

**STATE OF WASHINGTON**  
**OFFICE OF FINANCIAL MANAGEMENT**  
STATE HUMAN RESOURCES | DIRECTOR'S REVIEW PROGRAM  
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July 15, 2014

TO: Teresa Parsons, SPHR  
Director's Review Program Supervisor

FROM: Kris Brophy, SPHR  
Director's Review Program Investigator

SUBJECT: Murray Cox v. Department of Corrections (DOC)  
Allocation Review Request ALLO-13-070

This position review was based on the work performed for the twelve-month period prior to August 22, 2012, the date DOC HR at Airway Heights Corrections Center (AHCC) received Mr. Cox's request for a position review. As the Director's Review Investigator, I carefully considered all of the documentation in the file, the exhibits, and the written comments provided by both parties. Based on my review and analysis of Mr. Cox's assigned duties and responsibilities, I conclude his position is properly allocated to the Corrections and Custody Officer 2 (CO 2) classification.

**Background**

On August 22, 2012, DOC Human Resources (DOC HR) at AHCC received Mr. Cox's Position Review Request (PRR), requesting that his CO 2 position be reallocated to the Investigator 2 class (Exhibit B-2). This form was completed and signed by Mr. Cox on August 22, 2012. In addition, his supervisor, Mr. John D. Servatius, Investigator 3, signed the PRR on August 22, 2012. Following the agency's internal procedures, the form was subsequently signed by the Superintendent, Ms. Maggie Miller-Stout and submitted to DOC HR at AHCC on June 12, 2013. During the course of the review conference, the parties confirmed that the effective date of the reallocation request is August 22, 2012.

In addition, a management-initiated updated Position Description form (PDF) was submitted to DOC HR at AHCC on June 16, 2013 (Exhibit B5).

DOC HR conducted a position review and notified Mr. Cox on August 30, 2013 that his position was properly allocated to the CO 2 class (Exhibit B-1).

On September 11, 2013, State Human Resources, OFM received Mr. Cox's request for a Director's review of DOC's allocation determination (Exhibit A-1).

On May 1, 2014, I conducted a Director's review telephone conference with Mr. Cox. Also present for the conference were Mr. John Servatius, Chief Investigator, and Ms. Sarah Conley, Human Resource Consultant (HRC), DOC HR. Also in attendance as observers were Ms. Angela Ripke, HRC, DOC HR at AHCC; and Ms. Lori Olsen, HR Manager, DOC HR at AHCC.

During the discussion the parties agreed to postpone the conference to allow Ms. Conly the opportunity to discuss with higher level management the possibility of resolving the appeal. However, resolution did not occur and a subsequent review conference was conducted on May 29, 2014.

During the conference I asked Ms. Conly to gather information regarding the time Mr. Cox spends performing investigative and canine duties. Ms. Conly gathered and submitted this information on June 16, 2014. Mr. Cox submitted a final reply to this information on June 23, 2014. This information has been added to the record and incorporated as exhibits to the file.

### **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).

### **Duties and Responsibilities**

Mr. Cox's position is assigned to the Intelligence & Investigations Unit (IIU) within the Superintendent's Office at AHCC. Mr. Cox reports to Mr. John Servatius, Chief Investigator (Investigator 3).

The purpose of Mr. Cox's position is to detect and interdict narcotic activity at AHCC. His position provides narcotic canine, investigative, surveillance and other related corrections and custody support to keep narcotics and contraband from entering the facility. Mr. Cox has primary responsibility for two narcotic canines and is a master narcotic trainer. Mr. Cox stated during the review conference that due to cutbacks within DOC, he is the only K9 handler assigned to the eastside of the State. Mr. Cox states in his comments that he is used by local law enforcement to supplement their canine teams. He also occasionally travels the state assisting other DOC facilities requiring canine services. His duties also include performing investigations, monitoring the inmate phone system, and interviewing civilian and inmates regarding felony activities committed at the facility.

