

INTERVIEW OF JACEK KAPKA

Date: March 2, 2005

Held at 10th floor Confederation

Building, 457 Main Street,

Winnipeg, Manitoba

1 WEDNESDAY, MARCH 2, 2005

2 Upon commencing at 10:52 P.M.

3
4 **SERGEANT GIRARD:** The date is
5 March 2nd, 2005, the time is 10:52 p.m. We are in
6 interview room number one of the Professional
7 Standards Unit Offices on the 10th floor of the
8 Confederation Building, 457 Main Street in
9 Winnipeg. My name is Detective Sergeant Roger
10 Girard and also present is Sergeant Con Pearson.
11 For the purpose of voice recognition, please
12 identify yourself by name?

13 **SERGEANT PEARSON:** Con Pearson.

14 **SERGEANT GIRARD:** We are both members
15 of the Professional Standards Unit. And this is
16 an interview of Constable Jacek Kapka regarding
17 Professional Standards Unit file number 05-017.
18 For the purpose of voice recognition, can you
19 please identify yourself by full name and badge
20 number?

21 **CONSTABLE KAPKA:** The first name is
22 Jacek, J-A-C-E-K, last name is Kapka, K-A-P-K-A,
23 badge number 1516.

24 **SERGEANT GIRARD:** I will remind you
25 that in accordance with service policy, our

1 conversation is being recorded, and for that
2 purpose this evening we are using an Olympus
3 DS4000 digital recorder.

4 I guess just a little bit of
5 background about this matter; we attended to
6 district 3, we have been speaking with your shift
7 supervisors for the last day or two, about the
8 last day, and with Inspector McCaskill in order to
9 arrange this. We were at your district station
10 last night and delivered a bunch of memos for
11 pretty much everybody on your shift that we wanted
12 to speak with in regards to this. And in that
13 memo, it gave a very brief nature as to what this
14 was about, that being the incident on
15 February 24th, I believe it was, overnight into
16 the 25th, regarding the accident involving
17 Constable Derek Harvey-Zenk. And in that memo it
18 just said that we would arrange the interviews
19 through the shift supervisor. So we contacted
20 your supervisor tonight and he said, yeah, we will
21 send down these two officers first. You arrived a
22 short time ago, brought you up to the office, met
23 you downstairs, and then explained the preamble to
24 you, let you have a look at it. You didn't have
25 any questions and so then we started the recorder.

1 Is that an accurate account of what has taken
2 place prior to me turning the recorder on?

3 **CONSTABLE KAPKA:** That's correct. How
4 loudly do I have to speak?

5 **SERGEANT GIRARD:** Your normal voice is
6 fine, it is a pretty good microphone.

7 It is our practice to ensure that
8 members understand their status when being
9 interviewed, and I remind you that you are being
10 interviewed as a witness in this matter.

11 **CONSTABLE KAPKA:** That's correct.

12 **SERGEANT GIRARD:** This statement may
13 be used in any criminal, civil or service
14 proceeding, or it may not be used any proceeding
15 at all.

16 Were any threats made to you or any
17 promises or hopes of reward offered to you in
18 relation to providing this statement?

19 **CONSTABLE KAPKA:** No, they haven't. I
20 have not received any promises or threats.

21 **SERGEANT GIRARD:** Okay. Was anything
22 said to you by anyone that would influence what
23 you might say to us in this statement?

24 **CONSTABLE KAPKA:** No.

25 **SERGEANT GIRARD:** Okay. I guess what

1 I will ask then is --

2 **CONSTABLE KAPKA:** Can I ask a
3 question?

4 **SERGEANT GIRARD:** Certainly.

5 **CONSTABLE KAPKA:** Is this being video
6 recorded?

7 **SERGEANT GIRARD:** No, that is strictly
8 the digital voice recorder. So I think what I
9 will do, I will ask you to -- February 24th, I
10 believe you were working evening shift in district
11 3, and it is my understanding that quite a few
12 people on your shift took EDL. So if you could
13 just explain to us or relate to us what happened
14 that evening when you took EDL and beyond that?

15 **CONSTABLE KAPKA:** Actually, that
16 evening I was working district 2 with Constable
17 Neumann, Brian Neumann. I left at approximately
18 12:30 or so and went to Branigan's, where I was
19 for approximately 30 to 40 minutes, and then I
20 went home.

21 **SERGEANT GIRARD:** Okay. So your EDL,
22 did you take that from district 2 station or did
23 you drive back to district 3 and take it from
24 there?

25 **CONSTABLE KAPKA:** No, we ended up with

1 an incident which occurred in district 2, as we
2 were assigned to district 2, however the accused
3 person lived in district 3. There was supposed to
4 be another person who was supposed to be arrested,
5 and we basically transported the arrested person
6 to district 3 where we dealt with her.

