



**STATE OF WASHINGTON
OFFICE OF FINANCIAL MANAGEMENT**

STATE HUMAN RESOURCES DIVISION | DIRECTOR'S REVIEW PROGRAM
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May 5, 2016

TO: Kristie Wilson
Acting Rules and Appeals Program Manager

FROM: Kris Brophy
Director's Review Specialist

SUBJECT: Mark Keller v. Department of Corrections
Allocation Review Request ALLO-15-097

Director's Determination

This position review was based on the work performed for the twelve-month period prior to August 26, 2015, the date Department of Corrections Human Resources (DOC HR) received Sergeant Keller's request for a position review. As the Director's Review Specialist, I carefully considered all of the documentation provided by Sergeant Keller and DOC, the exhibits and the written comments provided by both parties. Based on my review and analysis of Sergeant Keller's assigned duties and responsibilities; I conclude his position is properly allocated to the Corrections and Custody Officer 3 (CCO 3) classification.

Background

On August 30, 2015, DOC HR received Sergeant Keller's Position Review Request (PRR), requesting that his CCO 3 position be reallocated to the Corrections and Custody Officer 4 (CCO 4) class. (Exhibit B-2)

DOC HR notified Sergeant Keller on December 3, 2015, that his position was properly allocated to the CCO 3 class. (Exhibit B-1)

On December 8, 2015, Office of Financial Management - State Human Resources (OFM-State HR) received Sergeant Keller's request for a Director's review of DOC's allocation determination. (Exhibit A-1)

On April 19, 2016, I conducted a Director's review conference with Sergeant Keller; Rozanne Stewart, Human Resource Consultant, DOC HR; and Mindy Portschy, Human Resource Consultant, DOC HR.

Rationale for Director's Determination

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. *Liddle-Stamper v. Washington State University*, PAB Case No. 3722-A2 (1994).

Organizational Structure

Sergeant Keller's position is located at the Cedar Creek Correctional Center (CCCC). His position reports to Vaaia Gaines, Correctional Lieutenant, who in turn reports to Douglas Cole, Superintendent.

Position Purpose

Sergeant Keller states in the Position Purpose section of the PRR that his position:

“...is responsible for command of all shift operations. This position is responsible for overall security and safety of the facility during the assigned shift. This position is responsible for assuming initial incident command for any emergency which arises until properly relieved. This position is required to ensure adequate staffing levels for the assigned shift are maintained. This position is responsible to ensure that all required emergency exercises, evacuation drills, and place safety muster are completed for the assigned shift.”

Duties and Responsibilities

Sergeant Keller describes his major job duties in exhibit B-2 as follows:

- 30% Overall responsibility for providing oversight and direction to staff for all normal and emergent facility operations during the assigned shift. Monitor security in zone of control which constitutes entire facility.
- 20% Ensure mandatory staffing levels are maintained using the ATLAS database. Ensure all pertinent entries are completed in ATLAS to accurately reflect coverage of all areas. Maintain ATLAS operations log for the assigned shift.
- 10% Responsible to design, activate, and document all required facility emergency exercises for the assigned shift. Responsible to conduct on-shift training and place safety musters as required.
- 10% Overall responsibility for completing IMRS, Use of force, ICS documentation, and for reviewing all documentation completed by staff on the assigned shift. Responsible for completing appropriate duty officer and law enforcement notifications during the assigned shift.

- 5% Assume initial incident command and direct all staff on duty during all emergencies. Utilizing the facility emergency management plan and applicable checklists, manage the incident until resolution is completed or you are properly relieved.
- 5% Conduct PREA and other workplace investigations as assigned. Review all incident report documentation for accuracy and completeness. Ensure that follow up is completed on all reports received as much as possible.
- 10% Complete required evaluations, performance management interviews, and approve leave for all direct reports.
- 7% Respond to offsite extended duty emergency assignments.
- 3% Coordinate various alarm responses to Maple Lane Correctional Facility when no staff is available to respond at that location.

