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**TO:** Philip A. Amicone, Mayor

**CC:** Chuck Lesnick, City Council President  
All City Council Members  
Anthony Pagano, Fire Commissioner  
Brian Lucyk, Personnel Commissioner

**FROM:** Dan Schorr, Inspector General *DS*

**SUBJECT:** Yonkers Firefighter Sick Leave

**DATE:** November 16, 2010

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This report is issued in response to a memo received from Mayor Philip A. Amicone requesting that the Inspector General undertake a review of annual sick leave taken by Yonkers firefighters.

### Summary of Findings and Recommendations

Yonkers firefighters' heavy utilization of their unlimited paid sick leave for non-job related illnesses and injuries results in significant overtime costs to the City. This annual sick leave taken by Yonkers firefighters has dramatically increased in the past decade. There is little oversight of those who call in sick and current financial incentives fail to discourage continued widespread use of sick leave. New procedures for monitoring sick leave and a restructured annual financial incentive are needed in order to reduce the frequency of sick leave and the consequent high overtime costs.

### Background

The members of the Yonkers Fire Department (YFD) routinely risk their lives and safety in order to protect the City and its residents. For many years, they have bravely faced great dangers and tragically made enormous sacrifices in order to save lives and protect Yonkers citizens from harm.

The YFD firefighters have contractually-guaranteed unlimited sick leave for non-job related illnesses and injuries and receive an annual incentive payment to theoretically curtail the use of unnecessary sick leave. But despite the annual sick incentive payment, sick leave use and resulting overtime payments have dramatically increased overall since 2003. City officials have expressed concern regarding the costs associated with this increase at a time of financial hardship for the City.

Mayor Amicone requested the Inspector General to review annual YFD sick leave and make recommendations to reduce its expense. The objectives of the review were to:

1. Analyze the use of non-job related sick leave by YFD firefighters
2. Identify those firefighters who are most frequently taking sick leave
3. Assess the strengths and weaknesses of current monitoring by the YFD and compare their procedures to those used elsewhere
4. Evaluate what effect, if any, the annual YFD sick incentive payment has had on sick leave and determine whether a different incentive could produce better results
5. Make recommendations for curtailing the use of YFD sick leave and associated overtime costs

In the course of our review, we looked at YFD sick leave statistics from 2003 to the present and analyzed in detail the sick usage by firefighters from 2008 thru September 2010. Leave resulting from on-the-job injuries and illnesses was outside the scope of this review. We prepared Excel schedules to analyze heavy users and other relevant data. We also reconciled annual fire officer sick incentive payments made in 2009. Additionally, our office interviewed Mayor Amicone, YFD Commissioner Anthony Pagano, other leaders of the YFD, firefighter union president Barry McGoey, YFD physician Dr. Stacey Donegan, Personnel Commissioner Brian Lucyk, and representatives of the Yonkers Police Department (YPD) and New York City Fire Department (FDNY).

## **Discussion**

### **Overview of Fire Department Sick Leave**

The current collective bargaining agreement between the City and Yonkers firefighters provides that all firefighters receive unlimited paid sick leave for off-duty, non-job related illnesses and injuries. In an effort to limit sick leave, the agreement provides for a "Productivity Incentive Payment" to discourage excessive use. According to Article 12, Section 12:03, the average number of sick days taken in a calendar year for all firefighters is subtracted from 13.04 to determine the number of days to be paid for each firefighter (rounded to the nearest tenth). Seventy-five percent of this payment goes to individual firefighters and twenty-five percent is paid to their Variable Benefits Fund. The total payments for calendar years 2009 and 2008 were \$350,466 and \$326,768, respectively.

However, an individual firefighter only sees a negligible reduction, at most, in his incentive payment for each sick day taken, because the final payment is calculated using the average number of sick days for all firefighters. An additional sick day taken by one individual barely alters the final average for the approximately 310 firefighters, so any financial incentive for one firefighter to not take a sick day is severely diluted. Such an incentive system has been in effect since 1979, according to the Personnel Department.

The lack of a meaningful financial deterrent to sick leave may be partially responsible for the rise in sick leave over the past few years. Firefighters averaged 5.87 tours on sick leave in 2003, and that number climbed to 7.86 tours in 2004 and 9.83 tours in 2005. This figure reached a high of 10.62 tours in 2006 and thereafter slightly declined to 9.6 tours in 2009, when the City employed approximately the same number of firefighters as it did in 2003. Firefighters work approximately 160 tours per year, with such tours lasting either ten hours (day tour) or fourteen hours (night tour). By taking 9.6 sick tours per year, firefighters are averaging the equivalent of nearly sixteen sick days per year for the typical five-day-a-week City worker. This figure does not include any leave resulting from on-the-job illnesses and injuries.

