activities that are interwoven with legitimate business activities. For example, seemingly respectable construction firms have ostensible legal contracts with states, and there is suspicion of bribery of state officials or fraud. The investigation begins with criminal activities, crosses over to the legitimate businesses, and finally casts suspicion on respected legitimate political, business, or professional leaders. Cases at the GS-13 level often unfold to involve large-scale raids and seizures throughout several states, requiring the investigator to lead and coordinate several units of investigators from his own and other agencies in tracing leads and gathering information.

The complexity of the organizations investigated, the tie-in to legitimate business activities, and the scope of the raid and seizure activities led by the appellant do not meet the GS-13 level criteria described for this element. The [case names] cases involved one to three suspects with no legitimate business activities or identified organizational complexity. The initial [case name] case had only a few suspects; however, [defendant] is serving as a confidential informant operating to facilitate undercover penetration of the [organization name] in New York. The appellant is coordinating with law enforcement agents in New York in tracing leads and gathering information. The scope of this case is still evolving. The [case name] case approaches but does not meet the GS-13 level. It had criminal activities interwoven with a legitimate business, high level contacts in Venezuela precluding use of local police there, and need for the appellant to gather information to get to the principal of the organization. Three of the suspects are under investigation for other crimes. A spin-off investigation involved an armed Colombian narcotics and firearms trafficker who was apprehended. This case, however, did not have the many separate investigative matters of great scope and complexity, widespread raids and seizures, and the complex, integrated structures that reflect the pervasive and extensive reach of GS-13 organizations. The [case name] case is evaluated at the GS-12 grade level where the investigation proceeds through the intermediate distributor, and eventually involves the manufacturer, backer, organizer, importer, etc.

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, the subject is suspected of engaging in major and complex criminal activities and is separated from the overt violation by a middleman or organization. The investigation requires use of techniques such as surveillance, radio communication, and toll-call checks to establish a direct link between the suspect and other violators. Investigators at this level are required to verify and evaluate information with extreme care and may pit one violator or witness against another or extensively check the word of one against another. They must be

careful to avoid invasion of privacy or entrapment because of the prominence of the subject or the importance of the case.

At the GS-13 level, the interrelationship between fact and evidence is extremely difficult to establish. 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. 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 appellant's investigative assignments generally meet the GS-12 level though in some cases a middleman or organization is not involved. They do not meet the GS-13 level. There is no evidence that the subjects involved in the case examples deal exclusively through subsidiaries and holding companies that engage in diversified mixtures of legal and illegal activities throughout wide geographic areas. In the [case name] case, the organization used an import/export business as a front for smuggling, but there is no evidence that there was a link to any other business operations. In the [case names] cases, the appellant directed actions of other law enforcement agents in following leads and advancing the appellant's cases. There is no indication in the record that they accomplished segments of the case that fully equate to cases of GS-12 level difficulty.

This element is evaluated at GS-12.

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

At the GS-13 level, investigations 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. This could severely hamper the speed of the investigator's progress and endanger the lives of victims. For example, news of an investigation of a major organized crime family member must be closely controlled to prevent the elimination of witnesses or to protect victims who are willing to testify. The suspects' financial involvements extend to enterprises that have a significant impact on the national economy, e.g., the transportation or banking industry. The suspects 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.

All of the appellant's cases, as at the GS-12 level, involve use of confidential informants and/or undercover agents. This imposes a case sensitivity because of fear of becoming involved on the part of informants and safety issues for both. The magnitude of the appellant's investigations, the prominence of the subjects or their victims, and the activities in which they were involved

would not generate or warrant extensive and sustained coverage by major media organizations as identified at the GS-13 level. One case, [case name], attracted considerable attention not because the suspect was prominent, but because the suspect had kidnapped his son and a search of his house had turned up an alligator, 2 python snakes and Rottweiler dogs. The suspects and organizations, however, did not have or generate the financial resources necessary to significantly impact the national economy or subvert public officials through bribery, collusion or extortion.

This element is credited at the GS-12 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. The cases involve a web of relationships that require a more extensive knowledge of the laws, rules, and policies of these various jurisdictions because the investigator often plans and times raids and surveillance that involve use of local law enforcement agencies.