Supervisor's Comments

Lieutenant Gaines completed the supervisor's section of the PRR. She indicates that Sergeant Keller's description of his assigned duties and responsibilities is accurate and complete.

In exhibit B-2, Lieutenant Gaines states Sergeant Keller's decision-making authority includes the following:

- decisions required to isolate, contain and respond to emergency situations as directed by policy.
- Initiate and approve segregation placements for fights and assaults.
- Assign overtime to maintain minimum required staffing levels.
- Use of resources as required to maintain operations.
- Initiate ICS and assume incident command.
- Decision to cease or restrict movement.

Summary of Sergeant Keller's Perspective

The argument presented by Sergeant Keller is stated in exhibit A-1 as follows:

"... I am formally requesting a Directors review of my Position Review Request which was submitted by me to my direct supervisor on 6-1-15. This request was completed by Department of Corrections Human Resources Classification Unit on 12-3-2015 and they believe that my position is correctly classified. My request suggested that Shift Sergeant positions at stand-alone minimum security facilities be added to the Corrections and Custody Officer 4 classification.

They have responded that it is not within department authority to change the definition of a classification, this authority rests with the Statewide Human Resources Director. I am requesting that this option be considered due to the higher level of responsibility for my position.

The most current position description for my position is completely out of date, 2009. It refers to a much lower level of overall responsibility for facility operations. It describes my position as being responsible to be a "Strike Team Leader" who reports to the "Shift Lieutenant / Incident Commander" during emergency responses. There are no Shift Lieutenant positions included in our staffing at this time as there was in 2009. My position currently holds responsibility to assume the Incident Commander position during any emergency which may arise. I am solely responsible for the security and safe resolution of incidents which occur on my shift when I am on duty. My zone of control encompasses responsibility for the entire facility. I have been a permanent Shift Lieutenant at a major institution as well as a Shift Sergeant. I am aware of their roles and responsibilities. With exception of a second level supervision requirement, the tasks and level of responsibility of my position as well as all Shift Sergeant positions at stand-alone minimum facilities more closely aligns with a WMS Shift Lieutenant at a major facility. In fact, the department has changed all references to "Shift Lieutenant" in policy. It now uses the term "Shift Commander" instead.

I would ask that when you conduct this review, that you review the following items in addition to the reference materials used for the agency review:

- A random sample of position descriptions for Shift Lieutenants at any of the major institutions.
- A random sample of position descriptions for Shift Sergeants at major institutions.

If these are reviewed, it will clearly show that the responsibilities of stand-alone facility shift commanders more closely align with the responsibilities of a Shift Lieutenant at a major institution. It will also show that a Shift Sergeant at a major institution has a lower level of responsibility than me.

The overall safety, security, and accurate resolution of emergencies at this facility ultimately rests with me during my shift. There is no higher level of command at this facility to assume responsibility for the largest majority of my shift, and even if there were, I would still be expected to assume command and direct response until, and if I am properly relieved."

In total, Sergeant Keller believes the scope of his duties and level of decision-making authority reaches the CCO 4 class. Part of Sergeant Keller's argument involves revising the CCO 4 classification to include the scope of work performed by Shift Sergeant positions at stand-alone minimum security facilities. However, the Personnel Resources Board has previously determined that the allocation of a position must be based on the overall duties and responsibilities assigned to an individual position compared to the existing classifications. The allocation or misallocation of a similar position is not a determining factor in the appropriate allocation of a position. *Byrnes v. Dept. Corrections*, PRB No. R-ALLO-06-005 (2006) citing *Flahaut v. Dept's of Personnel and Labor and Industries*, PAB No. ALLO 96-0009 (1996).

