



**TO:** Lt. James Ferguson

NOTICE of TERMINATION

You are notified that based on the information contained in I21-03, an internal investigation completed by Assistant Chief Petrilli, I find that there is just cause to support your dismissal from employment with the Town of Normal. The reason for the dismissal is set forth in the Report of Recommended Disciplinary Action, which is attached here to and incorporated by reference.

You are notified that per section 18.1-14 of the Town Municipal Code you have the right to answer the disciplinary action to the City Manager or designee in writing by 5:00 p.m. on the close of the third normal business day following receipt of this notice. Per section 18.1-14(2), your status will be suspended with pay, pending a ruling by the City Manager on this personnel action if requested or until one week from the date of service with no written appeal.

Served this 15th of June, 2021 by Chief Rick Bleichner

Rick Bleichner  
Chief of Police  
Town of Normal

*“Committed to Service Excellence”*

# Normal Police Department

## Recommendation for Disciplinary Action

**Employee Name:** Lt. James Ferguson  
**Employee ID#:** 434  
**Division:** Patrol  
**Shift:** 3  
**Supervisor:** Assistant Chief Steve Petrilli  
**Date of Incident:** Mar-May 2021

### Action Recommended:

Termination of Employment

### Statement of Facts Regarding Misconduct:

Lt. Ferguson failed to report for duty on numerous dates and times outlined below. The unexcused absences were outside of policy and established practice, lacked required leave time submittal and were not authorized by supervision. Lt. Ferguson made multiple inaccurate entries in the Roll Call Database and Executime. Lt. Ferguson caused monetary loss to the Town of Normal and was not truthful in his administrative interview.

### Supervisory Summary:

All Attachments referenced in this summary are available in the I21-03 case file.

On Tuesday May 4th, 2021, I, Assistant Chief Stephen A. Petrilli Jr., became aware of benefit time used by Lieutenant James Ferguson on Sunday May 2, 2021 that was not approved by me through Executime, email request to flex hours or by word of mouth. Given this schedule anomaly I reviewed Lieutenant Ferguson's time off records in Executime and Roll Call to determine if an issue existed.

When I reviewed Lt. Ferguson's attendance at work in the Roll Call database and Executime I found numerous anomalies. I found that Lt. Ferguson had inconsistent attendance records on several days in the two databases. The inconsistencies showed Lt. Ferguson off work on benefit time in Roll Call yet at work in the payroll and benefit system Executime. The anomalies consistent with the above-described pattern are listed below in the order in which I discovered them:

Sunday May 2, 2021, 11pm-7am shift (Vacation time entered in Roll Call, no entry in Executime)

Thursday April 29, 2021, 11pm-7am shift (Vacation time entered in Roll Call, no entry in Executime)

Sunday April 4th, 2021, 11pm-7am (Vacation time in Roll Call, no entry in Executime)

Sunday March 14th, 2021, 11pm-7am (Training time in roll call, no entry in Executime)

Monday March 15th, 2021, 11pm-7am (Vacation time in roll call, no entry in Executime)

In reviewing my calendar, emails, Roll Call and Executime I could find no logical explanation for Lt. Ferguson's benefit time anomalies. I sent the below email to all patrol Lt's on 05/05/21 stating:

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"From: Stephen Petrilli Jr. <spetrilli@normal.org>

Sent: Wednesday, May 05, 2021 7:00 AM

To: Adam Kapchinske <akapchinske@normal.org>; Nick Thacker <nthacker@normal.org>; James Ferguson <jferguson@normal.org>

Subject: Time Cards

Lt's,

I am off Monday 5/10 so please have your timecards up to date by end of business on Thursday 05/06 so I can get them approved on 05/07 before I leave for the weekend. Thanks!

I received no direct reply from Lt. Ferguson regarding the above email. He did however, initial and approve his timecard for the time-period 04/25/2021-05/08/2021 (See attachment 1.) This approval stated he worked 80 hours of scheduled time and took no benefit time. When I compared the Executime payroll to the Roll Call database I discovered two anomalies for this pay-period. In Roll Call Lt. Ferguson was showing off on benefit time "V" (vacation) on Thursday April 29, 2021 and Sunday May 2, 2021. I confirmed by door code entry logs that Lt. Ferguson did not enter the building on either day for his assigned shift from 2300-0700 (See attachment 2.)

The unapproved and unauthorized absence of Lt. Ferguson on Thursday April 29th also caused a supervisor vacancy on his shift and subsequent overtime (OT) hire back for 8 hours. Sergeant Josh Wilson filled this vacancy on OT thus causing additional monetary loss to the Town of Normal. It should be noted this OT shift was posted in the Sergeants OT List on 04/08/21 by Lt. Ferguson. Lt. Ferguson planned the vacancy, posted the overtime, removed himself from Roll Call yet never made an entry into Executime for the time off (See attachment 3.)

Furthermore, I discovered an additional anomaly in Lt. Ferguson's time used for the morning of 4/29/21. Lt. Ferguson left his shift assignment early, (shift assignment was 4/28/21 at 2300-4/29/21 at 0700), on the morning of 4/29/21 at 0100 hours (refer to video attachment 1.) Lt. Ferguson did not submit a time off request for the remaining 6 hours of work he missed (See attachment 1 & 4). Lt. Ferguson did not seek or receive prior approval from me to leave early or adjust his schedule. This early exit caused 3 hours of overtime (OT) to be paid to Sgt. Hoeniges who covered Lt. Ferguson's shift vacancy from 0400-0700. Sgt. Hoeniges submitted OT based on the coverage hours of 0400-0700 being outside of his normal work hours (see attachment 5.)

In total, the Town of Normal paid Sgt. Wilson and Sgt. Hoeniges at total of 11 hours of OT combined to cover vacancies in supervisor coverage caused by Lt. Ferguson's unauthorized absences on 4/29-4/30/21.

