

**Volusia County Department of Public Protection
Internal Affairs
Case number 2010-08-286
Pocica, F. Witness Interview**

August 26, 2010

Present:

Nikki Dofflemyer, Captain, Internal Affairs

Frank Pocica, Deputy Fire Chief, Division of Fire Services

Transcribed:

Rebecca Perryman, Senior Staff Assistant

Dofflemyer: This is Captain Nikki Dofflemyer with the Volusia County Department of Public Protection Internal Affairs Unit. Today's date is 27th of August 2010, the time is 1109 hours. This is a taped interview statement regarding Internal Affairs Case number 2010-08-286. Currently in the room is Deputy Chief Frank Pocica. Deputy Chief Frank Pocica is not the subject of the investigation. He is currently on-duty. Has been release from service for the purpose of this interview. Can you identify yourself for the record Chief?

Pocica: Frank Lloyd Pocica.

Dofflemyer: Okay. And you're employed by Volusia County Fire Services.

Pocica: Yes I am.

Dofflemyer: And what a capacity do you perform duties here?

Pocica: Deputy Fire Chief.

Dofflemyer: Okay. Do you have a contact phone number?

Pocica: Ah, 736-5940 extension 2487.

Dofflemyer: Okay, how long have you been with Fire Services?

Pocica: Since 1972.

Dofflemyer: Okay, all right. You've been advised that this is an official administrative for the Department of Public Protection.

Dofflemyer: I'll be asking you questions specifically directed and nearly related to the performance of your official duties. You are entitled to all rights and privileges guaranteed by the Constitution of the United States and the laws of the State of Florida, including the right not to be compelled and incriminate yourself. Ah, you're further advised that if you refuse to testify or answer questions relating to the performance of your official duties, it will be considered an act of insubordination. If you do answer, neither your statements, nor any information or evidence which is gained by reason of such statements can be used against you in any subsequent criminal proceeding. Do you understand your Garrity rights?

Pocica: Yes ma'am I do.

Dofflemyer: Okay, be advised this is an open and active Internal Affairs investigation. At this time I'm directing you to not discuss with anybody any part of this interview until the case comes to closure. Do you understand you'll be providing a sworn statement given under oath?

Pocica: I do.

Dofflemyer: Okay, you understand that in accordance with Merit Rules and Regulations and the Firefighter Bill of Rights you have a right to representation present during this interview?

Pocica: I do.

Dofflemyer: Okay, you don't elect to have anybody present at this time?

Pocica: Not at this time.

Dofflemyer: Okay, be advised at any time during the interview that you feel that you need representation, please advise and we'll stop the interview and allow you to seek representation. Okay, raise your right hand for me. Do you solemnly swear or affirm that the statement that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

Pocica: I do.

Dofflemyer: Okay, we're going to talk about a series of events that transpired on June 2nd, involving the removal of a controlled substance Lorazepam from the Volusia County Fire Station, ah, that I believe Captain Rawlins is the one that removed the ah, the controlled substances. And what I need to know is a how you became aware of the situation? Who made you aware and what steps you took?

Pocica: I became aware by Captain Kamine. Kamine came into my office and showed me a document that he received some complaints about ah, Captain Rawlins picking up the Lorazepam, putting it into a sharps container and going from station to station.

Dofflemyer: Okay, what steps did you take at that point Frank?

Pocica: At that time, I was, was appalled at the violation of the policy and ah, I, what I can't remember is the day that Chuck Kamine, Captain Kamine came to me and gave me that. But I'm sure within a day or two I believe it was on June 9th, I caught up with Captain Rawlins and discussed with him what he did. Explained to me what he did. He went through and picked up all the Lorazepam that was out of date and put it in the Sharps and carried it to Station 42. I said that ah, that was not per policy, they should have been wasted and he said that he and Lieutenant Huber did that at Station 42.

Dofflemyer: Did they already wasted it at that point?

Pocica: Not at that point they were going to do it. He left me and went and completed it.

Dofflemyer: Prior to talking to Captain Rawlins, did you speak with anybody else about the events?

Pocica: I don't remember.

Dofflemyer: Okay.

Pocica: I thought I talked to Mr. Ryan but Chief Pozzo just came on board and.

