

NOTICE OF DISCIPLINE (Amended - Settlement Agreement)

March 21, 2017

Sgt. Geoffrey Toscano
Juvenile Investigations
Minneapolis Police Department

RE: OPCR #16-18106

Sgt. Geoffrey Toscano,

As a result of the Settlement Agreement following grievance #17-6, the final discipline for OPCR Case #16-18106 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-102		Code of Ethics	C	<u>SUSTAINED</u>
3-800	III (A)1 & B(1)	Off-Duty Employment – Fail to Get Authorization	B	<u>SUSTAINED</u>
3-800	II & III C(8)	Off-Duty Employment – Submit Records	C	<u>SUSTAINED</u>

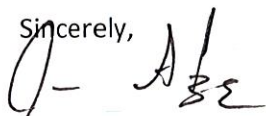
The discipline originally imposed by the Police Department was unchanged as related to violations of 3-800 Off Duty Employment – Fail to get Authorization and 3-800 Off-Duty Employment – Submit Records. Discipline originally imposed related to 5-102 was changed from a Category D to a Category C level violation, the original 40 hours unpaid suspension is unchanged.

Furthermore, it was agreed that you shall be restricted from any Law Enforcement off-duty employment from 2/10/17 to 5/10/17.

This case will remain in OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in more severe disciplinary action up to and including discharge.

Sincerely,

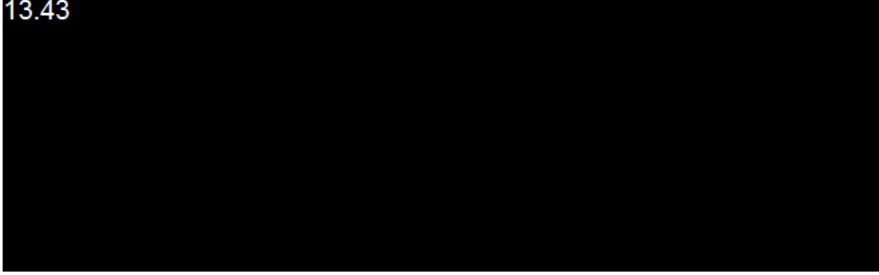


Jason Case
Commander
Internal Affairs Division

CC: Personnel file
OPCR
Deputy Chief of Professional Standards

OPCR CASE #16-18106

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MINNEAPOLIS POLICE DEPARTMENT
INTERNAL AFFAIRS UNIT

DISCIPLINE WORKSHEET
Category D Violations

Sergeant Geoffrey Toscano 09/19/2016 & 10/17/2016 16-18106
Employee's Name and ID Number Date of Incident OPCR Case Number

STEP 1 – CHARGES

Policy Number	Description	Category (A-D)
5-102	Code of Ethics	A - D
3-800	Off-duty employment Section D, Bullet point #7	A - D
3-800	Off-duty employment Section A, Bullet point #1	A - D

STEP 2 – BUREAU PANEL HEARING
Compose Findings Letter

Date of Hearing		Time of Hearing	Location of Hearing					
Policy Number	Description	Category	S	NS	E	U	P	
S = Sustained		NS = Not Sustained	E = Exonerated	U = Unfounded	P = Policy Failure			

