

Sick Leave Usage in Clearwater Fire and Rescue

Statement of Complaint: Following an inquiry regarding one employees sick leave usage, the City conducted a Citywide review on sick leave usage. This included but was not limited to a review of payroll records and the amount of time used leading up to departure, any supporting documentation and in some cases interviews. The review reflected there were sixteen employees within the Fire Department who were using sick leave inappropriately or were using sick leave significantly without proper medical documentation on file to support the absences. This practice was not found to be occurring anywhere else within the City.

Basis in Policy:

SAMP Manual

International Association of Fire Fighters Collective Bargaining Agreement
Performance and Behavior Management Program

Page 4: Summary

Page 13: Findings

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Names of Interviewees:

Steven Strong, Fire Deputy Chief

Stanley Loveday, Logistics Manager

Scott Ehlers, Fire Chief

John Klinefelter, Fire Assistant Chief

Exhibit A: Clearwater Fire Department-Leave Abuse Findings/Monetary Payouts

Date of Final Report: May 16, 2018

Report by:

Joseph Roseto, Human Resources Director

Michelle Kutch, Human Resources Manager

SAMP Manual

Section 3: Leave of Absence, Section C-3 Sick Leave Use, states:

SAMP employees may be authorized to utilize sick leave after it is accrued and in increments of tenths of an hour. Classified and Unclassified service SAMP employees may use sick leave for absences from duty due to:

- a. Personal illness or physical incapacity caused by factors over which the employee has no reasonable immediate control.*
- b. Exposure to contagious disease in which the health of others would be endangered by the employee's attendance on duty.*
- c. Doctor and Dental appointments, physical examinations, or other personal sickness prevention measures.*

- d. *Illness of a member of the immediate family that requires the personal care and attention of the employee. Immediate family is defined as parents, stepparents, children, stepchildren, grandparents, grandchildren, brothers, sisters, present spouse of the employee and the "immediate family" of the employee's present spouse, or other family member living in the immediate household.*

SAMP employees found to be utilizing Sick Leave for any reason other than those stated above shall be subject to discipline action up to and including termination.

Section 3: Leave of Absence, Section C-6 Payment for Unused Sick Leave, states:

*Upon retirement to receive benefits under the City Employees' Pension Plan, or upon retirement under Federal Social Security or provisions of a City-sponsored Money Purchase Plan after having served a minimum of five consecutive years of City service, or upon an involuntary separation due to such reasons as layoff, disability or death, **Classified** and **Unclassified** SAMP employees are paid at the current base rate of pay at the time of separation for one-half of the unused portion of sick leave for which they may at that time be eligible or may utilize one-half of such remaining sick leave balance to advance the date of retirement. Employees who opt to be paid for such unused sick leave balance may request that one half the payment be made at separation and one half the payment be made in the first payroll period in the next calendar year. SAMP employees are not otherwise paid in lieu of utilizing sick leave time.*

SAMP employees who are separated for any reason other than those listed above are entitled to no claim for sick leave payment or use. SAMP employees who leave prior to retirement as defined above for voluntary reasons, such as to seek or accept other employment, relocate, return to school, care for relatives/friends, or other reasons of a like nature, are likewise entitled to no claim for payment or use of any unused portion of accumulated sick leave.

Section 8: Retirement and Savings Plans, Section C Retirement, to wit:

*Prior to retirement, **Classified** and **Unclassified** service SAMP employees may utilize their vacation leave balance at 100% value and sick leave balance at 50% value to advance their date of retirement. During such advancement period, employees are considered as regular employees for service credit to the pension plan, and the City and the employees continue to contribute to the pension plan.*

*During any period of retirement advancement, **Classified** and **Unclassified** SAMP employees are not eligible to receive or accrue any benefits except retirement credit. The benefits that are stopped include but are not limited to vacation and sick leave accrual, holidays, insurance premium payments, workers compensation, salary increases, allowances, reimbursements, and special payments or bonuses of any kind.*

International Association of Fire Fighters, AFL-CIO, Local 1158, Collective Bargaining Agreement

Article 8, Section 3-F Sick Leave

Sick leave shall not be considered a privilege to be used at the employee's discretion, but shall be used only for absences:

- 1. Due to personal illness or physical incapacity caused by factors over which the employee has no reasonable immediate control.*
- 2. Necessitated by exposure to contagious disease in which the health of others would be endangered by his/her attendance on duty.*
- 3. Due to medical or dental appointments, or other personal sickness prevention measures, the scheduling of which at times other than during his/her regular working hours is impossible or unreasonable.*
- 4. Due to illness of a member of his/her immediate family which requires his/her personal care and attention. The term "Immediate Family" as used in this paragraph shall mean parents, stepparents, children, stepchildren, grandparents, grandchildren, brothers, sisters or husband/wife of the employee and the immediate family as herein referenced of the husband/wife, or other relative who is a member of the immediate household.*

Sick leave will be accrued on a biweekly basis based on hours in a paid status. An employee may utilize his/her accumulated sick time due to an illness in his/her immediate family (as that term is defined above).

