

7. SUMMARY OF EVIDENCE

IN THE MATTER OF DISCIPLINARY PROCEEDING AGAINST

Agent Craig Appel #18562

MEMBER OF THE AURORA CIVIL SERVICE, AURORA POLICE DEPARTMENT

The evidence in support of the investigation is that while you were assigned to the [REDACTED] Task Force from March 3, 2014, to May 19, 2017, you did not work the required number of hours per week. You untruthfully submitted requests for overtime when you were not working and you neglected your duties.

While at the [REDACTED] you were assigned the most number of cases of any TFO on your squad. The local [REDACTED] supervisors, and supervisors in D.C. had concerns about your work and the lack of progress in your cases. From January 1, 2016 to May 11, 2017, you only completed a total of 66 documents, and many of those documents were one paragraph or less. The other TFO's authored between 171 and 485 documents.

Gate codes, door codes and phone records showed that you were in the office on average less than four hours a day. Your duty hours were 0700 to 1700 and records show that you were never in the office at 0700 and only in the office a few times at 1700 hours. Records also showed that there were days where you never went into the office at all but did not put in for any leave time.

During your time at [REDACTED] you submitted 1161 hours of overtime for a total \$81,043.31. During your interview you originally stated you worked 70% to 90% of the hours. After being confronted with GPS data you stated you were legitimately working 50% of the hours. Records showed a pattern of behavior of working out for several hours, both on regular duty and on overtime, conducting personal business, and being at home. During your interview you admitted you were at home, hunting, bike riding, doing Yoga, running or doing non job related business (Cabela's, Costco) when you were being paid both on regular duty and on overtime.

Based on the evidence obtained during this investigation the Chief's Review Board is recommending to the Chief of Police that you be sustained for violating Aurora Police Department Directives 8.2.3 Request for Leave, 14.1.5 Conformance to law, 14.1.7

Conduct Involving Moral Turpitude, 14.3.3 Making a False or Untruthful Declaration and 14.3.5 Neglect of Duty.

You have three (3) days from the Pre-Disciplinary Hearing to request an IRB.

11. INVESTIGATOR'S SUMMARY

14.3.1 Unsatisfactory Performance

Members will maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions.

Unsatisfactory performance may be demonstrated by lack of knowledge of the application of laws required to be enforced, an unwillingness or inability to perform assigned tasks, the failure to conform to work and/or training standards established for the member's rank, grade or position, the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention, or absence without leave or habitual tardiness.

Detective Craig Appel's annual performance evaluation from 05/25/16-05/25/17 was completed by [REDACTED] along with input from his [REDACTED] Supervisor [REDACTED]. Detective Appel refused to sign the evaluation claiming it was factually inaccurate.

[REDACTED] had little contact with Detective Appel since he was off-site but put several comments in the evaluation from [REDACTED]. These comments included the fact that Agent Appel is a good savvy investigator who can produce when given assignments he enjoys. That Detective Appel works well in a team environment and is well-respected and liked by his colleagues and that overall has had a good attitude.

Also in this evaluation was the fact that Detective Appel was late in completing action plans on cases he was assigned and failed to complete this task by a given deadline despite several reminders. [REDACTED] advised he had difficulty tracking Craig down to complete his assigned file review and as a result Craig was the last in the squad to complete the task.

It was noted in the evaluation that [REDACTED] said Detective Appel had the most number of cases of any TFO on the squad but there was an overall lack of progress in them. In one instance a case was returned for further investigation from D.C. for further areas of follow up they recognized. The follow-up was not addressed for five months.

Detective Appel responded with a two-page memorandum disputing what was put in the evaluation. Under "Communications" it was noted that Detective Appel failed to advise [REDACTED] that he was going to miss an important meeting at the [REDACTED]. This was also mentioned in the "Decision Making" category where it is mentioned he did not

advise [REDACTED] that he was missing the mandatory meeting. Detective Appel's memorandum stated he emailed [REDACTED] at 6:30 a.m. the day of the meeting telling him he would not be attending the meeting.

Regarding the returned case from D.C., Detective Appel wrote it was returned for financial records. Detective Appel noted as he expected there was no financial information available and then the case was closed.