Mr. Cox's major job duties are summarized in the PRR (exhibit B-2) as follows:

- 50% Subject matter expert regarding canine procedures and responsibilities.
- Utilizes assigned drug dog(s) as a tool to participate in illegal drug and contraband interdictions.
  - Provide investigative narcotic K9 assistance to other DOC facilities as directed by the HQ SIS Chief of Investigative operations and HC Canine Manager.
  - Plans, directs, coordinates and implements narcotic K9 searches. Performs random and targeted canine searches of offenders, visitors, contract staff, volunteers, DOC staff and others. This includes searches of personal and state property and vehicles per policy.
  - Provide investigative assistance and K9 utilization on request based on availability to Local, State, and Federal law enforcement and other DOC

facilities.

- Maintain log books per policy, for each assigned K9, on a daily basis pertaining to all K9 utilization, deployments/confiscation of illegal narcotic and related contraband, medical issues, training, daily kennel maintenance, daily dog grooming and other documentation required by policy. Conduct 4 hours of maintenance training per assigned dog weekly. Document training in log book.
- Maintain separate training aid log listing current dog training aids with amounts complying with Board of Pharmacy and DEA standards of accountability and conducts monthly training aid inventories. Indicate daily training aid use per policy. Maintain current licensing.
- Maintain assigned K9 vehicle in clean condition. Ensure regular maintenance is performed.
- Canine handlers must attend and successfully complete the 240 hour Narcotic Detection Canine Academy, certify once with assigned canine as required by CJTC and accredit yearly as a canine team with the Washington State Police Canine Association.

45% Investigations - Follows the Department's policies, State/Federal Laws and Ethical practices.

- Initiates the collection, cultivation, analysis and dissemination of narcotics information to appropriate stakeholders while maintaining the highest level of confidentiality. Ensures HQ Chain of Command, IIU Chief Investigators, Superintendents and managers are provided with appropriate/accurate information related to narcotics.
- Conducts complex, criminal and/or administrative investigations involving offenders, staff and civilians and may refer completed reports to appropriate authority. This includes physical access to all areas of DOC's institutions, work release facilities and field offices in order to talk to all involved offenders and staff and conduct complete case reports.
- Conduct and manage interviews of suspects and witnesses and prepare and/or review statements of fact.
- Provide assistance and acts as a liaison to Law Enforcement, Prosecutors, and Attorney General's Office in gathering of evidence or information required for individual cases.
- Investigate complaints of employee misconduct as directed by the Chief Investigator and Superintendent. This activity will be minimized as much as possible as the primary focus should be on offender activities as they relate to staff, facility and public safety.
- Participates in drug contraband interdictions.
- Compiles documentation/case files relevant to intelligence on activity conducted by staff, offenders, visitors, and associates.
- Participates in the collection and dissemination of intelligence information on Security Threat Groups and membership validation process.
- Monitors the offender telephone monitoring system. Operates electronic monitoring, photographic and recording equipment.
- Maintains the preservation and maintenance program record, evidence and

ensure compliance with document archiving schedules and processes.

- Assure unit's timely response to Public Disclosure requests and work closely with the Public Information Officer.
- Submit reports and provide communication as directed by the Statewide IIU Program requirements.
- Ensure staff and managers are provided with appropriate information related to offender investigations. Provide training regarding security and Investigative issues to staff.

### Supervisor's Comments

Mr. John Servatius, Chief Investigator, completed the supervisor's portion of the PRR. Mr. Servatius indicates that Mr. Cox's description of his assigned duties and responsibilities is accurate and complete. Mr. Servatius stated during the review conference that he fully supports Mr. Cox in his reallocation request.

### Summary of Mr. Cox's Perspective

Mr. Cox asserts his position meets the requirements of the Investigator 2 class. He asserts his position has assumed increasing responsibility for conducting investigations involving narcotic and contraband introduction, possession and distribution within the AHCC facility. He states that his position provides direct investigative support to his Unit. He asserts his investigative duties include using electronic surveillance, telephone, email and hard mail resources and techniques that are inconsistent with Correctional Officer duties. Mr. Cox asserts he completed assigned investigative cases during the review period which is fully consistent with the requirements of the Investigator 2 class. This includes:

- Monitoring the offender telephone monitoring system.
- Conducting and managing interviews of suspects and witnesses and preparing and/or reviewing statements of fact.
- Participating in drug contraband interdictions.
- Compiling documentation and establishing case files.
- Preparing final reports and reporting appropriate information related to his assigned investigations.

