

## **INTERNAL INVESTIGATION**

**IA#:** 18-003

**CASE NUMBER:** Diverse Dates

**INVESTIGATORS:** Deputy Chief Chartrand/Deputy Chief Chaput

**DATE INITIATED:** March 28, 2018

**DATE COMPLETED:** August 22, 2018

**CASE NAME:** Lt. Michael Fleury

### **CASE ORIGIN**

The Dracut Police Department utilizes a software program called Detail Tracking System to document all hours of work for employees of the department. It is commonly referred to as "DTS." On March 27, 2018 Lt. Fleury entered his hours of work as 8:00 a.m. to 4:30 p.m. Because he stayed on duty beyond his scheduled shift, he credited himself with one (1) hour of compensatory time. The DTS system provides a module whereby the submitting supervisor provides a reason explaining why the officer was required to stay beyond his/her regular tour of duty. Lt. Fleury entered "paperwork" as his stated reason.

On March 28, 2018 Chief Bartlett was reviewing the entries into the DTS payroll system. After observing the referenced entry by Lt. Fleury he instructed Deputy Chief Chaput to contact Lt. Fleury and have him provide further clarification of what the paperwork consisted of. Lt. Fleury sent the Chief an email on March 28, 2018 claiming that he remained on-duty because he was awaiting the results of a call at 545 Arlington Street. He was waiting to both possibly book a prisoner and/or update his shift summary. After review, Chief Bartlett concluded that Lt. Fleury had expected to be paid comp time for something he created as a reason to be compensated. Chief Bartlett notified Lt. Fleury of his conclusion and notified him that he would now have to have the prior approval of Deputy Chief Chaput to remain on duty past his assigned shift.

Based on this incident Chief Bartlett believed it was prudent to conduct an audit type review relative to the accrual and usage of compensatory time by Lt. Fleury. The current DTS payroll system as it exists today became fully functional in October of 2016. This was selected as the start point. The audit/review continued through the end of June 2018. Early on in the audit process, Chief Bartlett assigned Deputy Chief Chaput and Deputy Chief Chartrand to further the preliminary review.

### **PRELIMINARY REVIEW**

Early on in the investigation, the Investigators utilized a calendar-like review in the DTS system that tracks accrual and usage of comp time. A clear and consistent pattern of accrual and usage of comp time became readily identifiable. Lt. Fleury would accrue comp time in small hour

up to three or four hours. At times, he would also work a full overtime shift and request to be credited with comp time. He would build up these smaller incremental hours in his available banked comp time. He would then use the comp time to take off full shifts of duty, primarily on the weekends.

During the period of the audit the following figures were discovered;

- There were 97 instances when Lt. Fleury was credited with comp time as a result of a DTS entry where he claimed it was necessary to remain on duty;
- During that time frame he accrued 307.5 hours;
- His current balance is four (4) hours;
- He has utilized comp time to take off 23 weekend days
- He has utilized comp time to take an additional 15 full shifts off for a total of 38 full tours of duty;
- Contractually Lt. Fleury is entitled to 28 vacation days and 3 personal days;
- Lt. Fleury is assigned a 4 and 2 rotating schedule. That being 4 days of work followed by 2 days off. In a six week cycle, during 3 of the 6 weeks he would naturally have a weekend day off. The 4 and 2 schedule also provides for an additional 17 days off per year, as compared to a normal Monday through Friday schedule;

\* It should be noted that during the time frame of the audit Lt. Fleury was absent from duty [REDACTED] from December 8, 2017 through February 8, 2018.

### COMPENSATORY TIME ACCRUAL ANALYSIS

The DTS system creates a permanent electronic record of all data entered in terms of scheduling and payroll. Until recently supervisors had been allowed to access, input, and update information regarding their own scheduling and attendance. When a supervisor is required to remain on duty past their assigned shift hours, they are required to document the reason in the notes module. The vast majority of comp time awarded to Lt. Fleury was entered into the system by himself. His noted reasons include but are not limited to;

Paperwork, late call, detail assignments, late arrest, shift summary, review reports, booking prisoner, follow up, shift coverage, late emails.