Detective Appel claimed in his interview with Internal Affairs that [REDACTED] was not truthful with some of the numbers noted in the evaluation. After reviewing the evaluation and the document he typed in response Detective Appel said he now could find nothing that was untrue.

Detective Appel agreed after rereading the email he sent that it did not say that he would not be at the meeting it just said he caught a homicide case. He assumed that [REDACTED] would know that he wouldn't be there.

[REDACTED] said everything you do has to be documented no matter what you do. To justify overtime on a Friday or a weekend some sort of a call out would be needed or if something happened during the week that needed to be documented. If you were out on a surveillance shift you would have to come back in and document what you did.

[REDACTED] conducted a search of all investigative documents (reports) completed by Detective Appel between the dates of January 1, 2016 and May 11, 2017. This included [REDACTED] (interview/evidence), [REDACTED] (internal document) and [REDACTED] (surveillance request). The search revealed only 66 total documents. The average for the [REDACTED] TFO's is 3-5 documents per week (the remaining TFO's authored between 171-485 documents.)

[REDACTED] reviewed each of the documents authored by Detective Appel and learned a majority of the reports were of one paragraph or less (one or two sentences).

The other TFO's interviewed including [REDACTED] said there is a lot of reports that have to be done on cases.

[REDACTED] checked Detective Appel's performance on production/source meetings. It was found that on only two occasions, in May and August of 2016, Detective Appel documented [REDACTED] source meet/contact. Well below what is expected of a TFO.

██████████ advised between May 2016 and May 2017 the squad worked a total 244 ██████████ Leads and Detective Appel only worked or was associated with 13 of them. Well below what is expected of a TFO.

██████████ felt Detective Appel's investigations lacked thoroughness which was stressed over and over again to him. Detective Appel was not covering all leads or even some of the basic stuff. A review of ██████████ leads was mandated by headquarters going back three years. Some of Detective Appel's cases were flagged and he had two ██████████ supervisors come to him and say they were really puzzled and confused when they looked at Detective Appel's work as far as thoroughness. Interviews that did not cover the derogatory information was also part of the issues, the right questions were not being asked to resolve the information. He did not think this was a lack of Detective Appel's skills but rather his lack of interest, desire and understanding of what they did.

██████████ tried to give Detective Appel cases that he felt would interest him. He also gave Detective Appel a criminal case but following the arrest he lost interest in continuing the investigation to work his way up in the organization, which was the goal.

Records from the ██████████ showed that Detective Appel was only spending an average of 2 to 4 hours per day in the building during his 10-hour shift for an entire year. The records show Detective Appel was never in the office at or before 0700 hours (his duty start time) in this one year time period. Detective Appel was in the office past 1700 hours (his end of watch) on 7 days during that time period and on each of those days he had arrived at the office after 1200 hours.

██████████ said he would see Detective Appel come in the office around 9:00 - 10:00 a.m. and then be around for a couple hours then he would not see him the rest of the day typically. Some days he would not see him at all.

8.2.3 Request for Leave

All requests for leave will be approved through the appropriate chain of command before any member goes on leave.

Members will enter the request into the scheduling system in accordance with the following guidelines. Supervisor/command officers reviewing requests for time off (compensatory time, personal or annual leaves) will check leave balance accruals indicated in the Aurora Police Personnel System (APPS) and ensure at the time the leave is taken the available leave balance is appropriate. Supervisor/command officers cannot approve leave time that exceeds the amount indicated in APPS. This includes

compensatory time approved in the scheduling system but not accounted for in APPS except when it is earned and used in the same work week (Saturday – Friday).

Detective Appel said that he was only working 50% of the overtime hours he submitted and was paid for. He did not request any type of leave for the other 50% of the time he was not at work. The gate/building entry and exit times and the GPS data used in this investigation showed a similar pattern of behavior for his duty regular hours as well as his overtime hours.

On 04/25/17, 05/16/17 and 05/24/17 Detective Appel requested sick leave (3 hours, 2 hours and 5 hours) either at the beginning or end of his work day. Prior to this time there were no requests for small amounts of sick time in the records. These three entries occurred after this investigation started.