For these reasons Mr. Cox asserts the scope of his duties meet the requirements of Investigator 2 and his position should be reallocated to that class.

### Summary of DOC's reasoning

DOC asserts the purpose of Mr. Cox's position is to detect and interdict narcotics activity. DOC states that his duties have remained consistent over time. DOC states that although he has assumed some additional investigative work in support of his unit, his position continues to focus on deterring and mitigating narcotic activity as a CO canine specialist consistent with the CO 2 class. For these reasons, DOC contends Mr. Cox's position is properly allocated to that 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 Investigator series

The Class Series Concept for the Correctional Specialist series states:

Positions in this series conduct civil and/or criminal investigations in a variety of areas including allegations of fraud or collusion among recipients of public assistance or industrial insurance, allegations of fraudulent and/or unfair business and insurance practices, misconduct, and allegations of civil rights violations.

Positions gather facts and develop evidence with responsibility for developing the complete case from the original claim or allegation through preparation for presentation in court or administrative hearing. This includes researching records and case files; gathering and preserving documentary evidence; obtaining statements of fact, depositions, or confessions; obtaining and serving subpoenas to compel the attendance of witnesses or the production of records; conducting field surveillance; obtaining and coordinating the service of search warrants; writing investigative reports, establishing proof of facts and evidence; reviewing the case with private attorneys, assistant attorneys general, or prosecuting attorneys; and testifying in court or other proceedings as necessary.

### Comparison of Duties to Investigator 2

The Definition for the Investigator 2 class states:

Conducts complex investigations in order to substantiate allegations of fraud, misconduct, discrimination, fraudulent and unfair business practices, or other claims under state jurisdiction

The Distinguishing Characteristics for this class state:

Positions work independently to investigate and resolve complex civil or criminal cases which are characterized by: multiple claimants; internal personnel investigations; fraud or collusion among claimants, employers and providers; alleged violations within the vehicle/vessel industry; or allegations of welfare fraud.

Positions may receive limited guidance from senior level Investigators, possessing advanced knowledge, in unique situations. This guidance will be infrequent.

The Investigator series describes positions that conduct civil and/or criminal investigations in a variety of areas. Positions at this level conduct complex investigations and work independently to investigate and resolve complex civil or criminal cases. This work involves gathering facts and developing evidence. In order to meet the primary allocating criteria for this series,

incumbents are responsible for developing the complete case from the original claim or allegation through preparing the final report for presentation in court or administrative hearing.

During the review conference Mr. Servatius clarified that when he took over control of the Investigations unit, he began giving Mr. Cox various investigative work assignments to support the unit's increased work load activities. This gradually expanded in scope to the point that Mr. Cox independently completed nine investigations during the review period as noted in Exhibit B-8. Mr. Servatius stated that Mr. Cox worked these cases from the original claim or allegation through the preparation of the case final report for presentation as noted in the agency's tracking system.

However, although the amount time Mr. Cox spends performing investigative work in support of his unit's activities has increased, the portion of time Mr. Cox spent completing Investigative cases did not constitute the majority of his time worked during the review period as indicated in Mr. Cox's description of his work duties in the PRR (Exhibit B-2).

Rather, Mr. Cox's position provides expert narcotic canine support in order to keep narcotics and contraband from entering the facility. Mr. Cox has primary responsibility for two narcotic canines and is a master narcotic trainer. His position has daily responsibility to use his drug dog(s) as tools to interdict drugs and contraband from the AHCC facility.

In addition, Mr. Cox stated during the review conference that due to cutbacks within DOC he is the only K9 handler assigned to the eastside of the State. Mr. Cox states in his comments that he is used by local law enforcement to supplement their canine teams. He also occasionally travels the state assisting other DOC facilities requiring canine services. His duties also include participating in searches, monitoring the inmate phone system and interviewing and questioning civilian and inmates regarding felony activities committed at the facility. The focus and thrust of this work falls within the scope of the Corrections and Custody class series which specifically addresses his canine specialty as well as other aspects of his related investigative activities as a correctional officer within the facility.

