

Volusia County Department of Public Protection
Internal Affairs
Case number 2009-02-265

March 17, 2009

Present:

Kenneth J. Modzelewski, Captain
Christopher Nowviskie, Senior Lifeguard/LEO
Michael Politis, Attorney

Transcribed:

Rebecca Perryman, Senior Staff Assistant

Modzelewski: Okay, we are going to go ahead and get started. Captain Ken Modzelewski with the Volusia County Department of Public Protection, I'm a police officer assigned to that unit, the Internal Affairs Unit for Public Protection. Today's date is 3/17/09, we're at the Volusia County Beach Headquarters Building. It's approximately ah, it looks like 1536 hours. Ah, we're conducting an interview with the subject officer associated with case number IA 2009-02-265. Ah, Chris for the record would you identify yourself?

Nowviskie: Officer Chris Nowviskie.

Modzelewski: Okay and your position with Volusia County?

Nowviskie: Senior lifeguard.

Modzelewski: Okay and how long have you been a, a, an that's a law enforcement officer position.

Nowviskie: Law enforcement officer yes. Ah, full time ah, 1998.

Modzelewski: Okay. Okay, and ah, the ah, reasoning for the investigation is ah, based on allegations of official misconduct. Ah, you were given notification by the Internal Affairs Office ah, on three separate occasions. One you were provided with notification of the allegations on February 27th, 2009. Second notification was issued to you on March 9th, 2009, the first, initial notification was just advising you that there was a complaint filed against you.

Modzelewski: The second was to be time specific as far as setting up an interview to be conducted to address the allegations and the third notice was at the request of your attorney Mr. Politis ah, to reschedule due to scheduling conflicts for today, ah, today's date and ah, that's currently here, ah, what we'll be doing conducting that interview. Ah, is Mr. Politis your designated representative?

Nowviskie: Yes he is.

Modzelewski: Okay, Mike just for the record identify yourself sir.

Politis: Michael Politis with the law firm of Vasilaros and Politis, located at 730 Dunlawton Ave, in Port Orange, Florida, 32127.

Modzelewski: Okay. Ah, okay and you understand Chris that this will be a recorded sworn statement and ah, ah, that this is an official proceeding.

Nowviskie: Yes.

Modzelewski: And that you're bound to ah, be truthful or it constitutes perjury in an official proceedings. Do you understand that?

Nowviskie: Yes, yes I do.

Modzelewski: Okay, very good. I'm going to ask you to raise your right hand. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth so help you God?

Nowviskie: Yes I do.

Modzelewski: Okay. Ah, we received a ah, complaint filed by a Captain Timothy Cunningham, are you aware of Mr. Cunningham?

Nowviskie: Yes I am.

Modzelewski: And how do you know Mr. Cunningham?

Nowviskie: He's a, ah, captain on, with the Volusia County Beach Patrol.

Modzelewski: Okay and are you aware of the complaint or the incident which occurred that he specifically addresses that ah, he alleged it occurs on February 11, which is Wednesday 2009?

Nowviskie: Yes I do.

Modzelewski: Okay. Ah, just in an effort to get some clarification can you tell me what lead to ah, the incident on that day? Or what was the ah, how is it that Mr. Cunningham come encounter you that evening?

Nowvskie: He, he forgotten the keys to the patrol vehicle he had been driving in ah, during the day, and he brought them back to the station.

Modzelewski: Okay and where was that station specifically located at?

Nowvskie: At the Ormond Lifeguard station, Cardinal Boulevard in Ormond.

Modzelewski: Okay. Ah, can you describe that station for me?

Nowvskie: Ah, as far as?

Modzelewski: Two rooms, three rooms, one big room.

Nowvskie: There is several rooms, ah, ah, I could probably and it's got ah, it's got attached public restrooms. Ah, there's probably five, seven rooms at least.

Modzelewski: Okay.

Nowvskie: Individual rooms.

Modzelewski: Is there more than one entry point into the area?

Nowvskie: There's a front door ah, glass door and then there were also three garage, three or four, three garage bay doors.

Modzelewski: Okay. So you, you indicated that Captain Cunningham arrived there. Do you recall about what time?

Nowvskie: No I do not.

Modzelewski: Okay and you said that was specifically for the purposes of ah, returning some keys to a police vehicle?

Nowvskie: Yes.