7 Subsequently she was released, and as we couldn't
8 locate the other co-accused, I typed part of my
9 report, and since I couldn't do anything else, I
10 left.

11 **SERGEANT GIRARD:** Okay.

12 **CONSTABLE KAPKA:** Initially I phoned,
13 because technically I was under district 2
14 Sergeant, so I contacted him and let him know, if
15 that's okay, if he still requires us, and he gave
16 us permission to leave.

17 **SERGEANT GIRARD:** Okay. I'm sorry, I
18 don't know if you said that or not, but who were
19 you working with that night?

20 **CONSTABLE KAPKA:** Constable Neumann,
21 Brian Neumann. I don't know his badge number.

22 **SERGEANT GIRARD:** And you said that
23 you took EDL at what time?

24 **CONSTABLE KAPKA:** That was 12:30.

25 **SERGEANT GIRARD:** Okay.

1 **CONSTABLE KAPKA:** I am looking for his
2 badge number, just a second, 2355, Brian Neumann,
3 2355.

4 **SERGEANT GIRARD:** Okay. So you said
5 that when you took EDL you went to Branigan's?

6 **CONSTABLE KAPKA:** That's correct.

7 **SERGEANT GIRARD:** Which Branigan's
8 location was that?

9 **CONSTABLE KAPKA:** On Leila.

10 **SERGEANT GIRARD:** And what time did
11 you get there, roughly?

12 **CONSTABLE KAPKA:** It would have taken
13 approximately ten minutes or so.

14 **SERGEANT GIRARD:** So sometime before
15 quarter to 1:00?

16 **CONSTABLE KAPKA:** No, I would say I
17 was there between 12:30 to five to.

18 **SERGEANT GIRARD:** Okay. And you
19 stayed about 30 or 40 minutes you said?

20 **CONSTABLE KAPKA:** Yeah -- yeah, 30 to
21 40 minutes, yeah. Honestly I can not really tell
22 you what time I left.

23 **SERGEANT GIRARD:** Sure.

24 **CONSTABLE KAPKA:** That's an accurate
25 description of how long I would have stayed there.

1 **SERGEANT GIRARD:** Okay. Who was all
2 there at Branigan's when you got there?

3 **CONSTABLE KAPKA:** I don't really know
4 who was there. I can only tell you --

5 **SERGEANT GIRARD:** The people you knew
6 from work, I guess?

7 **CONSTABLE KAPKA:** There was Chris
8 Humniski. There was Ken Azaransky. There was
9 Sean Black. There was Norbert Bauer. There was
10 Jimmy Anderson, Ted Michalik, Al Williams, Brian
11 Neumann. You know what, obviously I assume you
12 have been asking about Harvey-Zenk. Where I was
13 sitting, I didn't see him. As a matter of fact, I
14 even asked Chris, where is Brian, Brian, because I
15 just didn't see him, Brian Neumann. But I know he
16 was there. There was Kelly McLure. Just to be
17 honest, because I haven't really spoken to every
18 one of them, so I may not remember. Not that I
19 don't want to tell you their names, it is just --

20 **SERGEANT GIRARD:** No, no, I
21 understand. That's fine.

22 **CONSTABLE KAPKA:** It is just --

23 **SERGEANT GIRARD:** Just so you know, we
24 really can appreciate that this is a very
25 traumatic incident for everyone on your shift. So

1 that's not lost on us, so we do understand as best
2 as you can --

3 **CONSTABLE KAPKA:** I understand that
4 too, but I'm here to tell you what happened. I
5 understand my job too as well as I understand your
6 job. So, you know, I'm just trying to think.
7 There was Tracy Fudge, Kelly McLure, and Marnie, I
8 forgot her last name.

9 **SERGEANT GIRARD:** She is on your
10 shift?

11 **CONSTABLE KAPKA:** Yeah, Marnie, and
12 who else -- that would be the people that I
13 remember.

14 **SERGEANT GIRARD:** Okay. Did you see
15 Jay Nolet there?

16 **CONSTABLE KAPKA:** Yeah, yeah, I think
17 he was there, yeah.

18 **SERGEANT GIRARD:** Okay. At any time
19 when you were there, did you see Derek
20 Harvey-Zenk?

21 **CONSTABLE KAPKA:** You know, Derek --
22 honestly, there were two tables, I was sitting at
23 one table. I wasn't sitting at the table where he
24 was. I know he was there, but I honestly didn't
25 really have any interaction with him and I was at

1 no point looking for him or trying to talk to
2 anyone there.

3 **SERGEANT GIRARD:** Okay.

4 **CONSTABLE KAPKA:** Again, I mostly
5 talked to Chris Humniski because I was sitting by
6 him. And at that time, it wasn't really that
7 important for me to talk to someone else.

8 **SERGEANT GIRARD:** Okay. That's fair.
9 Whereabouts in the restaurant were you guys
10 sitting?