In contrast, fire officers, who supervise the firefighters, have a different system of sick leave incentive pay and take significantly less sick time. Fire officers also are contractually granted unlimited paid sick leave, but their incentive payment is based on their individual use of the sick time. Each fire officer is given ten days of sick leave incentive pay, which is reduced commensurate with the number of days taken in a given year. Thus, each sick tour results in that fire officer losing the equivalent of one day's pay, as long as they have not exceeded 120 hours in that year. Under this system, the approximately 125 fire officers averaged less than 1.5 sick tours per year in fiscal year 2010.

Thus, firefighters working alongside fire officers with a different calculation for sick leave incentive pay average significantly more sick days per year than their supervisors.

### **Sick Leave and Overtime Costs**

According to the leadership of the Fire Department, a firefighter calling in sick almost always results in another firefighter being called in and paid overtime for working that tour. When a firefighter works an overtime tour, he is paid one and a half times his regular salary for those hours. Therefore, for each sick tour taken, the City pays less in the annual Productivity Incentive Payment but more in overtime, resulting in net additional costs to the City.

Based on the Productivity Incentive Payment formula, in calendar year 2009 each firefighter was paid \$331 per unused sick day. However, an average overtime tour to fill in for a sick firefighter cost the City approximately \$772. Thus, if each sick tour results in one overtime tour, the average net additional cost to the City is approximately \$441 per tour.

Therefore, if the number of 9.6 sick days averaged per firefighter is reduced by one to 8.6, the City will save approximately \$137,000 per year. If the average sick days are reduced to the 2003 level of 5.87 days per firefighter, the City will save approximately half a million dollars per year.

### **Monitoring and Controlling Sick Leave**

Our review revealed that there is insufficient oversight of firefighter sick leave. Utilizing sick time is very easy, with little or no verification on most occasions of actual illness. There is no independent monitor for sick leave, as neither the YFD nor the YPD input leave time data into the City's automated payroll system. Instead, all leave time is only recorded at the department level.

According to the Commissioner and other leaders of the YFD, there is not enough manpower to effectively monitor firefighters who are on sick leave. They report that, especially with recent budget cuts, supervisory personnel are stretched with other responsibilities and unable to take the necessary steps to adequately address the amount of sick leave currently being taken and the resulting overtime expense.

When a firefighter calls in sick, he is required to make two phone calls, one to dispatch and one to the department doctor. Neither of these calls goes to a supervisor, and the call to the doctor often results in a voicemail being left, as the current doctor is not employed full-time, as was the case in the past. The firefighter then makes another call when he is reporting that he is coming back to work.

Sometimes, a supervisor will call the home of the firefighter to inquire if he is indeed sick, often resulting in a voicemail being left and a returned phone call later. There is no verification that the firefighter is actually home while on sick leave, as no home visits are ever conducted. When a firefighter takes sick leave for four consecutive tours, the YFD requires him to either see the YFD doctor or have a private physician sign a form attesting to the justification for the sick leave. The YFD physician reports that firefighters generally choose the latter option.

Furthermore, firefighters may be placed on “sick leave review” if they report sick for eight tours, parts of three different weekends, or three holidays in a six month period. Once a firefighter is on “sick leave review,” he must have signed documentation from a doctor justifying each additional sick day for the next six months. This system can allow up to seven days of leave in six months, or fourteen days a year, without doctor verification.

### **Comparisons with the New York City Fire Department**

New York City utilizes a different system of monitoring firefighter sick leave. In the FDNY, any firefighter requesting medical leave is mandated to notify a supervisor, a requirement absent in the YFD. An appointment is then scheduled for that firefighter with a NYC medical professional, and such a person is available seven days a week. If an FDNY firefighter takes sick leave five or more times in twelve months, he can be placed in the “Supervised Medical Leave Program” in which, among other things, he is subject to home visitation when on sick leave. In addition, the FDNY firefighter is restricted for at least six months from using a scheduling tool very important to firefighters – using mutuals to work 24-hour shifts.

YFD schedules are set a year in advance, and firefighters are assigned to work four tours in each nine day cycle. However, firefighters can modify their schedules by trading tours with each other using a process called mutual swaps. Firefighter A agrees to work firefighter B’s tour, and firefighter B agrees to work a tour for firefighter A within a year. This arrangement between two firefighters, a mutual, is used frequently throughout the YFD. In fact, mutuals are so widespread with so many tours traded for others that it is virtually impossible to trace when exactly a specific mutual is reciprocated.