Deputy Chief's Signature/Employee Number

Date

Panel Member in Attendance

☐ Concur ☐ Not Concur

Panel Member in Attendance

☐ Concur ☐ Not Concur

Minneapolis Police Department
Internal Affairs Unit

STEP 3 – LOUDERMILL HEARING

Compose Discipline Letter

Date of Hearing Time of Hearing Location of Hearing

Was the employee present at the hearing? ☐ Yes ☐ No

AGGRAVATING AND/OR MITIGATING FACTORS

Policy Number	Description	Category	S	NS	E	U	P

S = Sustained NS = Not Sustained E = Exonerated U = Unfounded P = Policy Failure

Recommended Discipline _____

Has the employee been advised of the final recommendation? ☐ Yes ☐ No

Deputy Chief's Signature/Employee Number Date

Panel Member in Attendance

☐ Concur ☐ Not Concur

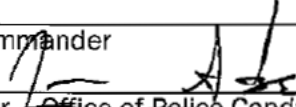
Panel Member in Attendance

☐ Concur ☐ Not Concur

**CITY OF MINNEAPOLIS
OFFICE OF POLICE CONDUCT REVIEW**

COMPLAINT INFORMATION					
Case Number	Precinct	CCN	Date of Incident	Time	Preference
16-18106			September 19, 2016		
Location of Incident		City/State/Zip		Date of Complaint	
				October 6, 2016	
Complainant Name (Last, First, Middle Initial)			Sex	Race	DOB
Joint Supervisors					
Home Address		City/State/Zip		Primary Telephone	
JURISDICTION		CATEGORY			
OPCR Ord. § 172.20(8)		VIOLATION OF THE P&P MANUAL			
BADGE/NAME		ALLEGED POLICY VIOLATIONS			
2311 ; Toscano, Geoffrey		MPD P&P § 3-800 (III) (A) (1) OFF DUTY EMPLOYMENT MPD P&P § 3-800 (III) (D) (7) MPD P&P § 5-102 CODE OF ETHICS <div style="background-color: black; width: 100px; height: 1.2em; margin-top: 2px;"></div>			
ALLEGATION SUMMARY					
<p>It is alleged that the officer left an overtime shift 4 hours prior to what was claimed as hours worked. Further, when questioned by a supervisor whether he had worked his entire shift, the officer allegedly told the supervisor that he had.</p> <p>On another day, the officer is alleged to have worked off-duty employment while also working his regular shift, resulting in the officer being paid by more than one employer at the same time. Additionally, it is alleged that he failed to apply and receive approval for the off-duty employment.</p>					
SUPERVISOR ASSESSMENT					
MEDIATION <input type="checkbox"/> Refer to Mediation COACHING <input type="checkbox"/> Refer to Precinct INVESTIGATIONS <input type="checkbox"/> Preliminary Investigation <input type="checkbox"/> Civilian Investigator: _____ <input type="checkbox"/> Sworn Investigator: _____ <input checked="" type="checkbox"/> Admin Investigation: Investigator			DISMISS <input type="checkbox"/> Reckoning Period Expired <input type="checkbox"/> No Basis <input type="checkbox"/> Failure to State a Claim <input type="checkbox"/> Failure to Cooperate <input type="checkbox"/> Exceptionally Cleared <input type="checkbox"/> Lack of Jurisdiction <input type="checkbox"/> Withdrawn <input type="checkbox"/> Duplicate <input type="checkbox"/> Refer to Dispatch <input type="checkbox"/> Refer to: _____ <input type="checkbox"/> Closed - Pending Further Information		
FINAL APPROVED INVESTIGATIVE REPORT <input type="checkbox"/> Refer to Panel					
IAU Commander				Date 11-16-16	
Director - Office of Police Conduct Review				Date 11/16/16	