Therefore, the scope of this Director's review is limited to making a comparison of the duties and responsibilities of a particular position to the available class specifications. The purpose of this review is to make a determination of the class that best describes the overall duties and responsibilities of the position. See *Liddle-Stamper v. Washington State University*, PAB Case No. 3722-A2 (1994). Therefore, Sergeant Keller's request to revise the definition of an existing classification to incorporate the work of Shift Sergeants at stand-alone facilities falls outside the scope of this Director's position review.

Summary of DOC's Perspective

The argument presented by DOC in exhibit B-1 is summarized as follows:

- Sergeant Keller's position does not include responsibility for armed interstate offender transport services as required by the definition for CCO 4.
- Sergeant Keller performs administrative tasks delegated by his supervisor and supervises Corrections and Custody Officers. His position performs custody work to ensure the safety and security of an adult correctional institution, offenders, staff and the public.
- His duties and responsibilities are consistent with the requirements of the CCO 3 class.

Comparison of Duties

When comparing the assignment of work and level of responsibility to the available class specifications, the Class Series Concept (if one exists) followed by the Definition and Distinguishing Characteristics are primary considerations. While examples of typical work identified in a class specification do not form the basis for an allocation, they lend support to the work envisioned within a classification.

Comparison of Duties to the Corrections and Custody Officer series

The Class Series Concept for this series states:

Performs security work to ensure the safety and security of a correctional institution, facility, or unit, offenders, staff and the public; handles drug detection and search dogs; transports offenders to and from adult correctional facilities and/or performs security mail room duties to include receipt, control and proper unescorted delivery of mail to offenders in living units.

Depending on the assigned post, incumbents at this level may be involved in performing tasks that include, but are not limited to: working directly with special needs offenders; recommending offender custody, work, training or release actions; writing reports and observations; maintaining daily activity logs; advising offenders regarding problems, institution programs, policies and behavior standards; using independent judgment to take emergency action to include verbal de-escalation, physical and lethal uses of force; assisting in implementing treatment plans; testifying at hearings or in court; or, assisting in conducting investigations as the on-scene officer.

Comparison of Duties to Corrections and Custody Officer 4 (CCO 4)

The Definition for this class states:

Performs armed interstate offender transport services for the Department of Corrections.

There are no Distinguishing Characteristics for this class.

The scope of Sergeant Keller's position does not meet the primary allocating criteria of the definition of this class of performing armed interstate offender transport services.

Further, because this class does not contain distinguishing characteristics we can look to the typical work statements for guidance regarding examples of work performed at this level. The typical work statements describe the following duties:

Arranges and conducts prisoner transports to and from other states and Federal prisons, including escapees parole violators and protective custody cases; transports work/training releases and violent psychiatric patients between correctional facilities, local jails, mental hospitals and other jurisdictions;

Is in charge of movement of inmates to and from work assignments, meals, recreation and calls; supervises admission and release of inmates;

Directs inspection of incoming and outgoing vehicles, materials and supplies for contraband;

Makes, receives and checks periodic counts of inmates; reports infractions of rules and irregular and suspicious occurrences; takes or recommends appropriate action; issues passes for visitors and movement of employees and inmates within institution;

Makes arrangements for prisoner transport trips; coordinates with and enlists assistance of airport security, local law enforcement officials and Federal marshals in accomplishing transport operations;

Prepares and submits Transport Reports to the Parole Board for use at probable revocation hearings; appears in Court; serves warrants;

The scope of Sergeant Keller's position duties do not align with these statements. For example, while one aspect of his work does include responsibility for providing administrative oversight of offender movement within the CCCC facility during his assigned shift, the scope of his position does not align with the primary focus of this class of providing armed interstate transport services. Rather, his position has overall responsibility for providing supervision, oversight and direction to Custody Officer staff for normal and emergent facility operations during his assigned shift. In total, Sergeant Keller's position does not meet the primary allocating requirements of this class.

For these reasons, Sergeant Keller's position should not be allocated to the CCO 4 classification.