At the GS-13 level, cases involve extremely difficult planning and coordination problems because of extensive jurisdictional problems. For example, evidence may warn the investigator that his/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.

The appellant's jurisdictional problems meet the GS-12 level. The appellant was lead case agent for some of the identified cases and ATF case agent for all. As at the GS-12 level, he coordinated with other law enforcement groups to strategize methodologies and to request agent involvement, use of resources, such as Customs' air patrol or DEA's flash-roll, and actions for advancing cases. The appellant worked directly with law enforcement officials in the DEA, Customs, USMS, [geographical location] PD, and state and local agencies in New York, Illinois, Texas, Pennsylvania, etc. He also worked with the U.S. Attorney's Office in developing and presenting evidence. For cases with foreign ties, the appellant worked with DEA and ATF liaisons there. Although the appeal record does not identify major jurisdictional problems encountered in these investigations, the appellant was required to have an extensive knowledge of the rules, policies, and practices of all the jurisdictions represented in investigations in order to work effectively with them.

The jurisdictional issues do not meet the depth or complexity envisioned at the GS-13 level. There is no information to support that cases involved questionable contacts from other agencies, e.g., when local or state law enforcement agencies partnering in the investigation are themselves linked to wide-scale criminal conspiracies. There is also no indication of the use of suspects in double or triple capacities.

This element is credited at the GS-12 level.

All six elements are credited at the GS-12 level; therefore, complexity of assignments is credited at GS-12.

In addition to the assignment elements, the GLGCIP also makes grade-level distinctions for undercover, surveillance and protection work. At the GS-13 level, the investigator serves as a key person or coordinator in undercover surveillance and protection work that involves extremely complex, delicate or dangerous elements. It differs from GS-12 level work in that it is done for assignments with GS-13 characteristics. Because the appellant's cases do not meet GS-13 grade level complexity, his surveillance work fails to meet that level as described in the GLGCIP.

### *Level of Responsibility*

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

At the GS-12 level, investigators receive or generate their own case assignments. The investigator receives few instructions on the technical aspects of the work, but is primarily given policy guidance. Completed work is reviewed for accomplishment of overall objectives and adherence to policy. The investigator is responsible for independently planning cases and working out arrangements with other Federal, state and local jurisdictions, except in policy areas.

At the GS-13 level, investigators receive assignments through program discussions, conferences, or written directives that outline broad objectives, e.g., to stop the 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 in the investigation. Recommendations are normally accepted, although the cases are typically so important that plans must be cleared by the very highest officials in the agency. Methods, techniques, and approaches to problems devised by the GS-13 investigator often set patterns for subsequent investigations in similar areas and are often adopted for use by investigators at lower grades. The GS-13 investigator is responsible for devising breakthroughs in investigative approaches, techniques and policies, as well as for completing assigned cases.

The appellant's level of responsibility meets the GS-12 level. The appellant operates with a high degree of independence and authority under the overall direction of a Supervisory Criminal Investigator. He is responsible for generating his own case assignments through informants, tips, observations, and information received from other law enforcement personnel. The appellant receives minimal instruction from his supervisor and routine contacts with the supervisor are generally to keep that individual informed of the status of investigations that are in progress. Comparable to the GS-12 level, he is responsible for making arrangements with other organizations across numerous, local, state, and Federal jurisdictions during the course of his investigations. He is typically responsible for the coordination (planning and timing) of surveillance operations, execution of arrest and search warrants, using undercover agents, etc. Issues involving the commitment of resources to an investigation must be resolved at levels above the appellant's. The appellant's work is reviewed periodically in terms of effective and efficient accomplishment within guidelines and policies.

The appellant's level of responsibility does not meet the GS-13 level. His investigative cases are not of such importance, complexity or sensitivity as to require clearance by the very highest officials in the agency. The cases do not require a level or originality that would set a standard

for methods, approaches or techniques for other investigators. His investigations do not involve organizations with the scope of geographical coverage, organizational expertise and structure, and coordination of operations found at the GS-13 level.

This factor is credited at GS-12.

*Summary*

Both the *Complexity of Assignments* and *Level of Responsibility* are evaluated at the GS-12 level.

**Decision**

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