**CITY OF MINNEAPOLIS
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JURISDICTION		CATEGORY			
OPCR Ord. § 172.20(8)		VIOLATION OF THE P&P MANUAL			
BADGE/NAME		ALLEGED POLICY VIOLATIONS			
7257 ; Toscano, Geoffrey		MPD P&P § 5-102 - CODE OF ETHICS [REDACTED] [REDACTED] [REDACTED]			
ALLEGATION SUMMARY					
It is alleged that the officer left an overtime shift 4 hours prior to what was claimed as hours worked. Further, when questioned by a supervisor whether he had worked his entire shift, the officer allegedly told his supervisor that he had.					
SUPERVISOR ASSESSMENT					
MEDIATION <input type="checkbox"/> Refer to Mediation COACHING <input type="checkbox"/> Refer to Precinct INVESTIGATIONS <input checked="" type="checkbox"/> Preliminary Investigation <input type="checkbox"/> Civilian Investigator: _____ <input checked="" type="checkbox"/> Sworn Investigator: <u>Gomez</u> <input checked="" type="checkbox"/> Admin Investigation: Investigator			DISMISS <input type="checkbox"/> Reckoning Period Expired <input type="checkbox"/> No Basis <input type="checkbox"/> Failure to State a Claim <input type="checkbox"/> Failure to Cooperate <input type="checkbox"/> Exceptionally Cleared <input type="checkbox"/> Lack of Jurisdiction <input type="checkbox"/> Withdrawn <input type="checkbox"/> Duplicate <input type="checkbox"/> Refer to Dispatch <input type="checkbox"/> Refer to: _____ <input type="checkbox"/> Closed - Pending Further Information		
FINAL APPROVED INVESTIGATIVE REPORT <input type="checkbox"/> Refer to Panel					
IAU Commander				Date	
 Director - Office of Police Conduct Review				10/17/16	
				Date 10/17/16	

Investigative Summary

Complaint Number: 16-18106

Investigator: Jose F. Gómez

Officer (s): Sergeant Geoffrey Toscano

Case Type: Admin

Date of Incident: 09/19/2016 and 10/17/2016

Complaint Filed: October 6th, 2016

CASE OVERVIEW

This investigation was initiated after timekeeping discrepancies were found to exist with Sergeant Geoffrey Toscano by Lieutenant Hildreth. Lieutenant Christopher Hildreth noticed Minneapolis Police Department (MPD) CAPRS 16-342864 and in supplement #4 it stated the Juvenile unit was closed and this was during the time Sergeant Toscano was working on September 19th, 2016. Sergeant Toscano worked an overtime shift on September 19th, 2016, at his assigned unit, Juvenile investigations. According to Workforce director Sergeant Toscano allegedly worked overtime from 05:00 PM on September 19th to 02:00 AM into September 20th. Sergeant Toscano allegedly left prior to the time he claimed as hours worked in Workforce director.

Lieutenant Hildreth asked Sergeant Toscano what time he left the Juvenile Unit for his shift on September 19th. Sergeant Toscano stated the earliest he left was 01:50 AM on September 20th. Lieutenant Hildreth notified his supervisor, Command Melissa Chiodo of the Special Crimes investigations Division in reference to this discrepancy. Commander Chiodo then notified Lieutenant Henry Halvorson from Internal Affairs.

Lieutenant Hildreth was notified by Sergeant Bradley Simonson, Juvenile investigator, that Sergeant Toscano never arrived for his scheduled shift on October 19th, 2016, and that Sergeant Toscano was working an Off Duty job for a Film company, allegedly resulting in Toscano being paid by more than one employer for the same period. An Off Duty Employment Employee Report was reviewed and the only approved Off Duty site for Sergeant Toscano was City Center, directing traffic.

ALLEGATIONS

Allegation 1: It is alleged Sergeant Toscano entered overtime from 05:00 PM to 02:00 AM, for a 9 hour shift on September 19th, 2016. It is alleged Sergeant Toscano left his overtime shift at 11:31 PM, approximately 2 ½ hours early, and he was still compensated for the entire 9 hour overtime shift, 5-102 Code of Ethics.

[REDACTED]

Allegation 3: It is alleged Sergeant Toscano submitted timekeeping documents to the City and an Off-Duty employer that resulted in him being paid by the City and the employer for the same time period on October 17th, 2016, Off-Duty Employment (D) 7.

Allegation 4: It is alleged Sergeant Toscano failed to apply and receive approval before working Off-Duty Employment for the Minnesota Filming Board, 3-800 Off Duty-Employment (A) 1.

CASE INVESTIGATION

Sergeant Toscano is assigned to Juvenile investigations and his regular scheduled work hours are 04:00 PM to 02:00 AM. For this investigation the following officers were interviewed and their statements are summarized in the discussion.