- 5. If an employee is under a doctor's care or if a member of the employee's immediate family is under a doctor's care and the doctor certifies that the employee's personal care and/or attention is required, said time of absence shall not be considered as grounds for any discipline, provided that personal sick leave is not used in excess of accumulated sick leave.*

G. An employee absent for one of the reasons mentioned above shall inform his /her immediate supervisor as early as possible on the first day of absence. Failure to do so may be the cause for denial of sick leave with pay for the period of absence. In any event, the Departmental Rules shall govern the notification requirements.

H. Payment for Unused Sick Leave

Upon separation from City service, an employee shall be paid one -half of his/her accumulated unused sick leave. The rate of payment shall be based on the regular hourly rate (excluding shift differential or any other addition to base pay) of the employee on the last day worked prior to separation. The employee may request that one -half the payment for unused sick leave be made at separation and one -half the payment be made in the first payroll period in the next calendar year.

The employee qualifies for payment if:

- 1. The employee has had at least 20 years of continuous service with the City. Leaves of absence without pay, suspensions and layoffs followed by subsequent re- employment shall not be considered as breaks in service. The length of such time off or layoff shall be deducted from the total length of service. Military leaves and leaves during which the employees are receiving Workers' Compensation shall not be deducted from continuous service; or*
- 2. The separation is involuntary on the part of the employee including disability (incurred on or off the job) and layoffs; or*
- 3. The employee's estate shall receive payment if an employee dies.*

An employee who may otherwise be eligible for retirement under the City Employees' Pension Plan or Federal Social Security, or who may be approaching such eligibility date, and whose purpose in leaving is to retire under either program, may utilize one -half of his/her accumulated unused sick leave to the extent thereof to advance his/her retirement date. In that event, the employee shall execute a resignation to become effective on the date that such accumulated unused sick leave would be exhausted. Such resignation shall be irrevocable, and retirement shall begin at the time such resignation becomes effective. In the interim, payment for accumulated unused sick leave shall be made as a continuation of the employee's regular pay from which all regular payroll deductions shall be made in order to preserve his/her retirement status. Accumulated unused sick leave will be charged as outlined in paragraph (1) of this subsection.

Summary

For purposes of this report, the sick leave usage concerns identified within Clearwater Fire and Rescue will be split into three categories. This report does not identify the additional costs associated with the permitting inappropriate sick leave usage, to include overtime costs, health insurance costs, special pays, clothing allowances and lump sum payouts. These figures can be found in the attached Exhibit A which included all monetary payouts.

Category 1: Category 1 contains five employees who were found to have utilized their sick leave accruals continuously over a short period of time, immediately preceding their resignation. The employees in this category were not retirement eligible and exhibited a pattern of significant sick leave usage in a short period of time without medical documentation or verification by their supervisor. While this usage should have raised a question or concern with Fire administration, it did not. Both the SAMP manual and the CBA define that employees can only be paid for one-half of accrued sick leave up to the designated sick leave cap at retirement. Employees who separate for any other reason are not entitled to a payout of any of their sick leave accruals. This category contained two SAMP employees and three IAFF employees which indicates the practice was permitted at every level of the department, as these five employees were permitted to take sick leave without verification that it was being done consistent with policy. In addition, the three IAFF represented employees continued to be employed long enough to receive their annual float and vacation lump sum award which occurs in January of every year. While they should have departed previously, they did not officially resign until January of a given year.

Employee #1 in Category 1: Paul Capo, Lieutenant, IAFF represented employee

Lieutenant Capo resigned from the City effective January 5, 2018. The last day actually worked, with the exception of 10.25 hours on January 4th, 2018 was September 29, 2017. During the time in question, his chain of command included Assistant Chief Hawkins, Assistant Chief Sparrow, Assistant Chief Williams, Deputy Chief Pettingill and Fire Chief Ehlers. This was because of his position as the safety lieutenant, which was a floating position. Although there was no official resignation on file, the indication was that employees within Clearwater Fire and Rescue knew that Lieutenant Capo was out of state starting September 29, 2017 and would not be returning to work until January 4, 2018, to work his last day.

- Over the 12 months preceding resignation, Lieutenant Capo used a total of 488 sick leave hours. Lieutenant Capo significant sick leave usage began September 29, 2017. From September 2017

through his resignation date of January 5, 2018, he used 436.03 sick hours (18.17 sick days at 24hrs per day). As of September 29, 2017, Lieutenant Capo had 407.31 hours of sick leave accrued, as of January 5, 2018, the date of resignation, he had .0033 hours of sick leave.

