

December 26, 2019

Inspector [REDACTED]

As you know, the City hired Greg Wilson to conduct an investigation into whether you violated policy by failing to submit the necessary documentation for your leave banks to be reduced (213 hours), and by failing to show up for work on scheduled work days (62 hours, or 7 work days). On December 3, 2019, I received a report from Mr. Wilson with the results of his investigation. You or your union representative may request an electronic copy of Mr. Wilson's report for your review. Attached to this memo is my summary of the issues before me.

In sum, you have been absent from work for an undisputed 400 hours between January 1, 2019 and August 1, 2019. Of those hours away, 213 were not reported to payroll. Upon investigation, no evidence can be found that you appeared for work on 62 additional hours, or 7 assigned work days. In every case these absences extended a weekend, scheduled vacation, or holiday. The value of those hours at your 2019 rate of pay exceeds \$14,000.

After careful fact-finding and a complete investigation, I find no credible explanation for these discrepancies except that you have defrauded the payroll system and stolen those hours. The investigation also revealed that you were untruthful when you signed a sworn declaration stating that you had not used your personal cell phone for City business.

I am writing to inform you that I have scheduled a pre-disciplinary and name clearing hearing for Tuesday, January 7<sup>th</sup> at 1330 in Human Resources, located in the Everett Municipal Building.


The purpose of the pre-disciplinary and name clearing hearing is to allow you or your union representative to speak on your behalf and clear your name before the Chief of Staff decides on what, if any, discipline to impose. Based on the departmental progressive disciplinary scale, and after considering your prior history and number of violations included hereto, the City is considering termination of your employment.

The process for the pre-disciplinary and name clearing hearing is as follows:

- (1) You may be accompanied to the hearing by a union representative, if you choose. It is your responsibility to contact the union representative and arrange for her/him to be present.



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Please let me know ASAP if you would like to reschedule due to a conflict.

- (2) You may submit a written response to me either before or during the hearing. Your written response may address any or all of the following issues: (a) why you are wrongly or unfairly accused; (b) why you do not deserve termination, (c) what mitigating factors you would like me consider, or (d) any other matter you consider relevant.
- (3) You or your union representative may speak on your behalf at the hearing regarding any matter you consider relevant. On the other hand, you can rely only upon your written submission, or say nothing at all.
- (4) A final decision will not be reached by the Chief of Staff until after the hearing.
- (5) You will be notified within seven days of the hearing of any decision reached by the Chief of Staff.



David DeMarco  
Fire Chief

**Issue at Hand**

In July of this year Fire Marshal [REDACTED] approached me and reported that an internal audit of informally reported hours away from work and the formal record kept by the payroll system had revealed significant discrepancies. Specifically, there were 23 absence events reported in the informal system that were not reported to payroll. Of those, 1 belonged to a different inspector and was resolved with a credible explanation. The remaining 22 discrepancies were all attributed to you. All other Fire Marshal’s Office (FMO) attendance records for calendar year 2019 were a perfect match between the informal attendance system and the payroll system. Under the supervision of human resources staff, a fact-finding process was undertaken by fire administration. The informal tracking calendar was put in place beginning January 1, 2019 and you were interviewed on this issue July 31, 2019. For the purposes of this document, the investigative period spans from January 1 to August 1, 2019.

The two Assistant Fire Marshals and you were interviewed as part of the fact-finding process and you agreed that the following absence reports that did appear in the payroll system were accurate:

Absence	Type	Hours	Signing Supervisor
Jan 11	Sick: WPSL	6	[REDACTED]
Jan 22	Vac	8	[REDACTED]
Jan 23	Vac	8	[REDACTED]
Jan 24	Vac	8	[REDACTED]
Jan 25	Vac	8	[REDACTED]
Feb 12	Vac	10	[REDACTED]
Feb 15	Vac	2	[REDACTED]
Feb 18	Vac	8	[REDACTED]
Mar 7	FMLA	10	[REDACTED]
Mar 11	Sick	1	[REDACTED]
Mar 22	Sick	10	[REDACTED]
Apr 30	Sick	3	[REDACTED]
May 2	Vac	4	[REDACTED]
May 14	Workers Comp	10	[REDACTED]
May 15	Workers Comp	10	[REDACTED]
May 16	Workers Comp	10	[REDACTED]
May 17	Workers Comp	10	[REDACTED]
May 23	Workers Comp	3	[REDACTED]
May 31	Vac	8	[REDACTED]
Jun 27	Vac	10	[REDACTED]
Jul 11	Sick	5	[REDACTED]
Jul 18	Vac	10	[REDACTED]
Jul 24	Vac	10	[REDACTED]
Jul 25	Vac	10	[REDACTED]
Aug 1	Sick:WPSL	5	[REDACTED]