Modzelewski: Ah, what happened? Did you have some, Tim came into the building ah, how did you know he was there?

Nowvskie: He identified himself.

Modzelewski Okay. Ah, where were you at the time?

Nowvskie: I was, when I first heard him come in I believe I was in the, the, the garage bay where the weight room is.

Modzelewski: Okay. There are two separate rooms do you have to come through a front room...

Nowvskie: Yeah, you have to walk through...

Modzelewski: to get to this?

Nowvskie: there's a one large garage bay with restrooms and ah crew quarters. Behind that it includes a kitchen and a captain's quarters. Ah, one large room which is ah, has equipment in it, weight lifting equipment ah, we keep our surf boards in there. There's a smaller room ah, I guess they would call it a radio room, a little vestibule, it's a smaller room maybe no bigger than this, ten by ten. Ah, and then it leaves that and leads into the front room or the first aid room or the LEO room, depending on what they call it, and that's a much larger room. That's where Captain Cunningham came in, through that front door.

Modzelewski: Okay, just for the, to help me out here, can you just do ah, very simplistic ah, chart of that, that floor plan of those rooms where he came in and where you're at.

Nowvskie: So this is the basic diagram and there's more to it than that, but.

Modzelewski: Okay. Just the main rooms that's fine.

Nowvskie: Yeah, this is the main room. This is where he came in. this is...

Modzelewski: Now where's, where's the ocean?

Nowvskie: Ah, this would be the ocean.

Modzelewski: Okay.

Nowvskie: This would be the ocean and this would north.

Modzelewski: Gotcha.

Nowvskie: And this is ah, Card, Cardinal Boulevard beach approach.

Modzelewski: Okay, now this is the front or the door, the main door.

Nowvskie: The main entry door.

Modzelewski: or entry to the building.

Nowviskie: Yes.

Modzelewski: Okay, what's in this front, front room?

Nowviskie: That's ah, there's two computers in here. There's a bench, there's a television, there's a few couple of chairs, tables and chairs. It's a common area.

Modzelewski: So when Cunningham comes through this, this door area here, where are you at?

Nowviskie: I was back here I believe when I heard him first come through. I was walking in that direction.

Modzelewski: Okay, so, is this a door here?

Nowviskie: This is yeah, well actually there's, there's a door, how does this work. There's a door here and a door here. And this is the radio room, that's where the radios are.

Modzelewski: Okay so you have to pass through this, this room here.

Nowviskie: You have to pass through here to go through this room to get into where the weight room is or the ah.

Modzelewski: And that's this room here?

Nowviskie: That's this room here and this is where the restrooms are off of that. Restrooms and the showers.

Politis: Let's label this weight room so we can at least determine where we're talking about here.

Modzelewski: And just put radio here. He said that's a radio room.

Politis: Yeah.

Modzelewski: And these are where the computers are?

Nowviskie: Yeah the computers are against this wall right here. There's ah, I believe there's actually it's a little bit different. There's a shower here and then there's restrooms off to that side, but this is...

Modzelewski: Okay, I got (inaudible).

Nowviskie: this is where the computers. There's a (inaudible)...

Modzelewski: So he comes in this door.

Nowviskie: Yeah.

Modzelewski: And he has to, he transverses from here to this...

Nowviskie: Yeah.

Modzelewski: To get to where you're at.

Nowviskie: Ah hum.

Modzelewski: And you're in this room.

Nowviskie: Yeah, well I, yeah, yeah.

Modzelewski: All right, this door, this is an open door. Ah, is there a door actually here?

Nowviskie: Yes there is.

Modzelewski: Is that, was that door open or closed?

Nowviskie: That door was closed.

Modzelewski: So he had to open that door.

Nowviskie: Yes.

Modzelewski: Okay, and how about this door?

Nowviskie: That door, that door automatically closes.

Modzelewski: So this is a spring tension door?

Nowviskie: Spring tension door, yeah.

Modzelewski: Okay, he makes reference to a door that has ah, a whole in it where the hardware was removed.

Nowviskie: That's, that's this door right here.

Modzelewski: First door or second door?

Nowviskie: Yeah, first door.

Modzelewski: Okay so the swing door is the second, the first door is the one that's got a whole in it.

Nowviskie: Ah hum.

Modzelewski: Okay. So ah, so Cunningham comes into this particular room here, this front entry room and he makes in his statement says that he goes to open this particular door, you saying being the first door and he feels resistances. Tell me what that is?