- There is no documentation that supports or explains Lieutenant Capo's sick leave absences.
- It is not clear who approved a legitimate purpose for Lieutenant Capo's time off. There are no signed timesheets and no emails identifying official approval.
- Telestaff shows Lieutenant Capo going into the Telestaff system on September 27, 2017 and personally entering all his time out as sick leave through December 30, 2017. Additional dates were entered as vacation by Assistant Chiefs:
 - November 20, 2017, entered by Chief Magness on November 15, 2017
 - November 22, 2017, entered by Chief Williams on November 29, 2016 (System reflects this request for a vacation day was entered 1 year ahead of time and was for the day before Thanksgiving.)
 - November 24, 2017, entered by Chief Magness on November 15, 2017
 - December 8, 2017, 4 hours entered by Chief Hawkins on August 24, 2017
- September 29, 2017: Email from Lieutenant Capo to payroll preparer Terri Rowland identifying that he will be back for his January 4th shift, and he provided her his address and personal email, but did not do a formal change of address for the department. This indicates it was known that Lieutenant Capo moved out of state while he was still receiving paychecks as a Clearwater Fire Department employee. This was known as early on September 29, 2017, from the email Lt. Capo sent to payroll preparer, Terri Rowland.
- During earlier conversation with Ms. Rowland, she stated she verbally raised a concern to her supervisor Marty Moran and to Chief Klinefelter and told them by approving this, they were setting a precedence. She stated everyone knew what Lieutenant Capo was doing. She clarified this by stating everyone from line personnel to the Chiefs were aware of Lt. Capo's situation.
- When asked if Ms. Rowland raised the above concern with him, Chief Klinefelter stated "I do not remember that conversation, at no time do I recall her coming to me".
- No one reported Capo's situation as a concern to the payroll department or to human resources.
- September 14, 2017: Email from Administrative Manager Marty Moran to Lieutenant Capo, where Mr. Moran outlines the contract language for Lieutenant Capo and identifies "If you work to 1/4/18 as we discussed you will be entitled to your 2018 float and vacation accruals." This statement does not indicate that Mr. Moran knew Lieutenant Capo was going to utilize his accruals to get him to his last day of work on January 4, 2018 and is more just factual citing of the contract. However, Mr. Moran never noted or raised a concern about the sick leave usage once it began.
- November 3, 2017: Email from Chief Pettingill where he indicates the department cannot get business cards for Capo's replacement "until Capo officially retires".
- December 4, 2017: Email from Marty Moran to Thomas Jensen stating, "Lt. Capo retirement date 1/5/2017".
- January 1, 2018, Lieutenant Capo receives annual float and vacation award.
- In March of 2018, Lieutenant Capo states he received approval from Chief Ehlers to take the action he did. When asked, Chief Ehlers stated Lieutenant Capo asked if he could use some of his leave accruals prior to relocating out west. The Chief agreed and directed Lieutenant Capo to speak to the payroll administrative staff. He stated he did not approve Lieutenant Capo running out his sick leave or being out of work for three months.

- Capo's final paycheck reflects several payouts and awards he would have otherwise not been entitled to if he had resigned on September 29, 2017.
- The following payouts were included on check dated January 12, 2018 and total \$10,335.93:
 - Vacation Lump Award: 240 hours, equaling \$6,607.46 (he had 240 already accrued)
 - Fire Incentive Pay: \$110.00
 - Holiday Floater Lump Award: 96 hours, equaling \$2,642.98
 - Fire Medic Pool Pay: \$100.00 (paid to those who can be utilized in a medic capacity)
 - Holiday Pay: Paid for 21.20 hours of a holiday: \$875.49

Employee #2 in Category 1: Stanley Loveday, Logistics Manager, Unclassified SAMP Employee

Stan Loveday was hired as the Clearwater Fire and Rescue's Logistic Manager (SAMP 4 position) on October 1, 2007 subsequent to his retirement as a firefighter. He worked under the direction of Assistant Chief Steve Strong. Mr. Loveday's last date worked was October 30, 2017 and his resignation from the City of Clearwater was effective March 2, 2018, end of day. Although there was no official resignation on file ahead of Mr. Loveday starting his leave, it appears staff was aware Mr. Loveday was not returning.

- Over the 12 months preceding resignation, Mr. Loveday used a total of 524 sick leave hours. Mr. Loveday began a consistent pattern of sick leave usage beginning October 30, 2017. From October 2017 through his resignation date of March 3, 2018, he used 506 sick hours (63 sick days at 8hrs per day). As of his date of resignation, March 3, 2018 he had 117.84 of sick leave hours remaining. Should Mr. Loveday have been allowed to continue utilizing his sick leave through May 15 as originally planned, his sick leave accruals would have been exhausted.
- There is no emails or medical documentation on file to approve, support or explain Mr. Loveday's 63 days of sick leave absences.
- There are a series of emails in November 2017 to different vendors originated from Assistant Chief Strong identifying "Stan retired" and "Stan has retired".
- An email dated November 15, 2017, to the City's information technology department, from Assistant Chief Strong asking them to place Mr. Loveday's Computer items on his desktop.
- An email dated November 21, 2017, from Stan Loveday to AC Andrew Hawkins, providing him a personal mailing address in Key West.
- An email dated November 24, 2017 from Stan Loveday to a vendor with the subject line "Gone Sailing" and the content "I am sure by now you have heard I have sailed off."
- An email dated February 9, 2018 from DC Pettingill to Dieunice Deris in Human Resources stating, "Stan Loveday no longer works for the City."
- Chief Strong said he was approving Mr. Loveday's time out of work and signing his biweekly timesheets.
- Chief Strong said Mr. Loveday came to him and told him he was approved by Chief Ehlers to use his accruals and Chief Strong said he had no reason to question Mr. Loveday.
- Loveday provided to Chief Strong filled out timesheets, dated through the middle of May when he left. Chief Strong stated, "If it was wrong, Marty Moran should have told us we couldn't do that."
- Chief Strong said he didn't think they were doing anything wrong. He said these actions were not done with malice intent and they equated Mr. Loveday's situation to former employee

Lenny Rickard, where Lenny was permitted to do the same thing under the contract. (Records show Lenny Rickard participated in retirement runout which is permitted.)