Dofflemyer: Is there any reason why you wouldn't have gone to Chief Pozzo and go to Mr. Ryan?

Pocica: None, I should have gone to Chief Pozzo, but

Dofflemyer: But did you speak with Mr. Ryan?

Pocica: I, I don't think it was on this subject, no ma'am.

Dofflemyer: Okay, do you think you ever advised him of the events?

Pocica: I don't think so.

Dofflemyer: Okay, did you ever tell Chief Pozzo that you did advise Mr. Ryan?

Pocica: I did, I did make that statement and then corrected it.

Dofflemyer: To the best of your recollection you did not notify Mr. Ryan of the violation of policy?

Pocica: No ma'am.

Dofflemyer: Did you have a conversation with anybody else about the events?

Pocica: No ma'am.

Dofflemyer: Did you talk to Kathy Weaver or did Kathy Weaver talk to you about the series of events?

Pocica: No ma'am.

Dofflemyer: Kathy Weaver ever come and notifies you that she was aware that the medications weren't picked up in accordance with policy?

Pocica: No ma'am.

Dofflemyer: No conversation at all? Is it normal practice Frank when you have an event like this to not run it up the chain?

Pocica: No, it should have gone up the chain. It was my fault for not running up there.

Dofflemyer: Normally do you run situations up the chain of command?

Pocica: Yes ma'am.

Dofflemyer: Ever have a conversation with Deputy Chief Weaver about the controlled substance being picked up from Station 42 and that you'd be willing to assist Captain Rawlins and witness the wasting of the controlled substance?

Pocica: I don't remember that conversation.

Dofflemyer: Could it have taken place?

Pocica: I, I don't know I can't say.

Dofflemyer: When you talk to ah Captain Rawlins, tell me about that conversation.

Pocica: He, he said it was a old habit that he has performed for some eighteen years that when they, when the drugs went out of service they would throw into the Sharps container.

Dofflemyer: Is there documentation that's done when that takes place?

Pocica: When it took?

Dofflemyer: No, if, if items are picked up in bulk and removed is there documentation showing that those items were removed in bulk?

Pocica: They're suppose to be.

Dofflemyer: Okay. Would this be the documentation showing that the items were picked up in bulk? Would this be the type of documentation?

Pocica: Yes ma'am.

Dofflemyer: Showing it's wasted.

Pocica: That's the first time I've seen that document.

Dofflemyer: But you knew you'd know what this type of document is?

Pocica: Yes ma'am.

Dofflemyer: Okay, so with the items that were picked up on 6/2 and Captain Rawlins advised you that he picked up in bulk, this documentation here that's on 6/2 showing that ah, 10mg of the Lorazepam was actually wasted at the stations, is that correct?

Pocica: That's what that should indicate, yes ma'am.

Dofflemyer: And on this particular form here we have we show that Justin Gilmore was the medic that wasted it and ah, Captain Rawlins was the person who witnessed it.

Pocica: That's what that document shows.

Dofflemyer: So if this, and there's several in here for the record, ah, showing that item was picked up or was ah, wasted on site with Captain Rawlins witnessing. If this form was completed but the items were removed from the stations would that be a violation of policy and a falsifying of a document?

Pocica: If the items were wasted and...

Dofflemyer: And that's not what I asked. Now, this document here says that the items were wasted.

Pocica: Correct.

Dofflemyer: But...

Pocica: What you say is correct.

Dofflemyer: Okay, and what you're saying is that Captain Rawlins advised you that he removed those items from the stations prior to wasting and placing them in a Sharps container.

Pocica: That's correct.

Dofflemyer: Okay, this here would be a violation of policy.

Pocica: Yes ma'am.

Dofflemyer: Okay. Also is there a violation of DEA rules?

Pocica: That's a fuzzy area. But the DEA rules say that the items are to be wasted. It does not clarify when exactly, but it has to be witnessed.

Dofflemyer: Okay so it has to be witnessed. So this would actually be a false document filed if the items weren't wasted.

Pocica: That's correct.

Dofflemyer: On site. Okay, did Captain Rawlins give you a reason why he didn't waste them on site?

Pocica: The only thing he told me just fell into the old habit and ah the Lorazepam was a problem because we use to have it on a ninety day cycle and it went to a thirty day that month and I can't explain his thoughts, but he said just that's what we use to do.