Lt. Ferguson worked a total of approximately 26 hours from Sunday April 25th-Saturday May 1, 2021, when he should have worked 40 hours during that time frame. Lt. Ferguson worked a total of approximately 32 hours Sunday May 2, 2021-Saturday May 8th when he should have worked 40 hours during that time frame. (See attachment 6 calendar breakdown.) Lt. Ferguson submitted and initialed his Executime payroll timecard as having worked 80 hours in the above pay period, which is inaccurate, misleading and untruthful (See attachment 1.)

I approved Lt. Ferguson's timecard for the pay period 4/25/21-5/8/21 knowing that it was incorrect. On 5/7/2021 I sent an email to the Chief Bleichner (see below) documenting my objection to the accuracy of Lt. Ferguson's timecard but stated I approved it to allow payroll to proceed un-interrupted (see email below.)

Chief,

Per our conversation today, I am going to approve the timecard in question merely as mechanism to not impede normal payroll. If any issues are discovered during this investigation that warrant a benefit time correction, I recommend we address that at a later date with the finance department. Thanks!

Given the numerous anomalies in Lt. Ferguson's usage of benefit time I opened an internal investigation, I21-03, on

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05/07/21 by the authority of Chief Rick Bleichner. I began to look back at Executime and Roll Call records for April 2021 and March 2021 to see if further issues existed. The following dates were discovered and considered anomalies. The days in question are documented in the order I discovered them working backwards from the initial April 29- May 2, 2021, discovery.

### April

On Sunday April 4th (Easter Sunday) Lt. Ferguson was off on a "V" leave code however there was no benefit time requested or approved in Executime. I confirmed by door code entry logs that Lt. Ferguson did not enter the building on that day nor did he have "flex time" approved by me (See attachment 6 & 7.)

### March

On Sunday March 14th Lt. Ferguson showed off on a "T" (training) code yet he did not have training scheduled that day or the next day. I confirmed by door code entry logs that Lt. Ferguson did not enter the building on Sunday March 14th (See attachment 7-8.)

On Monday March 15th Lt. Ferguson showed off on a "V" day in Roll Call yet no Executime entry for vacation time was submitted or approved. When I checked the door access codes I found that Lt. Ferguson had entered the police department south door at approximately 0828 hours on March 15th (See attachment 8.)

I had the I&T Department retrieve the south parking lot archived camera footage from 3/15/21 between the hours of 0800-1700. I observed Lt. Ferguson arrive and enter the police department through the south door at approximately 0828 hours (See video attachment 2.) Lt. Ferguson left the police department through the south door and left in his vehicle at approximately 1345 hours (total of approximately 5 hours and 15 minutes at work (see video attachment 3) Based on camera footage and door code access logs I find no record of Lt. Ferguson returning to work on March 15th. When I reviewed the police department training records to check if Lt. Ferguson was assigned to training on March 14 or 15th, I found no training assignments. When I checked with the departments training coordinator Lt. Hackman, he provided me with an email Lt. Ferguson sent him on Thursday March 11th at 6:08am cancelling himself out of "Legal Tips" training scheduled for Monday March 15th (See below and attachment 8.)

From: James Ferguson <jferguson@normal.org>  
Sent: Thursday, March 11, 2021 6:08 AM  
To: Shane Hackman <shackman@normal.org>  
Subject: Legal Tips

Shane,  
Please cancel me out of Legal Tips for Monday 3/15.

Thanks!  
LIEUTENANT JIM FERGUSON  
Normal Police Department  
100 East Phoenix Avenue  
Normal, IL 61761  
(309)454-9535 (NPD)  
(309)454-9604 (Desk)

Based on my investigation, Lt. Ferguson did not show up for work on Sunday March 14, 2021. Lt. Ferguson entered himself in the Roll Call Database as being off on a training day that he had cancelled, via an email to Lt. Hackman, on 3/11/21. This absence was not excused nor was any benefit time submitted in Executime. Lt. Ferguson was in the building for approximately 5 hours and 15 minutes on March 15, 2021 which was not an approved schedule change or assigned training. Lt. Ferguson did not show up for his shift on the evening of March 15, 2021 and entered a vacation day in Roll Call but not into the Executime payroll system. During the work week of Sunday March 14- Saturday March

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20, 2021, Lt. Ferguson worked approximately 29.25 hours (which includes approved benefit time leave) when he was scheduled to work and was compensated for 40 hours (See attachment 6 & 19.)

### Future Scheduling Anomalies Identified

My review of Lt. Ferguson's past time off included the months of March, April and up to May 9, 2021. On May 10th, 2021 I looked ahead at Lt. Ferguson's upcoming time off in Executime and Roll Call through July 2021 and I observed more anomalies consistent with what I had already identified as a pattern of benefit time misuse. The pattern consisted of entering time off into Roll Call but not into Executime to avoid the use of benefit time. This pattern was consistent around weekends, holidays and planned vacations. (see attachment 13.)

As of May 10, 2021 the only approved benefit time off I had approved for Lt. Ferguson in Executime was in July 2021. However, anomalies in his schedule were discovered for Tuesday May 11, Thursday May 20th, Sunday May 23rd, Sunday May 30th and July 5th.

Tuesday May 11th showed Lt. Ferguson off on vacation time in Roll Call, yet no Executime leave slip had been submitted or approved nor had I granted Lt. Ferguson permission to change his schedule. (See attachment 9) The week of May 9-15th I personally monitored Lt. Ferguson's hours and witnessed first hand his pre-meditated, deliberate misuse of benefit time.