- Chief Strong stated they were not hiding anything (regarding Loveday's absences) and provided emails showing his correspondence with the IT dept and other vendors saying Loveday was gone and they needed access to his emails and folders. He said that he was upfront about getting access to Mr. Loveday's IT items to continue with his work while he was out and thought it was ok. He said they were not hiding or covering for Mr. Loveday.
- Chief Strong said when they realized there was a concern being raised, that he stopped signing off on the timesheets.
- Mr. Loveday said in June 2017, there was talk about changing the Logistics manager position to a Logistics Chief. At this time, he stated he was already experiencing medical issues due to stress from the job and he said he discussed with Chief Ehlers and Chief Strong their options. Mr. Loveday said they discussed him taking some time off and stated that they didn't want him to use FMLA because the perception was if FMLA is related to the stress of the job, it would *"give us a black eye."* Chiefs Strong and Ehlers dispute this.
- Mr. Loveday said he worked out this agreement with Chief Ehlers. Since he had the sick time, he felt he could use the sick time to address the issues he was having, and if he got better, he could come back. He said the agreement was he could use all his sick leave, with the expectation they could use him/call him while he was out. He stated, *"the expectation was that if I felt better by May 15th I could come back to work."*
- Mr. Loveday stated he gave them that option since they couldn't communicate with him if he was out on FMLA and *"they wanted to keep logistics working and moving"*. He stated he worked remotely on several big things like the audit on the FD Fleet, the new radio project but that on a regular basis *"I was communicating with Strong 3-4 times a week all along because I had a vested interest in the job, I have 30 years in, I didn't want to leave a bad taste. The City has been very good to me and I was doing what I could to help out while out."*
- Mr. Loveday stated he felt *"the agreement"* was coming from the following circumstances: Deb Weitzel was retiring in January, and they didn't have a replacement, so when he spoke with Ehlers regarding the Logistics operation, he felt they just wanted it to keep Logistics running smoothly. He thinks that is the reason why Chief Ehlers allowed him to fill out the timesheets through May and use sick leave in lieu of taking FMLA. He said, *"they told me I had the historical knowledge and they said as long as you are willing to help us while out on sick leave."*
- Mr. Loveday explained that about 6 weeks ago, he got a phone call from Chief Strong who stated, *"I need you to give a letter of resignation or they will fire you within 48 hours"*. He said Chief Ehlers had Chief Strong call him. He said this call was before it was in the newspaper. He asked Chief Strong at that time if he wanted him to send the FMLA paperwork now and that Chief Strong replied *"no, they will still fire you."*
- Mr. Loveday stated *"This was all stuff Ehlers, Strong and Marty all knew.... The news makes it look like I tried to screw the City over, but I was working the whole time, I was still working remotely. I had calls with Strong all the time and the expectation was I was to help things continue moving."*
- Mr. Loveday said when it *"blew up"* and his name was in the newspaper, he called up Chief Strong and said *"What the heck? I told him, I don't understand, you guys approved this."* Chief Strong told him that Admin was taking care of it.
- Mr. Loveday said this wasn't a new thing, they did this for years with many other people. Mr. Loveday said he spoke to Marty about the agreement and Marty knew he was using sick leave and knew about the prefilled timesheets. He said if this was an issue, Marty should have *"thrown up the flags."*

- Mr. Loveday was asked if he was potentially returning on May 15th, why did he send an email on November 24, 2017 to a John Kiszely saying *“I am sure by now you have heard I have sailed off. It has been a pleasure working with you over the years.”* Mr. Loveday said there were no emails from him that specified he was retiring or not returning, he said he lives on a sailboat and *“That’s [sailing] my stress relief”*. He said Chief Strong told him he had until May 15th and that’s why the timesheets are dated through May. He reiterated *“If I could come back at that time [May], then I would come back, that was the understanding.”*
- Chief Strong was asked about Mr. Loveday’s statement where he alleged he was working the whole time and was still working remotely. I explained that Mr. Loveday stated he had calls with Chief Strong “all the time” and the expectation was he “was to help things continue moving.” Chief Strong stated that he only spoke to Mr. Loveday about 4 times, to ask him basic questions.
- City desk line records reflect no calls between Mr. Loveday and Chief Strong’s desk phone.
- Chief Strong’s City issued cell phone records reflect the following:

	# of outgoing calls from Strong to Loveday	# of incoming calls from Loveday to Strong	# of calls over 2 min therefore considered connected calls
November 2017 bill	10	3	7
December 2017 bill	2	0	2
January 2018 bill	2	0	1
February 2018 bill	5	2	5
March 2018 bill (calls through March 5, date of resignation)	4	0	4
Original date on resignation was March 5, 2018, however it was backed up to Friday, March 2, 2018.			
March 2018 bill (After March 5th)	7	0	4
April 2018 bill	1	0	0

23 connected calls with an average call length of 7.13 mins

- When told about Mr. Loveday’s statements with medical leave, both Chiefs Ehlers and Strong stated that Mr. Loveday never disclosed to them having a medical condition, needing time off for a medical condition, or FMLA. Chief Ehlers stated if Mr. Loveday had said anything about FMLA or medical issues, Chief Ehlers would have sent him to Human Resources.
- When told about Mr. Loveday’s statements regarding potentially returning to work on May 15 and working remotely while out, Chief Ehlers said he also did not have any knowledge about Mr. Loveday’s potentially returning in May nor did he know anything about Mr. Loveday working

while he was out. Chief Strong stated that Mr. Loveday took vacation and he potentially would be returning if he couldn't handle the close quarters on the boat. Chief Strong said when he read Mr. Loveday's email that he "sailed off", he realized he was not returning. Chief Strong said Mr. Loveday was not working remotely and that Chief Strong only contacted him about 4 times while he was out to ask basic questions.