Leave Sick (LS)	4/25/2017	0185620	Appel, Craig J.	7:00	10:00	3.00	Called in Renner
Leave Sick (LS)	5/16/2017	0185620	Appel, Craig J.	15:00	17:00	2.00	
Leave Sick (LS)	5/24/2017	0185620	Appel, Craig J.	12:00	17:00	5.00	

Detective Appel was asked about this sudden sick time leave and asked if he was aware of this investigation and was now trying to accurately document his time. He stated that he thought he had some illnesses or allergies and was not sure.

Detective Appel was asked if he is still accountable to the policies and procedures of the Aurora Police Department even though he was at the [REDACTED] and he said, "yes, I am an Aurora Police Officer."

14.1.5 Conformance to Law

Members will, whether on or off duty, whether acting in an official capacity or not, obey all laws of the United States and of any State and local jurisdiction in which the members are present.

After being confronted with the GPS locations of his phone from the [REDACTED] records Detective Appel was asked how many of the 1161 overtime hours he legitimately worked. Detective Appel said the number would be lower than what he said earlier in the interview which was 70%-90%. Detective Appel said 50% of the time he was legitimately working.

The total amount of OVERTIME submitted and paid to Detective Appel while assigned to the [REDACTED] (per payroll) was \$81,043.31dollars.

OT JTTF Grant:

2014 199 hours X \$57.99330 = \$11,540.67
 2015 197 hours X \$61.66455 = \$12,147.92
 2016 261 hours X \$63.36030 = \$16,537.04
 2017 76 hours X \$66.52860 = \$5056.17

Total \$45,281.80

OT Regular:

2014 102.5 hours X \$57.99330 = \$5944.31
 2015 109 hours X \$61.66455 = \$6721.44
 2016 110.5 hours X \$63.36030 = \$7001.04
 2017 62.5 hours X \$66.52860 = \$4158.04

Total \$23,824.83

OT Court:

2014 2 hours X \$57.99330 = \$115.99
 2015 141.5 hours X \$61.66455 = \$8725.53
 2016 31 hours X \$63.36030 = \$1964.17
 2017 17 hours X \$66.52860 = \$1130.99

Total \$11,936.68

2014 \$17,600.97
 2015 \$27594.89
 2016 \$25,502.25
 2017 \$10,345.20

The gate/building entry and exit times and the GPS data used in this investigation showed a similar pattern of behavior for his duty regular hours as well as his overtime hours.

██████████ thought Detective Appel would have less overtime than most TFO's because he did not see him on a whole lot of call outs, he saw other's but not him. He also said he did not think there was much of a need for Detective Appel to work a whole lot of overtime.

14.1.7 Conduct Involving Moral Turpitude

Anything else in this Directives Manual to the contrary notwithstanding, members will not, whether on duty or off duty, whether acting in an official capacity or not, engage in conduct involving dishonesty, fraud, deceit, misrepresentation, misappropriation, theft or which is prejudicial to the administration of justice.

Detective Appel was asked about a few random days from the GPS records from his FBI phone.

April 06, 2017 was a Thursday showing his duty regular hours from 0700-1700 hours. The GPS showed him home from 0700 to 0830 hours then he went to the [REDACTED] building from 0914 to 1408 hours. The GPS then showed he drove to a parking lot next to the Cherry Creek Dam and was parked there from 1430-1700 hours. Detective Appel said I'm sure I was working out either bike riding or running, probably bike riding because he couldn't run that long. He was asked if he got paid from 1430-1700 hours while he rode his bike and he said yes instead of going to the gym he was doing that.