The Investigators then engaged in a comprehensive review of the times, dates, and duration of stay of comp time awarded to Lt. Fleury. This was then compared and contrasted with the DPD incident log and schedules. What was discovered was that there were incidents where Lt. Fleury's stated reasons for staying on duty were not consistent with incident log or department scheduling records.

### SPECIFIC INCIDENTS

1. OCTOBER 17, 2017 HOURS: 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP  
Reason: Speaking with DCF

- The log indicates one call that day that involved DCF contact. 17-17988, DCF was contacted by the investigating officer John Quinn at 10:50 a.m. Both Lt. Gosselin and Sgt. Quealy were on duty at 4:00 p.m.
  
- 2. OCTOBER 24, 2017 HOURS: 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP  
Reason: Late calls
  - The log indicates there was a motor vehicle crash at 15:35 nothing suggests the necessity for a supervisor. At 16:00 there is a call for a tree down. Sgt. Quealy is listed as the Officer in Charge at that time.
  
- 3. OCTOBER 27, 2017 HOURS: 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP  
Reason: Review reports
  - The log indicates there was only one report completed on his shift. This was a well being check at 12:38. Lt. Gosselin was on duty at 4:00 p.m.
  
- 4. OCTOBER 30, 2017 HOURS 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP  
Reason: Late arrest
  - The log indicates that the prisoner was booked at 14:04. Both Lt. Gosselin and Sgt. Quealy were on duty at 4:00 p.m.
  
- 5. JULY 21, 2017 HOURS 8:00 A.M. TO 5:30 P.M./ 2.5 HOURS COMP  
Reason: Late call for service (Incident) 17-12347
  - 17-12347 was an alarm call on 7/22/17 at 12:26 p.m. The log for 7/21 indicates a lobby report for a keep the peace at 15:16. The call had 3 patrolman and a detective assigned. It is unknown as to what necessitated Lt. Fleury's presence for 1.5 hours. The incident wasn't serious enough to generate a narrative report. Sgt. Quealy was on duty at 4:00 p.m.
  
- 6. NOVEMBER 9, 2017 HOURS 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP  
Reason: Change details in DTS?? Both Lt. Gosselin and Sgt. Quealy were on duty at 4:00 p.m.
  
- 7. NOVEMBER 10, 2017 HOURS 8:00 A.M. TO 5:00 P.M./ 1.5 HOURS COMP  
Reason: Late Arrest
  - The log indicates an arrest at 15:28 for Leaving the Scene. The suspect was booked by Sgt. Quealy. The booking was completed at 16:45.
  
- 8. NOVEMBER 14, 2017 HOURS: 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP  
Reason: Late Arrest
  - The log indicates the prisoner was booked for ABDW by Lt. Fleury at 14:59. Sgt. Seamans was on duty at 4:00 p.m.
  
- 9. DECEMBER 4, 2017 HOURS 8:00 A.M. TO 5:00 P.M./ 1.5 HOURS COMP  
Reason: Late Arrest
  - The log indicates the prisoner was booked for Shoplifting at 15:30. Both Lt. Gosselin and Sgt. Quealy were on duty at 4:00 p.m.

10. FEBRUARY 15, 2018 HOURS 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP

Reason: Shift summary/late information

- It appears Lt. Fleury never submitted a shift summary on that date. This incident will be further addressed in terms of the method Lt. Fleury used to credit himself with comp time. Lt. Gosselin was on duty at 4:00 p.m.

11. FEBRUARY 18, 2018 HOURS 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP

Reason: Prisoner release

- Lt. Fleury failed to document the release time in the PAMET system. The last phase of the release process is returning the prisoner's property. The arrest envelope documents this at 16:10. Both Lt. Gosselin and Sgt. Seamans were on duty at 4:00 p.m.

12. FEBRUARY 24, 2018 HOURS 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP

Reason: Paperwork 2 cruiser damages review reports

- The log indicates that Lt. Fleury entered his one paragraph report for cruiser damage by Ptl. Byron at 10:39. There are no other cruiser damage reports in the log for that day. Lt. Gosselin was on duty at 4:00 p.m.