Nowviskie: I grabbed the door and said hold on I'm changing.

Modzelewski: Okay. About what time was that?

Nowviskie: You know I, I don't know exactly what time. Ah, eight something. I don't know exactly what time it was.

Modzelewski: What time did you come on duty?

Nowviskie: I came on duty, it would have been, I believe that's shift seven to seven.

Modzelewski: Okay, so you're on duty approximately an hour?

Nowviskie: Ah hum.

Modzelewski: What were you getting changed from?

Nowviskie: Changing into my night clothes, into my warmer clothes.

Modzelewski: Okay. So you went to that station to change.

Nowviskie: Ah hum.

Modzelewski: And he, he comes in and he tries to come in and you, you hold the door closed because your changing?

Nowviskie: I just grabbed the door said hang on I'm changing.

Modzelewski: Okay so you're there with the intended purpose of getting changed into warmers clothes?

Nowviskie: Ah hum.

Modzelewski: Okay. Then what happens?

Nowviskie: I, I told him ah, hold on I'm changing and I got my, my top shirt on, I still had my undershirt on. I got my top shirt on over my vest and walked out and ah, talked with him, got the keys from him.

Modzelewski: Okay. All right. Okay so you talked to him and then what happened after you chatted out in that particular work area. Did he leave or did he hang around?

Nowviskie: No he...

Modzelewski: Or hang out?

Nowviskie: talked for a couple of minutes and then I took the keys and put them back in the closet.

Modzelewski: And he left?

Nowviskie: Then he left.

Modzelewski: Okay and you were in that stationary by yourself?

Nowviskie: No I was not.

Modzelewski: Okay who was in there with you?

Nowviskie: I had ah, friend had stopped by to borrow some money because she was running out of gas and she was in the station.

Modzelewski: Who might that be?

Nowviskie: Ah, her name is [REDACTED]

Modzelewski: Okay, so where is [REDACTED] at?

Nowviskie: [REDACTED] was at the point where Tim came, Captain Cunningham came in she was in this room and she walked to this area, I walked past her and I believe she jumped, she jumped into the closet.

Modzelewski: She jumped into the closet?

Nowviskie: She jumped into the closet.

Modzelewski: Why did she jump into the closet?

Nowviskie: Because I, she wasn't supposed to be there. It startled her, it startled me.

Modzelewski: Okay so let's back up a little bit.

Nowviskie: Sure.

Modzelewski: You're guessing at times and I appreciate that, that you're not watching a clock. But you're saying that somewhere around eight o'clock you're there, now you're getting changed into warmer clothes. This female [REDACTED] is at this particular location because she needed to borrow some money from you?

Nowviskie: She, she needed to borrow some, I had already changed into. What I do is I carry a pair of thermal pants that I wear underneath my BDU's, and I did not have my vest on at the time. So that's what I was changing to do, putting my thermals on that I normally wouldn't put on until later on in the night once it cooled off. That's nothing that I would have put on at home, because it's too hard, too hot to to ah to wear. You know, I usually put those on later on at night. I work night shift for in my career in the ten years I've been here, probably a total of three years.

Modzelewski: Okay. So she wasn't suppose to be there. So you got startled because Cunningham shows up?

Nowviskie: Yes.

Modzelewski: But only, she's the only reason she's there is because she ran out of money and needed some money?

Nowviskie: Yes.

Modzelewski: Did you have your radio on?

Nowviskie: Ah, it would have been on my, on my gun belt which would have been on the table in this room.

Modzelewski: Was the radio on?

Nowviskie: Yes.

Modzelewski: So...

Nowviskie: There's no reason that it wouldn't have been off, ah, on.

Modzelewski: So it would have been scanning channels.

Nowviskie: Yes.

Modzelewski: So did you call into dispatch and say you had a 10-12, I'm sorry visit with you?

Nowviskie: No I did not.

Modzelewski: Okay. Did you call in and say you had a motorist in distress that you needed to assist?

Nowviskie: No I did not.

Modzelewski: Why?

Nowviskie: As a friend of mine, and in hindsight I probably should have. Ah, but it was just a friend of mine.

Modzelewski: Okay. When he entered he indicates that there, the rooms were dark, the lights were out. Is that true or false?

