

**Volusia County Department of Public Protection
Internal Affairs
Case number 2010-08-286
Pocica, F. Witness 3rd Interview**

September 10, 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 Department of Public Protection Internal Affairs Unit. Today's date is September 10th, 2010, the time is 1315 hours. We're conducting this interview with Deputy Chief Frank Pocica. We're at the DeLand Historic Courthouse located in DeLand, FL. This is a taped interview statement with Deputy Chief Pocica. Deputy Chief Pocica requested this meeting to clarify information that he provided in a previous sworn statement. Frank can you identify yourself for the record please?

Pocica: Frank Lloyd Pocica.

Dofflemyer: And you are still employed by Volusia County Fire Services?

Pocica: Yes ma'am.

Dofflemyer: You're in a position of a Deputy Chief.

Pocica: Yes ma'am.

Dofflemyer: And you oversee the ah, EMS and Logistics for Fire Services?

Pocica: I current, I, I yes and Training.

Dofflemyer: And Training okay. And how long have you've been with Fire Services?

Pocica: Since 1972.

Dofflemyer: We've had two previous meetings prior to today. You were advised of your Garrity rights on both of those interviews. Once again you're Garrity rights do apply. Do you have any questions about your Garrity rights?

Pocica: No ma'am.

Dofflemyer: Okay, you do understand that you are compelled to answer any questions even though you requested this interview.

Pocica: Yes ma'am.

Dofflemyer: Okay, and failure to answer these questions would be an act of insubordination.

Pocica: Yes ma'am.

Dofflemyer: Anything you would say that would be considered information that would be of a criminal nature can not be used against you in any subsequent criminal proceeding. Do you understand?

Pocica: Yes ma'am.

Dofflemyer: Okay, you also understand this is going to be a taped interview statement?

Pocica: Yes ma'am.

Dofflemyer: You also understand that it is an active and open investigation until it comes to closure, I'm directing you not to discuss any part of the investigation.

Pocica: Yes ma'am.

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

Pocica: No ma'am.

Dofflemyer: Okay at any time during the interview you change your mind just advise and we'll stop and allow you to seek representative. Raise your right hand for me. Do you solemnly swear or affirm that the statement that you're about to give is the truth, the whole truth, and nothing but the truth so help you God?

Pocica: The best of my knowledge, yes ma'am.

Dofflemyer: Okay, yes sir. You asked for us to be able to sit down today and clarify some information ah, associated with statements that you gave on two previous occasions where there was a, there was a conflict with the dates that were provided in accordance with documentation that was prepared. So, I'm going to go ahead and let you open and ah, provide the information that you need to provide.

Pocica: Yes ma'am. The ah, the documents you showed me at our last talk ah, which was the ah, from Track Live or Live Track of the vehicles didn't correspond with the date I had in my computer.

Dofflemyer: Okay and for the record we were looking at the...

Pocica: The...

Dofflemyer: the print out from 6/9 of 2010 for your vehicle and ah, which is Chief 13 and Logistics 10 which is Captain Rawlins. Correct?

Pocica: Correct ma'am.

Dofflemyer: Okay.

Pocica: So, I knew something was wrong, but I couldn't put a finger on it right when we were talking. I mean it was a shock and I just couldn't think through it. So I went home that evening and went thought about it, why, how, how did I get the ninth. And ah, when I started to think about it I didn't have my computer at that point of the ninth or tenth. IT did a work order on the tenth when my hard drive crashed. And I lost everything for the last ten years that I had in files. Dealing with all my EMS, all my training, all Logistics, spreadsheets, and just tons of information. So on June the 21st, I received a new hard drive in my lap top and I went looking for directories and there was nothing there. So I asked Dennis, I said Dennis could we not recover any information. He said it was gone, it was dying as I was testing it. And he said there is nothing there. I said I would like to have the hard drive to verify myself and he brought it over a day or two later, and I signed the form for the hard drive and gave it to Pam Johnson's ah, live in who does computer work that said if there was something there he could (inaudible) for me. And because I had to much information that I needed.

Dofflemyer: Ah hum.

Pocica: So, I, I gave him that and he, Pam brought it back to me the next day said there is nothing there it's been wiped clean. So I knew I had no history of anything.