March 16, 2017 was also a Thursday showing his duty regular hours from 0700-1700 hours. The gate/door records for the [REDACTED] building showed he did not go in the office this entire day. A computer was set up in the interview room with Google Earth and the GPS locations of the phone installed. The GPS locations for this date were pulled up. From 0700, 0800, 0900, and 1003 hours the phone was at a residence in Parker. Detective Appel identified the location of the phone as at his residence. He said he was either on the computer, working out or not at work. **(Investigator Note: During the IRP process Detective Appel stated that this "not at work" portion of his answer meant he was not physically at the [REDACTED] building and wanted this note added to reflect what he meant.)** At 1100 hours the phone went to Monaco and Newport Way and he said he would always meet a Source there at the coffee shop. He was asked where the coffee shop was on the Google Earth map and he could not find one. He then said he was meeting a Source at the hotel with [REDACTED]. The GPS was showing being in a hotel parking lot. He was asked if he did a report and he said [REDACTED] would have it under a Source report. There is no reports noted on the report summary for this date and the next closest report was on 04/04. The GPS showed he left the hotel at 1520 and drove back home and was still home at 1600 and 1630 hours. He agree he worked from 1100 to 1520 hours this day, "other than emails and work like that." He was asked if he read emails for 5 hours and he said no I'm saying I worked out and emails but it did not take 5 hours. There were no city emails on this date.

January 4, 2017, which was a Wednesday and his duty regular hours were 0700-1700 hours. The records showed him home at 0730 hours then the next GPS shows from 0853-1002 hours he was at [REDACTED] in [REDACTED] which he confirmed this was his Yoga studio. He went to the [REDACTED] building and the gate/door codes show he was there from 1125-1444 hours. At 1534 hours the GPS shows him going to Cabela's in Lonetree which he said was not work related but was on his way home. At 1600 hours he was at Costco in Parker then went home and he again said this was not work related.

Next he was asked if he ever went hunting on overtime and he said, "I could have took a day and called [REDACTED] up." He was asked about November 18, 2016 which was a Friday and he was shown on OT Grant money. He said he could not remember. He was asked if he remembered if he was hunting while getting paid OT Grant money and he said he did not remember then asked if it was late in the afternoon. He was told that he had put in for OT Grant money from 0900-1700 hours and the GPS showed from 0907 to 1123 hours he was in the field off of Jewell Avenue, east of Murphy Creek and asked him what he was doing. He said he was probably hunting for those two hours on his way into work.

[REDACTED] said you can see where this is going then asked again how many of the 1161 overtime hours were legitimate hours that he worked. Detective Appel then changed his previous answer of 70%-90% and said he was legitimately working only 50% of the time.

Detective Appel said that he had screwed up. He was asked why this happened and he said [REDACTED] and being burned out. He rationalized that he was always available and could do his job by email and phone calls. He said a lot of it was from the Century 16 and he ended up in the hospital and it still lingered this past summer. He had so much [REDACTED].

He said he ended up with [REDACTED]. He said he would avoid going to work because he wasn't interested in it and would do what he had to and communicate with who he had to and was totally disengaged. Detective Appel said he did what he did and it was wrong and is still trying to deal with [REDACTED].

[REDACTED] said he did not know where he was going with this but the hospital was certainly better than taking OT and violating our directives. [REDACTED] said even a Squad day was not OT related and Detective Appel said he guesses he was wrong but the other guys did it and he should have communicated better with [REDACTED] about what he could and could not do.

Detective Appel said he went by what [REDACTED] said and [REDACTED] was very very burned out. He indicated that [REDACTED] said it was frustrating because they don't teach you anything and their work ethic. He then paused and said, "work ethic, I know."

He said he got frustrated and it was eating him up and he tried to avoid it. He said he would be there if other guys needed him but he didn't really want to be there. He said the frustration built up to I don't want to go to work today. He said he didn't want to be a victim by saying the Century 16 ate him up but it did and he abused the flexibility he had out there.

Detective Appel said you got my confession that he screwed up and took advantage of it because he was frustrated and burned out and the cause was [REDACTED]. He said it was weird because he doesn't have [REDACTED] now.

14.3 PROFESSIONAL CONDUCT AND RESPONSIBILITY

Members will conduct themselves at all times, both on and off duty, in such a manner as to reflect most favorably on the Department. Unprofessional conduct and irresponsibility will include that which brings the Department into direct disrepute, publicly or amongst its members, reflects direct discredit upon the member, or impairs the operation or efficiency of the Department or member.