Nowviskie: Ah, I, vaguely recall them being dark, they should have been dark. I mean I turned, I mean, I would turn them off at night.

Modzelewski: So the lights in the rooms would have been off?

Nowviskie: Yeah.

Modzelewski: So Cunningham's accurate in his assessment saying that he came into a dark area?

Nowviskie: The TV would have been on, computer lights would have been on.

Modzelewski: When did ah, [REDACTED] call you? Ah, she said that she was running out of gas and needed some money?

Nowviskie: It would have been, I was on ah, it was, I was north bound on Atlantic when she called, ah, called, she was very upset. She's ah, you know, said I'm running out of gas, you know, and I told her I said you know we'll go by the Ormond Station we might have some in the gas cans, I can get you some you know just to get you home. And there wasn't any in the gas cans. So I said well I can give you ten bucks, you know that's all I had on me.

Modzelewski: Did she call you on your county cell phone?

Nowviskie: She originally called me on my personal cell phone, my cell phone, my battery was almost dead. I said call me back on my, on my work phone. She, she had my work phone number.

Modzelewski: What's your personal cell phone number?

Nowviskie: Ah, [REDACTED]

Modzelewski: So she calls you on your personal cell phone, says hey I'm running out of gas, I need some money and then she, you guys agree to rendezvous at this particular station and how long was she there?

Nowviskie: Ten minutes maybe.

Modzelewski: But long enough for you to get changed?

Nowviskie: No I was already changed but long enough to, I mean I was already changed, I just didn't have my top shirt on, I had my undershirt and I had just put my vest on.

Modzelewski: Okay.

Nowviskie: Or had my undershirt and my vest and I was putting my top shirt over it, my uniform shirt.

Modzelewski: Chris I, I guess I'm going to ask the next question is that if you are there innocently with this friend of yours and you're trying to do deed, a good deed, and help her out ah, why, why panic and have her hide in the closet or why does she hide in the closet and why are all the lights out?

Nowviskie: I asked myself that question everyday. Why did I panic, it's not in my nature. I just did. I know when Tim walked in, I, Tim, ah, I respect the guy. Tim makes me nervous. He always has, he always will. I, I just, I can never ever, ever, ever do anything correct when he's around. I don't care what it is. Two plus two is five when he's around. I will, you know, and it's, it's been that way my whole career, he makes me nervous. Ah, ah, as far as you know, I wish that I would have. I mean it just, it would have, I wasn't doing anything wrong and it just you know, it looks like I did and it's embarrassing. And plus the fact that I'm married and it would, how would that looked if he walked in.

Modzelewski: Have you ever helped a female motorist out before?

Nowviskie: Ah, I'm sure I have, in this job probably all the time.

Modzelewski: How long have you been a police officer?

Nowviskie: Ten years, twelve years, ten years something like that.

Modzelewski: You've worked down on the beach right?

Nowviskie: Yeah.

Modzelewski: You've helped females out before.

Nowviskie: I've helped a lot of people out.

Modzelewski: How long have you known this young lady?

Nowviskie: Since high school. Early eighties, we went to the same high school. I know her brother. I know her father.

Modzelewski: How well do you know her?

Nowviskie: Ah.

Modzelewski: Just friends?

Nowviskie: Just friends.

Modzelewski: Good friends?

Nowviskie: Yeah just friends, we've known each other forever. I mean there's not, not a whole lot of us left. We went to a real small high school.

Modzelewski: Ah hum.

Nowviskie: And ah,

Modzelewski: Socialize together?

Nowviskie: In back in high school growing up, yeah small town.

Modzelewski: Okay, when was the last time that you saw her before this particular incident?

Nowviskie: Ah, probably about three days before that, I was actually working day shift in Ormond and she works ah, she cleans houses and I saw her on one of the beach approaches from she was working at one of the houses there on the beach, when I was pulling the sign I saw her.

Modzelewski: Talk to her frequently on the phone?

Nowviskie: Brief, every once in a while. I actually called her one time to I know she use to work on ah, she use to, she has some contacts with commercial fisherman and I had contacted her at one time about finding someone to donate a fishing trip to ah, ah, program, it's a charity. Ah, I'm a little nervous right now. Ah, the make a wish foundation.

Modzelewski: Okay. So she occasionally calls you?

Nowviskie: Yeah I would talk to her every, okay, I would see her occasionally; I would talk to her occasionally.