Dofflemyer: Would that would have been on or about the 21st or the 22nd?

Pocica: It could have been, it's the week of the 21st. It could have been the 22nd, 23rd, 24th. Ah, at that point I knew that I had to start recording stuff again. And I tried to figure out dates and times and that's when I set the computer for the ninth so I could document it myself and it was really the tenth. After I went back to the Live Track because I kept saying the tenth, but I wrote the ninth when I pulled the documents up, when Roy was up here that morning that we talked upstairs, this, this is Log 10 and here's Chief 13, which is my vehicle, showing on the tenth, Roy was up here from 8:29 to 8:48 and I was here 6:41 through 11:02. It was in this time period around 8:30 that he and I met and we discussed the call. And I said why, I asked him why did you not destroy the evidence when you picked it up. And that's when he said I'm in a hurry, my answer is that's the way I've done it for fifteen years. That's the way use to do it, put it in the red disposable container, lock it, and tape it. which is what he did when, when I asked, sent him an email find out not sure what was up on 6/3 and he answered back that all meds were placed into a bio-hazard Sharps container and when they were all, when they were all collected the container was sealed and the container was placed for disposal by our vendor as any other meds would be. And he sent me that on 6/4.

Dofflemyer: On the tenth, Frank did anybody, was anybody present? How, how do we know on the tenth that you and Roy talked on the tenth? I mean the times I see match up, but how do we know it was the tenth? Did anybody witness the conversation?

Pocica: He, he was up here dropping off some mail and stuff. We met in the, out, just outside our entrance into the eastern wing and stood there and talked. We had no one there. He was in a hurry, he was taking radios to, to CI and that's documented on, on his trip report.

Dofflemyer: Okay, but nobody, the question is did anybody witness the conversation ?

Pocica: No ma'am.

Dofflemyer: Did anybody over hear the conversation?

Pocica: No ma'am.

Dofflemyer: Was there ever a time that you and Roy sat down in the ah, in a professional environment across the table to discuss ah, the violation of policy?

Pocica: No ma'am.

Dofflemyer: Okay did Roy understand that he was receiving a verbal reprimand?

Pocica: I don't, I didn't do it as verbal, I was trying to get information.

Dofflemyer: Okay, so was it a verbal reprimand?

Pocica: It, it depends on what you consider a verbal reprimand. Did I say Roy this a verbal reprimand, no I did not say those words. What I did say is Roy, I, I need to have some information, why did this occur.

Dofflemyer: Okay, because the document on the ninth, that you provided...

Pocica: A verbal.

Dofflemyer: A verbal reprimand.

Pocica: And (inaudible) would say we talked a couple times on the phone and he advised me the same information. But did I ever perform a formal sit down or bring, bring it up as an investigation I did not because of his email statement and the log showing that everything was opened.

Dofflemyer: So.

Pocica: It was...

Dofflemyer: What, what time did you meet on the tenth with Roy?

Pocica: It, it was eight-thirtyish. Between eight-thirty and...

Dofflemyer: And you were in the hallway?

Pocica: Yes ma'am.

Dofflemyer: And there was never, just to make sure I'm correct here there was never a sit down conversation between the two of you.

Pocica: No ma'am.

Dofflemyer: Okay. How long did the meeting take? Or the encounter?

Pocica: About a minute.

Dofflemyer: Why do you think Roy would say that you never had that conversation?

Pocica: I have no clue.

Dofflemyer: Show you an email that you received from Roy that he advised that he had taken the Sharps container taped it up I believe.

Pocica: Yes ma'am sealed it.

Dofflemyer: And secured it, sealed it and left it at Station 42.

Pocica: 42 for the vendor to pick up.

Dofflemyer: What...

Pocica: (Inaudible).

Dofflemyer: what is the policy associated with ah, vials of medication leaving them unsupervised? Are they supposed to be on double lock?

Pocica: They're, they're not, not even on a double lock on the apparatus. They're on one lock. And then they're in a sealed bag.

Dofflemyer: Okay, but there should be some type of ?

Pocica: Locking.

Dofflemyer: Locking device.