- Officer Anthony Rodin
- Officer Travis Williams
- Lieutenant Christopher Hildreth
- Lieutenant Robert Kroll
- Sergeant Bradley Simonson
- Sergeant Geoffrey Toscano

During Lieutenant Hildreth's interview he provided the following documentation:

- Text message from Sergeant Toscano on Monday, October 17th, at 12:54 PM stating he was going to be late on this date. Lieutenant Hildreth asked how late and Toscano replied 6-630 PM.
- Text message from Sergeant Simonson to Hildreth on Monday, October 17th, 2016 at 07:59 PM stating to call him when he gets a chance
- Email from Lieutenant Hildreth to Sergeant Toscano on September 22nd, 2016, at 01:41 PM regarding overtime from Monday (September 19th) thanking Toscano for working the staff shortage and Hildreth approved the "slip". Sergeant Toscano replied with a smiley face on September 22nd, 2016, at 07:42 PM
- Email from Lieutenant Hildreth to Police – Juvenile Investigations (Sergeant Toscano is included in this email group) on October 28th, 2016, at 10:41 AM. In this email Lieutenant Hildreth notified his staff to check and submit their time.

Sergeant Simonson provided me with an email from Lieutenant Hildreth sent on Monday, October 17th, 2016, at 01:04 PM. In this email Lieutenant Hildreth thanked Sergeant Simonson for covering the shift until Sergeant Toscano arrived at approximately 06:00-06:30 PM.

Workforce Director/Audit/Off-Duty

Workforce director records show that Toscano attended training from 09:00 AM – 15:00 PM on September 19, 2016 after which he worked an overtime shift in the Juvenile Unit from 05:00 PM – 02:00 AM. This resulted in Toscano having a work day that started on September 19 and ended in the early hours of the September 20, resulting in 17 hours of continuous hours worked.

According to an audit of workforce director activity, completed by MPD Business Application Analyst Lisa Charpentier, Toscano entered the overtime hours worked (05:00-02:00) later in the day on September 20 at 03:37 PM.

Hildreth approved Toscano's timekeeping record on September 22, 2016 and subsequently submitted the official timekeeping record to payroll on October 31, 2016.

Workforce director records show that Toscano worked his regular shift on October 17th, 2016, from 04:00 PM to 02:00 AM the next day. Lisa Charpentier conducted an audit in Workforce director for this date and Lieutenant Hildreth approved this entry and submitted it to payroll on October 31st, at 07:45 AM.

A further review of workforce director records revealed that Toscano had not submitted an application to work off-duty at the site.

Computer audit Sergeant Toscano

I contacted Director Debra Parker, Security Services Information Technology, and requested an audit for Sergeant Toscano's City computer (Asset tag number 32000533), specifically when Logging on and off occurred. The dates I requested were September 19th, 20th, October 17th, 18th. Below are the log off dates and times for Sergeant Toscano that are relevant to this investigation¹:

- September 19th, 2016, Asset tag number 32000533 logged off at 11:28 PM
- October 17th, 2016, Asset tag number 32000533 logged on at 07:46 PM and off at 07:49 PM

¹ Entire audit is included in this report under a separate tab. screen shots of audit were used as exhibit N.

City Hall video September 19th, 2016 and October 17th, 2016

I obtained City Hall video from Chip Teigen, Security Management Property Services, for September 19th, 2016 and October 17th, 2016. I also specifically requested cameras that captured the Juvenile Unit entrance and 3rd Avenue doors. The following are timelines of Sergeant Toscano's and Simonson's activity from these two dates:

September 19, 2016 – Allegations 1 & 2		
Action	Time	Location
Entered	16:28	City Hall – 3 rd Avenue door
Exited	19:14	City Hall – 3 rd Avenue door
Entered	20:05	City Hall – 3 rd Avenue door
Exited	23:31	City Hall – 3 rd Avenue door

October 17, 2016 – Allegation 3		
Action	Time	Location
Entered	19:42	City Hall – 3 rd Avenue door
Exited	19:58	City Hall – 3 rd Avenue door

While reviewing records I obtained from Arthur Thomas Jr., City Security Manager, I found there to be discrepancies between the electronic activity log and the video images that cover the access points leading to the Juvenile Unit. It was discovered that a technical issue existed with the access card registered to Toscano. Because of this, there was no information for Toscano on the access report. Due to the discrepancies, I have included still images taken from City Hall surveillance cameras that show when Toscano arrived and left from City Hall on the dates of the alleged misconduct.