11 **CONSTABLE KAPKA:** Sitting in the
12 southeast corner of the restaurant.

13 **SERGEANT GIRARD:** Okay. Was there --
14 was this a pre-planned event, like to go to
15 Branigan's after work that day, or was it
16 something that just kind of happened spur of the
17 moment?

18 **CONSTABLE KAPKA:** You know what, I'm
19 not really into socializing on the job, I mean
20 with the people on the job. I found out at one
21 point, like I said, when I was leaving, that guys
22 are going to Branigan's, at which point I was
23 asked to come too.

24 **SERGEANT GIRARD:** Okay.

25 **SERGEANT PEARSON:** You were asked that

1 night just before --

2 **CONSTABLE KAPKA:** That's correct, yes.

3 You know what, I'm not sure you can appreciate
4 that, but there is a sort of a, like I can call it
5 generation gap between me and the other people on
6 the shift.

7 **SERGEANT GIRARD:** Oh, yes, we can
8 appreciate that for sure. In fact, after all of
9 those years of waving at cruiser cars and knowing
10 who was in them, who was in the car, now I don't
11 recognize anyone.

12 Okay. Now, was everybody -- was there
13 food being served, was anybody -- basically, you
14 know, I will cut to the chase basically -- was it
15 a case where there was just alcohol being served
16 or was there food being served as well, or snacks
17 or --

18 **CONSTABLE KAPKA:** There was food,
19 yeah. I'm not sure what people had, but mostly
20 chicken wings.

21 **SERGEANT GIRARD:** Okay.

22 **CONSTABLE KAPKA:** That restaurant is
23 sort of known for that.

24 **SERGEANT GIRARD:** Okay. Were you the
25 first person to leave?

1 **CONSTABLE KAPKA:** I don't know if I
2 left first or which, at which point I left, but I
3 normally sort of gab and I didn't figure anyone
4 wanted to talk.

5 **SERGEANT GIRARD:** Most of the people
6 that you named as having been there with you, were
7 they there when you left?

8 **CONSTABLE KAPKA:** You know, I know
9 Brian Neumann left because I saw him. I might
10 have seen -- I don't recall this for sure, but I
11 might have spoken to him because we worked that
12 night together and I knew that he is going on a
13 course, which he won't be back with the shift
14 until March 18th. And I know that Al Williams
15 left prior to me.

16 **SERGEANT GIRARD:** Okay. All right.
17 At any time while you were there, did you notice
18 what Derek was drinking or eating?

19 **CONSTABLE KAPKA:** No.

20 **SERGEANT GIRARD:** Okay. Where -- you
21 said there was two tables, right, side-by-side I
22 take it?

23 **CONSTABLE KAPKA:** No, it is -- we were
24 sitting at the regular table, and a bunch of
25 people were sitting on a much higher table, sort

1 of they were sitting at the much higher table,
2 they were sitting on stools. I assumed it was
3 stools because, you know -- that's why when I ask
4 Chris if he perhaps saw Brian, I couldn't see him,
5 and I know that he was at the other table.

6 **SERGEANT GIRARD:** Brian was?

7 **CONSTABLE KAPKA:** Brian, because I
8 didn't see him sitting around me.

9 **SERGEANT PEARSON:** Okay. Was Derek at
10 that other table, the taller table as well?

11 **CONSTABLE KAPKA:** I would assume so,
12 yes.

13 **SERGEANT GIRARD:** Okay. He wasn't at
14 the one that you were at?

15 **CONSTABLE KAPKA:** He wasn't at the one
16 I was at.

17 **SERGEANT GIRARD:** Okay.

18 **CONSTABLE KAPKA:** The way it was, he
19 was sitting at the small, at the regular table,
20 and the other table is little bit sort of south of
21 the regular table, people are facing the window.
22 I can only see their backs.

23 **SERGEANT GIRARD:** Okay.

24 **CONSTABLE KAPKA:** You know, that's why
25 I was asking where Brian is, because I saw some

1 people's backs, unless someone turned towards me,
2 then I would see them.

3 **SERGEANT GIRARD:** Okay. So this
4 raised table then, was that like by a window or by
5 a wall?

6 **CONSTABLE KAPKA:** Yes.

7 **SERGEANT GIRARD:** So everybody that
8 was sitting at it was facing away from you?

9 **CONSTABLE KAPKA:** Not everyone, some
10 people would be facing me, however, I couldn't see
11 who was facing me because I had people --

12 **SERGEANT PEARSON:** Because you had a
13 row of backs to you there, okay. So it wasn't
14 like two tables put together, like one party, it
15 was like two separate gatherings?

16 **CONSTABLE KAPKA:** You know, when I
17 came, I came quite late, so that was the
18 arrangement at the time.

19 **SERGEANT PEARSON:** Okay.