- Chief Ehlers said he was under the impression Mr. Loveday was running out his time under the SAMP manual provision. He said he has seen other employees such as Lenny Rickard and Lenny Melanson do the same thing. (Human Resources confirmed both employees were on "retirement runout").
- Chief Ehlers said in February 2018, Chief Strong gave him Mr. Loveday's timesheet to sign. Chief Ehlers said he went to Marty Moran with it and asked what was going on with Mr. Loveday. He said Marty provided him a spreadsheet showing him the amount of time Mr. Loveday has been out. After learning how much time he had been out, Chief Ehlers then came to Human Resources asking questions about Mr. Loveday's absences. Human Resources was not aware of Mr. Loveday's absences either and began to inquire with the Administrative Manager, Marty Moran.
- Chief Strong stated that when he saw Mr. Loveday's email regarding sailing off, he realized Mr. Loveday was not returning and provided the timesheets to Chief Ehlers.
- On February 13, 2017, Chief Ehlers came to Human Resources and inquired about Mr. Loveday's status. HR was not aware Mr. Loveday was out and this began the inquiry into his absence.
- Between February 13th and February 28, 2018 there were several calls and 5 documented emails from Human Resources to Marty Moran attempting to obtain information regarding Mr. Loveday's absences and status. All went unanswered.
- Human Resources determined that Mr. Loveday had been out since before Thanksgiving and discovered he had no documentation in place to support the leave. On February 28, 2018, HR directed Chief Ehlers to contact Mr. Loveday and tell him he had three choices; he needed to return to work immediately; he could resign; or he would be terminated under his contract.
- Copies of Mr. Loveday's timesheets were reviewed and were signed by Chief Strong. Out of 16 weeks, only 7 days were coded as vacation and 63 days were coded as sick. The rest were either holiday floaters or actual holidays.
- Chief Strong was asked if he was under the impression that Mr. Loveday was out on vacation, why was he signing off on timesheets that had sick leave. Chief Strong responded, "I don't have an answer, I thought it was vacation."
- Chief Ehlers indicated he did not approve his absence and Mr. Loveday worked directly for Chief Strong. Chief Ehlers perspective was that he thought Mr. Loveday was following policy. There is no medical documentation on file to approve, support or explain Mr. Loveday's 63 days of sick leave absences.

Employee # 3 of Category 1: Ryan Snelling, Firefighter, IAFF represented employee

He worked under the direction of a Lieutenant and his chain of command was Assistant Chief Stasiowski, Assistant Chief Roby, former Deputy Chief Richard Riley and former Fire Chief Robert Weiss. Firefighter Snellings last date worked was January 11, 2014. There is an official resignation form on file and no reason for resignation was provided.

- Over the 12 months preceding resignation, Firefighter Snelling used a total of 452 sick leave hours. Timesheets reflect Firefighter Johnson began a consistent pattern of significant sick leave usage at the beginning of November 2013. From November 2013 through his resignation date of January 11, 2014, he used 370 sick hours used (15.4 sick days at 24hrs per day). As of his date of resignation, January 11, 2014 he had 28.83 of sick leave hours remaining.
- There is no emails or medical documentation on file to approve, support or explain Firefighter Snellings 15.4 days of sick leave absences.
- Upon Departure, Firefighter Snelling received his annual floater and vacation award.

Employee #4 of Category 1: Simeon Johnson, Firefighter, IAFF represented employee

He worked under the direction of Lieutenant Eric Miller or Lieutenant Chris Maine and his chain of command was Assistant Chief Williams, Assistant Chief O'Neill, Deputy Chief Pettingill and Fire Chief Ehlers. Firefighter Johnsons' last date worked was January 2, 2018. There is no official resignation form on file.

- Over the 12 months preceding resignation, Firefighter Johnson used a total of 288 sick leave hours. Timesheets reflect Firefighter Johnson began a consistent pattern of sick leave usage beginning the middle of October 2017. From October 2017 through his resignation date of January 3, 2018, the consistent pattern reflected 216 sick hours used (27 sick days). As of his date of resignation, October 10, 2016 he had 18.83 of sick leave hours remaining.
- There is no emails or medical documentation on file to approve, support or explain Firefighter Johnson's 27 days of sick leave absences.
- Upon Departure, Firefighter Johnson received his annual floater and vacation award.