Off-Duty Employment time card and Workforce director report

In Lieutenant Kroll's interview I was provided with the contact person for the Minnesota Film Board, Amy Thompson. I contacted Amy Thompson, Assistant Location Manager for "Mogadishu, Minnesota" and requested Payroll documentation for October 17th, 2016, relating to Sergeant Geoffrey Toscano. Amy provided me with two forms, one form Sergeant Toscano filled out by hand on October 17th, 2016 and another form was submitted to payroll by Amy. The form Sergeant Toscano filled out indicates he worked from 07:00 AM to 07:30 PM on October 17th, 2016. The form submitted to payroll by Amy indicates Sergeant Toscano worked from 07:00 AM to 07:50 PM on October 17th, 2016. Payroll documentation is included in this report under a separate tab.

Email from Sergeant Hildreth titled "Personnel matter – Notes

On Wednesday October 19th, at 08:27 AM, 2016 I was forwarded an email from Lieutenant Hildreth titled "Personnel matter – Notes. The email was in reference to Sergeant Toscano and his regular shift on October 17th, 2016, below is a summary of the email:

- Lieutenant Hildreth makes a note to check Sergeant Toscano's time. Sergeant Toscano sent him a text message on October 17th, at 12:54 PM stating he would be late and he was the only Sergeant scheduled to work that night.
- Lieutenant Hildreth texted back "how Late?" and Sergeant Toscano replied 6:00-06:30 PM. Lieutenant Hildreth replied "ok I'll see if someone can cover till then" and Sergeant Toscano replied with "☺".

- Lieutenant Hildreth asked Sergeant Simonson to stay until Toscano could make it in and he agreed to cover. Sergeant Toscano did not state why he would be late and Hildreth did not follow up with Sergeant Toscano.
- At 07:59 PM, October 17th, 2016, Sergeant Simonson text messaged Hildreth to call him. Lieutenant Hildreth called him and learned that Sergeant Toscano had not shown up for work and that Sergeant Simonson called Toscano to find out an ETA.
- Sergeant Simonson learned Toscano was working Off-Duty for a filming of a movie and it was running longer than expected. Sergeant Simonson agreed to stay and cover the shift. Lieutenant Hildreth instructed Sergeant Simonson to stay until midnight, if Sergeant Toscano didn't show up. Sergeant Simons entered overtime until 12:00 AM for October 18th, 2016, for covering Sergeant Toscano's regular shift.
- Lieutenant Hildreth attempted to meet with Sergeant Toscano to discuss his calling in late. Lieutenant Hildreth also intended to discuss the shift hours with Sergeant Toscano for October 17th, because it still showed regular hours, 04:00 PM to 02:00 AM in Workforce director.
- Lieutenant Hildreth stated he did not know if Sergeant Toscano ever showed up for work on Monday, October 17th. Lieutenant Hildreth stated he was unable to meet with Sergeant Toscano in reference to this issue because he had to deal with a personal matter.
- On Wednesday, October 19th, Lieutenant Hildreth noticed Sergeant Toscano entered a vacation day for October 18th, so he would not have been able to talk to him. Hildreth also noted that October 17th, was still a regular work day for Sergeant Toscano in Workforce director, 04:00 PM to 02:00 AM.

Lieutenant Hildreth noted that Sergeant Toscano had a stretch of days off and In-service training. Sergeant Toscano's next full day back to work at Juvenile Investigations would have been Thursday, October 27th.