Firefighters are never originally scheduled to work back-to-back tours – a ten-hour day tour and a fourteen-hour night tour, which results in a 24-hour shift. However, firefighters can and often do use

mutuals to swap tours and work for twenty-four hours at a time and consequently not work on other originally-scheduled dates. Many firefighters prefer such a schedule.

In NYC, if an FDNY firefighter takes sick leave five times in a year, he faces the loss of the right to use mutuals to set up 24-hour tours. At no point are YFD firefighters ever prohibited from using mutuals to arrange for 24-hour shifts because of excessive use of sick leave. Such a restriction would be an important deterrent to sick leave use, a fact recognized and acted upon by the FDNY.

The YFD firefighters union has suggestions for curbing excessive sick leave. In particular, the union cites the YFD's failure to give the union access to the YFD's "Red Alert" database that keeps track of sick leave and other workforce data. The union reports that such access would give it the ability to better monitor its own members who may be taking excessive sick leave. The union also supports the idea of a full-time doctor being available to improve accessibility and communication between a department doctor and the firefighters.

### **Comparisons with the Yonkers Police Department**

Better oversight and stricter rules for sick leave are also present at the Yonkers Police Department (YPD). The YPD has a two-person Medical Control Unit and if a YPD member wants to call in sick, he/she must call his/her command, which then contacts the Unit. The YPD has a contract with St. John's Hospital where independent medical professionals are available. If a member misses two days, St. John's is notified and the member is subject to examination. The member must remain in his/her residence during the hours of the tour and has to notify the desk officer or the Unit if he/she is leaving home at any time during the tour. The Unit follows up with phone calls and occasionally makes home visits to confirm that the member is at the residence. Thus, a two-member unit oversees the YPD, a department larger than the YFD, while the YFD does not have such oversight.

We recommend that the YFD employ a similar Medical Control Unit that can provide oversight of sick leave, including periodic home visits. Although it is beyond the scope of this report, such a Unit could also address any abuses of leave time or problems with getting cleared to return to work for on-the-job injuries. The YFD should also explore its own arrangement with St. John's or another medical facility, possibly in conjunction with the YPD, in order to save taxpayer funds. Ideally, a City-wide Medical Control Unit that would monitor sick leave for the YFD and other union personnel could result in cost savings from the sharing of resources.

The YPD is also much more successful with its sick incentive payment and sick monitoring program. The YPD sick incentive, as with that of the YFD fire officers but unlike that of the YFD firefighters, is tied to an individual's use of sick leave. Each YPD member has 2 ½ days of incentive pay for each quarter of the year that is paid at the end of the year if the leave is not taken (paid up to ten days for a year). If a YPD member is out sick for twelve days in a year, or five separate periods in six months, he qualifies for the Chronic Absence Control Program. Once in this program, the member can't be scheduled for overtime work, is prohibited from working any second job for four months, and must see a department doctor if missing even one additional day due to being sick. With these controls and incentives in place, the YPD reports annually averaging approximately just one sick day per member. Excessive sick leave never results in any restrictions on scheduled overtime or outside work at the YFD.

## Further Analysis

In our investigation, we reviewed the 2008, 2009, and 2010 (thru September 15) sick leave reports from the YFD and prepared schedules for any firefighter who took sick leave for sixteen or more tours in 2008 or 2009, which is 10% of the approximately 160 tours scheduled. For 2010, we prepared schedules for firefighters who took sick leave for twelve or more tours thru September 15.

From this data, we saw that in 2008, forty firefighters together missed 1,137 tours because of sick leave, or 37% of the total sick leave tours for the YFD. In 2009, twenty-nine firefighters took sick leave for 749 tours, or 27% of the total. In 2010 (thru September 15), thirty-four members were on sick leave for 631 tours, or 33% of the total.

We further analyzed the records from 2009, the most recent full year, reviewing data for twenty-nine firefighters who were on sick leave for sixteen or more tours. From these individuals, we selected seven who had the highest frequency of sick leave and analyzed the annual detail of their tours. We excluded those with the highest number of sick tours because these were more likely to be the result of long-term illnesses or non-job related injuries. For example, we did not analyze the firefighter with the most sick tours in 2009, who was out for two separate sick leaves totaling sixty-two tours of his seventy-four sick tours for the year. The names and details for those with the highest frequency of sick leave were provided to the Mayor's office.