*Table 1 – Attendance exceptions reported to payroll*



Our audit identified 22 additional absence incidents in the informal system that did not appear in payroll:

Absence	Type	Hours	Supervisor You Named
Jan 30	Sick	10	██████
Jan 31	Sick	10	██████
Feb 1	Sick	10	██████
Feb 4	Sick	10	██████
Feb 5	Sick	10	██████
Mar 28	Sick	10	██████
Mar 29	Vac	10	██████
Apr 2	Vac	10	██████
Apr 3	Vac	10	██████
Apr 4	Vac	10	██████
Apr 5	Vac	10	██████
May 7	Sick	2.5	Unsure
May 8	Sick	10	Unsure
May 10	Sick	10	Unsure
Jun 6	Vac	10	██████
Jun 20	Vac	10	██████
Jun 24	Vac	10	██████
Jul 1	Vac	8	██████
Jul 2	Vac	8	██████
Jul 3	Vac	8	██████
Jul 5	Vac	8	██████
Jul 17	Sick	2.5	██████

*Table 2 – Attendance exceptions not reported to payroll*

While these hours did not arrive in the payroll system, it is undisputed that you took this time off work. When compiled these dates, in conjunction with those already reported to payroll depicted a significant absence record. Interviews of the Assistant Fire Marshals revealed that prior to August 2019, a morning check-in by inspectors was not required and several instances mentioned by them regarding your scheduled 2019 workdays raised questions about attendance beyond the dates reported in the prior two tables.



An exhaustive effort was made to answer the question of whether there were any additional dates you may have been absent in 2019 but were not reported in these tables. City records from a variety of sources were collected and analyzed, including:

- City-issued keycard entries recorded at any City facilities (including the Wall Street Building where your desk is located)
- City computer login history (in and out of network)
- Inspection records
- City issued cell phone records
- Training records, rosters, and certificates.

After systematic review of these records, pertinent details were entered on a calendar and combined with the data from tables 1 and 2. Your daily and weekly work routines emerge from those details and involved morning entry into the Wall Street Building, periodic workstation logins, and electronic records of inspections and other work performed during your workdays. Notably, even when accounting for Monday/Friday workday swaps common in your division, there were 7 additional dates where we can find no evidence you appeared for work. They are listed here:

Date	Scheduled Hours	Findings
Jan 2	8	No building entries, no phone activity, no inspections, no logins, and no training records
Jan 3	8	No building entries, no phone activity, no inspections, no logins, and no training records
Jan 18	10	No building entries, no phone activity, no inspections, no logins, and no training records
Feb 8	10	No building entries, no phone activity, no inspections, no logins, and no training records
Apr 26	10	No building entries, no phone activity, no inspections, no logins, and no training records
May 2	6	On this date you reported 4 hours of vacation, yet there is no record of building entries, no phone activity, no inspections, no logins, and no training records
Jun 21	10	No building entries, no phone activity, no inspections, no logins, and no training records

*Table 3 – Required workdays with no evidence of attendance*

When dates and absences from all three tables are combined on a calendar, they reveal a specific pattern. In every case, these dates are adjacent in some way to other regularly scheduled time off and extend a weekend, a vacation, or a holiday. For the time period studied we find you agree you were absent 400 hours, with 213 of those hours not reported to payroll. Additionally, we can find no evidence of attendance for an additional 62 hours. Upon reporting these findings to Human Resources and Everett Police, it was determined that a professional investigation was required. Mr. Greg Wilson, Director of Investigations at PST Investigations was selected to conduct a formal investigation based on his background as a retired police chief officer and investigator.



During the review of City cellular phone records, it also came to light that members of the Fire Marshal's Office had been making departmental communications on personal cellular devices. As there might be evidence that would exonerate you on your personal device, and because the City work conducted on that device is a matter of public record, a public information request was submitted by the investigator to you requesting records of any City business conducted. No such records were returned. Additionally, the investigator submitted a declaration form to you asking about your use of a personal device for City business. Under penalty of perjury you indicated:

*I did not use a personal cell phone, tablet, computer or other personal device to conduct City of Everett business between January 1, 2008 and the time of my retirement or separation from the City of Everett. I did not use a private email account or other private messaging account to conduct City of Everett business between January 1, 2008 and the time of retirement or separation from the City of Everett.*

*I declare under penalty of perjury for the State of Washington that the forgoing (sic) is true and correct.<sup>1</sup>*

This document bears your signature dated October 10, 2019.