[REDACTED] said some of Detective Appel's cases were flagged and he had two [REDACTED] supervisors come to him and say they were really puzzled and confused when they looked at Detective Appel's work, as far as thoroughness. Interviews that did not cover the derogatory information was also part of the issues, the right questions were not being asked to resolve the information.

Detective Appel had failed to show up for what [REDACTED] called a major meeting at the [REDACTED] that Detective Appel was needed for and was requested to be at. All Task Force Officer's (TFO) were ordered to give a status on all assigned cases and to submit a plan for disposition. Detective Appel failed to complete this task then failed to show up for the meeting. A second meeting then had been set to speak about case management which Detective Appel also failed to attend. [REDACTED] advised he had difficulty tracking Detective Appel down to complete his assigned file review and as a result he was the last in the squad to complete the task.

Detective Appel had 14 cases assigned to him and this had caught the attention of the [REDACTED] in Washington as nothing had been done on them. In one instance a case was

returned for further investigation from [REDACTED] for further areas of follow up they recognized. The follow-up was not addressed for five months.

[REDACTED] said towards the end of Detective Appel being at the [REDACTED] he noticed negativity building up from him about the assignments and what they were doing and why they were doing things. He felt this was like a cancer spreading and started effecting others.

[REDACTED] said he learned that Detective Appel was telling "Aurora folks" that he was bored and had nothing to do. [REDACTED] said he didn't like how that sat, saying a lot of what they do is in Aurora.

14.3.3 Making a False or Untruthful Declaration

Members will not, in the course of their official duties, willfully or knowingly make a false or untruthful declaration, either orally or in writing. This rule is applicable regardless of the materiality of the declaration.

Actions held to be in violation of this directive include, but are not limited to:

Intentional incomplete or untruthful statements (written or oral) made or submitted to a supervisor.

Intentional incomplete or untruthful statements made in a judicial or other legal proceeding.

Intentional incomplete or untruthful statements made during the course of an IAS or other investigation.

Intentional incomplete or untruthful statements made for personal gain to the declarant.

When questions came up about overtime, Detective Appel told [REDACTED], when asked, that he could easily explain the overtime, claiming it was for doing interviews and entering information. The document summary completed by [REDACTED] showed 66 documents. The document summary showed 12 total reports associated with interviews, three of these reports were authored on overtime grant. None of the reports authored on these days were connected to any interviews done on the same day.

Detective Appel was asked during his interview in internal affairs if he worked out on overtime and he said, "No." This was prior to him knowing about the GPS on the phone. The GPS from the phone showed on Friday, September 16, 2016, while on overtime grant Detective Appel was at his Yoga studio in Parker. He was asked a second time if

there would be any Friday's when he was on overtime when he would be at his Yoga studio. He then said he could be wrong and there could be yeah.

Detective Appel was asked during the Internal Affairs interview if he thought he worked all the hours he had requested on the overtime grant and he said, "I think I did."

He was asked about working 8-4, 9-5 on Friday's, his day off, on OT Grant and asked if he felt he worked all of those hours. He said the numbers did not look good for him and he could have stretched some hours

Later in the interview it was explained to Detective Appel that the [REDACTED] puts a program on their phones that tracks everything including every phone call, GPS locations, every text message and every web site visited. Detective Appel said he was unaware of the program.

[REDACTED] said before we start with the GPS information between the [REDACTED] Grant overtime and Regular overtime it's approximately 1161 hours of pay, probably close to \$70,000 dollars to which Detective Appel replied, "That's a lot." [REDACTED] told him up to this point you have said maybe you had fudged a few hours. [REDACTED] asked for a percentage of how many of the 1161 hours were legitimate working hours. Detective Appel said between 70% to 90%.

Toward the end of the interview Detective Appel was confronted with the GPS information. Detective Appel then changed his previous answer of 70%-90% to 50% of the time he was legitimately working saying, "Um 50%, but I'd be answering emails and I know that's not your definition of work um, so." Detective Appel gave three different answers to this question during the interview.