Dofflemyer: Would you consider this a serious violation dealing with controlled substance?

Pocica: It's a divisional policy that we've had some problems with and we're trying to get everything corrected.

Dofflemyer: Okay but is it a serious violation, would it be considered a serious violation when you're dealing with a scheduled four controlled substance?

Pocica: A policy is a policy, if you break a policy is a serious matter.

Dofflemyer: Okay. Do you know who gave ah, Captain Rawlins the direction to destroy the Lorazepam at Station 42?

Pocica: I told him that it needed to be destroyed correctly.

Dofflemyer: Okay.

Pocica: Now if he received from someone else, I don't know.

Dofflemyer: Did he ever report back to you that that had been accomplished?

Pocica: Yes ma'am, he, he submitted a form to me that he and Lieutenant Huber wasted it.

Dofflemyer: Was disciplinary action taken against Captain Rawlins for his actions?

Pocica: I gave him oral.

Dofflemyer: Would that be oral reprimand?

Pocica: Yes ma'am and made a note to the file.

Dofflemyer: Was that placed in his personnel file?

Pocica: It was placed in the document of the ah, investigation file that Captain Kamine started.

Dofflemyer: Disciplinary actions are suppose to go in a personnel file?

Pocica: I'm not really sure. Some, some are and some aren't. Ah, we've, we've had mixed versions from Personnel over the last year.

Dofflemyer: Did you ever ask for direction from anybody where that should be placed?

Pocica: No ma'am.

Dofflemyer: But you say that form was placed in, you said Captain Kamine's file?

Pocica: It yeah, it he started the investigation gave me the file to handle the disciplinary.

Dofflemyer: Would this be the packet that he gave you?

Pocica: That, yeah this is not in the folder. But yes this is the packet.

Dofflemyer: And that's what placed into the file that Captain Kamine has?

Pocica: Yes ma'am we, we have a lot of these files upstairs.

Dofflemyer: Okay, was this placed into Captain, Captain Kamine's file under Roy Rawlins?

Pocica: Yes. It...

Dofflemyer: This was place in his file?

Pocica: Right it says Roy Rawlins.

Dofflemyer: Did you place...

Pocica: Rawlins on the file.

Dofflemyer: Okay did you place in the file or Captain Kamine place it in a file?

Pocica: Captain Kamine had in the file when he gave it to me.

Dofflemyer: Okay.

Pocica: And then I took it and reviewed it and then met with Captain Rawlins. Did not show him that, and made the note to the file of our oral reprimand.

Dofflemyer: What happens to this paperwork at that time?

Pocica: It gets filed upstairs with, with all the investigations.

Dofflemyer: Okay, was it filed...

Pocica: It's EMS officers to follow up and keep track of it.

Dofflemyer: And that would be Captain Kamine?

Pocica: At the time.

Dofflemyer: Okay, was this ever given back to Captain Kamine to file?

Pocica: I told him I put it back in the file. He told me where to put it and that's where I put it.

Dofflemyer: Okay, so you placed it in the file?

Pocica: Yes ma'am.

Dofflemyer: Is this also a document that you authored?

Pocica: Yes ma'am.

Dofflemyer: And is that ah, the note of the verbal counseling that you gave Captain Rawlins?

Pocica: Yes ma'am this is a quick summary so I could remember why I talked him about.

Dofflemyer: Is that a normal counseling slip that's given?

Pocica: I don't know what they do in the field.

Dofflemyer: For...

Pocica: And...

Dofflemyer: just a regular counseling slip that would be given to from a supervisor.

Pocica: A counseling slip if it's written would be different. This was a note to the file that I did counsel him.

Dofflemyer: It was a verbal counseling.

Pocica: Right. So if something occurred later I had documentation.

Dofflemyer: Looking back on it Frank do you think it was adequate discipline for the situation at hand?

Pocica: Probably not.

Dofflemyer: But you, just want to go back, I know we just talked about it. This packet here was submitted to you by, by Captain Kamine.

Pocica: Correct.

Dofflemyer: You reviewed the packet.

Pocica: Yes ma'am.

Dofflemyer: You at that point spoke with Captain Rawlins.

Pocica: Correct.

Dofflemyer: Gave him a verbal counseling.

Pocica: Yes ma'am.