20 **SERGEANT GIRARD:** Okay. And so when
21 you left, you left on your own?

22 **CONSTABLE KAPKA:** I left by myself,
23 yes.

24 **SERGEANT GIRARD:** And you went home
25 from there?

1 **CONSTABLE KAPKA:** That's correct.

2 **SERGEANT GIRARD:** Okay. Anything,
3 Con?

4 **SERGEANT PEARSON:** When you left, you
5 paid for your own drinks yourself?

6 **CONSTABLE KAPKA:** That's correct, I
7 paid for whatever I owed.

8 **SERGEANT PEARSON:** Yeah. Do you know
9 if everybody else was doing this or they just had
10 one group tab going on?

11 **CONSTABLE KAPKA:** You know what, I
12 can't, honestly, I can't tell you that. I just
13 don't know. You know, I left, went to the
14 waitress, and I was gone.

15 **SERGEANT PEARSON:** That's fine.

16 **SERGEANT GIRARD:** So then just to get
17 the time line then, so roughly sometime between
18 about 20 to 1:00 and ten to 1:00 you arrived?

19 **CONSTABLE KAPKA:** That's right.

20 **SERGEANT GIRARD:** So it would have
21 been sometime around 1:30 when you left, give or
22 take some time?

23 **CONSTABLE KAPKA:** Give or take. You
24 know what, I --

25 **SERGEANT GIRARD:** I'm not trying to

1 pin you down.

2 **CONSTABLE KAPKA:** You know, I have
3 nothing to hide here anyway. But that's what I
4 would say, you know, let's say between, I would
5 have left between 1:30, and the latest would have
6 been 1:45, but I imagine the real time period when
7 I left, the time frame would be 1:30 to 1:45.

8 **SERGEANT GIRARD:** And at that point
9 did you hear anything about last call or that they
10 were closing done or anything like that?

11 **CONSTABLE KAPKA:** No.

12 **SERGEANT GIRARD:** Okay.

13 **SERGEANT PEARSON:** Just to clarify
14 with Derek, was his back towards you?

15 **CONSTABLE KAPKA:** You know what, I
16 don't --

17 **SERGEANT PEARSON:** You didn't go over
18 there, right?

19 **CONSTABLE KAPKA:** You know, that's the
20 thing, is now we are sort of talking about him
21 because of this incident. But when I went there,
22 I wasn't really looking who was there. At one
23 point I was sort of wondering where was Brian,
24 because he was working with me, and I didn't see
25 him.

1 **SERGEANT PEARSON:** Okay.

2 **CONSTABLE KAPKA:** You know, I'm not
3 that much of a social, like a person for
4 socializing, so I was just concentrating on the
5 people with me. And at one point I asked someone
6 where is Brian. And whether his back was towards
7 me or his face would have been, I honestly don't
8 know.

9 **SERGEANT PEARSON:** Okay. Was that the
10 same for Derek as well, you didn't notice him
11 there?

12 **CONSTABLE KAPKA:** No, Derek I never
13 noticed. Eventually I noticed Brian because his
14 back was towards me.

15 **SERGEANT PEARSON:** And with Derek, did
16 you notice, if he was intoxicated at that time,
17 did you notice anything at that time?

18 **CONSTABLE KAPKA:** I never seen him
19 there so.

20 **SERGEANT PEARSON:** That's a question
21 that I just have to ask.

22 **CONSTABLE KAPKA:** You know, as I said
23 I know where you are coming from and I know what
24 you expect from me.

25 **SERGEANT PEARSON:** Just what you know.

1 **CONSTABLE KAPKA:** Yes, I will tell you
2 the truth.

3 **SERGEANT PEARSON:** We have to ask
4 these questions of everybody, so they are going to
5 seem a little pointed, and we just want a direct
6 answer back and that's all we want.

7 **CONSTABLE KAPKA:** I know where you are
8 coming from. You guys have to do your job.

9 **SERGEANT GIRARD:** I don't think I have
10 any other questions. Okay. Do you have knowledge
11 of any other information that we haven't covered
12 in this but that you think might be important?

13 **CONSTABLE KAPKA:** Not really.

14 **SERGEANT GIRARD:** Anything else you
15 want to say before we stop the tape?

16 **CONSTABLE KAPKA:** No, I have nothing.

17 **SERGEANT GIRARD:** Okay. The interview
18 is concluded. The time is 11:11 p.m. and I'm
19 turning the recorder off.

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1
2 OFFICIAL EXAMINER'S CERTIFICATE
3
4
5

6 I, CECELIA REID, a duly appointed Official
7 Examiner in the Province of Manitoba, do hereby
8 certify the foregoing pages are a true and correct
9 transcript of an audio recording of the above
10 interview of Constable Kapka to the best of my
11 skill and ability.
12
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14

15 -----
16 Cecelia Reid

17 Official Examiner, Q.B.
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