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STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION  
OF THE  
CIVIL SERVICE COMMISSION

In the Matter of Benito Bello, et al.,  
Trenton

CSC Docket Nos. 2015-2373, 2015-  
2374, 2015-2375, 2015-2376, 2015-  
2377, 2015-2378, 2015-2379, 2015-  
2380, 2015-2382, 2015-2383, 2015-  
2384 and 2015-2385

Classification Appeals

ISSUED: JUN - 4 2015 (CSM)

Benito Bello, John Breece, Robert Carrier, David Cruz, Richard Fink, Jeanne Klawitter-Barone, Anthony Pasqua, Leonard Sutton, Timothy Thomas, Jose Vazquez, Peter Weremijenko and John Zapple, represented by Raymond G. Heineman, Esq., appeal the attached decision of the Division of Agency Services that the proper classification of their positions with the City of Trenton is Police Sergeant. The appellants seek Police Lieutenant classifications.

The record in the present matter establishes that at the time of their requests for reclassification of their positions, the appellants' permanent titles were Police Sergeant. The positions at issue are located in the Command Operations Center within the Trenton Police Department's Patrol Operations Section and Detention Unit. The appellant sought a reclassification of their positions, alleging that their duties are more closely aligned with the duties of a Police Lieutenant. In support of their requests, the appellants submitted Position Classification Questionnaires (PCQs) detailing the different duties they perform as Police Sergeants. All of the appellants indicated on their PCQs that they supervised Police Officers and Police Aides. Agency Services reviewed and analyzed the PCQs completed by the appellants. In its decision, Agency Services determined that the appellants were properly classified as Police Sergeants.

On appeal, the appellants state that the Police Sergeant assigned to the Command Operations Center from Monday to Friday, from 3:00 a.m. to 9:00 a.m. is the highest ranking officer on duty and is the *de facto* commanding officer of the Trenton Police Department. Therefore, this represents 60% of a Police Sergeant's time over the course of a 10 hour shift. During this time period, there are no other

superior officers on duty and the assigned Police Sergeants exercise all supervisory functions until 9:00 a.m. Further, the appellants state that the Police Sergeants assigned to the Command Operations Center monitor the off-going and on-going shifts to do such things as ensure officers have partners and are fit for duty. Additionally, the appellants note that during the early morning hours, there is an increase in domestic violence and simple assault calls and there is also an increase in overnight burglaries and early morning vehicle thefts. Thus, while Agency Services described the six hour period at issue as "off hours," the period presents its own unique challenges to law enforcement. Accordingly, the appellants maintain that their positions warrant Police Lieutenant classifications.

### CONCLUSION

The definition section of the job specification for Police Sergeant states:

Under supervision of a Police Lieutenant during an assigned tour of duty, has charge of police activities to provide assistance and protection for persons, safeguard property, and assure observance of the laws, and apprehends lawbreakers; does related work as required.

The definition section of the job specification for Police Lieutenant states:

Under supervision of a Police Captain during an assigned tour of duty, has charge of a police platoon or performs specialized supervisory police duties; does related work as required.

Based on the information presented in the record, it is clear that the appellants' positions are properly classified as a Police Sergeant. It has been well established in prior classification determinations that a position classified as a Police Lieutenant is required to exercise full supervisory authority over Police Sergeants on a regular and recurring basis. *See In the Matter of Thomas Allegretta, et al.* (Commissioner of Personnel, decided April 23, 1990) (Desk Officer duties of Police Sergeants did not warrant their reclassification to Police Lieutenant since they did not have full supervisory authority over Police Sergeants on a regular and recurring basis). This supervisory requirement has consistently been applied to all law enforcement titles classified at the Lieutenant level. *See In the Matter of John Dougherty* (Commissioner of Personnel, decided May 14, 2007) (Sheriff's Officer Lieutenant who performed some of the duties performed by the former civilian Director of Security did not evidence position misclassification since the incumbent supervised *Sheriff's Officer Sergeants* and Security Guards providing security to county facilities in combination with courts).

In this case, all of the appellants indicated on their PCQs that they supervised either Police Officers or Police Aides. Additionally, between 9:00 a.m.

and 3:00 a.m., there are Police Lieutenants and Police Captains on duty who are not assigned to the Command Operations Center who act as the commanding officers of the Police Department during those hours. Moreover, it is not uncommon in the law enforcement community to have Sergeants fill in for Lieutenants in a variety of circumstances to ensure a minimal level of supervisory coverage. *See In the Matter of Correction Sergeants, Department of Corrections* (Commissioner of Personnel, decided May 24, 1996) (Assignment of Correction Sergeant to Correction Lieutenant position when the incumbent is absent due to personal leave or scheduled days off does not constitute an out-of-title work circumstance).