MPD CAPRS CCN 16-342864

Lieutenant Hildreth read MPD CAPRS 16-342864 shortly after September 19th, 2016. The offenses for this report are Weapons, Field Contact and Directed Patrol Arrests. Two Juveniles were arrested in this incident. Lieutenant Hildreth read this report and noticed that in supplement number 4, Officer Travis Williams stated "My partner and I transported AP1 and AP2 to city hall for finger prints and photos. The Juvenile unit was closed so we went to the Crime lab". Lieutenant Hildreth thought this was odd because he knew Sergeant Toscano was working on this date and covering the Juvenile unit.

Off-duty logs/Audio from the Minneapolis Emergency Communications Center/Capture 911

I went to the Minneapolis Emergency Communications Center (MECC) to review Off-duty logs from October 17th, 2016. If an MPD Officer is working Off-duty and they do not have a Computer Aided Design (CAD) they call into MECC and request an Off-duty number and they also notify dispatch of the location and hours they are working. Dispatch then enters this information into a Log titled "Channel 7 Log". I obtained copies for Off-duty logs on October 17th, 2016.

Channel 7 logs for October 17th, 2016, showed Sergeant Toscano was assigned Off-duty number 6382, for the area of 26th Street and Bloomington Avenue south. There were two other Officers working Off-Duty with Sergeant Toscano, they were Sergeant Luis Porras and Francisco Porras.

I reviewed Capture911 audio, which showed Sergeant L. Porras called channel 7 at 07:27 AM, on October 17th, 2016, requesting an Off-duty number. Sergeant L. Porras stated he would be working with Sergeant F. Porras and Sergeant Toscano at 26th Street and Bloomington Avenue south until 07:00 PM.

DISCUSSION

The Minneapolis Police Department's Policy and Procedure Manual states in part:

5-102 CODE OF ETHICS

All sworn and civilian members of the department shall conduct themselves in a professional and ethical manner at all times and not engage in any on or off-duty conduct that would tarnish or offend the ethical standards of the department. Employees shall abide by the City's Ethics in Government Policy, Chapter 15.

The key issue is whether Sergeant Toscano conducted himself in a professional, ethical manner by engaging in any on or off duty conduct that tarnished or offended the ethical standards of the department when he allegedly left work early while on overtime and was still compensated for time he wasn't working on September 19th, 2016.

Lieutenant Hildreth is Sergeant Toscano's direct supervisor and it was brought to Lieutenant Hildreth's attention that there was no one covering the Juvenile unit on September 19th, 2016, in the evening. The hours of the overtime shift were 05:00 till 02:00 AM. Lieutenant Hildreth stated he ran into Sergeant Toscano approximately one week prior to September 19th, and Toscano "immediately volunteered to do it".²

Lieutenant Hildreth knew Sergeant Toscano had in-service training on September 19th, 2016, during the day which would be a long work day, with the addition of the overtime shift. Lieutenant Hildreth told Sergeant Toscano that he could leave by midnight.³

According to a Workforce director audit conducted by Ms. Charpentier for the date September 19th, 2016, Sergeant Toscano worked an overtime shift from 05:00 PM to 02:00 AM into September 20th. The overtime was entered on September 20th, 2016 at 03:37 and was approved by Lieutenant Hildreth on September 22nd, 2016, at 01:39 PM. In Workforce director Sergeant Toscano entered "Staffing Short" in the reason section.

City Hall video was requested from Teigen for the 3rd Avenue entrance/exit for September 19th, 2016. I viewed the video and this is the timeline of Sergeant Toscano from September 19th:

- Sergeant Toscano entered 3rd Avenue doors at 04:28 PM.

² 1st Hildreth Q&A pg. 5 (3 - 7)

³ 1st Hildreth Q&A pg. 6 (1 - 9) Sergeant Toscano Q&A pg. 6 (12 - 15)