Lt. Ferguson had published his schedule for May 9-15 in Roll Call and Executime. The two databases and schedules did not match. Lt. Ferguson took a vacation day in Roll call but not in Executime on Tuesday May 11th (See attachment 9.). Lt. Ferguson attended the staff meeting on May 13th which lasted until approximately 8am- noon and he left work after the meeting (See video attachment 8.) Lt. Ferguson returned to work May 13th for his shift assignment and can be seen entering the police department south door at approximately 2243 hours. Lt. Ferguson leaves the police department the next morning on May 14th at 0115 hours. Lt. Ferguson did not submit leave time for his early exit (5 hrs. 45 min early) or make a request to me to adjust his schedule (Refer to video attachment 4.) Lt. Ferguson's unauthorized early exit the morning of 05/14/21 caused Sgt. Hoeniges to work 3 hours of OT to cover the hours of 0400-0700 which are outside of his normal shift assignment (See attachment 14.) By closely monitoring Lt. Ferguson's time the 9-15th I knew he had no extra time worked to request a flex of schedule.

Based on Lt. Ferguson's unauthorized vacation day on Tuesday May 11th and unauthorized early exit on the morning of Friday May 14th he only worked approximately 31.25 hours the week of 5/9/21-5/15/21. Lt. Ferguson was assigned a 40-hour work schedule during that same time period (See attachment 6.) Furthermore, Lt. Ferguson made no attempt to discuss flexing of time with me nor did he submit benefit leave time for his unexcused absences. Lt. Ferguson allowed his Executime timecard to be approved as reflecting him taking no benefit time off during the pay period 05/09/2021-05/22/2021 (See attachment 10.)

Thursday May 20th and Sunday May 23rd showed Lt Ferguson off on 'V' time in roll call but not in Executime. May 30th shows Lt. Ferguson off on an "A" (Admin) code (See attachment 13.) None of these three future anomalies have been approved in Executime, email request to me to flex time or word of mouth approval.

The next future anomaly occurs in July. Lt. Ferguson has submitted vacation time, well in advance, that was approved by me for July. In looking at the approved vacation time that is in conjunction with the July 4th holiday, Lt. Ferguson is in Roll Call for 1 additional day of vacation time that was not submitted or approved in Executime. To make the Roll Call database match Executime Lt. Ferguson would need to submit benefit time for Sunday 7/4 as Monday 7/5 is the recognized Town of Normal observed holiday. The schedule Lt. Ferguson has entered in Roll Call gives him 1 additional day off that was not submitted or approved by me in Executime.

I once again, personally monitored Lt. Ferguson's time at work Sunday May 16, 2021-Sunday May 23, 2021. This close

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monitoring was based on the schedule anomalies I observed when looking ahead at Lt. Ferguson's schedule in Roll Call and Executime and realizing they did not match and fit his pattern of benefit time misuse. It appeared Lt. Ferguson had placed himself on vacation benefit time leave in Roll Call for Thursday May 20 and Sunday May 23 without submitting the required time off request in Executime or obtaining prior approval from me to radically flex his schedule. This pre-meditated attempt to steal time from The Town of Normal came to fruition as Lt. Ferguson did not show up for his regular assigned shift on either Thursday May 20 or Sunday May 23rd.

The absence for duty on Thursday May 20, 2021 meant Lt. Ferguson only worked 32 hours of a scheduled 40-hour work week for the dates 5/16/21-5/22/21 (see attachment 6.)

On Monday May 24, 2021 I approved Lt. Ferguson's timecard in Executime for the pay-period May 9, 2021-May 22, 2021 even though I believed it was inaccurate (See attachment 11.) During the aforementioned pay-period, Lt. Ferguson worked approximately 63.25 hours of an assigned 80-hour schedule (See attachment 6.)

### Informal Inquiry and Formal Notice

On Monday 5/24/21 at approximately 0703 hours, I sent Lt. Ferguson a text that read "Your message last week said your out of town until Monday. What time will you be back today? I need you to stop into PD at some point." Lt. Ferguson responded to my text at 1300 hours, and we scheduled for him to come to the police department at approximately 1430 hours.

I met with Lt. Ferguson at approximately 1430 hours and informed him I was conducting an informal inquiry and I read him the definition of informal inquiry directly from the NPD Directive Manual. I asked Lt. Ferguson why he had not entered his vacation time in Executime for Thursday May 20th and Sunday May 23rd? Lt. Ferguson paused and looked visibly shaken. He took a moment and responded that he did not know why but he must have forgotten to take the days off. Lt. Ferguson said, he flexed time for the staff meeting last week to which I replied that I was aware he had already taken Tuesday May 11th off for that time. Lt. Ferguson's answers to my question did not remedy my concerns and I informed him of that. I told Lt. Ferguson I now needed to transition this investigation to a formal internal investigation and that meant I would be asking no more questions today.

On Monday 5/24/21 at approximately 1445 hours I issued Lt. Ferguson a Notice of Formal Investigation, Uniform Peace Officers' Disciplinary Act, Notice of Administrative Rights and Notice of his Formal Interview date and time (see attachment 15).

Lt. Ferguson called me on 5/24/21 and asked to move his interview up to May 25, 2021 at 1030 hours. I agreed and told him that would be fine.

### Interviews of Lt. Ferguson and Sgt. Hoeniges

On 5/25/21 at approximately 1025 hours Assistant Chief Klingele and I met with Lt. Ferguson in the police library. I informed him the interview would be audio and video recorded and I began the recording at approximately 1027 hours. I read Lt. Ferguson the Notification of Administrative Rights and had him sign the document. Assistant Chief Klingele also signed the document as a witness.

The following is a brief synopsis and or summary of the interview with Lt. Ferguson. (Please refer to video attachment 5 for actual verbiage and content.)

I began the interview with Lt. Ferguson, by calling his attention to when he was promoted to the rank of Lieutenant in September 2020. I asked Lt. Ferguson about the established rules and practices for taking time off and utilizing flex time

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or changes in schedule. Lt. Ferguson expressed some confusion over this process and said he obviously handled it wrong but also acknowledged my time off direction to him was clear and his past practice of seeking prior approval for time off and flexing of schedule was understood. Lt. Ferguson at one point finished my sentence when I told him I tell every Lieutenant I do not want to be surprised or not have an answer when asked if they are working a certain day or time. Lt. Ferguson said the word "surprised" before I could finish my above statement.