During his interview Detective Appel provided a 7 page typed document titled Detective Craig J. Appel's Notes. This document was provided at the beginning of the interview prior to Detective Appel knowing about the GPS information being used in this investigation. This document included a two-year overtime summary with dates and a short synopsis of what he was doing that day while on overtime grant money. Two days were selected for comparison to the data gathered in this investigation.

Under November 18, 2016 was the following:

"11/18/16 8 hrs. APD Versadex training 8-10 a.m., APD emails 12:23 p.m. to 4:07 p.m."

This was the date that the GPS showed Detective Appel in a field off of Jewell Avenue east of Murphy Creek from 0907 to 1123 hours. Detective Appel admitted he was probably hunting for those two hours on his way into work. There were two APD emails (8:02 p.m. and 9:56 p.m.) on this date but not during the time period he listed in his synopsis.

Under January 6, 2017 was the following:

"01/06/17 8 hrs. 0900-1700, emails () and phone call to on Forfeiture monies, 1:55 p.m. email concerning Aurora drop off AUSA discovery items, CHS meeting, meeting with on C-16 presentation material, Emails 10:45 a.m. to 6:10 P.M."

The GPS on the phone showed Detective Appel was at his Yoga Gym in Parker from approximately 0853 a.m. to 10:05 a.m. then goes to downtown Denver. He was in the FBI building from 12:06 p.m. to 1:30 p.m. then to a Starbucks in Parker and was home at 4:16 p.m. There were no APD emails on this date.

Phone logs for this date:

2017-01-06 18:13:11, Fri		INCOMING	-2				00:00:43
2017-01-06 18:13:11, Fri		INCOMING	-2				00:00:43
2017-01-06 18:49:33, Fri		INCOMING	+1				00:02:22
2017-01-06 18:49:33, Fri		INCOMING	+1				00:02:22
2017-01-06 18:57:42, Fri		OUTGOING		+1	-	-	00:00:00
2017-01-06 18:57:42, Fri		OUTGOING		+1	-	-	00:00:00
2017-01-06 18:57:51, Fri		OUTGOING		+1	-	-	00:02:07
2017-01-06 18:57:51, Fri		OUTGOING		+1	-	-	00:02:07

The incoming calls from show in the contact list on the phone. The outgoing calls to show as the contact. The calls are all after 1800 hours and are for less than 10 minutes.

14.3.5 Neglect of Duty

Members will not read, play games, watch television or movies, or otherwise engage in entertainment while on duty, except as may be required in the performance of their duties specifically or as authorized by the Chief of Police. They will not engage in any activities or personal business, which could cause them to neglect or be inattentive to duty.

Members will report for duty at the time and place required by assignment or orders and will be physically and mentally fit to perform his or her duties for the entirety of the

assigned shift. Only command level officers (lieutenants or above) possess the authority to grant a member permission to report late to or leave early from a duty assignment without the submission of an entry in the attendance software.

Members will not leave their assigned duty posts until relieved or authorized by proper authority.

Detective Appel admitted he was at home, hunting, bike riding, doing Yoga, running or doing non job related business (Cabela's, Costco) when he was being paid. This was confirmed by the GPS locations of his phone.

Detective Appel said his duty hours were 0700-1700 hours. He was asked if he was ever in the office at 0700 hours and he said that they did not want them in the office that they wanted them out doing something. He was asked a second time if he was ever in the office at 0700 at any time and he said no. He was asked if he was ever in the office at 1700 and he said maybe a few times during an OCDETF case.

The gate/door records for the [REDACTED] building show Detective Appel was never in the office at or before 0700 hours. The gate/door records show Detective Appel was in the office past 1700 hours on 7 days. On each of those 7 days he had not arrived at the office until after 1200 hours.



Aurora Police Department




City of Aurora

**Office of the Chief of Police
Memorandum**

Worth Discovering • AuroraGov.org

Date: August 6, 2018
To: File
From: Nicholas Metz, Chief of Police
Re: IAB Case #17-21

Discipline arising from IAB Case #17-21 was not imposed due to the retirement of Agent Craig Appel, effective August 3, 2018. Had he not retired, and based on the information in the file, I would have upheld the Chief's Review Board recommendation of Sustained findings.


Nicholas Metz
Chief of Police

8/6/2018
Date