Employee #5 of Category 1: Richard Riley, Deputy Chief of Operations, SAMP Employee

Richard Riley resigned from Clearwater Fire and Rescue on October 10, 2016. He worked under the direction of Former Fire Chief Robert Weiss. Chief Riley's last date worked was October 10, 2016. Deputy Chief Riley send an email on September 24, 2016, to the Human Resources director with a letter of resignation attached. The resignation letter was dated September 11, 2016 and identifies an official resignation effective date of October 10, 2016.

- Over the 12 months preceding resignation, Chief Riley used a total of 136 sick leave hours, which began in late July 2016. From July 2016 through his resignation date of October 10, 2016, he used 136 sick hours (17 sick days at 8hr/day). As of his date of resignation, October 10, 2016 he had 667.24 of sick leave hours remaining.
- There is no emails or medical documentation on file to approve, support or explain DC Riley's 17 days of sick leave absences.
- There is a Separation Agreement and General Release on file for DC Riley.

Category 2: Category 2 contains four employees who were found to have utilized sick leave accruals intermittently over the preceding 12 months leading up to their resignation or retirement. While using the time intermittently may have not caused an immediate concern, as it continued, it should have raised the question as to whether the employee was out for a legitimate FMLA qualified reason. If not, the behavior should have been addressed through the Performance and Behavior Management Program. This category contains four IAFF employees, two of whom were Lieutenants at their time of departure.

Employee #1 of Category 2, Steven Lannon, Fire Medic

Resignation date April 20, 2013 and over the 12 months preceding resignation, Fire Medic Lannon intermittently used a total of 283 sick leave hours, which equates to 11.79 sick days at 24 hours per day. At resignation, he had 33.71 hours of sick leave accruals remaining. There is no emails or medical documentation on file to approve, support or explain Fire Medic Lannon's sick leave absences. Resignation does not state reason; however, it is filled out by the employee as effective April 25, 2013, but due to employee's absence, it was backed up to his last day worked.

Employee #2 of Category 2, Geraldo Cruz, Fire Lieutenant

Retired on City pension effective January 18, 2014 and over the 12 months preceding his retirement, Lieutenant Cruz intermittently used a total of 392.5 sick leave hours, which equates to 16.35 sick days at 24 hours per day. At retirement, he had 369.5 hours of sick leave accruals remaining, which he was paid for 184.75 hours (half of his sick leave) at retirement.

Employee #3 of Category 2, Christopher Hoyne, Fire Lieutenant

Resignation date July 1, 2017 and over the 12 months preceding resignation, Lieutenant Hoyne intermittently used a total of 324 sick leave hours, which equates to 13.5 sick days at 24 hours per day. At resignation, he had 31.95 hours of sick leave accruals remaining. There was no official resignation form on file.

Employee # 4 of Category 2, Anthony Sammartano, Fire Lieutenant

Retired on City pension effective September 26, 2017 and over the 12 months preceding his retirement, Lieutenant Sammartano intermittently used a total of 309.5 sick leave hours, which equates to 12.89 sick days at 24 hours per day. At retirement, he had 320.09 hours of sick leave accruals remaining, which he was paid for 160.05 hours (half of his sick leave) at retirement.

Category 3: Category 3 contains seven employees who were found to have utilized their sick leave accruals intermittently, however, these employees were identified as being out for a legitimate FMLA qualified reason, but the department failed to properly notify Human Resources or to properly document the medical illness or injury of the employee. Four of the employees are still employed with Clearwater Fire and Rescue.

Departmental Concerns

- No centralized monitoring of sick leave usage or assessment of the absences to identify if there is a pattern of abuse or if an employee is out for an illness or injury that may qualify under the Family and Medical Leave Act.
- Knowledge of significant sick leave usage at all levels of the Fire Department was apparently an accepted practice.
- March 22, 2018: Meeting with all Assistant Chiefs attended by the City Manager, HR Director, HR Employee Relations Manager, and Assistant City Attorney:
 - Assistant Chiefs acknowledged concerns with the amount of sick leave employees were using. When they asked employees for a doctor's note or for medical documentation to legitimize the absence, it was met with resistance. Statements such as "you are singling me out" and "you are discriminating against me" were commonly used by employees to justify sick leave usage. It became known that if you were asked for a note and you used those terms and buzz words, the department would back off and no longer require you to produce a note. The indication is the prior Fire Chief did not choose to address the issue. And the Assistant Chiefs felt they had no upper management support and stopped asking for the notes.
 - It was discussed that Telestaff has the functionality to assist in monitoring and alerting sick leave abuse, but at the time the system was implemented, a decision was made not to utilize that function.
- October 3, 2017: Email from Human Resources to the Health and Safety Chief, John Klinefelter, where it is outlined that he should be notifying Human Resources of any fire employee absences due to injury or illness and copies of the City's FMLA policy and FMLA forms were attached for his reference.
- November 8, 2017: Payroll preparer training, hosted by Human Resources, where topics such as FMLA and training regarding when to notify HR of significant sick leave absences are covered. This training was not attended by the Fire Department payroll personnel. There is a email from Terri Rowland indicating she was on vacation that day, but no one attended in her absence.
- The department did not, in several cases, let Human Resources know when a fire employee was using significant amounts of sick leave with no apparent justification. If justification did exist, it was not, in many cases, disclosed.
- Telestaff click out sick was implemented December 16, 2016, but the system was not set up to identify potential sick leave abuse. Before that time, the employees would call the Chief on duty which would change with each shift. However, there was no system to evaluate possible sick leave abuse.
- The shift change for the Chiefs of Suppression is 7:00am and employees are required to report out sick by 7:00am, for their 8:00am start time. The Assistant Chiefs must then immediately

begin working to backfill the absences for each station. All which needs to be done before the employees come off shift at 8:00am, in the event they need to hold someone for mandatory overtime. Backfilling absences includes potentially needing to find someone with specialties or specific training to backfill the absent position. It was described as a time crunch, where they were not necessarily tracking absences, as the priority was to make sure they “had bodies on the apparatus.”