13. MARCH 8, 2018 HOURS 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP

Reason: Shift paperwork

- The log indicates one incident that required a report. However, the report was not completed until the following day. There were numerous calls for trees down. It appears Lt. Fleury failed to submit a shift summary. Both Lt. Gosselin and Sgt. Seamans were on duty at 4:00 p.m.

14. MARCH 16, 2018 HOURS 8:00 A.M. TO 5:30 P.M./ 2.5 HOURS COMP

Reason: Late booking/late arrest

- The log indicates that the prisoner was booked at 15:52 by Lt. Fleury. The arrest was made for outstanding warrants. Both Lt. Gosselin and Sgt. Quealy were on duty at 4:00 p.m.

15. MARCH 27, 2018 HOURS 8:00 A.M. TO 4:30 P.M./ 1 HOUR COMP

Reason: Paperwork

- This incident will be further expounded upon. Both Lt. Gosselin and Sgt. Seamans were on duty at 4:00 p.m.

\* It should be noted that on multiple occasions Lt. Fleury cited his reason for remaining on duty was for a late arrest or the booking of a prisoner. During his interview, Lt. Fleury acknowledged that he was aware of a department directive received by supervisors concerning the booking of prisoners. The directive stated that if an arrest were to occur within the last hour of the shift, the oncoming shift supervisor would complete the booking process. Even though Lt. Fleury confirmed he was aware of this rule, he would choose to ignore it, and remain on duty past his scheduled shift to book prisoners and accumulate comp time.

## ADDITIONAL ACCRUAL DISCREPANCIES

In addition to the referenced reasons above, other instances were discovered whereby Lt. Fleury claimed he was required to remain on duty to cover for the absence of an oncoming supervisor from the next shift. Through review of the actual shift schedule, the cited reasons to remain on duty appear to be questionable.

### MAY 2, 2017

On May 2, 2017 Lt. Fleury processed his time submission within DTS. His listed hours for that day were 8:00 a.m. to 6:00 p.m. This resulted in him being credited with 3 hours of comp time. The DTS note entered by Lt. Fleury states (Shift coverage Byam).

- On 4/29/2017 Sgt. Byam had requested 2 hours of comp time leave from the 4 to 12 shift for 5/2/2017. That being 4:00 p.m. to 6:00 p.m.
- On 5/2/2017 Sgt. Byam worked a paid detail for National Grid. The location was Donahue Rd. at Lantern Lane. His submitted detail slip shows that he worked from 11:00 a.m. to 12:30 p.m.
- The DTS schedule for 5/2/2017 confirms that Sgt. Byam appeared for his scheduled 4 to 12 shift at the appropriate start time of 4:00 p.m.
- On 5/2/2017 at 4:31 p.m. Lt. Fleury revoked Sgt. Byam's previously requested comp time for the start of the shift.
- On 5/2/2017 at 4:32 p.m. Lt. Fleury processed his own request for comp time. He credited himself with 3 hours of comp time and entered the reason as Shift Coverage for Sgt. Byam from 4:00 p.m. to 6:00 p.m.

There is no reasonable explanation as to why this occurred. Sgt. Byam had arrived for the proper start time of his shift. Lt. Fleury was fully aware of this, which was evidenced by his revocation of Sgt. Byam's comp time at 4:31 p.m. After revoking Sgt. Byam's comp time he then credited himself with 3 hours comp time at 4:32 p.m.

Lt. Fleury was asked about this incident during his interview. His response was; *I don't know, it's May of 2017, I don't know. All I can say is if I ever put in time that I was here, I was here.* Lt. Fleury was asked if he wished to review the shift log for that day to help refresh his memory. He had no interest in doing so. Sgt. Byam was also interviewed and he did not remember the shift and could not confirm if Lt. Fleury remained on duty until 6:00 p.m.

### OCTOBER 5, 2017

On October 5, 2017 Lt. Fleury was credited with 4.5 hours of comp time for claiming to remain on duty from 4:00 p.m. to 7:00 p.m. The cited reason was (No Supervisor).