Pocica: Mechanism, yes.

Dofflemyer: So leaving them at Station 42 not locked, would that be a violation of SOG also?

Pocica: I don't have the SOG in front of me. It, it is to dispose of, we dispose, we waste it at facilities and then the container put into a Sharps container.

Dofflemyer: But in this situation they weren't wasted, so it was full...

Pocica: They weren't...

Dofflemyer: full carpuments.

Pocica: full carpuments from all the stations he picked up that on the 2nd and the 3rd.

Dofflemyer: Left unsupervised at Station 42.

Pocica: I have to assume that.

Dofflemyer: Did you ever ask Roy? Because you said you talked to him and asked him for information, did he ever tell you that he left those?

Pocica: No.

Dofflemyer: Did he tell you where he left them at?

Pocica: No.

Dofflemyer: Did you ever ask him where he left them? What station he left them at?

Pocica: No, but he parks his vehicle at 42, so I assumed it was at 42 and then when I saw Lieutenant Huber's name on the wasted, I, I kind of knew that's where it was.

Dofflemyer: Alright, let's go back to your hard drive, when did the hard drive crash?

Pocica: It was the ninth or tenth of June.

Dofflemyer: Do you remember when you put your work order in?

Pocica: I called ah, Dennis and asked him to come up and check my computer because it was doing some crazy things, and I didn't know what it was doing. And he came by, once it came up it was working okay. It was in the start up, it was real funky. And then all of a sudden, and then when I shut it down, it just shut off a lot faster than normal. And then either the ninth or the tenth the work order was cut the tenth. I'm not sure if he picked it up that morning from me or was it the ninth he picked it up and did the work order to put it on the bench to see what was wrong.

Dofflemyer: So you don't remember which day you called the ninth or tenth?

Pocica: No ma'am.

Dofflemyer: And what day was the lap top returned to you?

Pocica: On June the 21st. It was later in the morning, mid-morning.

Dofflemyer: And when did you type the memo to file that was dated 6/9?

Pocica: Sometime that week when I realized I had nothing.

Dofflemyer: Had you typed it previously and just lost it in the hard drive?

Dofflemyer: Is it ah, when you do discipline is normal, usual process for you to wait four or five days before you type a letter? Because the incident happened on 6/2, 6/4 was the medication was disposed of properly and then four or five days before we, you talked to Captain Rawlins, is that usually the way the process works?

Pocica: The process needs to be that some...

Dofflemyer: That's not what I asked you. Does , is that how the process, is that how you usually, does that help?

Pocica: I.

Dofflemyer: How do you usually handle that situation because we're four, five days past the date that the incident took place.

Pocica: Yes ma'am.

Dofflemyer: Okay, so do you usually wait that four or five days before you would do a memo like this. Is that a usual protocol for you?

Pocica: Yes ma'am.

Dofflemyer: So do you know, do you know the exact date that you created this document?

Pocica: It was the week after the 21st when I got my computer, because I was trying to get back to my notes. Because I still had the folder on my desk. And then after I typed that is when I carried it and put it in the cabinet.

Dofflemyer: So tell me what you did when you went to recreate or when you went to create this document. When you get your computer back what do you do?

Pocica: Well like I mentioned earlier nothing was there. So I looked at my calendar next to my desk on the wall and knew it was in that, somewhere in the ninth to the eleventh time frame when I talked to Roy, and so that's when I clicked my time, set it to that date so I would have something to memorize by and wrote that memo. In fact I even had to go back and modified it after I had saved it because I forgot something.

Dofflemyer: Okay, do you remember what you forgot?

Pocica: It was ah, if I could ah,

Dofflemyer: Sure.

Pocica: It was the last sentence. It says I did not want to see anymore or hear of this type of problem again.

Dofflemyer: Did you tell Roy that?

Pocica: I, several times after the tenth. Because when he went around the next time I said Roy we're wasting at site right.

Dofflemyer: Well when you met with Roy that day in the hallway did you tell him that at that time?

Pocica: No, I think that was a phone call later.

Dofflemyer: On that day?