I then moved into how this possible misuse of benefit time came to my attention. I asked Lt. Ferguson about his leaving 6 hours early on the morning of 4/29, not reporting for duty for on 4/29 and 5/2. Lt. Ferguson said he did not have an explanation besides that he obviously messed up on benefit time and he did not know why. I pointed out the coordination of having Sgt. Hoeniges work OT on 4/29 for 3 hours and having Sgt. Wilson work OT for a 8 hours, due to his vacancies, and asked him to explain. Lt. Ferguson had no explanation. These responses were clearly untruthful, evasive and omitting of the facts. Instead of taking responsibility for clearly manipulating his schedule in Roll Call to avoid the use of benefit time he simply could not recall an explanation for the days in question not being submitted through Executime.

Lt. Ferguson said that he considers himself a pretty sharp employee and he knows time anomalies have happened in the past and someone has always called him to ask what type of time he wanted to take. Lt. Ferguson said he thinks he is messing up lately because he is not sleeping. I told Lt. Ferguson he is not slipping in performance, and I did not believe these benefit days taken with no time submitted was an oversight or him slipping. Lt. Ferguson said he thinks he got himself in this situation by misunderstanding time off and I asked him if I caused that. Lt. Ferguson began talking about his co-workers doing things and I clarified with him if I ever gave him any indication it was ok to leave for multiple days without submitting time and he agreed that I had not and that was not an excepted practice. He said our system has checks and balances so people cannot steal time. I challenged Lt. Ferguson's statement as I told him he was an example of how someone in a position of authority could manipulate the system if they chose to do so.

Lt. Ferguson brought up the flexing of hours and I brought him back to what was really the issue in this incident. I told Lt. Ferguson repeatedly this investigation was not about flexing a couple hours, it was about the repeated misuse of full days of benefit time. Lt. Ferguson stated he had no good reason for the hours/days he took for Wisconsin and the Florida fishing trips.

Next, I asked Lt. Ferguson about April 4th (Easter Sunday) when he did not show up for work with no benefit time taken or communication with me. Once again Lt. Ferguson had no good answer and said he could not remember. Instead of taking responsibility for clearly manipulating his schedule in Roll Call to avoid the use of benefit time he simply could not recall an explanation.

I asked Lt. Ferguson about sending Lt. Hackman an email on 3/11 cancelling his training day on 3/15 and then not showing up for work on 3/14 or the shift scheduled for 3/15 while entered as training 3/14 and vacation 3/15 in Roll Call and no benefit time entered in Executime for either day. Lt. Ferguson had no explanation for this anomaly. Lt. Ferguson remembered coming in on Monday March 15th but could not recall what he did or why he did not work the appropriate amount of time that week.

We discussed a future entry in Roll Call and Executime for July 2021. I told Lt. Ferguson it appeared he was stealing an extra day of time utilizing the same pattern of entry into Roll Call as being off on vacation and not submitting benefit time in Executime. This was also consistent as being around his weekends, trips and holidays as previous issues we had discussed. I showed Lt. Ferguson the entries in both Executime, and Roll call and I highlighted the discrepancies. Lt. Ferguson had no explanation for the errored entries. Instead of taking responsibility for clearly manipulating his schedule in Roll Call to avoid the use of benefit time he simply could not recall an explanation of why the two databases did not match.

When Lt. Ferguson addressed the most recent days of not reporting for duty, May 20 and 23rd, he had no explanation

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for why the time off was not submitted and stated he believed he had vacation time submitted. He admitted it was ridiculous and he was embarrassed by the oversight but would not elaborate on a cause outside of an innocent oversight. Instead of taking responsibility for clearly manipulating his schedule in Roll Call to avoid the use of benefit time he simply could not recall an explanation.

Throughout the interview, Lt. Ferguson continually talked in circles and repeated the same responses which gave me little to no clarity to my inquires. Anytime I mentioned that I thought these anomalies in his schedule were intentional and deliberate Lt. Ferguson would begin diverting away from that statement and refer to "checks and balances" and the fact that no one could "steal time". Lt. Ferguson did admit to misusing the "flex" time and "got out over his ski's".

Assistant Chief Klingele pointed out that during all these anomalies in Lt. Ferguson's schedule he made all the appropriate entries in Roll Call, he planned all these trips, sent texts, arranged for Sergeants to cover his vacancies but always seemed to forget entry of his benefit time into Executime. Assistant Chief Klingele told Lt. Ferguson it appeared he took some liberties with his schedule and now he is being held accountable for those actions.

Lt. Ferguson mentioned he wished this incident had been handled differently or that someone would have just come to him about this issue. He feels like I was investigating him. I explained to Lt. Ferguson I spoke with the Chief about this before proceeding. I informed him we treated this situation in the same way we would any other employee to protect him and the agency. I told Lt. Ferguson I sent an email to get him to correct his misuse of benefit time for April 29th and May 2nd but he did not do so. Instead, he signed a time card that was inaccurate. Thus, I began monitoring his time and witnessed several anomalies which led us to the current situation.

Based on this interview and the facts known in this investigation, it is clear Lt. Ferguson intentionally omitted time off slips in Executime to avoid using his benefit time. These repeated unauthorized absences from duty were intentional, deliberate and premeditated. Lt. Ferguson assumed if an issue with his time off submittals was discovered by me that it would be handled in a conversation with him rather than a formal investigation.

The interview concluded at approximately 1205 hours.

### Second Interview of Lt. Ferguson

On May 27, 2021, Lt. Ferguson called me and advised he wanted to do a follow up interview. I informed Lt. Ferguson I would facilitate his request and we could meet again on Friday May 28, 2021. On Friday May 28, 2021, at approximately 1057 hours Assistant Chief Eric Klingele and I met with Lt. Ferguson. The interview was audio and video recorded (See video attachment 6.)