- Due to the time restraints outlined above, there was no time to determine the validity of sick leave. However, no procedure was in place to evaluate the sick leave at a later time.

Findings:

Assistant Chiefs acknowledged that, at times, they had concerns with the amount of sick leave employees were using. They indicated they did not feel they had support from the former Fire Chief to address employees who may be abusing sick leave.

None of the employees in this report had any medical documentation on file to support the sick leave absences in question. The Department indicated they were unaware of FMLA protocol, yet the evidence indicates otherwise. Over the past five years, records show that fifty-one (51) Fire employees had been placed on FMLA, to include several Assistant Chiefs and the IAFF Union President. Human Resources records indicate the department was communicated with regarding how to handle employee absences and the procedures regarding FMLA. The department should have been aware of the need to notify Human Resources of any employee absences due to injury or illness. Copies of the City’s FMLA policy and FMLA forms were provided to the department as recently as November 2017.

There are examples where Human Resources was not provided information and were not made aware of Fire employees using excessive sick leave until after they had already used a significant amount. Examples include Patricia Schauer, Donald Thompson and Stan Loveday. In the case of Stan Loveday, when it was brought to Human Resources attention, the inquiries regarding Mr. Loveday’s status to Administrative Manager Marty Moran went unanswered. As category 3 reflects, there were still several employees over the years who had a valid FML qualified reason for using their sick leave, however those employees were also not reported to Human Resources and were not properly placed in an FML approved leave status.

In the cases of Lieutenant Capo and Stan Loveday, both were being allowed to “runout” their sick leave on a continuous basis, which did not comply with the established rules, since neither employee was eligible to retire. This option is in the contract as “Retirement Advancement” and for employees eligible to retire, allows them to run out 100% of their vacation accruals and half of their sick leave accruals to get them to their retirement date. However, to enroll in this option, one must meet with the Senior Pension Payroll Analyst and be placed in a “Retirement Runout” status in the City’s Peoplesoft Payroll system. While on “Retirement Runout” employees are required to pay for 100% of their health insurance and do not accrue any benefits except for pension credit and educational incentive Pay. Neither of these employees met the requirement to be eligible to retire and use the “runout” option.

The indication was that employees at all levels knew what was occurring and was aware that neither employee had intentions of returning to work. Indicators that departmental staff were aware of Lieutenant Capo's status include: The Fire payroll division was processing Capo's time sheets since September 29, 2017 and keying in sick leave, with the documented email from Capo indicating he was living out of state and returning with the sole intent to work his last day on January 4, 2018; an email from Assistant Chief Pettingill on November 3, 2017 identifying that the department cannot get business cards for Capo's replacement "until Capo officially retires"; an email from Administrative Manager Marty Moran to Lieutenant Jensen on December 4, 2017 providing Lieutenant Capo's "retirement date 1/5/17".

Chiefs Strong and Ehlers assumption was that Mr. Loveday was eligible to run out his leave under the SAMP manual provision, however, he wasn't eligible to run out his time as he wasn't eligible to retire under social security. If he was, the provision would only allow for 50% of sick leave and 100% of vacation accruals to be used while in a "runout" status, yet the time Mr. Loveday used through March 3, 2018, reflects 63 days (78.75%) of his accrued sick leave was used with only 7 days being coded as vacation. Should this situation not have been brought to light, we can assume Mr. Loveday would have run out 100% of his sick leave accruals.

The second concern was that in September 2017, at the time Mr. Loveday left the City, Assistant Chief Steve Strong accepted seven months of prefilled out timesheets where the majority of the timesheets were already coded as sick leave. Although Chief Strong maintained he thought Mr. Loveday was on vacation, he was signing the timesheets reflecting sick leave. Chief Strong was asked why he signed the timesheets reflecting sick leave if he thought Mr. Loveday was on vacation and he could not provide an explanation.

Chief Strong stated that he realized Mr. Loveday was not returning, when he saw Mr. Loveday's email to a vendor stating "*I am sure by now you have heard I have sailed off. It has been a pleasure working with you over the years*". Chief Strong stated he no longer signed the timesheets and provided them to Chief Ehlers. However, the email from Mr. Loveday to the vendor was dated November 27, 2017 and Chief Ehlers indicated Chief Strong put Mr. Loveday's timesheet in his in box in the middle of February. Records show that Chief Ehlers signed a timesheet for the pay period ending February 16, 2018, which was consistent with his accounts and when he came to Human Resources. Additionally, Chief Strong had the knowledge that Mr. Loveday was not returning to work as demonstrated in his many emails written prior to 11/27/17, where he indicated "*Stan retired*" and "*Stan has retired*".