- On 10/4/2017 at 5:56 p.m. Sgt. Quealy requested 30 minutes comp time at the start of his shift on 10/5/2017. This request was approved by Lt. Fleury at 6:34 p.m. on 10/4/2017.
- On 10/2/2017 Sgt. Quealy had been assigned a paid detail for DWSD at Parkvale Ave. The assignment was from 7:00 a.m. to 4 p.m.
- On 10/4/2017 at 6:40 p.m. Lt. Fleury scheduled himself on duty from 4:00 p.m. to 7:00 p.m. The cited reason was Shift Coverage-No Supervisor.
- On 10/5/2017 at 3:14 p.m. Sgt. Quealy's previously requested 30 minutes of comp time was revoked by Lt. Fleury.
- The DTS schedule for 10/5/2017 lists Lt. Gosselin's work hours as 4:00 p.m. to 12:00 a.m. The DTS schedule for 10/5/2017 lists Sgt. Quealy's work hours as 4:00 p.m. to 12:00 a.m. This was edited by Lt. Gosselin on 10/5/2017 at 4:15 p.m.

There is clear and convincing evidence that on 10/5/2017 there was no justifiable reason for Lt. Fleury to remain on duty from 4:00 p.m. to 7:00 p.m. and to be credited with 4.5 hours of comp time. Both assigned supervisors for the 4 to 12 shift were present and accounted for at 4:00 p.m. The fact that Lt. Gosselin was on-duty at 4:00 p.m. negates any claim that there was no supervisor. Sgt. Quealy had previously requested 30 minutes of comp time. This was approved by Lt. Fleury on 10/4/2017 at 6:34 p.m. Lt. Fleury then scheduled himself to remain on duty until 7:00 p.m. He processed this at 6:40 p.m. on 10/4/2017.

During his interview Lt. Fleury could not articulate any reasonable explanation why this occurred. He did state that it is his practice to review his accrual of comp time in the DTS system and check it for accuracy. Both Lt. Gosselin and Sgt. Quealy were interviewed and had no memory of Lt. Fleury remaining on duty until 7:00 p.m. on 10/5/2017.

#### COMPOUNDING COMP TIME

The audit has revealed two instances where Lt. Fleury improperly credited himself additional comp time. On both occasions, Lt. Fleury had utilized comp time off for his own shift. He then remained on duty into the next shift and credited himself with comp time accrued at time and a half. This could be viewed as a form of double dipping. It is not an accepted practice for DPD personnel.

#### FEBRUARY 15, 2018

On February 15, 2018 Lt. Fleury was scheduled for the 8:00 a.m. to 4:00 p.m. shift. He submitted a comp leave request for the first hour of his shift. From 8:00 a.m. to 9:00 a.m. he was not working. He then remained on duty until 4:30 p.m. and credited himself with one full hour of comp time. In total he was on duty from 9:00 a.m. to 4:30 p.m. He worked a total of 7.5 hours

that day but credited himself with the overtime rate for remaining on duty for 30 minutes. The proper methodology would have been to only deduct ½ hour of his comp time to account for the 7.5 hour shift he actually worked.

### MARCH 8, 2018

On March 8, 2018, Lt. Fleury was scheduled for the 8:00 a.m. to 4 p.m. shift. He took his own shift off using comp time and worked the prior 12:00 a.m. to 8:00 a.m. as an overtime shift earning time and a half pay. He remained on duty from 8:00 a.m. to 8:30 a.m. His cited reason was shift paperwork. For remaining on duty until 8:30 a.m. he credited himself with a full hour of comp time. The proper methodology would have been to deduct ½ hour of his debited comp time for his own shift. Instead of being credited with a full hour of comp time, he would have used 7.5 hours of comp for his shift.

### MARCH 27, 2018 INCIDENT

On March 27, 2018, Lt. Fleury was scheduled for the 8:00 a.m. to 4:00 p.m. shift. He remained on duty until 4:30 p.m. He credited himself 1 hour of comp time. The stated reason was Paperwork. While reviewing the DTS entries, Chief Bartlett asked for further information regarding the specifics of what the paperwork was. Deputy Chief Chaput notified Lt. Fleury that he was required to provide a written response to Chief Bartlett explaining why he had been required to stay on duty past his shift assignment.