Although these positions may have been encumbered by Police Lieutenants before the September 2011 reduction in force, it cannot be ignored that a classification appeal cannot be based solely on a comparison to the duties of another position, *especially if that position is misclassified. See In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). Additionally, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Moreover, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized.

#### ORDER

Therefore, it is ordered that these appeals be denied.

This is the final administrative determination in this matter. Any further review is to be pursued in a judicial forum.

DECISION RENDERED BY THE  
CIVIL SERVICE COMMISSION  
ON THE 3<sup>RD</sup> DAY OF JUNE, 2015



Robert M. Czech

Chairperson

Civil Service Commission

Inquiries  
and  
Correspondence

Henry Maurer  
Director  
Division of Appeals  
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**Attachment**

c: Raymond G. Heineman, Esq.  
Benito Bello  
John Breece  
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Anthony Pasqua  
Leonard Sutton  
Timothy Thomas  
Jose Vazquez  
Peter Weremijenko  
John Zapple  
Terry McEwen  
Kenneth Connolly  
Joseph Gambino



STATE OF NEW JERSEY  
CIVIL SERVICE COMMISSION  
AGENCY SERVICES  
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Chris Christie  
Governor  
Kim Guadagno  
Lt. Governor

Robert M. Czech  
Chair/Chief Executive Officer

January 20, 2015

Lieutenant Mark Kieffer  
President  
Trenton Superior Officers Association  
225 North Clinton Avenue  
Trenton, NJ 08609

**RE: Classification Appeals, Police Sergeants Benito Bello, John Breece, Robert Carrier, David Cruz, Richard Fink, Jeanne Klawitter-Barone, Anthony Pasqua, Leonard Sutton, Timothy Thomas, Jose Vazquez, Peter Weremijenko, and John Zapple**  
Log #s 01150062, 11120074, 01150063, 11120075, 01150064, 01150065, 11120079, 11120076, 1112077, 01155066, 11120080, and 01150067  
EID #s 000087937, 000097503, 000035899, 000070458, 000081454, 000051284, 000081630, 000047685, 000080947, 000050482

Dear Mr. Kieffer:

This is to inform you and the appointing authority of our determinations concerning the classification appeals referenced above.

### BACKGROUND

In September 2011, the City of Trenton's Police Department underwent a significant reduction in force for reasons of economy and efficiency. Prior to the reduction in force, Police Lieutenants staffed the Command Operations Center (COC). In November 2012, Position Classification Questionnaires (DPF-44's) were submitted on behalf of Police Sergeants John Breece, David Cruz, Anthony Pasqua, Leonard Sutton, Timothy Thomas, and Peter Weremijenko. These Police Sergeants contended that they were performing the duties of a Police Lieutenant due to their assignment to the COC and responsibilities commensurate with that assignment. Subsequent to the filing of these classification appeals, in early 2013, Sergeants Breece, Cruz, Pasqua, Thomas and Weremijenko were reassigned. However, in February 2014, the Police Sergeants who replaced them in the COC, Benito Bello, Robert Carrier, Richard Fink, and Jeanne Klawitter-Barone, submitted DPF-44's, seeking the reclassification of their positions to the title of Police

Lieutenant. Two additional Police Sergeants, Jose Vazquez and John Zapple, submitted DPF-44's in February 2014.<sup>1</sup>

### ISSUE

As noted above, the twelve appellants contend that the duties performed by the superior officer assigned to the COC are appropriately classified by the title Police Lieutenant.

### FINDINGS

As noted on the DPF-44's and confirmed via desk audits with each of the appellants, the positions at issue in the COC are located within the Trenton Police Department's Patrol Operations Section and Detention Unit. They are responsible for the direct supervision of Police Officers and Police Aides. The duties associated with the COC position include ensuring that all arrests, reports, and files are processed in accordance with established policies and procedures. The positions are responsible for reviewing and updating the arrest book, turning bail/bond money over to the Court Administrator, submitting on-duty and prisoner reports, ensuring that staff coverage is adequate on the assigned shift, logging evidence, addressing citizens' complaints and concerns when they arrive at headquarters, and monitoring the presentation of prisoners.

While assigned to the COC, each Police Sergeant worked four days followed by four days off. Thus, the days on which they worked varied each week. Their shifts while assigned to the COC were as follows:

Benito Bello	9:00 a.m. to 5:00 p.m.
John Breece	5:00 p.m. to 3:00 a.m.
Robert Carrier	7:00 a.m. to 5:00 p.m.
David Cruz	6:30 a.m. to 4:30 p.m.
Richard Fink	9:30 p.m. to 7:30 a.m.
Jeanne Klawitter-Barone	7:00 a.m. to 5:00 p.m.
Anthony Pasqua	5:00 p.m. to 3:00 a.m.
Leonard Sutton	9:30 p.m. to 7:30 a.m.
Timothy Thomas	9:00 a.m. to 5:00 p.m.
Jose Vazquez	5:00 p.m. to 3:00 a.m.
Peter Weremijenko	7:00 a.m. to 5:00 p.m.
John Zapple	9:00 a.m. to 5:00 p.m.