Lt. Ferguson indicated he had been thinking about time off usage and where some of his flex time may have come from. He mentioned some left over comp time he had in mid-March and believed the amount was 6-8 hours. He remembered trying to cash it out and having me reject the cash out. I told Lt. Ferguson I remembered this issue as it was agreed that he would either cash out all comp time upon being promoted or use it as time off only before March 31, 2021 (see attachment 12.)

Lt. Ferguson then said a lot of times he sleeps then wakes up and starts to think about work and he seemed to be inferring that qualifies as working from home and should be taken into consideration for flex hours. This statement was very perplexing to me as the interviewer. At no time, had Lt. Ferguson ever been given the direction that thinking about work at home is considered compensable work. Furthermore, any flexing of his hours and schedule based on this flawed rationale was never approved or discussed with me since he was promoted in September 2020. Lt. Ferguson admitted he was handling this wrong, and he could never recall a time that I denied a request to flex hours when he asked me to do so.

Lt. Ferguson said the Wisconsin and Florida trips he has racked his brain on, and he does not know why that time was



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not entered. He said obviously those need to be handled more prudently and time off slips turned in. Lt. Ferguson said he remembered the email I sent asking Lieutenants to approve their timecards and he remembered going in and approving that timecard, but he said the majority of his career he hasn't approved his timecard. He said the things that have bit him throughout his career are the little things or attention to detail. Lt. Ferguson said that when I sent that email, motioning with his hand at me, he just went in there and put his initials to approve it.

Lt. Ferguson said he has seen numerous Lieutenants take flex time, full days off, but did not mention any names, dates or specific instances. I challenged Lt. Ferguson on his claims, and he seemed to back away from that claim as originally stated. Lt. Ferguson appeared to be grasping at reasons to justify his poor judgement and lack of seeking prior approval by saying everyone does it and he was following what his peers do.

Lt. Ferguson continues to focus on the flexing of hours when the real issue at hand is his schedule anomalies of taking multiple full days off in Roll Call and not taking corresponding Executime benefit time. Lt. Ferguson continues to dismiss the full days he did not show up to work or take benefit time as innocent oversights while trying to justify his flexing of hours at a time as legitimate, minus not seeking my approval. Interview concluded at approximately 1146 hours.

### Interview of Sgt. Jake Hoeniges

On Sunday May 30th at approximately 1128 hours, I interviewed Sgt. Jake Hoeniges in reference this investigation. The interview was audio and video recorded and below is a summary of our conversation (See video attachment 7.) I asked Sgt. Hoeniges about a couple instances that he covered shift vacancies for Lt. Ferguson on overtime April 29, 2021, and May 14, 2021 from 0400-0700 hours. I asked Sgt. Hoeniges to explain to me the process and details of him covering the April 29th hours to begin the conversation.

Sgt. Hoeniges said Lt. Ferguson asked him to cover some time on the morning of April 29th as he was leaving on vacation early that morning and both the regular Sergeants assigned to his shift were off on approved leave time. Sgt. Hoeniges said as far as his timecard goes, he worked 0400-0700 on 4/29 on overtime. I asked Sgt. Hoeniges what time Lt. Ferguson left work that shift. Sgt. Hoeniges said he thinks Lt. Ferguson left at approximately 0200 hours. Sgt. Hoeniges took over the supervision of Lt. Ferguson's shift at that time until 0700 hours. I asked Sgt. Hoeniges if him covering Lt. Ferguson's shift had been planned in advance or that night. Sgt. Hoeniges indicated it had been planned in advance, not three weeks out but at least a week in advance he said. I asked if it was discussed that the OT being known more than 7 days in advance should be posted and Sgt. Hoeniges could not recall any discussions that happened regarding that topic. Sgt. Hoeniges said Lt. Ferguson just asked if he could cover it, so he agreed.

We next talked about Friday May 14, 2021, 0400-0700. I asked Sgt. Hoeniges about adjustments made to his schedule. Sgt. Hoeniges said due to the meeting being moved from a Wednesday to a Thursday he asked Lt. Ferguson if he could flex his hours the night before the staff meeting (May 12th) and work noon-10pm so he could be rested for the staff meeting. Lt. Ferguson allowed the adjustment.

Thursday May 13th, the day of the staff meeting Lt. Ferguson told Sgt. Hoeniges he worked until early afternoon after the meeting until approximately 1:30-2pm and was going to leave early that night. Lt. Ferguson reported for duty at 2300 on May 13, 2021 and left early at approximately 0130-0200 hours according to Sgt. Hoeniges.

I asked Sgt. Hoeniges if he was aware Lt. Ferguson had taken off Tuesday May 11, 2021? Sgt. Hoeniges was not aware and did not indicate having any dialogue with Lt. Ferguson about that date.

I asked Sgt. Hoeniges about any additional information he thought was relevant to this investigation and he did not have any subject matter to add that was notable. The interview concluded at 1140 hours.

### Conclusion

Lt. Ferguson's pre-meditated pattern of manipulating the Roll Call Database, stealing benefit time in conjunction with his

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weekend and leaving work early, without submitting time off or receiving prior approval is clearly intentional. This misconduct is not explainable as multiple innocent oversights or an abundance of accrued, off the books, flex time. Lt. Ferguson had been proficient in all his duties as a Lieutenant and showed the ability to be organized and manage numerous tasks, including scheduling Sergeants on overtime to cover his numerous failures to report for duty. Lt. Ferguson's untruthful statements regarding anomalies in his schedule being due to continued innocent oversights is simply an untrue statement to avoid accountability for his actions.

Lt. Ferguson had only been in the rank of Lieutenant for just over 5 months when the noted schedule anomalies began in March 2021. Lt. Ferguson breached the trust bestowed in him and used his position power and authority to repeatedly steal benefit time from his employer. When Lt. Ferguson was questioned about his misconduct he chose to be untruthful, vague and evasive rather than take accountability, admit his wrongdoing and move forward.