On March 28, 2018 at 4:07 p.m. Lt. Fleury submitted his response via email. It included the following; *I stayed because I was awaiting the results of a call at 545 Arlington Street. It was a call for a potential violation of a restraining order and I was waiting to both possibly book a prisoner and/or update my shift summary with the results of the call.*

After reviewing Lt. Fleury's response, Chief Bartlett concluded that Lt. Fleury had submitted a request for comp time that he created as a reason to be compensated. Lt. Fleury was notified that going forward any requests by him for overtime or comp time would have to be first approved by Deputy Chief Chaput.

As part of the audit, the Investigators researched the call for service at 535 Arlington Street that Lt. Fleury relied upon to justify remaining on duty and earning comp time. The following was discovered;

- The call for service was dispatched at 3:04 p.m. Officer Malandrino and Officer Gorman responded. The nature of the call was a potential violation of a Harassment Prevention Order, not a Restraining Order violation.
- This address is very familiar to DPD officers. The frequent disputes involve a [REDACTED] who continue to live together in the same residence despite their inability to get along.

- This dispute consisted of ██████ refusing to move a backpack out of the driveway making it difficult for ██████ to park her vehicle.
- The officers spoke to the family members and determined that no crimes were committed. The officers cleared the call at 3:36 p.m.

The written explanation provided to Chief Bartlett by Lt. Fleury was focused upon this call for service. His reliance upon this call to remain on duty until 4:30 p.m. did not have adequate justification. Officer Malandrino cleared the call 3:36 p.m. If he had made an arrest he would have notified DPD with the normal patrol notification of "Returning with one," and then provided his starting mileage. At 3:36 p.m. Lt. Fleury would have known there would be no need to book a prisoner, and he would have adequate time to update his shift summary or advise the oncoming supervisor to add the call to his summary. Furthermore, Lt. Fleury indicated he was cognizant of the existing department rule mandating that, any arrest made during the last hour of the shift, would be booked by the oncoming supervisor. On this date, Lt. Gosselin and Sgt. Seamans were on duty at 4:00 p.m. at the start of their shift. He knew that it would not be necessary for him to book a prisoner yet this was what he provided as his reason to stay late and accrue comp time.

During his interview, Lt. Fleury stated that he was familiar with the ongoing problems at 535 Arlington Street. He stated we have spent many hours, officer hours to try and deal with these people. When asked if the calls for service for that location could be characterized as frivolous, he said he didn't know if they were frivolous, but he knew we had responded there 'a lot of times.' By simply reviewing the CAD system on a daily basis a supervisor would be aware of the nature of these calls. DPD has responded to 535 Arlington Street 16 times since 2015 for the following:

- 3/27/18 backpack in driveway
- 2/10/18 blocking driveway
- 12/9/17 parking problem
- 4/15/17 driveway problem
- 2/18/17 snow removal
- 2/17/17 parking problem
- 10/31/16 harassment advice given
- 9/10/16 yelling in driveway
- 9/5/16 harassment no violation
- 9/4/16 harassment advice
- 8/27/16 kicking garage door
- 8/10/16 verbal encounter
- 7/10/16 blocked driveway
- 7/1/16 walked with 10 yards of each other
- 4/4/15 issue with ██████
- 1/3/15 door was dead bolted

There has never been an arrest made at this location. There have never been any reported physical altercations or assaults. Why Lt. Fleury would think an arrest was imminent in the 3/27/18 incident is unknown.

### DTS COMP TIME REVOCATION

1. On March 28, 2018 at 4:07 p.m. Lt. Fleury notified Chief Bartlett that his reason for remaining on duty was directly related to the call at 535 Arlington Street.
2. On March 28, 2018 at 4:32 p.m. Chief Bartlett responded and informed Lt. Fleury that he had concluded that Lt. Fleury had remained on duty for something that he (Fleury) had created as a reason to be compensated.
3. On March 28, 2018 at 4:50 p.m. Lt. Fleury contacted the Personnel Officer and instructed him to revoke the comp time he had submitted on March 27, 2018.

During his interview, Lt. Fleury was asked questions regarding these occurrences. The following are related excerpts from the interview;

Deputy Chartrand; Did you receive an email response from Chief Bartlett regarding your response?