A detailed look at these individuals provides examples of significant sick leave accompanied by other schedule manipulations that resulted in questionable work schedules. For example, one firefighter was out on leave for fifty-six of the approximately 160 scheduled tours, through a combination of personal, vacation, and sick time, resulting in only working ninety-seven tours in 2009. Of these ninety-seven tours worked, only thirty-one were at the originally scheduled times. Additionally, although he was out sick for thirty-two tours, he was able to work thirty-one overtime tours during the year, earning more than \$18,000 extra in overtime.

This firefighter also did not work at all for a period of two months, from June 5 to August 4, by taking off eight vacation days, twenty-two mutuels, and four sick tours. There was also an eighteen day period in February during which he did not work, through the use of one personal day, ten mutuels off, and five sick tours. Furthermore, six times during the year he reported sick for a 24-hour shift, resulting in two sick tours each time. It is important to note that 24-hour shifts are not regularly scheduled, and a firefighter must use mutuels to arrange to work 24-hour shifts, which this individual then missed six times due to sick leave.

Such a pattern of extensively-manipulated work schedules and high frequency of sick leave coinciding with significant overtime existed with other individuals as well. One firefighter took twenty-seven sick tours during the year but was able to work twenty-seven overtime tours, thus earning approximately \$20,000 extra in overtime while working the same number of tours he was originally scheduled to work. Twenty of the twenty-seven sick tours occurred on ten occasions when he adjusted his schedule to work a 24-hour double-tour shift. Another firefighter took nineteen sick tours during the year and worked twenty-eight overtime tours, also earning approximately \$20,000 extra in overtime while being one of the most frequent users of sick leave. Fourteen of his sick tours were from missing seven 24-hours shifts.

We also found additional schedule manipulations that resulted in significant periods without working any tours. For example, one firefighter utilized nineteen vacation days, five sick tours, and ten mutuals off in order to not work any tours from October 27 thru the end of the calendar year, a period of over two months. In addition, he took sick leave on eight occasions during the year when he adjusted his schedule to work a 24-hour shift, resulting in sixteen sick tours from those dates alone.

Another firefighter did not work from November 15 to December 15, taking nine vacation days, three mutuals off, and three sick tours. Over the course of the year, he reported sick for nine 24-hour shifts and had twenty-four total sick tours, plus ten other tours out for on-the-job injuries. Nevertheless, he was able to work twenty-one overtime tours and earn additional income of approximately \$17,000. Similarly, another individual was sick for twenty-one tours, including seven times when he adjusted his scheduled to work 24 hours, but was able to work thirty-one overtime tours for approximately \$19,000 extra in overtime pay.

One firefighter was sick for seventeen tours but worked twenty-two overtime tours and earned an additional income of approximately \$18,000. Furthermore, he was able to avoid working any 14-hour night tours throughout the whole year by utilizing seventy-seven mutuals off, nine vacation days, and four sick tours when he was originally scheduled to work at night.

These profiles paint a picture of scheduling that is far too easy to manipulate for individual firefighter advantage and costs the City significant amounts of overtime due to little YFD sick leave oversight, an ineffective sick leave incentive system, and a monitoring program that lacks the restrictions of comparable organizations such as the FDNY and the YPD.

### **Conclusions and Recommendations**

Our analysis of Yonkers firefighter sick leave leads us to conclude that heavy sick leave usage and resulting overtime costs are attributable to excessive use of sick time in a department that lacks proper oversight and employs a poor, and possibly counterproductive, sick leave incentive system. Enhanced monitoring that requires greater accountability and a new program for sick leave incentive pay are needed in order to reduce the amount of firefighter sick leave and save much-needed taxpayer funds currently spent on overtime.

We make the following specific recommendations:

- Excessive sick leave should result in meaningful deterrents, such as a loss of the ability to earn overtime, schedule 24-hour shifts, and work a second job.
- The City should propose a new sick incentive program based on an individual firefighter's actual annual use of sick leave, not the average of all firefighters. Such a system is already utilized by the YFD fire officers and the YPD.
- The YFD should employ a Medical Control Unit, perhaps jointly with the YPD, to better monitor sick leave and prevent abuse, such as through home visits.
- YFD sick leave procedures should include supervisory notification by the sick firefighter.

- The YFD should provide their firefighters with full-time access to a medical professional, possibly by contracting with St. John's Hospital in conjunction with the YPD to share and save costs.
- The Personnel Department should explore requiring that all information regarding leave time taken by members of the YFD and YPD be inputted into the City's automated payroll system.