Comparison of Duties to Corrections and Custody Officer 3 (CCO3)

The Definition for this class states:

Supervises Corrections and Custody Officers and performs custody work to ensure the safety and security of an adult correctional institution, facility, or unit, offenders, staff and the public; supervises officers in the transport of offenders to and from facilities within the state; serves as a COACH or CORE sergeant; supervises all staff in the mail room of a facility with a rated capacity of 1,000 or more offenders; or, responsible for the armory. Incumbents at this level may perform administrative tasks or be assigned projects delegated by their supervisor.

On a best fit basis, Sergeant Keller's duties more accurately align with the allocating criteria stated in the definition of this class.

For example, Sergeant Keller's position meets the primary allocating criteria of this class of supervising Corrections and Custody Officers and performing custody work to ensure the safety and security of the CCCC facility.

As Shift Commander for his assigned shift, Sergeant Keller performs assigned administrative tasks to control, direct and monitor the activities and overall movement of all adult offenders within the facility. This includes responsibility for providing oversight and direction to staff for all normal and emergent facility operations including assuming incident command responsibility during emergency situations. His level of decision making authority as the Shift Commander includes responsibility for making decisions as necessary to isolate and contain offenders and to respond to all emergency situations as directed by policy. He also initiates and approves segregation placements for fights and assaults. He assigns overtime to maintain minimum required staffing levels and determines the use of resources to maintain operations. He also has responsibility for making decisions to cease or restrict the movement of offenders as necessary.

In total, while aspects of Sergeant Keller's assigned administrative work as a designated Shift Commander reaches beyond the scope of work generally performed at this level, on a best fit basis, this class more accurately describes the overall focus, scope and level of work performed by Sergeant Keller.

In *Salsberry v. Washington State Parks and Recreation Commission*, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of *best fit*. The Board referenced *Allegri v. Washington State University*, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position.

Based on the level, scope and breadth of Sergeant Keller's assigned duties and responsibilities, his position should remain allocated to the CCO 3 classification.

Appeal Rights

RCW 41.06.170 governs the right to appeal. RCW 41.06.170(4) provides, in relevant part, the following:

The agency utilizing the position, may appeal the allocation or reallocation to the Washington personnel resources board. Notice of such appeal must be filed in writing within thirty days of the action from which appeal is taken.

The mailing address for the Personnel Resources Board (PRB) is PO Box 40911, Olympia, Washington, 98504-0911. The PRB Office is located on the 3rd floor of the Raad Building, 128 10th Avenue SW, Olympia, Washington. The main telephone number is (360) 407-4101 and the fax number is (360) 586-4694.

If no further action is taken, the Director's determination becomes final.

c: Mark Keller, DOC
Rozanne Stewart, DOC

Enclosure: List of Exhibits

MARK KELLER v DOC

ALLO-15-097

LIST OF EXHIBITS

A. Mark Keller Exhibits

1. Director's Review request received December 8, 2015
2. December 3, 2015 DOC allocation determination letter
3. Position Review Request submitted to supervisor on 6/1/15, received by HR 8/30/15
4. Current position description September 22, 2009
5. Current post orders

B. DOC Exhibits

1. Allocation determination letter, dated December 3, 2015
2. Position Review Request, received by the Agency on August 30, 2015
3. Current Position Description on file, received by the Agency on September 22, 2009
4. Supervisor's Position Description, dated June 6, 2014
5. Organization Chart for Cedar Creek Corrections Center (CCCC) - Custody, August 2015
6. Corrections & Custody Officer 1 Class Specification
7. Corrections & Custody Officer 2 Class Specification
8. Corrections & Custody Officer 3 Class Specification
9. Corrections & Custody Officer 4 Class Specification

C. State HR Class Specifications

1. Corrections & Custody Officer 1 Class Specification
2. Corrections & Custody Officer 2 Class Specification
3. Corrections & Custody Officer 3 Class Specification
4. Corrections & Custody Officer 4 Class Specification