Lt. Fleury; I did.

Deputy Chartrand; Did you agree with his conclusion that you remained on duty and requested earned comp time for something you created as a reason to be compensated?

Lt. Fleury; I don't think I agreed with it no. I didn't say anything in here that I agreed with it.

Deputy Chartrand; You sent your response.

Lt. Fleury; Yes, and then he sent me his response.

Deputy Chartrand; In that, he made a conclusion that you remained on duty for a situation that you created.

Lt. Fleury; That's his opinion.

Deputy Chartrand; Did you agree with that?

Lt. Fleury; No, that's his opinion. I was here, I stayed, I was here.

Deputy Chartrand; If you had agreed with him, would you have deleted the request for comp time in DTS?

Lt. Fleury; Probably.

Deputy Chartrand; So you didn't agree with him.

Lt. Fleury; I don't agree with him, no. I was here doing something.

Deputy Chartrand; If you agreed with him you would have eliminated it from DTS.

Lt. Fleury; I would imagine I would have done that yes.

Deputy Chartrand; So going back to that call for service, you stated you remained on duty to await the results of the call. Correct?

Lt. Fleury; Correct.

Deputy Chartrand; Here is the CAD report. What time is Officer Malandrino clear there?

Lt. Fleury; Twenty five minute of four.

Deputy Chartrand; So 15:36.

Lt. Fleury; 15:36, yes.

Deputy Chartrand; You stated earlier that you felt you were justified remaining on duty regarding this call for service. Correct?

Lt. Fleury; Yes.

Deputy Chartrand; Why then did you contact the personnel officer and request he revoke your comp time?

Lt. Fleury; To appease the Chief.

Deputy Chartrand; When did you contact him to do that?

Lt. Fleury; I don't know, it was shortly after receiving the email.

Deputy Chartrand; When you say appease the Chief, what do you mean by that?

Lt. Fleury; I don't know, I guess I did it out of anger because he was questioning my integrity of staying. It appears he didn't want me to be compensated so.

The answers and statements provided by Lt. Fleury are conflicting and do not appear intended to provide information in a forthright manner. Initially he stated he didn't agree with the Chief's conclusion. He stated it was the Chief's opinion and he didn't agree with it.

In response to two direct questions he stated that if he had agreed with the Chief's conclusion he would have deleted his request for comp time in the DTS system. His responses were, *Probably, I would imagine I would have done that, yes.*

Lt. Fleury was asked these questions prior to him being aware that the Investigators knew of his attempt to delete his comp time through the Personnel Officer. In addition to him not being aware, he knew that his comp time had not been deleted, and he had received it.

It is reasonable to conclude that Lt. Fleury attempted to do, just what he said he would do. He stated he would delete the comp time, if the Chief's conclusion that he created his own situation for benefit, were true and accurate. He made an overt attempt to delete the comp time.

Only after he became aware that the Investigators were privy to the attempt at deletion, did he then change his reason for doing so to, "Appease the Chief." This given reason would have rang much more true had it been offered when he was questioned about reasons to delete the comp time. He knew full well when he was asked those questions that he had attempted to delete, yet he chose not to disclose that in a forthright manner.

#### OFFERED JUSTIFICATION

Once Lt. Fleury was questioned by Chief Bartlett, as to his justification to remain on duty on March 27, 2018, he began to formulate his reason for doing so. He selected the call at 535 Arlington Street. During the interview, he attempted support his reasoning by upgrading the seriousness of the problems at that location. Statements such as;

- My main goal for remaining on duty was to speak with Officer Malandrino, because I went there the next day and followed up on this call myself because we have spent many hours, officer hours, to try and deal with these people. I tried to take care of it the next day. I believe it was the next day or Saturday.
- I just know there were numerous calls. That's why I chose to go over there and speak with them to see if I could stop the calls from coming in and what the problem was. That's what I followed up on.
- They have major issues over there with a harassment order, they also have a civil lawsuit.