Pocica: No ma'am. And my mistake was setting it up I had, I had the Giraldo case mixed up when Chief Pozzo came with me because I was in that frame too at the same time. And when he asked me the question I said Mr. Ryan because I was working with Mr. Ryan on providing him information on the Giraldo case, so that was my error and my misstatement and I subsequently the day after I told Chief Pozzo that I said no I didn't go to Mr. Ryan, because I'm sure Mr. Ryan would have said take it to the Chief.

Dofflemyer: How often do you reset dates on the computer before creating documents?

Pocica: I have never.

Dofflemyer: That's the first time?

Pocica: Yes ma'am.

Dofflemyer: How'd you learn about doing it?

Pocica: I, I had a computer at home that went down and I constantly had to bring up the time to the current date.

Dofflemyer: Is that recent or?

Pocica: Oh, no years ago.

Dofflemyer: So how'd you learn about how to do that?

Pocica: I had, had to do it at the house to bring out to current date when...

Dofflemyer: But did somebody teach you how to do that?

Pocica: Ah, someone told me but I don't know who.

Dofflemyer: Was any other documents done that way on that particular date?

Pocica: No ma'am.

Dofflemyer: Anything else that you had to recreate?

Pocica: No ma'am.

Dofflemyer: So you have never done that before on a document?

Pocica: No ma'am.

Dofflemyer: For Fire Services?

Pocica: No ma'am.

Dofflemyer: This is the first time. Any particular reason that you did it on that one?

Pocica: I, I wanted to get my note as close to the date that I could remember.

Dofflemyer: Do you know how to go in and check and what date a document was created?

Pocica: Yes ma'am.

Dofflemyer: How do you do that?

Pocica: Just click on your properties and it will give you your information.

Dofflemyer: And do you do that often?

Pocica: I do that a lot on certain emails I get just to see when it was created.

Dofflemyer: Does it, does the date change when you reopen the document and close it back down?

Pocica: It, it, it modifies it. it says it has been modified. The original date does not change nor time.

Dofflemyer: But you've never done this in the past?

Pocica: No ma'am.

Dofflemyer: And you didn't do any documents that particular way on the date that you did ah?

Pocica: No ma'am.

Dofflemyer: Have you done it since then?

Pocica: No ma'am.

Dofflemyer: Did Roy sign any kind of record of counseling or any form saying that he was counseled on the proper way to dispose of medication?

Pocica: No ma'am.

Dofflemyer: Okay. Did you advise anybody that you're computer crashed and you were unable to do discipline or write any kind of disciplinary action on Roy until you received your computer back. Did you advise anybody that it was going to be a delay?

Pocica: I did not advise anything on Roy, but everybody knew my computer went down. I mean it...

Dofflemyer: I can't remember, did you ever discuss any part of the discipline with Roy with anybody else?

Pocica: No ma'am.

Dofflemyer: Did anybody ever come and ask you?

Pocica: Well I did say to Chief Pozzo that I talked to Roy and, and I told him that we couldn't do this anymore.

Dofflemyer: When did that take place?

Pocica: The day before he opened up this investigation.

Dofflemyer: Okay.

Pocica: When he walked into my office and put this document in front of me and said what about this and that's.

Dofflemyer: And you believe you're computer came back the week of 6/21 and that document was created during that week of?

Pocica: That was confirmed, yes, that was confirmed when I talked to Dennis Fair yesterday.

Dofflemyer: Is ah, how are you sure you created that document during that week?

Pocica: I saw the folder on my desk, because I knew I hadn't closed it and I didn't have my computer.

Dofflemyer: Okay, did you make anybody aware that you closed the case?

Pocica: No ma'am.

Dofflemyer: Do you usually tell somebody when you close something out?

Pocica: I would, yeah, I would tell Kamine.

Dofflemyer: Did you tell Kamine in this situation here?

Pocica: He was off and on during that time period.

Dofflemyer: Okay.

Pocica: And I had forgotten.

Dofflemyer: Send him an email or anything?

Pocica: No ma'am. I try not to put anything like that in an email.

Dofflemyer: So you don't normally go back in the computer and change date for documents?

Pocica: No ma'am.

Dofflemyer: That's not a usual practice.

Pocica: No ma'am.