Modzelewski: But she's running out of gas so she thinks to call you? Did you talk to her after she left?

Nowviskie: Yes I did.

Modzelewski: On your personal cell phone or county phone?

Nowviskie: Ah, my personal cell phone was dead.

Modzelewski: Did you call her or did she call you?

Nowviskie: I, I might have called her, she probably called me back. I'm not sure, I don't remember. Ah, I got nervous after, after the whole incident and ah, and then plus she was still, she was still real upset. She's, she's, she's a friend, ah, she has some issues. Ah, I won't say emotional issues but you know she gets ah, she gets upset. She was very upset that night. Financial problems kind of, I remember that being the topic.

Modzelewski: She discussed her financial problems with you that night?

Nowviskie: No just told me she was broke.

Modzelewski: Where she live at?

Nowviskie: Right now I think she lives on Fifteenth Street in Holly Hill.

Modzelewski: Do you know her mom and dad?

Nowviskie: I've, I mean I knew them back i (inaudible) talk to them since high school. Her brother was a year older we all went to Lopez. And ah I think there was four kids. And ah, but like I know her brother use to work at where I use to get my car repaired. But other than that I don't know them very well.

Modzelewski: So you talked with her after this particular incident occurred, what did you talk to her about?

Nowviskie: I, I don't recall. I told her I was you know, you know just about, about being you know, about being in the station and you know about almost getting in trouble and I don't really recall what else. She was complaining that her back was hurting, she's having real bad back problems. She was asking me about what to do about you know muscle spasms in her back and things like that. I remember that being part of the conversation.

Modzelewski: Okay did you call anybody else that night?

Nowviskie: Ah, yeah I called, I called Jecoa.

Modzelewski: Okay.

Nowviskie: Jecoa Simmons.

Modzelewski: What did you call him for?

Nowviskie: Ah, just to tell him what happened?

Modzelewski: He's a supervisor isn't he with the beach?

Nowviskie: He's a supervisor. Jecoa and I are, are very close friends and I didn't call you know him as a supervisor. I called him while I knew he was working.

Modzelewski: You actually are very good friends aren't you?

Nowviskie: Very good friends, yes.

Modzelewski: Real close?

Nowviskie: Jecoa and I almost died together. We have a friendship that is, that is pretty strong.

Modzelewski: Okay. So you called Simmons, and what you tell Simmons?

Nowviskie: I just told him that I almost got busted with a girl, with [REDACTED] in the station. And he asked what happened. I said Tim walked in, said I'd of got busted if he was there and something to that effect.

Modzelewski: And then you told him just what was happening?

Nowviskie: Yeah.

Modzelewski: That she just needed, ran out of gas?

Nowviskie: Yeah.

Modzelewski: And she needed help?

Nowviskie: Yeah.

Modzelewski: Cause that's not what Simmons says.

Nowviskie: Well I told him that, I mean I don't remember the whole conversation that I had with him. I mean it was, I told him I almost got busted and, and I don't remember what else really.

Modzelewski: But he's your best buddy and he's your supervisor and I mean.

Nowviskie: You know, that doesn't we talk about a lot of things. I mean not just yeah he is my best, I'd say one of my best friends. It's, it's not a best friend type of situation. It's, it's a connection that he and I have. And we kind of refer to each other as brothers. And we'll go six months without saying without talking on the phone and we'll go six months where we're talking on the phone ten times a day. It very interesting relationship, ah, like I said I, he's more, I, I, I refer to him as more of a brother than my brothers are, and it's just because of the connection we have and the fact that we nearly died together, you know.

Modzelewski: All right so you have this incident where you have one supervisor come in and you're fearful of him because you're nervous of him, with him and you don't disclose to him that you have anybody there. And ah, then you go and call another supervisor and you, you don't disclose to him that you had a female there that you were just trying to help out financially?

Politis: Objection he just told you he did.

Modzelewski: I'm just asking him again.

Politis: Okay, he's asking the same question.

Nowviskie: I don't understand the question what, what?

Modzelewski: I guess I'm trying to understand that, that you talked with, you didn't disclose to Cunningham that you had a female that you were trying to assist. And you didn't disclose to Simmons that you had a female that you were trying to assist and you didn't call dispatch to tell them that you were trying to assist. So I guess I'm confused why?

Nowviskie: I, I, I don't know, I mean it was just a person issue, it was taken care of. I mean I have different relationship with Captain Cunningham then I do with, with Jecoa.