It is important to note that, from 5:00 p.m. to 3:00 a.m. on weekdays, Police Lieutenants are assigned to the position in the Command Operations Center. From 9:00 a.m. to 5:00 p.m. on weekdays, the Police Captain in charge of the Operations Bureau is on duty; there are also Police Lieutenants on duty between the hours of 9:00 a.m. and 5:00 p.m. Monday through Friday.

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<sup>1</sup> It is noted that two of the Police Sergeants at issue, Anthony Pasqua and Peter Weremijenko were permanently appointed from the special reemployment list for the title of Police Lieutenant while these matters were pending. Pasqua was appointed effective April 15, 2013, and Weremijenko was appointed effective August 15, 2014.

Thus, during the weekday hours of 9:00 a.m. and 3:00 a.m., there are Police Lieutenants and Police Captains on duty. During these hours, these higher ranking officers act as the commanding officers of the Police Department, even if they are not physically assigned to the COC.

According to the job specification for Police Sergeant, incumbents in this title are expected to have charge of police activities intended to provide protection for persons, safeguard property, and assurance observance of laws. Examples of Work include receiving complaints and performing investigations to resolve complaints; giving needed information to citizens and others; assuring that needed police protection is given in extraordinary situations; apprehending, warning, or taking into custody violators of the law; preparing and directing the preparation of reports; and keeping needed records and files.

Incumbents in the title of Police Lieutenant have charge of a police platoon or perform specialized supervisory police duties. Examples of work include directing criminal and noncriminal investigations, ensuring that appropriate police action is taken; taking fingerprints for classified records and files; performing thorough investigations, preparing suitable reports and keeping needed records and files; and giving police assignments and instructions to Police Sergeants and Police Officers.

#### DETERMINATION

Given the command structure of the Police Department, it is evident that the mere physical assignment to the COC does not automatically convert a position into that of a commanding officer. The record demonstrates that during the weekday hours of 9:00 a.m. to 3:00 a.m., there is always a Police Lieutenant and/or Police Captain on duty. During these hours, these higher ranking officers function as the commanding officers of the department, not the Police Sergeants physically assigned to the COC at these times. The COC position does not, by virtue of its location, necessarily have the authority to perform supervisory duties with respect to Police Sergeants, particularly when higher ranking officers of the department are on duty.

As is depicted in the shifts listed above, on weekdays, there are hours where the Police Sergeant assigned to the COC is the highest ranking member of the Police Department on duty (*i.e.*, from 3:00 a.m. to 9:00 a.m.) Thus, during these "off hours," the *de facto* commanding officer of the Police Department is the Police Sergeant assigned to the COC. Six of the 12 appellants have been assigned to the COC during this period when no higher ranking officer is on duty. Nevertheless, the fact that Police Sergeants are serving in a position that is the highest ranking officer on duty for a minimal amount of time on each shift does not necessitate reclassification of that position to the title of Police Lieutenant.

Further, the duties performed in the positions assigned to the COC are consistent with that of a Police Sergeant. As noted above, a Police Sergeant receives citizen complaints, gives needed information to citizens, prepares and directs the preparation of reports, keeps needed records and files, and apprehending and taking into custody violators of the law. The positions assigned to the COC perform duties consistent with the job specification for Police Sergeant. More importantly, the positions assigned to the COC do not regularly exercise supervisory authority

over other Police Sergeants; rather, these supervisory functions are performed by the Police Lieutenants and/or Captain on duty. Therefore, the appellants' positions are properly classified as Police Sergeants.

Finally, it is clear that the position in the COC actually functions as the commanding officer in the Police Department during all weekend hours, since no higher ranking officers are on duty. Given the shift assignments of Police Sergeants, where they work four days followed by four days off, this weekend coverage is not always provided by the same individual. Nevertheless, the appointing authority is directed that the COC position is properly classified as a Police Lieutenant during all weekend hours, since the position serves as the commanding officer throughout all shifts.

Please be advised that in accordance with *N.J.A.C. 4A:3-3.9*, either party may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Record Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, NJ 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Kelly A. Glenn  
Assistant Director

c: Benito Bello  
John Breece  
Robert Carrier  
David Cruz  
Richard Fink  
Jeanne Klawitter-Barone  
Anthony Pasqua  
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