BEFORE THE PERSONNEL APPEALS BOARD

STATE OF WASHINGTON

RICHARD TOMKO, Appellant, v. DEPARTMENT OF SOCIAL AND HEALTH SERVICES, Respondent.	Case No. ALLO-99-0022 ORDER OF THE BOARD FOLLOWING HEARING ON EXCEPTIONS TO THE DETERMINATION OF THE DIRECTOR

Hearing on Exceptions. This appeal came on for hearing before the Personnel Appeals Board, WALTER T. HUBBARD, Chair; GERALD L. MORGEN, Vice Chair; and LEANA D. LAMB, Member, on Appellant's exceptions to the Director's determination dated June 2, 1999. The hearing was held on March 21, 2000, in the Personnel Appeals Board hearing room in Olympia, Washington.

Appearances. Appellant Richard Tomko was present and was represented by Ricardo A. Guarnero, Attorney at Law. Respondent Department of Social and Health Services (DSHS) was represented by Jesse Powell, Classification and Compensation Manager.

Background. On September 15, 1998, Appellant requested reallocation of his Forensic Therapist 3 position by submitting a classification questionnaire (CQ) to Respondent's Personnel Office. Appellant requested that his position be reallocated to the Forensic Therapist Supervisor classification. By memorandum dated October 29, 1998, Respondent denied Appellant's request for reallocation. Appellant appealed to the Department of Personnel (DOP). The Department of Personnel received Appellant's appeal on November 23, 1998. The Director's determination was

issued on June 2, 1999. The Director's designee, Mary Ann Parsons, concluded that Appellant's position was properly allocated. On July 12, 1999, Appellant filed exceptions to the Director's determination with the Personnel Appeals Board. Appellant's exceptions are the subject of this proceeding.

Appellant's working title is Director of the Community Program. The Community Program is part of the Center for Forensic Services at Western State Hospital (WSH). The Center for Forensic Services was previously called the Mentally Ill Offender Program. The Community Program is one of three programs that fall under the Center for Forensic Services. The Forensic Evaluations in the Community and Corrections program and the In-Patient Program also fall under the Center for Forensic Services. Appellant supervises five employees out of a total of 28 employees in the Center. The clients that Appellant and his subordinates serve are legal offenders, the majority of whom are referred to the Community Program from the In-Patient Program. The goal of the Community Program is to assist legal offenders transitioning out of the institution.

Summary of Appellant's Argument. Appellant argues that the Community Program was set up by the Legislature, is a major treatment program that operates completely autonomously and is goal and mission oriented. Appellant contends that the Community Program is more than just a function of the Center for Forensic Services. Appellant further argues that his program is nationally recognized as a model program for mentally ill offenders. Appellant asserts that he is performing at the Forensic Therapist Supervisor level, that he directs and supervises a major treatment function, and that his position should be reallocated.

Summary of Respondent's Argument. Respondent contends that it is the responsibility of WSH to define what constitutes a major program and to define the functions within that program. Respondent asserts that one function does not make up a program and that the Community Program

constitutes only one function within the Center for Forensic Services. Respondent agrees with Appellant that the Community Program was set up by the Legislature but argues that the Legislature did not dictate how the organization would be structured within WSH. Respondent asserts that Appellant functions as a Forensic Therapist 3 who is responsible for a major program function and that his position is properly allocated.

Primary Issue. Whether the Director's determination that Appellant's position is properly allocated to the Forensic Therapist 3 classification should be affirmed.

Relevant Classifications. Forensic Therapist 3, class code 36450, and Forensic Therapist Supervisor, class code 36460.

Decision of the Board. 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. Also, a position review is not a comparison of work performed by employees in similar positions. 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 which best describes the overall duties and responsibilities of the position. Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

While a comparison of one position to another similar position may be useful in gaining a better understanding of the duties performed by and the level of responsibility assigned to an incumbent, 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. Flahaut v. Dept's of Personnel and Labor and Industries, PAB No. ALLO 96-0009 (1996).

The Forensic Therapist Supervisor classification encompasses positions that direct and supervise major treatment programs, such as the Center for Forensic Services (formerly the Mentally Ill Offender Program), the Sexual Psychopath Program or the Exceptional Resident Program. The Center for Forensic Services is directed and supervised by Dr. R.D. Hamilton, Clinical Director. Appellant reports directly to Dr. Hamilton. Furthermore, the Community Program does not operate under a separate budget, but rather is funded as a part of the Center for Forensic Services. In addition, the Community Program serves a majority of the same clients that are served by other programs within the Center for Forensic Services. The Community Program does not qualify as a major treatment program, but rather is a program function of the Center for Forensic Services. Therefore, reallocation of Appellant's position to the Forensic Therapist Supervisor classification is not appropriate.

The Forensic Therapist 3 classification encompasses positions that direct and have overall responsibility for a major program function. The Community Program is a major program function of the Center for Forensic Services. Therefore, Appellant's position is properly allocated to the Forensic Therapist 3 classification.

Conclusion. The appeal on exceptions by Appellant should be denied and the Director's determination dated June 2, 1999, should be affirmed and adopted.

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ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the appeal on exceptions by Appellant is denied and the Director's determination dated June 2, 1999, is affirmed and adopted. A copy is attached.

DATED this _____ day of _____, 2000.

WASHINGTON STATE PERSONNEL APPEALS BOARD

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Walter T. Hubbard, Chair

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Gerald L. Morgen, Vice Chair

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Leana D. Lamb, Member