During the interview, Lt. Fleury made a statement that he felt Chief Bartlett was questioning his integrity by advising Lt. Fleury that he felt Fleury had created a reason to be compensated. He would later categorize the situation as "major issues." He was quick to point out that in his opinion the problem was of such a magnitude that he would give it the hands on attention of a Lieutenant Shift Commander. He made it known that he had responded to the location himself. *I tried to take care of it the next day. I believe it was the next day or Saturday.* It should be noted that Lt. Fleury had stated that he was aware of many hours, officer hours dedicated to as he stated, major issues at 535 Arlington Street. Yet, only after Chief Bartlett questioned the validity of him remaining on duty, did he decide to give this his personal attention. Lt. Fleury responded to the location on March 31, 2018, three days after receiving the email from Chief Bartlett. He was on scene for 33 minutes. A CAD search was done to try and locate a report from Lt. Fleury documenting the problem and what he had done to mitigate it. The CAD indicates he responded on 3/31/18 at 11:45 A.M. The corresponding narrative was entered on 4/16/18 at 11:40 A.M. The narrative consists of one word, "ON" and was closed by Lt. Fleury on that same day.

Based on the in depth review of this incident, in conjunction with the actions and statements of Lt. Fleury, a reasonable and rational conclusion can be reached. That being, Chief Barlett's determination that Lt. Fleury created a situation to be compensated, is true and accurate. Lt. Fleury's actions and statements post notification, did not have their intended effect. Instead of bolstering his stated reason for remaining on duty, it actually reduces the level of believability.

## CONCLUSIONS

The assigned Investigators have given all due diligence to their assigned duties while conducting this review. There were 97 instances when Lt. Fleury was credited with comp time as a result of a DTS entry where he claimed it was necessary to remain on duty. He has been afforded the benefit of doubt where instances of accruing comp time may or may not have been justified. The incidents that have been brought to light reflect those where no reasonable explanation could be identified.

It has been established that Lt. Fleury is motivated to utilize time off on the weekends. A consistent pattern was identified whereby he would accrue comp time in relatively small increments, then use that time to take full shifts off. His motivation is further evidenced by his advocating for an administrative schedule for Lieutenants to afford all weekends off. This motivation has manifested itself into a pattern of remaining on duty for unjustified, and in certain cases false proffered reasons. Lt. Fleury was given a full opportunity to explain his actions during his interview. In instances where he decided to offer explanation, he remained evasive or engaged in embellishment. At times, he refused to even look at documents intended to improve his memory.

On five (5) different occasions during his interview, Lt. Fleury made a statement to the effect of, "All I know is that if I put in that I was here, I was here and I was working." This is problematic

on a number of facets. Lt. Fleury made it abundantly clear that he had little or no memory for the vast majority of incidents that were brought to his attention. Yet he made this definitive declarative statement five times during his interview. This raises the question of, if he had no memory of being at work and performing any type of function, how can he be so adamantly sure he was present working? The supervisors who were questioned have no memory of seeing Lt. Fleury present during the times he claimed to be covering for an absent supervisor.

His statement also can be construed to convey Lt. Fleury's lack of understanding of the necessary circumstances that should exist to justify him remaining on duty and earning time and a half compensation. He needed not only to be present for situations he may have created, but to be performing an exigent managerial function. It is expected that a command level officer knows the difference.

The totality of the facts and circumstances as they exist reveal that Lt. Fleury has committed acts that are in violation of the Rules and Regulations for the governance of the Dracut Police Department. He has been guilty of substantial misconduct which adversely affects the public interest by impairing the efficiency of public service. The Investigators have identified specific violations. All violations have been sustained to the required level of proof for administrative disciplinary action. That being, preponderance of the evidence, where it is more likely than not, that the alleged violation occurred.

### RULE VIOLATIONS

#### Charge 1 – **RULE 4.02 CONDUCT UNBECOMING AN OFFICER**

Officers shall not commit any specific act or acts of immoral, improper, unlawful, disorderly or intemperate conduct, whether on or off duty, which reflects discredit or reflects unfavorable upon the officer, upon other officers or upon the Dracut Police Department.

SPECIFICATION I: Lt. Fleury remained on duty and accrued comp time when there was no identifiable justification to do so. These incidents occurred on diverse dates from October 17, 2017 through March 27, 2018 and are cited individually within the report.