Therefore, while a portion of Mr. Cox's time during the review period was spent performing work as an Investigator to complete assigned cases, the total portion of this work did not constitute a majority of his time as required for allocation to the Investigator 2 class. Rather, the majority of Mr. Cox's work activities consisted of serving as canine expert and performing the duties of a Correctional canine officer for the facility and performing other related activities.

For these reasons Mr. Cox' position should not be allocated to the Investigator 2 class.

#### Comparison of duties to Corrections and Custody Officer 2 (CO 2)

The Definition for this class states:

This is the fully qualified Corrections and Custody Officer. Incumbents at this level perform under minimum supervision. Incumbents may be given a lead role over other Corrections and Custody Officers and may be assigned specialized assignments that require a higher degree of independent judgment, such as writing field instructions or post orders, investigating tort claims, etc. Incumbents at this level will monitor completion of on-the-job training requirements performed by lower level officers. This class is distinguished from the Level 3 class by first line supervisory responsibilities, including performance appraisals and corrective

action. Incumbents at this level may also be assigned as a relief officer for posts normally held by higher-level custody staff.

The majority of Mr. Cox's duties are consistent with the definition of this class. Mr. Cox serves as a fully qualified Corrections and Custody Officer. He is fully competent and qualified in all aspects of his work. He works under the general guidance of his supervisor and completes his work assignments independently under minimal supervision. This is fully supported in the comments provided by his supervisor, Mr. Servatius.

The CO 2 classification does not contain distinguishing characteristics; therefore we can look to the typical work statements for guidance. The following typical work statements provide examples of work performed by incumbents at the CO 2 level:

Assists in controlling, directing, and monitoring the activities and movement of offenders ... within a specified area, to ensure the security and safety of offenders, staff and the public; works directly with special needs offenders, to include long term, mentally ill, geriatric, youthful offenders, etc.;

Takes emergency action and intervenes in and controls acts of negative behavior and violence by using verbal de-escalation, physical and lethal uses of force such as restraints, firearms, or other devices as required following prescribed procedures and guidelines; conducts visual surveillance of security perimeter and monitors vehicle and foot traffic entering and leaving facility in order to detect abnormal or suspicious activity, and to detect inappropriate behavior;

Writes reports and observations pertaining to occurrences that require action by supervisor and incident or disciplinary reports detailing incorrect offender behavior, violation of rules and regulations; maintains official logs; testifies at disciplinary hearings, classification committees, release hearings, and court proceedings; recommends offender custody, work, training or release actions;

...serves as K-9 officer using a trained dog to control offenders, search for drugs and contraband, etc.;

Performs random and specific searches and inspections of offenders and visitors; searches offender housing, buildings, physical plant, supplies and offenders personal property to seize dangerous items, evidence, contraband and controlled or unauthorized substances; maintains proper use, control, and accountability of keys, tools, equipment, etc.; performs inventory on, control and account for, offender personal and state property;

Briefs supervisors and relieves staff regarding current issues/areas of concern (i.e., pass on pertinent information) in order to be aware of a situation or to take appropriate action; advises offenders regarding problems, institution programs, policies, and behavior standards;

Operates communication devices such as two-way radio, telephone, etc., to convey information among personnel and to refer callers to appropriate areas; may be responsible for the training and qualification of all designated staff in the use of firearms, chemical agents, etc.;

Observes offenders for unusual or significant behavior; participates in directed treatment plan for offenders; inspects assigned area such as rooms, hallways, bathrooms, etc. and take action when necessary to maintain established sanitary, health and safety standards;

Assists in conducting investigations as the on-scene officer; answers questions of offenders and visitors concerning rules, regulations and procedures; investigates offender complaints; responds to all types of complaints;

Mr. Cox's duties are consistent with these statements. His position detects and interdicts narcotics activity at the AHCC facility.

Although a portion of Mr. Cox's job involves performing investigations, the majority of duties and the primary focus of his position at the time relevant to this request fully meet the CO 2 class of serving as K-9 officer using a trained dog to control offenders, search for narcotics and other drugs and contraband. Mr. Cox stated that his position has primary responsibility for using his assigned drug dog to assist in controlling, directing, and monitoring the activities and movement of offenders and visitors within a specified area of the AHCC facility. His position functions to ensure the security and safety of offenders, staff and the public.