Modzelewski: So the young lady discussed her, her financial difficulties with you. Did she say tell you that she had a suspended driver's license at the time?

Nowviskie: No, ah, she had contacted me a long time ago, I mean we're talking probably a year something like that. And she thought that her license was suspended and I checked it on DAVID and told her that it wasn't, this was way back. This was going back to probably a couple of years.

Modzelewski: But you didn't know that it was suspended at the time?

Nowviskie: No, no I did not.

Modzelewski: Okay so you talked to her right after that incident occurred. Have you talked with her since?

Nowviskie: Ah, I've talked with her a couple time since, yes.

Modzelewski: About this particular incident?

Nowviskie: I told her that I was being investigated for her being at the station.

Modzelewski: Did she tell you that I've been trying to get in touch with her.

Nowviskie: She said that she's had a couple of miss calls. But she, I haven't talked with her about anything in particular. I just told her that I was being looked at and I said they'll probably going to try and contact you.

Modzelewski: And she didn't tell you that her mom said that she ah, was going to give me a call?

Nowviskie: No she didn't.

Modzelewski: Any particular reason why she's been avoiding contact with me.

Nowviskie: [REDACTED] is kind of an under the radar type person. Ah, I, I don't know. Ah, you know, she's, she's like I said I guess the best way to describe her is somewhat under the radar.

Modzelewski: So you've known her a long time and you've been friends. Ah, does she get along with mom and dad?

Nowviskie: I don't know.

Modzelewski: Ever discuss with you problems that she was having?

Nowviskie: No.

Modzelewski: Okay.

Nowviskie: Nothing, nothing of the sort.

Modzelewski: Didn't discuss that but did talk to you about her financial issues.

Nowviskie: Said she was broke.

Modzelewski: What kind of car does she drive?

Nowviskie: Ah, red Nissan, red Toyota. Might be a maybe it's a Nissan.

Modzelewski: Okay so you had a couple conversations with her. You had one with Simmons right after the event. Talk to anybody else?

Nowviskie: No.

Modzelewski: Did you work through that the rest of the shift?

Nowviskie: Yes.

Modzelewski: And you only, how many times did you talk with her during that entire shift (inaudible)?

Nowviskie: I, I don't, probably a couple of times. I know she said that she was having problems with her back. And I told her well call me back if you're, you know, if you're having continue to have problems. She was I know she was referring to having muscle spasms in her back. And I was being

treated for the same thing, so I was trying to tell her what to do, how to handle it.

Modzelewski: Ever loaned her money before?

Nowviskie: If I had it like probably a couple of bucks. I don't recall.

Modzelewski: Ever meet her at the station before?

Nowviskie: No.

Modzelewski: You mentioned you're married. Your wife works here for the Beach Department doesn't she?

Nowviskie: Yes she does, yes.

Modzelewski: Does she know her?

Nowviskie: Not personally.

Modzelewski: Has she ever met her?

Nowviskie: Ah, possibly on the beach, in a, in a social atmosphere.

Modzelewski: Okay. Tell me a little bit about beach policies when ah, when you're in fact out of your vehicle. You're on duty at night time ah, and from what I understand you have a north officer and a south officer.

Nowviskie: Ah hum.

Modzelewski: And you're one of those two officers.

Nowviskie: Yes.

Modzelewski: In this particular case. And ah, you have your patrol zones. Now do you interact with that other officer throughout the night?

Nowviskie: Yes I do.

Modzelewski: Okay, who was that other officer?

Nowviskie: Should have been Rick, Rick Urqhart.

Modzelewski: And would have ah, when you were going to get out of your particular patrol vehicle and, and you were going to be at that particular station. Did you call your partner and let me know you're gonna?

Nowviskie: No, not for something like that, no.

Modzelewski: What, is there a procedure that when you're out of your vehicle or when you are going to take a break or use the bathroom that you call dispatch and say hey I'm going to be off the radio or I'm going to be 10-6, I'm busy. Ah, I mean...