Dofflemyer: Okay. Then you did a memo to file.

Pocica: Yes ma'am.

Dofflemyer: And that was placed with this original packet.

Pocica: Yes ma'am.

Dofflemyer: And it was placed into his file in Captain Kamine's office.

Pocica: Correct.

Dofflemyer: You placed it in the file not Captain Kamine?

Pocica: I did, correct.

Dofflemyer: A copy of this was not put into his personnel file?

Pocica: No.

Dofflemyer: Do you know when you placed this back into the file?

Pocica: It, the, the day, the afternoon or the next morning when, when I wrote it up to ah, after the counseling to Captain Rawlins I wrote it, put it in the file, and took it back the file for Captain Kamine.

Dofflemyer: And that would have been the complete packet, the information that Captain Kamine originally gave you plus the memo to file reference the verbal counseling that you gave him.

Pocica: And a couple emails that ah, ah, Captain Rawlins put out which I don't see there.

Dofflemyer: Did you at any time direct Captain Rawlins to pick the medication up in bulk and have the station paramedics sign saying that it was wasted?

Pocica: No ma'am.

Dofflemyer: Did he tell you, did he give an explanation why he violated policy?

Pocica: Other than just his ah, statement that that's the way they use to do it and that's what he did. And I'm sure he understands that he did it inappropriate.

Dofflemyer: Did you ever tell Captain Kamine that you returned this packet? Did you ever update him and allow him to be aware that the packet was complete?

Pocica: I told him when he and I left the conference room that I would have it in his file the next day.

Dofflemyer: Do you remember when that was?

Pocica: It was the 9th or 10th of June.

Dofflemyer: Did you ever have any conversation with Captain Kamine about the packet coming back? Did he confirm that he received it and was aware it was in a file?

Pocica: No ma'am.

Dofflemyer: And you say you counseled Roy on the 9th according to your memo?

Pocica: Yes ma'am.

Dofflemyer: And you say within a day you had placed that counseling form into his into the file.

Pocica: Into Captain Kamine's file.

Dofflemyer: And as far as you know this is a proper counseling form for the Division of Fire Services?

Pocica: I don't know if it is but that's what I did.

Dofflemyer: Did Roy inform you that he had directed firefighters to falsify documents?

Pocica: No ma'am.

Dofflemyer: Did you ever check the paperwork to see that, that had transpired prior to counseling him?

Pocica: No ma'am.

Dofflemyer: Did you pull any paperwork prior to counseling Captain Rawlins?

Pocica: No ma'am.

Dofflemyer: So you didn't pull, you didn't pull the paperwork would you, did you question Roy on the procedure that took place prior to giving him the counseling form?

Pocica: I told him what I was told and what I read and said that's not per the policy that was sent out in March, how come.

Dofflemyer: But you checked no documents prior to talking to him?

Pocica: Just the document that Captain Kamine gave me.

Dofflemyer: But you didn't pull any of the ah, log showing the...

Pocica: No ma'am.

Dofflemyer: items were wasted?

Pocica: No. I didn't have access to that.

Dofflemyer: Where are they kept at?

Pocica: Captain Kamine keeps all those.

Dofflemyer: Could you have gotten them from Captain Kamine if you requested?

Pocica: If I requested but I'm not sure when this was June 2nd, he probably didn't get to his audit ah, later that week so.

Dofflemyer: Could you, would you have been able per Division policy to hold off on the discipline and see this document prior to giving the discipline to Roy.

Pocica: Yes ma'am, but I thought that we needed to handle the drug situation.

Dofflemyer: And you said that you notified Captain Rawlins to go back to Station 42 and take care of the proper wasting of the controlled substance?

Pocica: Yes ma'am.

Dofflemyer: Okay and he reported back to you telling that was, that was taken care of?

Pocica: He sent an email through ah, Volusia County EMS to document it with a copy of the form notes in there that he and Lieutenant Huber signed.

Dofflemyer: Did Roy ever say that he told somebody he let that bio-hazard container at Station 42? Did he make anybody aware that controlled substance was going to be in the bay at Station 42?

Pocica: He just told me that's where it was. I do not know who he may have told.

Dofflemyer: And you never asked him?

Pocica: No ma'am.