SPECIFICATION II: On May 2, 2017 Lt. Fleury improperly credited himself with (3) hours comp time for shift coverage to replace a supervisor.

SPECIFICATION III: On October 5, 2017 Lt. Fleury improperly credited himself with (4.5) hours of comp time claiming there was no supervisor.

SPECIFICATION IV: On two separate occasions, October 5, 2017 and March 8, 2018 Lt. Fleury improperly credited himself with additional comp time.

SPECIFICATION V: On March 27, 2018 Lt. Fleury remained on duty and accrued comp time for a reason he had created for his material benefit. He compounded the issue by embellishing the legitimacy of his proffered reason.

**Charge 2 –RULE 5.0 NEGLECT OF DUTY**

Officers are required to be attentive to and not neglect their sworn duty. This includes failure to perform duties or comply with any job description, rule or regulation, general, special or other order, failure to comply with department policies and procedures.

SPECIFICATION I: On diverse dates from October 17, 2017 to March 27, 2018 Lt. Fleury failed to enter legitimate and accurate information into the DTS system.

SPECIFICATION II: On February 18, 2018 and March 8, 2018 Lt. Fleury failed to comply with the established comp time rules and afforded himself a material benefit.

SPECIFICATION III: In contrast to his claim that he reviews his entries into the DTS system, he failed to address and correct false entries.

**Charge 3 –RULE 8.02 INSUBORDINATION**

Officers shall not be insubordinate. Any failure or deliberate refusal to obey a lawful order (written or oral) given by a superior officer is insubordination.

SPECIFICATION I: Lt. Fleury failed to adhere to department orders relative to the handling of prisoners in the last hour of the shift. On the following dates he remained on duty and accrued comp time for prisoner related activity; October 30, 2017, November 10, 2017, December 4, 2017, February 18, 2018, and March 16, 2018.

**Charge 4 –RULE 7.7 TRUTHFULNESS**

Officers shall speak the truth at all times when on duty or when discussing a matter arising out of or related to the officers duties or the operation of the department.

SPECIFICATION I: From October 17, 2017 through March 27, 2018 on diverse dates, Lt. Fleury submitted reasons to remain on duty and accrue comp time which could not be proven to be true or accurate.

SPECIFICATION II: On May 2, 2017 and October 5, 2017 Lt. Fleury had made entries into the DTS system that afforded him comp time. His cited reasons for both instances was that he remained on duty to cover for the absences of oncoming supervisors. This has been proven to be false in both incidents.

**Charge 5 –RULE 13.0 REPORTS**

Officers are required to promptly and accurately complete all required reports and forms.

SPECIFICATION I: From October 17, 2017 through March 27, 2018 on diverse dates, Lt. Fleury made entries into the DTS system relative to his hours of work, and reasons to accrue comp time that have been proven not to be accurate.

SPECIFICATION II: On March 28, 2018 Lt. Fleury submitted a report to Chief Bartlett in explanation of accrued comp time. The report has been shown not to be a true and accurate representation of the facts and circumstances as they existed at the time of accrual.

Charge 6 –**RULE 11.12 CRIMINAL CONDUCT**

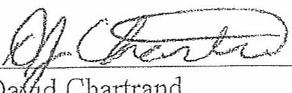
Officers shall not commit any motor vehicle or criminal act or violate the regulatory or criminal law statutes of the Unites States, or of any state or local jurisdiction.

SPECIFICATION I: On May 2, 2017 Lt. Fleury had made all the necessary entries into the DTS system to secure the accrual of (3) hours of comp time. His DTS entry reason for the accrual has been proven to be false (Shift coverage Byam).

SPECIFICATION II: On October 5, 2017 Lt. Fleury had made all the necessary entries into the DTS system to secure the accrual of (4.5) hours of comp time. His DTS entry reason for the accrual has been proven to be false (No Supervisor).

On both of these occasions, Lt. Fleury credited himself with comp time. He would later use these accruals for compensation. The illicit accrual of comp time and subsequent compensation for such, can be construed as Larceny by False Pretenses.

Respectfully Submitted,

  
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David Chartrand  
Deputy Chief of Police

  
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Stephen Chaput  
Deputy Chief of Police