He also conducts visual surveillance of visitors and other foot traffic entering and leaving the visiting area of the facility in order to detect abnormal or suspicious activity, and to detect inappropriate behavior and to interdict drugs and other contraband.

As the facility's canine officer, he performs specific searches and inspections of offenders and visitors and searches areas of the facility to find and seize dangerous items, evidence, contraband and controlled or unauthorized substances. This also includes assisting in conducting investigations or ongoing inspections.

In total, the majority of Mr. Cox's duties fall within the scope of the typical work statements of this class.

Most positions within the civil service system occasionally perform duties that appear in more than one classification. However, when determining the appropriate classification for a specific position, the duties and responsibilities of that position must be considered in their entirety and the position must be allocated to the classification that provides the best fit overall for the majority of the position's duties and responsibilities. See Dudley v. Dept. of Labor and Industries, PRB Case No. R-ALLO-07-007 (2007).

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 concurred with the former Personnel Appeals Board's conclusion 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. Allegrì v. Washington State University, PAB Case No. ALLO-96-0026 (1998).

Based on the information provided and the discussion held during the Director's review telephone conference, it is clear Mr. Cox has an important role at AHCC. However, a position review is not an evaluation of performance. Likewise, it does not reflect an individual's ability to perform higher-level duties. Rather, a position review is limited to the duties and responsibilities

assigned to a position and how the majority of those duties best fit the available job classifications.

During the Director's review conference, the parties indicated that Mr. Cox's position continues to perform added functions involving investigations. If his duties and the overall focus of his position shifts, he may request a position review based on the changes to his assigned duties.

Therefore, based on the overall scope of his work, the CO 2 classification more accurately describes his position. Mr. Cox's position should remain allocated to the CO 2 class.

### **Appeal Rights**

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

An employee incumbent in a position at the time of its allocation or reallocation, or 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 3<sup>rd</sup> floor of the Raad Building, 128 10<sup>th</sup> 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: Murray Cox, DOC  
Sarah Conly, DOC  
Lisa Skriletz, OFM

Enclosure: List of Exhibits

**Murray COX v DOC**  
**ALLO-13-070**

List of Exhibits

A. Murray Cox Exhibits

1. Request for Directors Review from Murray Cox received September 11, 2013 (2 pages)
2. Copy of allocation determination letter from Linda Sutherland to Murray Cox dated August 30, 2013. (4 pages)
3. Position Description Form (PDF) for Correctional Investigator 2 Position at AHCC. (5 pages)
4. Position Description Form (PDF) for Murray Cox dated June 16, 2013. (5 pages)
5. Position Description of a Correctional Investigator 2 position at WCC/Shelton. (7 pages)
6. State HR Class Specification for Correctional Investigator (2 pages)  
Exhibit submitted after the review conference
7. Final email response from Murray Cox to Kris Brophy dated June 23, 2014 (3 pages)

B. DOC Exhibits

1. Allocation determination letter from Linda Sutherland to Murray Cox dated August 30, 2013 (4 pages)
2. Position Review Request (PRR) form for Murray Cox received August 22, 2012 by AHCC HR (8 pages)
3. Position Description Form (PDF) on file for Murray Cox's position at the time of the position review request dated January 5, 2007 (5 pages)
4. Organizational Chart for Superintendent's Office, AHCC (1 page)
5. Updated Position Description form (PDF) for Murray Cox's position submitted by management dated June 16, 2013 (5 pages)
6. State HR Class Specification for Corrections and Custody Officer 2 (2 pages)
7. State HR Class Specification for Investigator 1 and 2 (4 pages)  
Exhibit submitted after the review conference
8. Email from Sarah Conly to Kris Brophy dated June 16, 2014 identifying the number of investigative cases completed by Mr. Cox during the review period (2 pages)

C. Class Specifications

1. State HR Class Specification for Corrections and Custody Officer 2
2. State HR Class Specification for Investigator 1
3. State HR Class Specification for Investigator 2