Nowviskie: I worked night shift for a long time. And you'll work three night shifts in a row and each night shift will be different. I mean you have your standard guidelines, you know, not so much guidelines, but you know, everybody has a, has a system. You know and I had my system. Ah, I remember that night in particular having. I've been on light duty for a long period of time. In that time frame of me being on light duty, a lot of things have changed in the MBC System, computer system. So it was really hard for me to find a computer. Ah, that was one of the reasons I was going to Ormond because I knew since I had worked in that zone, that I would be able to get a computer that, that should work for me and that you know that didn't, that I assumed would work for me. Ah, as far as any citizen encounters, any law enforcement calls, if I was getting out and checking a building, doing an extra patrol, you would always logs those kind of things. To get out go to the bathroom, go to the station, grab something to eat. You know as long you know, if it's one of the stations now cause you know you do that from time, depending on the weather, depending on the crowds, depending on conditions. I mean there's just no two nights are usually the same. Early, early in the shift ah, you know, just check your stuff and make sure it's you know everything secured and then kind of wait around til later on in the night when it tends to get busier, you know.

Modzelewski: When ah, when you're on duty and a situation occurs that's not typical, unusual, or suspicious incident, unusual incident, do you write a report?

Nowviskie: Yeah, I'm real good about writing reports. I don't like doing them but, but.

Modzelewski: So you wrote a report about this incident?

Nowviskie: No it wasn't really out of the ordinary.

Modzelewski: But you called your, your friend Simmons and told him you got busted.

Nowviskie: It was personal thing it wasn't ah, you know and I just want to go on record and say that I had ah, I thought the next day and for the next couple of days, I said you know it just kind of stuck in my head and I thought you know I need to call Tim and I just need to call him and kind of explain myself because I just had this weird feeling that he got the wrong idea or

just something that wasn't right. And I had this, this, you know, this kind of thought in my mind to do that.

Nowviskie: And at the time also this was four five days leading up to an event that I was volunteering at that was very, very, very time consuming and so it kind of just got swept aside and I moved forward with my you know, event and my project that I was working on, on a personal level. Ah, but something like that I'd probably wouldn't written a report on regardless, I mean it was just a simple little thing somebody I know and in hind sight I wish I would have.

Modzelewski: Never wrote a report two or three days later?

Nowviskie: No.

Modzelewski: Talk to Sweat your director about it?

Nowviskie: Ah, not, no, not in, no I never talked with Kevin about it until I was served the papers for Bobby. I, the longer it went on and I just nothing became of it.

Modzelewski: Okay I don't have any other questions.

Politis: I just have a few points of clarification.

Modzelewski: Certainly.

Politis: One is what was the volunteer event that had consumed your time period that kind of got you off track with regards to talking to Captain Cunningham?

Nowviskie: It was ah, I, I was the event manager for the Volusia Surf Lifesaving Association. Ah, it was there was, we were running, we were running a charity raffle in ah, in a large event called Winter Jam in which I was volunteering my time at.

Politis: Inside the station where you were at whether you were located in the radio room or in the weight room or in that front room where the door entrance is. You previously described that the TV was on, that a computer terminal was on. Ah, describe to Captain Modzelewski kind of, is this enough lightening. Is this you know, is there's a claim by Captain Cunningham that it was pitched black dark, so describe to him the environment ah, that you were in.

Nowviskie: When I work and I'm trying you know the night in question I mean I'm just trying to think I, we all I have routines. Ah, when I work night shift I would you know that would I'd always work the north end that would be the station, when I was had any down time that's where I would be.

Nowviskie: Ah, I would turn off the big overhead light because it's really bright, I would leave the TV on and I would sit back here in this back room where I wouldn't be able to be seen from the public if anybody walked by and say what's this you know, I'm a tax payer what are you doing sitting here watching television. Ah, so I would normally sit in that back room and watch the TV through, through the door. Ah, the ah, ah you know, the ah so other then dark I mean the lights were on in here in this room.

Politis: Okay so the lights were on in the weight room.

Nowviskie: Yeah.

Politis: Okay. And I guess my question was that you didn't answer which I'm going to get you to answer is with the computer terminal on and with the TV on, is there enough light in this particular area that you interacted with Captain Cunningham, adequate enough light to walk around know what's going on, see faces?

Nowviskie: Oh, absolutely, yeah absolutely yeah absolutely.

Politis: Okay.

Nowviskie: I have nothing further.

Modzelewski: Okay. Okay, we'll go ahead and, we're going to go ahead and go off the record. Ah, we're at the same place ah, same date. Time is approximately ah, 1611 hours and we're going to go ahead and go off the formal record.

(Tape recording devices off)