Lt. Ferguson questioned why this investigation was handled as a formal investigation and not just as a conversation with him regarding the schedule anomalies highlighted in this report. As the lead investigator in this case and Lt. Ferguson's direct supervisor I feel this inquiry was relevant to highlight. It is my finding, based on my investigation, that Lt. Ferguson's misuse of benefit time was clearly intentional and not multiple innocent repeated oversights. I believe Lt. Ferguson manipulated the time off system and expected if an anomaly was detected he would be approached informally to correct it and thus avoid a more serious discipline or accountability issue.

Lt. Ferguson was in a high level administrative supervisory position that should not warrant constant direct supervision. Lt. Ferguson took advantage of his position authority and lack of constant direct oversight and ultimately sacrificed his ethics and truthfulness for personal gain.

### **Prior Discipline:**

**DVC- 10-12-17 Violation of Town related travel and training -lodging and Unsatisfactory Performance**

**LOR- 12-31-17 Insubordination and Unsatisfactory Performance**

**Note- 6-10-19 Time off without approved leave**

**Note- 6-19-19 Misuse of department vehicle**

### **Directive(s) Violated:**

**Directives Violated**

**After careful review of my investigation and interviews of Lt. Ferguson and Sgt. Hoeniges I have come to conclusion that Lt. Ferguson clearly violated several directives which are listed below.**

#### **2801.4-33 REPORTING FOR DUTY**

**Employees shall report for duty at the time and place required by assignment or orders and shall be physically and mentally fit to perform their duties. They shall be properly equipped and aware of information required for proper performance of duty.**

**Lt. Ferguson clearly did not report for duty on numerous dates and time that were documented in this report and his interviews. Lt. Ferguson admitted he did not seek approval for schedule changes and simply did not know why he neglected to enter benefit time for numerous days he did not come to work.**

#### **2801.4-1 CONFORMANCE TO LAWS AND REGULATIONS**

**A. All employees shall observe and obey all local, State, and Federal statutes, ordinances and laws, all provisions of**

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the Constitution of the State of Illinois and the United States of America and all rules, regulations, directives and orders of the Town and the Department whether verbal or written.

Lt. Ferguson clearly did not adhere to the rules, regulations, directives and orders of the Town of Normal and the Department. Specifically, written directives on the use of time off and verbal direction given by me in relation to seeking prior approval for schedule changes and flexing time off.

It should be noted, when Lt. Ferguson was promoted to the exempt rank of Lieutenant on September 28, 2020, he and I had an extensive conversation about my expectations for him in his new position. During our meeting, we discussed time off usage, town holidays, vacations, personal convenience leave, sick time and how that benefit time should be requested, approved and used.

I informed Lt. Ferguson all time off he uses needs to be submitted to me for approval prior to taking the time off. In the instance of "flexing time", which could be holidays that fall on his regular day off or extra time worked outside of a normal schedule, I was very clear with my expectations of Lt. Ferguson. I informed Lt. Ferguson that I had no objection to my Lieutenants flexing time if the flex time was worked prior to taking it back and the schedule change was approved in advance by me. Furthermore, I explained as a salary exempt rank employee there would be no counting of minutes and hours worked over 40 ("Keeping Book") to redeem later. I directed Lt. Ferguson to simply communicate all proposed schedules changes with me for approval and there would be no future issues.

I emphasized to Lt. Ferguson that while being a Lieutenant came with the benefit of flexing time when approved by me, it was imperative I know when my Lieutenants are flexing time so I can be informed and accountable to their schedule changes. I told Lt. Ferguson "I never wanted the Chief asking me if a Lieutenant was working and me not having that answer." In addition, I stressed to Lt. Ferguson the importance of accurate time-card record keeping and time off submittal and approval for both himself and his shift. Lt. Ferguson indicated he understood and would adhere to my direction in this matter.

It is evident my expectations of clear communication and prior approval of schedule changes or flexing time schedules was understood by Lt. Ferguson. On numerous occasions, Lt. Ferguson sought my approval via email for any changes to his regular work schedule. These email correspondences began upon his promotion to Lieutenant in September 2020 and continued through March 4th. (See attachment 16). There were also instances of Lt. Ferguson verbally asking me in person to flex time or his schedule. Lt. Ferguson understood my expectations and clearly chose to disregard the established time off process to benefit only himself while defrauding the Town of Normal.

### 2801.4-13 DEPARTMENTAL REPORTS

Employees shall submit all necessary reports on time and in accordance with established departmental procedures. Reports submitted by employees shall be truthful and complete, and no employee shall knowingly enter or cause to be entered any inaccurate, false or improper information.

Lt. Ferguson made numerous false Roll Call entries and signed a factually inaccurate timecard in the Executime payroll system as noted in this report.

### 2801.4-20 INSUBORDINATION {12.1.3}

Employees will promptly and respectfully obey any lawful orders, verbal or written, of a supervisor, including all Directives, General Orders, Special Orders, and Electronic Communication. This will include orders relayed from a supervisor by an officer of the same or lesser rank or another employee. Officers shall be courteous and shall not use coarse, violent, profane or insolent language when speaking with or addressing a supervisor. This includes oral conversations and written communication.

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Lt. Ferguson did not obey very clearly established verbal and written orders issued by me in relation to time off, changes in schedule and flexing time as noted in this report.

### 2801.4-23 LOYALTY

Loyalty to the Department and to associates and their superiors is an important factor in Department morale and efficiency. Employees shall maintain a faithfulness to the principals of professional police service, the objectives of the Department and to their associates as is consistent with the law and personal ethics. In the discharge of their duties, employees must not allow personal motives to govern their decisions and conduct.

Lt. Ferguson displayed a significant lapse in ethics and judgement for personal gain. Lt. Ferguson purposely manipulated his schedule for his own personal gain at a monetary loss to the agency and The Town of Normal. The monetary loss is based on his misuse of benefit time and subsequent payment of overtime to other supervisors to cover his unexcused absences as outlined in this report.