### **Investigative Statements**

During fact finding and the formal investigation all members of the FMO were interviewed at least twice and in some cases multiple times as new information came to light. Of interest is the division's understanding of the handling of payroll exception forms including vacation requests and sick leave incidents reports. All members of the division report they complete their exception forms, have them signed by a supervisor and then deliver the exception to the payroll clerk or the Fire Marshal themselves. In every interview this was the finding, except for yours. You reported in multiple lines of questioning and in your written response to my inquiry regarding your attendance that you consistently hand your exception forms to your supervisor(s) and have no knowledge of how or where they go from there.<sup>2</sup> You have also repeatedly taken the position that all required exception forms were submitted to your supervisor(s) and that you "have no idea" what may have happened to the forms that are unaccounted for.<sup>3</sup>

AFM ██████ reported in his interviews that he specifically recalls you delivering a vacation exception form to him for the week surrounding the July 4, 2019 holiday and having a conversation with you about it. It was memorable to ██████ because it was the first time you had ever asked him to sign an exception and he joked with you about taking the holiday week off.<sup>4</sup> ██████ remembers signing the form and returning it to you for submission to payroll. He stated, "he did not leave that on my desk, he left with it, um, and he was told to put it on the calendar."<sup>5</sup> Those dates did appear on the informal calendar, but the form never arrived to be recorded by the payroll clerk. When ██████ later learned that you stated the exception form for these dates was left in his possession, he offered you the

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<sup>1</sup> PST Investigations "Workplace Investigation Report", Wilson, G., December 3, 2019 p. 45.

<sup>2</sup> Ibid. p. 58, 60.

<sup>3</sup> Ibid p. 61.

<sup>4</sup> Ibid p. 23.

<sup>5</sup> Ibid p. 23.



opportunity to revise your statement, which you declined.<sup>6</sup> [REDACTED] has stated for the record that he believes you are lying about the disposition of that form.<sup>7</sup>

AFM [REDACTED] also identified another date where you departed work early due to illness. The incident on July 17, 2019 was easily recalled because you had texted [REDACTED] from your personal device stating you were going home sick. [REDACTED] was in the middle of monitoring an Inspector assessment center and reminded you that you needed to add the incident to the informal calendar. That incident was never entered by you on the informal calendar nor was a record created by a payroll exception form.<sup>8</sup> [REDACTED] discovery of this missing record eventually led to the audit that initiated this investigation.<sup>9</sup>

AFM [REDACTED] is the supervisor you report delivering most of the unaccounted-for exception slips to. [REDACTED] believes that if any slips were left in his possession it would have been “a couple” because he typically signed slips and returned them to the originator for advancement.<sup>10</sup> [REDACTED] did find one unaccounted for vacation exception slip on his desk on August 1<sup>st</sup>, the day after your fact-finding interview. The slip was for time taken on July 24 and is included in Table 1. When asked how this form ended up on his desk, he replied “I don’t know” and identified it as a “weird time for that to show up on my desk.”<sup>11</sup>

During interviews there were also several anecdotal reports regarding your attendance, including a series of emergency incidents where you could not be reached by phone or radio and another instance where your City vehicle was spotted in Skagit County during your normal work hours.<sup>12</sup>

[REDACTED] is the departments payroll clerk. [REDACTED] recalls receiving signed payroll exception forms directly from you.<sup>13</sup> [REDACTED] maintains copies of all exception forms for the entire department and was able to produce copies for all members of the FMO. He was able to produce copies for your instances reported in Table 1 only. [REDACTED] also reports that after the audit was conducted, he did receive one exception form from AFM [REDACTED] that was reportedly found on his desk for the sick leave incident of July 24 reported in Table 1. [REDACTED] also states that he suspects attendance issues predate the audit period but there is no reliable way to confirm that suspicion.<sup>14</sup>

You have stated “I don’t recall delivering slips to [REDACTED]”<sup>15</sup> You have stated “I don’t know” when asked whom you delivered your week of July 4 exception form to.<sup>16</sup> When asked about the handling of the July 4 form, you contradicted yourself and stated, “I did not take it with me” after [REDACTED] signed the

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<sup>6</sup> Ibid p. 29.

<sup>7</sup> [REDACTED] interview notes, August 8, 2019.