Dofflemyer: Now we sat down and talked last time you didn't make any mention of going back and changing dates. What spurred the remembering that this takes place, that this took place? That means, what you're telling me is something that you don't normally do, so it would be something that I would think that would come to mind very quickly.

Pocica: Right.

Dofflemyer: This is something I did that was out of the ordinary.

Pocica: Because I did not have my computer.

Dofflemyer: Okay, but what I'm saying is that why are we, why are you able to remember now when we weren't able to remember last time we sat down and talked?

Pocica: Well like I mentioned earlier, when you threw those documents in front of me I just draw a blank. I just, I had, I usually when I get a document it takes me a little bit longer to come up with the time frames, come up with the numbers.

Dofflemyer: Is there any particular reason, or you weren't sure the computer went down on the ninth or the tenth. Was there any reason in the ninth right after you talked, or actually the tenth after you talked to Roy that you didn't sit down and jot out some type of disciplinary action for him. Was there something that prevented you from doing that?

Pocica: Other than my every day occurrence and running around like a chicken with my head cut off.

Dofflemyer: Did you make any notes about your conversation with Roy that you used to assist you with doing this memo to file?

Pocica: No ma'am. It, if I would have hand written any notes they would have been in, in the file.

Dofflemyer: And there's none in there.

Pocica: No. I didn't even and, when Captain Kamine gave me the folder I didn't even write in there, I (inaudible) appalled that this would happen.

Dofflemyer: How are you sure that it was the tenth that you met with Roy? How do you know it was the tenth? How do you know that it wasn't the eleventh? Makes you so sure it was the tenth.

Pocica: By the dates, looking here and I knew it was that week. I knew it was that week and that's why I...

Dofflemyer: Could it have been the eleventh?

Pocica: No ma'am.

Dofflemyer: How do we know this, how do we know it's not the eleventh?

Pocica: Because Roy wasn't up here on the eleventh.

Dofflemyer: And I know we talked before you said it might have been the eighth. How do we know it wasn't the eight? How do you, I'm trying to determine, how are we so absolutely sure it was tenth, because when we talked before we were absolutely sure it was the ninth. Now we're absolutely sure it's the tenth. So how are we, how are we coming to that point we know it's the tenth? I know we have, we have GPS showing he was here.

Pocica: Right.

Dofflemyer: But he's here off and on.

Pocica: Some weeks he is and other weeks he's not. On the eighth we had, we had leadership meeting.

Dofflemyer: Was that here?

Pocica: That was here.

Dofflemyer: Was Roy part of that?

Pocica: Yes he was and.

Dofflemyer: So it could have been the eighth that you talked?

Pocica: No ma'am.

Dofflemyer: Okay, how do you know it wasn't the eighth?

Pocica: Because I had to many people around me and I wanted to be one on one with him.

Dofflemyer: Okay. Did you set the, the meeting with Roy or was it just by chance?

Pocica: Just by chance.

Dofflemyer: Okay.

Pocica: My goal was that we could get with him. And we looked at his calendar and my calendar we both full.

Dofflemyer: We should be able to (inaudible) check and find out when that document was, was typed. And you said, you said that how long have you known how to change that date in the computer? But how long ago did you?

Pocica: Oh, about four or five years ago.

Dofflemyer: You don't remember who told you how to do that?

Pocica: No ma'am.

Dofflemyer: Dennis or nobody from IT recently told you how to do that?

Pocica: No ma'am, no ma'am. Like I said I had a computer at home that would run slow behind the clock and I would try to keep it updated about once a week.

Dofflemyer: Do you normally provide staff with copies of any disciplinary action that you take? Verbal reprimand, written reprimand, are they usually provided a copy of whatever is placed into their file?

Pocica: It would ah, it would go to the Chief first.

Dofflemyer: Are they usually advised that something is going to be placed into their file?

Pocica: They would be by the Chief, yes.

Dofflemyer: It wouldn't be the person taken actions responsibilities to advise?

Pocica: It's no ma'am. All disciplinary actions have to be approved by the Chief of the Department.

Dofflemyer: So just so that we're absolutely clear, there's ah, this is the only document you did on that particular day where you switched back, you changed the date from the date that you did the document back to?