Dofflemyer: And he did not come forward and explain to you that he had directed firefighters to falsify document?

Pocica: No ma'am.

Dofflemyer: Did he tell you how he documented the removal of the drugs?

Pocica: He said that he filled out the paperwork that's all.

Dofflemyer: He didn't tell you what paperwork he filled out?

Pocica: Well I would assume it would be the ah, wasting of the drugs, cause that's part of our protocol.

Dofflemyer: Did you ever speak with any of the firefighters that had a concern with the way that the medication was picked up from the station and that they were directed to sign a form that they were falsifying?

Pocica: I did not, no ma'am.

Dofflemyer: Okay, did anybody tell you that they had a conversation with any of the firefighters?

Pocica: I read, I read that and then I saw an email from Captain Inglett so that's all I, I knew about it.

Dofflemyer: Did you have any conversation with Captain Inglett to follow up on the...

Pocica: No ma'am.

Dofflemyer: the events? So you're disciplinary action was taken ah, on Roy based upon just the email that you received?

Pocica: The email and Captain Kamine's report that he gave it to me.

Dofflemyer: Did you ever notify Captain Kamine of what action you took? Did you ever verbally tell him what action you took?

Pocica: I believe I told him, I gave Roy an oral and put a note in his file, meaning the report file that Captain Kamine did.

Dofflemyer: Tell me about the conversation that you had with Chief Pozzo about this incident?

Pocica: Chief Pozzo came to my office and showed ah, asked me did I know about the incident with the Lorazepam on June 2nd. I said yes I did, Captain Kamine did a report and I read it because at the time prior to that ah, Captain Kamine reported to me. So all investigations that he would do would come to me for signature for his action. And ah, he said well what did you do with Roy. I told him I gave him an oral after reviewing that. He said why I didn't give him a written. I said I just gave him an oral, I said because it was corrected within the hour that I talked to him about. I said this is the count I have nothing else documenting that I could go deeper into investigation. And I believe I told him that I talked to Mr. Ryan. He said why would you tell Mr. Ryan, I was here. I said you know, that was that busy time, and to be honest with you, I don't remember.

Dofflemyer: So the level of discipline that was taken was, was not decided by a supervisor it was decided by you, correct?

Pocica: Correct. Well I am Roy's supervisor.

Dofflemyer: Correct, but you didn't speak with your supervisor to...

Pocica: Correct.

Dofflemyer: ah, have a meeting to determine...

Pocica: Correct.

Dofflemyer: Or if it needed to be forwarded ah to more investigation prior to given discipline.

Pocica: Correct.

Dofflemyer: You didn't receive guidance from anybody?

Pocica: No.

Dofflemyer: What was Roy's response with the verbal counseling?

Pocica: He the basic comment was I, I know screwed up on the policy and I'll handle it.

Dofflemyer: Did you ask him to provide any documentation explaining what he had done and why he did it?

Pocica: No.

Dofflemyer: You said there was some documentation in the packet from Roy?

Pocica: It was in, in the two emails.

Dofflemyer: And what did the emails say?

Pocica: One he explains what he did and the second one was the, the ah, the wasting of the drugs with Lieutenant Huber.

Dofflemyer: You said Lieutenant Huber was with him and witnessed the wasting of the medication?

Pocica: At Station 42.

Dofflemyer: Did he tell you how much medication was wasted?

Pocica: I believe he said 96 units but I didn't write it down so I can't.

Dofflemyer: What do you think about the whole entire events at this point here?

Pocica: I think that ah, we got to find a better way to control our wasting of the drugs. It's, it's this time period that we're, we've been so lax and we're trying to get it under control and it's going to be times that people are still going to make mistakes.

Dofflemyer: With the information that you have now, knowing that ah, the medication was picked up in violation of policy, that several employees were required to falsify a document under the direction of Captain Rawlins, put that situation at this point here into perspective, what is your, what is your position on the discipline that was handed out to Captain Rawlins?

Pocica: Seeing all the other forms and knowing now that he ordered people just to put it in the container, it would call a probably an internal investigation and written reprimand.

Dofflemyer: So that's the way it should have been handled you believe?

Pocica: Yeah well having that information now, yes ma'am.

Dofflemyer: I just want to make sure we understand you had access to the information, not at that present time, but it could have been delayed to get that information.