### 2801.4-38 TRUTHFUL STATEMENTS

An employee shall give truthful statements at all times regarding the scope of employment and operations of the department, except when legitimately necessary during criminal investigations. A statement, written or verbal, should not be made unless the employee is sure of its truthfulness whether under oath or not. Intentional omissions or failure to recall relevant information in the course of the performance of police duties, is the same as being untruthful.

There is no justification for lying or failing to tell the whole truth during an internal investigation or other official proceedings. Typically discipline is much harsher for lying or attempting to cover up than what the employee would have received for the initial rules violation. Examples of official proceedings could be but are not limited to;

- False testimony in a criminal or civil proceeding under oath. (perjury)
- False, misleading or vague testimony during an internal investigation to cover up wrongdoing of oneself or other employees.
- False testimony in a civil proceeding to cover up policy non-compliance in depositions or interrogatories.

During the audio recorded interview Lt. Ferguson continually gave vague and untruthful testimony, failed to recall relevant information and made intentional omissions regarding his patterned misuse of benefit time on multiple occasions. Lt. Ferguson had numerous schedule anomalies, as recent as two days prior to the initial interview, that he could not recall reasoning for why he did not submit time off.

Lt. Ferguson made multiple entries into the Roll Call Database for being off on vacation benefit leave when none existed in Executime. Lt. Ferguson falsely initialed his timecard as using no benefit time for payroll 4/25/21-5/8/21 (Attachment 1.)

Lt. Ferguson demonstrated a pattern of misusing time off around his weekends and in conjunction with recent fishing trips to Wisconsin and Florida. In both instances, he took a Thursday and a Sunday off without submitting benefit time. In both instances, Lt. Ferguson made plans for his trips, made entries into Roll Call, arranged for supervisors to cover his absence on OT but states the corresponding Executime benefit submittal was not done due to an innocent oversight. This is simply an untruthful statement and shows a major lapse in ethics and accountability for misconduct.

We discussed a future entry in Roll Call and Executime for July 2021. I told Lt. Ferguson it appeared he was planning to steal an extra day of time utilizing the same pattern of entry into Roll Call as being off on vacation and not submitting benefit time in Executime. This was also consistent as being around his weekends as previous issues we had discussed. I showed Lt. Ferguson the entries in both Executime, and Roll call and I highlighted the discrepancies. Lt. Ferguson had no explanation for the errored entries. Instead of taking responsibility for clearly manipulating his

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schedule in Roll Call to avoid the use of benefit time he simply could not recall an explanation. Lt. Ferguson's continual inability to recall any pertinent information as it relates to his misuse of the benefit time or scheduled misuse of benefit time is clearly an attempt to mislead investigators and avoid culpability for his wrongdoing.

## 2801.4-39 DUTY TO ANSWER

Upon the order of the Chief of Police or the Chief's designee as a superior officer conducting an administrative or criminal investigation, employees will truthfully answer all questions specifically directed to them regarding the investigation. Nothing in this rule shall be construed to be in violation of one's Federal or State statutory or Constitutional rights.

During the audio recorded interviews Lt. Ferguson continually gave vague and untruthful testimony, failed to recall relevant information and made intentional omissions regarding his misuse of benefit time on multiple occasions.

## 2801.4-44 UNSATISFACTORY PERFORMANCE {26.1.1}

A. Employees shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Employees shall perform their duties in a manner which will maintain the highest standards of efficiency and effectiveness in carrying out the functions and objectives of the Department. Unsatisfactory performance may be demonstrated by:

- 3. Failure to conform to work standards established for the officer's rank, grade, or position,
- 5. Absence without leave

B. In addition to other indication of unsatisfactory performance, the following will be considered prima facie evidence of unsatisfactory performance:

- 2. Any infractions of rules, regulations, directives or orders of the Department.

Lt. Ferguson made multiple entries into the Roll Call Database for being off on vacation or training leave when none existed in Executime. Lt. Ferguson falsely initialed his timecard as using no benefit time for payroll 4/25/21-5/8/21 (Attachment 1.) Lt. Ferguson was absent without approved leave for a full or partial day on March 14-16, April 4-5, 28-30 and May 2, 3, 11, 12, 14, 20,21, 23,24.

### Employee Acknowledgement

This document is to make you aware of the violations of departmental and to notify you of the outcome of the formal investigation.

Assistant Chief Stephen Petrilli

6/15/21

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Investigating Supervisor

Date

Chief Rick Bleichner

6/15/21

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Chief of Police

Date

**SEC. 18.1-13 OUTSIDE EMPLOYMENT.** Any employee working for the Town of Normal that is also receiving remuneration for some other employment or service is subject to the following restrictions. All outside employment must be approved by the City Manager prior to an employee accepting such employment or service. Appropriate records will be filed in each employee's personnel file, listing where employed, hours to be worked, and all other pertinent information.

- A. The outside employment must not interfere with an employee's effectiveness in employment for the Town of Normal.
- B. Outside employment must not leave the employee tired or subject to injury on the job.
- C. Outside employment shall not be a conflict of interest with his Town employment, nor shall it interfere with response to emergency calls.
- D. No adverse public relations shall result to the Town because of an employee's outside employment.
- E. Any other factor deemed pertinent by the City Manager.

**SEC. 18.1-14 SEPARATION AND DISCIPLINARY ACTION.**

- A. Separation of employees from positions in the Salary Administration Program shall be designated as one of the following types and shall be accomplished in the manner indicated:
  - 1. Resignation. An employee may resign by submitting in writing the effective date to his Department Head as far in advance as possible, but a minimum of two weeks notice is desired. Failure to comply with this requirement may be cause for denying future employment with the Town. Employees who are absent from work for three (3) consecutive days without proper notice will be considered as having voluntarily resigned.
  - 2. Layoff. The Department Head with the approval of the City Manager may lay an employee off in the classified service when he deems it necessary provided, no regular employee shall be laid off when another person in a classified position is employed on a provisional or seasonal basis in the same position. Layoffs longer than one (1) year shall be deemed termination from employment with no appeal rights.
  - 3. Disability. An employee may be separated for disability when the employee is unable, with reasonable accommodation, to perform the essential functions of the job because of a physical or mental impairment. Action may be initiated by the employee, or the Town, but in all cases, it must be supported by medical evidence acceptable to the City Manager.