Pocica: Yes ma'am, just for that document. Because I wanted to log it as close to that date as.

Dofflemyer: Is there any reason you wanted to do that considering the date was on the letter itself. Was there any reason that you, you felt you needed to go back to put it on that, to create it on that particular date?

Pocica: No ma'am. It, it, it, I just decided to set it on that date so that I had documentation.

Dofflemyer: Okay, and you just, it wasn't sufficient that you had documentation on the date of the memo?

Pocica: Could have been but if it was two, two weeks, three weeks later because of lack of the computer, it would show that I wasn't doing anything.

Dofflemyer: Okay and it's not normal practice for you to wait four five days before you do discipline or was it normal practice?

Pocica: It's not normal practice. I try to get as much information before I do a disciplinary action.

Dofflemyer: And no other documents were done in this fashion on the date that you created this document?

Pocica: No ma'am.

Dofflemyer: And you haven't done it since?

Pocica: No ma'am.

Dofflemyer: And you hadn't done it prior?

Pocica: No ma'am.

Dofflemyer: And you're conversation with Roy was not a planned meeting it was by chance in the hallway?

Pocica: By chance in the hallway.

Dofflemyer: How long did you guys talk?

Pocica: About a minute and he said he was in a hurry, he didn't have time. I said we got to make time.

Dofflemyer: And tell me, tell me what you told him?

Pocica: I asked him how did why, how and why did he pick up the carpjects and not follow the SOG to waste them at the station. And ah, he said I was in a hurry trying to get everything done. He goes, he goes the script was going out of date and everybody was screaming.

Dofflemyer: Did Roy let you know that he wrote the SOG for that policy 102.005?

Pocica: Yes.

Dofflemyer: Did he tell you that, did he tell you that particular time he had wrote the policy?

Pocica: No not at that time. But I, I was part of the process with him to write that SOG.

Dofflemyer: Okay

Pocica: He.

Dofflemyer: He picked up...

Pocica: He picked up.

Dofflemyer: He picked up items outside, violated SOG on a policy that he, he assisted writing.

Pocica: Yes ma'am.

Dofflemyer: Did he tell you that he was unaware of the SOG or he just had to do it that way?

Pocica: No, he, just said that's the way he did it for fifteen years, that's the way they did it.

Dofflemyer: And that was in June and policy came out in March of...

Pocica: Yes ma'am.

Dofflemyer: 2010? So we have March, April, May, June, three months prior to policy come out. The policy that he had designed or assisted in designing?

Pocica: And I'm sure that Roy is not the only person that breaks that policy.

Dofflemyer: Okay, do you have any idea who else does?

Pocica: Ah, we jump up and down at staff meeting when I hear that stations are trading drugs between stations.

Dofflemyer: But do you know of anybody else?

Pocica: Cause that's, that's against the policy.

Dofflemyer: Okay, do you know of anybody else that has been collecting medications in this fashion and not?

Pocica: No ma'am.

Dofflemyer: Okay.

Pocica: That would be Chuck Kamine because he was out in the field as the EMS officer.

Dofflemyer: And you said during meetings they talk about the, the stations exchanging medications. Any action, any disciplinary action or corrective action been taking to fix that?

Pocica: That, that would be done by the EMS officer per the EMS officer's SOG.

Dofflemyer: Has Chief Pozzo been made aware that that situation exist?

Pocica: Ah, it has not happened since he's been here. I'm talking back January, February, March, April. Even after the SOG, there's some stations in quad one that Commander Ellis told me about and I said we can't do that, we can't do that. And I'm sure he handled the situation with his meds, medics.

Dofflemyer: Alright, but you're not sure of what day, ah, back to the, you're not sure what day you did that document?

Pocica: No ma'am.

Dofflemyer: Anything on your calendar that could point you to the date that you did it? Any notes that you took?

Pocica: No ma'am.

Dofflemyer: Okay Frank I don't have any other questions. Anything that I haven't asked you that you think I need to know?

Pocica: No ma'am.

Dofflemyer: Okay, we're going to go off the record. We're still at the same location. And the ah, time is 1346 hours and we're going to go off the record.

(Tape recording devices off)