Pocica: Right. Captain Kamine never gave it to me so.

Dofflemyer: Did you ever ask Captain Kamine for it?

Pocica: He, if there's ever a problem he always brought it to me. He brought this same incident to me several other times and we had to go through disciplinary actions.

Dofflemyer: Did you ever request, I think what I'm trying to get at Frank is did you ever request a control substance accountability form?

Pocica: No ma'am.

Dofflemyer: Okay, did you ever request from Roy or Captain Kamine form showing that, that controlled substance was wasted and witnessed at Station 42?

Pocica: No.

Dofflemyer: Is this a common practice that's been taken place that you know of?

Pocica: We've, we've been having problems with that even at the station level that's why the Battalions go out and check it every month. We started that ah, ah, about a year ago and Captain Kamine would do it at the end of the month or the first week of the month and when he was shipped out to become a battalion, we got a little slack and I had to get on him to check all that stuff.

Dofflemyer: Captain Kamine?

Pocica: Yes ma'am.

Dofflemyer: Okay what, tell me again what was he suppose to check?

Pocica: He was suppose to check the drug forms at each station and verify the count of the drugs in the station the first of the month. That's part of the EMS manager's function.

Dofflemyer: So what, how did he err in this?

Pocica: I didn't see the forms at all until you just showed them to me.

Dofflemyer: You're talking about the forms checking that the medication was properly stored at the...

Pocica: Stations.

Dofflemyer: Okay, but I understand what your saying. But what I'm not talking about properly stored. What we have here is we have documents that are submitted to the EMS Manager.

Pocica: Right.

Dofflemyer: Reference controlled substance accountability showing that a certain amount of a particular drug was wasted at the station. Which becomes a part of this complete packet to understand from the beginning to the end what transpired and this event involving Roy Rawlins.

Pocica: Yes ma'am.

Dofflemyer: Okay, but you know these forms exist. You just didn't have them in hand at that time?

Pocica: Captain Kamine never brought to me. Now...

Dofflemyer: But you could...

Pocica: And...

Dofflemyer: you could have requested it.

Pocica: Well...

Dofflemyer: You knew they exist.

Pocica: well I shouldn't have to request those are part of his job to provide me that information if there's a problem. Now...

Dofflemyer: I'm just saying he brought forth the problem though that the medication wasn't disposed of properly. So I'm just, I'm just trying to put the pieces together. He brought forth this information, would this be something that should have been checked?

Pocica: It should have been checked, yes. Now at the same time we moved EMS out of my hands to Chief Weaver's hands. So Captain Kamine might have been confused.

Dofflemyer: Okay, explain to me how he might have been confused?

Pocica: Well he, he has to report to a new boss that took over the EMS operation.

Dofflemyer: But he reported, he did report this directly to you?

Pocica: That was...

Dofflemyer: You didn't turn it over to Kathy correct?

Pocica: No.

Dofflemyer: Okay so he reported it to you.

Pocica: That was on the 4th.

Dofflemyer: Okay, he reported it to you, you carried through with the process and I think you in the beginning of the statement you said you never talked to Kathy Weaver about it.

Pocica: No, I...

Dofflemyer: Did you ever...

Pocica: I don't recollect talking with Kathy about it.

Dofflemyer: Did you ever instruct him to talk to Kathy?

Pocica: No, because Kathy would be his new boss so.

Dofflemyer: All right, Frank I don't have any other questions. Is there anything that I have not asked you that you think I need to know?

Pocica: No ma'am.

Dofflemyer: Okay, all right, just to confirm you originally thought you spoke with Mr. Ryan.

Pocica: Yes.

Dofflemyer: And you did report that to Chief Pozzo?

Pocica: I made that statement to Chief Pozzo.

Dofflemyer: Did you ever go back to Chief Pozzo and speak to him about that statement?

Pocica: He, he came to see me and said I talked to Mr. Ryan, I said ah, don't remember talking to him.

Dofflemyer: Okay. All right okay, ah, just understand you're subject to recall if I need to bring you back in for any clarification or any additional information will bring you back in and talk to you. Otherwise we are going to go off the record. It's still the same date, we are still at the County Courthouse, Historic Courthouse in DeLand, and the time is 1137 hours and we are off the record.

(Tape recording devices off)