The Town may require an examination at its expense and performed by a physician of its choice. Employees shall cooperate fully in such determination. (Amended 11/18/2013 by Ord. No. 5514)

4. Death. Separation shall be effective as of the date of death. All compensation due shall be paid to the estate of the employee, except for such sums as by law must be paid to the surviving spouse.
  5. Retirement. Whenever an employee meets the conditions set forth in SEC. 18.1-22 and the retirement plan regulations, the employee may elect to retire and receive all benefits earned under the retirement plan.
  6. Dismissal. Separation from Town employment for cause or for any reason not prohibited by law.
- B. Disciplinary Action. Whenever employee performance, attitude, work habits or personal conduct at any time falls below a desirable level, such employee's supervisor(s) may initiate appropriate disciplinary action.
1. If appropriate and justified, a reasonable period of time for improvement may be allowed before initiating disciplinary action seeking suspension or dismissal.
  2. In some instances, a specific incident may justify severe disciplinary action, or dismissal; however, the action depends on the seriousness of the incident and the whole pattern of the employee's past performance and conduct.
  3. Employees exempt from the payment of overtime pursuant to the Fair Labor Standards Act shall not be suspended for less than one (1) work week except for a major safety violation. Suspension of one (1) work week or more or dismissal from employment shall be as otherwise provided in this Code.
  4. The Town may use traditional forms of disciplinary action including but not limited to verbal counseling or coaching, written reprimands, suspensions with or without pay, or dismissal. At the department head or supervisor's option, employees may be allowed employee assistance counseling in lieu of disciplinary action. In order to participate in employee assistance counseling in lieu of serious disciplinary action, the employee must: (1) waive confidentiality related to attendance and progress in completing any treatment plan recommended by the employee assistance counselor and/or other professional; (b) attend all scheduled meetings and complete follow-up recommendations and treatment plans. Information received from the employee assistance counselor or other professional shall be considered confidential and shared only on a need to

know basis in order to assure compliance with the terms and conditions of referral. Failure to comply with the terms and conditions of the employee assistance counseling or continued performance and behavior problems will result in further disciplinary action.

C. Dismissal or Suspension – Regular – Non-Probationary Employees.

1. Grounds. The employee's supervising officer(s) may dismiss or suspend any employee for the good of the service. Reasons for dismissal or suspension may include but shall not be limited to:
  - a. Failure to meet prescribed standards of work, morality and ethics to an extent that makes an employee unsuitable for continued employment in the position in which the individual is employed;
  - b. Theft or destruction of Town property;
  - c. Incompetency, inefficiency or negligence in the performance of duty;
  - d. Insubordination that constitutes a serious breach of discipline;
  - e. Conviction of a felony;
  - f. Unbecoming personal conduct;
  - g. Unauthorized absences, or abuse of leave privileges;
  - h. Acceptance of any valuable consideration which was given with the exception of influencing the employee in the performance of his duties;
  - i. Falsification of records or use of official position for personal advantage;
  - j. Inability to get along with fellow employees so that work quality or quantity is affected;
  - k. Failure to follow the order of one's supervisor or Department Head;
  - l. Failure to report on-the-job injuries;
  - m. Possessing or using alcohol or controlled substances on the job or arriving on the job under the influence of alcohol or controlled substances, or sale of controlled substances in the work place.



2. Hearing and Appeal Notice. The employee shall be furnished an advance written notice containing the nature of the disciplinary suspension or dismissal by the Disciplining Officer, the reasons for the discipline, duty and pay status, and his right to answer the disciplinary action to the City Manager or designee in writing by 5:00 p.m. on the close of the third normal business day following receipt of advance notice. This Notice shall be furnished at least one calendar week prior to the proposed effective date of the disciplinary action. A copy of the advance notice shall be provided to the City Manager. After receiving notice but prior to the proposed effective date of dismissal or suspension, the employee may be retained in one of the following employment statuses:

- a. On duty with pay;
- b. Suspended with pay;
- c. Suspended without pay;

at the discretion of the disciplining officer. If the employee fails to respond to the advance notice of the disciplinary action, it shall be effective on the date specified with no need for additional action. If the employee answers the charges in writing, the Manager or designee shall afford the employee an administrative hearing and at the close thereof, affirm, modify, increase, reduce or reverse the proposed dismissal or suspension. Such hearings shall be commenced within seven (7) days from the receipt of an appeal and shall be diligently pursued to disposition. Continuances may be granted at the discretion of the Manager or designee but only upon the execution of a salary claim waiver by the employee initiating and pursuing the appeal.

3. Maximum Duration of Suspensions. No employee shall be suspended for a period of time in excess of thirty (30) days for one occurrence, provided however, this limitation shall not apply to or include the period of time between the furnishing of the notice of charges and the effective date of the suspension or disposition of an appeal if one is held.

**SEC. 18.1-15 PROMOTIONS, DEMOTIONS AND TRANSFERS.** All promotions, transfers and demotions will occur in conjunction with the Salary Administration Program's merit system.

- A. All recommendations for promotions and transfers will be based on merit and shall be approved by the City Manager. When an employee is promoted, his salary may be adjusted by the City Manager after consultation with the employee and the Department Heads involved.
- B. All recommendations for demotions based on lack of individual merit or the phasing out of former positions, will be approved by the City Manager. Where a regular employee accepts a voluntary demotion to a lower pay grade, his pay shall