<sup>8</sup> PST Investigations “Workplace Investigation Report” p. 24.

<sup>9</sup> [REDACTED] interview notes, August 8, 2019.

<sup>10</sup> PST Investigations “Workplace Investigation Report” p. 36.

<sup>11</sup> Ibid p. 34.

<sup>12</sup> Ibid p. 28-29.

<sup>13</sup> Ibid p. 43.

<sup>14</sup> Ibid p. 45.

<sup>15</sup> Ibid p. 61.

<sup>16</sup> Ibid p. 61.



slip.<sup>17</sup> When asked if you recall a conversation about correcting the record between yourself and AFM ██████ you stated “I don’t remember that conversation.”<sup>18</sup>

You have signed an affidavit stating you have not used your personal cellular device for City business.<sup>19</sup> City information systems have retrieved a text message from your City issued cellular device to FM ██████ stating “Forgot to tell ██████ and ██████ this morning that my personal cell phone is dead so you will have to contact me on my work phone today.”<sup>20</sup> You have additionally stated that the language of the affidavit you signed was confusing to you and that you did not interpret “I did not use a private email account or other private messaging account to conduct City of Everett business “ to include text messages.”<sup>21</sup>

You were asked questions regarding City and departmental policy, as well as our mission and core values. You were an inspector during the development of the current mission, vision and values and attended at least one participatory meeting.<sup>22</sup> You stated the departments adopted mission and values were “not mine” despite being present for the process.<sup>23</sup> You were able to recall that the word “integrity” has been applied to your vehicle, but could not identify the context of that nor could you identify the department’s mission “We’re here for you.”<sup>24</sup>

## **Conclusion**

Integrity is the foundation of all our organizational values. The principles of integrity are interwoven in all aspects of our other identified organizational values: Tradition, Professionalism, Trust and Respect. The reason these core values ring true at Everett Fire is our absolute dependence on maintaining the public trust. Our community reaches out to Everett Fire in their most vulnerable moments and would not do so if they did not believe Everett Firefighters would arrive with these core values in place. Without public trust it would be impossible to deliver on our mission and the purpose of the Everett Fire Department comes into question.

A Fire Inspector is an officer of the organization. An inspector is required to operate independently and enforce the fire codes adopted by the City of Everett. In many cases enforcement action calls the judgement of the inspector into question and the inspector may be required to testify credibly in a court of law. Without integrity that testimony would bear no weight and our ability to prevent incidents through code enforcement would also be called into question.

The value of the hours missing from payroll exceed \$14,000 and the signed affidavit could be interpreted as perjury during the investigative process. If proven in a criminal court, both are felonies. Your defense of these findings is essentially “I don’t know what happened”<sup>25</sup> and requires me to believe that the Fire Marshal, Assistant Fire Marshals, the other Inspectors and the payroll clerk are all lying

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<sup>17</sup> Ibid p. 61.

<sup>18</sup> Ibid p. 62.

<sup>19</sup> Ibid p. 45.

<sup>20</sup> Ibid p. 80.

<sup>21</sup> Ibid p. 82.

<sup>22</sup> Ibid p. 57.

<sup>23</sup> Ibid p. 57

<sup>24</sup> Ibid p. 57

<sup>25</sup> Ibid p. 56-62





about the handling of payroll exception forms, knowing that no other relevant discrepancies were found in the division during the audit period.

Additionally, in your personnel file you have another disciplinary record of attending a concert in uniform without being assigned such duty by the department. In that case you and two others used the uniform to steal admission to the event under the auspices of being there to serve professionally. You were suspended as a result and I view that event as a first occurrence of theft and breach of public trust.<sup>26</sup>

In this case I find your defense is not credible. Based on the overwhelming weight of testimony and evidence I find that you have created a second breach of public trust by defrauding the payroll system and stolen 275 hours of unrecorded time away valued at over \$14,000. You have violated a wide range of City and departmental policies detailed in the investigative report.<sup>27</sup> The most egregious of those in my eyes are the violations against the only word you can recall from the values sticker on your vehicle: Integrity. You have taken advantage of the department and the community by acting without integrity when accounting for your time. You have damaged the public trust and in so doing you have damaged the entire organization.

### **Outcome**

Based on the departmental progressive disciplinary scale and considering your prior history and number of violations included hereto, I am recommending that the Chief of Staff consider terminating you from employment at the Everett Fire Department.

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<sup>26</sup> █████ suspension letter regarding October 21, 2008.

<sup>27</sup> PST Investigations "Workplace Investigation Report" p. 64-84.