Other emails which reflect staff knew Mr. Loveday was not returning to work are: On November 21, 2017, Mr. Loveday provided Assistant Chief Andrew Hawkins his mailing address in Key West, Florida. At this point, Mr. Loveday had been out of work for over a month. Assistant Chief Marvin Pettingill sent an email on February 9, 2018 to Dieunice Deris stating "Stan Loveday no longer works for the City of Clearwater." This was prior to the date Chief Ehlers began inquiring on Mr. Loveday's status. For Mr. Loveday, to say that he may return on May 15th is not credible. If there was an expectation Mr. Loveday would be returning to work, those types of communications by the employee, his supervisor and other Assistant Chiefs would not have been made.

Mr. Loveday maintained that he was working the whole time, working remotely and communicated with Chief Strong 3-4 times per week. Although records show there was contact between Mr. Loveday and Chief Strong, the frequency and duration of the calls are not conducive with someone who is working.

Firefighters Snelling and Johnson exhibited a pattern of significant sick leave usage in a short period of time. It should have raised a question or concern to those in the Fire payroll administration as well as their supervisors. Additionally, these two employees nearly exhausted their sick leave banks, leaving 18.83 and 28.83 hours remaining and both employees left shortly after receiving their vacation lump sum award and annual floaters which are given at the first of the year. These employees fell under the supervision of several different Lieutenants and several different Assistant Chiefs; therefore, we can only conclude again that this was an accepted practice within the department.

Additionally, Chief Riley used 17 sick leave days in his last two and a half months with the City, while not using any sick leave prior in the preceding 12 months. This also gives the indication he was running out his sick leave prior to his resignation, as sick leave would not have been afforded to him at resignation. Chief Riley, however, still had a large sum of sick leave balance of 667.24 when he resigned.

Category 2 contained four employees who were found to have utilized their sick leave accruals intermittently over the preceding 12 months leading up to their resignation or retirement. Using the time intermittently early on may have not caused an immediate concern, but as it continued, it should have raised the question concerning the need for the employee to be required to request FMLA. If found there was no valid medical illness or injury, the behavior should have been addressed through the Performance and Behavior Management Program. One of the employees in this category has used FMLA in a previous year.

Category 3 contained employees who the department identified as having a valid reason to use large amounts of their sick leave. The failure was the illness or injury whether to the employee or their family member was not properly documented or reported to Human Resources, so the employee could be placed on FMLA.

There was a total of fifty-four Fire employees who retired or resigned over the past five years. This does include those who were involuntary terminated or left on a disability pension. Of the fifty-four, nine employees were found to have used sick leave inappropriately, which equated to 16%.

Conclusions:

It is clear that employees sick leave usage was not being managed appropriately. Permitting the use of sick leave that was not permitted by the IAFF union contract or the SAMP manual was an accepted practice in Fire Department that should not have occurred. The evidence indicates this practice was permitted at every level of the organization as each employee had different supervisors.

A Citywide review of sick leave usage for the previous five years indicates, in some cases, significant sick leave use. There is no indication the concerns raised in this report were occurring in any other department. That can be attributed to the departmental administrative staffs following existing policy and their communication with the Human Resources Department.

This practice indicates a failure by Fire Department management and staff to follow established policy and procedures or to raise concerns with Human Resources and/or Payroll. While there may not have been any malicious intent, employees did obtain monetary benefits they would not have otherwise been entitled to. It is imperative that Fire Administration, the Lieutenants and the Chiefs closely monitor absences for frequency and patterns of potential abuse and communicate with Human Resources concerning employees who are out due to illness or injury for themselves or a family member.

Chief Strong indicated he was under the impression Mr. Loveday was running out sick leave under the SAMP Manual clause. However, Chief Strong, as Mr. Loveday's direct supervisor did not take the initiative to ensure this was the actual case and for almost four months, he approved and signed prefilled timesheets. He stated Mr. Loveday was using vacation time, but records show Chief Strong was signing timesheets reflecting sick leave usage. When asked about this, he could not provide an explanation. This action was done without consulting Human Resources or the City's Payroll Division to include the Senior Pension Payroll Analyst. There is no evidence that concludes Mr. Loveday was potentially returning to work as his and others emails to Logistics vendors stated otherwise.

Although Chief Ehlers also indicated he thought Mr. Loveday was running out sick leave under the SAMP Manual clause also, there is no evidence to indicate the Chief Ehlers was aware of the policy violations occurring. The Fire Chief has a large span of control and he must rely on all who work for him to ensure they are appropriately carrying out their duties within established policies and guidelines. However, as the Chief, he is responsible for what occurs in his department. As such, he has now implemented a monthly meeting where his command staff meets and review sick leave usage with the Chiefs who oversee each shift. The absences are evaluated to identify potential patterns of abuse or if an employee is out for an illness or injury that may qualify under the Family and Medical Leave Act.

Additionally, it is incumbent upon the payroll administrative staff in the department to create a process which will allow a review, on a regular basis, who is using sick leave continuously or intermittently and report patterns and excessive use to Human Resources. This is the responsibility of the payroll preparers in every department and Clearwater Fire and Rescue is no exception.