

BRAIDWOOD INQUIRY

IN THE MATTER THE THOMAS R. BRAIDWOOD, Q.C., COMMISSIONS OF INQUIRY UNDER THE *PUBLIC INQUIRY ACT*, S.B.C. 2007, c.9

CLOSING SUBMISSIONS OF THE CITY OF RICHMOND

I. Introduction

1. In the early morning of October 14, 2007, the Richmond Fire and Rescue (“RFR”) No. 4 Fire Hall was dispatched to Vancouver International Airport (“YVR”) on a medical assignment. Captain Kirby Graeme and the three firefighters on his crew, Firefighter Glen Cameron, Firefighter Sonia Duranleau and Firefighter Brent Kopp, (collectively, the “Richmond Firefighters”) responded to the dispatch which, unbeknownst to them at the time, involved the tasing of Mr. Dziekanski.

2. From the moment they received the dispatch to the moment they finished assisting the BC Ambulance Service (“BCAS”) in attempting to resuscitate Mr. Dziekanski, the Richmond Firefighters acted reasonably, in accordance with their training, and most importantly, in the best interests of the patient, Mr. Dziekanski. In particular, as will be discussed below, the Richmond Firefighters responded promptly to the dispatch and assumed control of Mr. Dziekanski for less than two minutes prior to the arrival of the Basic Life Support (“BLS”) paramedics. During that time they made two unsuccessful requests to the RCMP to have the handcuffs removed from Mr. Dziekanski, determined that Mr. Dziekanski was unresponsive, not breathing and had no pulse, and were preparing to initiate CPR and Automatic External Defibrillator

("AED") protocols. It was at that point that the BLS paramedics arrived and, together with the Richmond Firefighters, began the CPR and AED protocols.

II. Background of Richmond Firefighters

3. Captain Graeme joined RFR as a firefighter in June of 1986 and was promoted to Captain in May of 2007. This promotion involved Captain Graeme spending 30 months in the Training Division, where he filled the roles of Acting Captain and Training Division Captain. On October 14, 2007, he was the Suppression Captain at RFR No. 4 Fire Hall and supervised the three Firefighters that made up his crew. His duties, when responding to medical assignments, are to conduct a scene assessment to ensure the safety of his crew and to oversee his crew's actions.

Transcript of Kirby Graeme, January 27, 2009 ("Graeme, Jan 27"), p. 32-33; p. 38 lines 16-24

Transcript of Kirby Graeme, January 28, 2009 ("Graeme, Jan 28"), p. 1-2; p. 21 lines 32-36

4. Firefighter Brent Kopp has been employed by RFR since 1995. On October 14, 2007, he was assigned to drive the fire truck. When responding to the medical assignment involving Mr. Dziekanski, he drove the truck to YVR and, pursuant to protocol, remained in the truck and monitored the radio until Captain Graeme asked him to assist with CPR, after which he left the truck and came to assist.

Transcript of Brent Kopp, February 18, 2009 ("Kopp, Feb 18"), p. 23-24

5. Firefighter Sonia Duranleau joined the RFR in August of 2007. Prior to that, she had trained for three months in Maple Ridge. Two weeks of that training concentrated on first aid. On October 14, 2007 Firefighter Duranleau was a Probationary Firefighter and the P2 Designate. A P2 Designate is chosen at the beginning of each shift and is the person who is responsible for the initial analysis and assessment of patients.

*Transcript of Sonia Duranleau, January 28, 2009 ("Duranleau, Jan 28"),
p. 58-59; p. 61 lines 39-45*

Graeme, January 27 p. 36 lines 4-14

6. Firefighter Glen Cameron became a firefighter in 1991. On October 14, 2007, he was the P1 Designate, which means that he assisted the P2 Designate in responding to medical assignments.

*Transcript of Glen Cameron, February 18, 2009 ("Cameron, Feb 18"), p. 30
Duranleau, Jan 28, p. 61*

7. Each of the Richmond Firefighters are certified as Level 3 First Responders. The BLS paramedics' training is a step above First Responder Level 3. BLS paramedics have a higher level of training and, in Firefighter Cameron's words, would be "dealing with more of this [type of situation]".

*Graeme, Jan 27, p. 34-36
Cameron, Feb 18, p. 34 lines 35-39*

8. The First Responder Level 3 training includes first aid training, as well as the use of oxygen, the AED and CPR. When the Richmond Firefighters responded to the call involving Mr. Dziekanski, they brought oxygen equipment, the AED and two first-responder kits to the scene.

*Duranleau, Jan 28, p. 59 lines 27-33; p. 60 lines 32-33
Cameron, Feb 18, p. 56 lines 16-19*

III. Dispatch and Arrival of Richmond Firefighters at YVR

9. At 1:34:29 a.m., the Richmond Firefighters were dispatched to a medical assignment at YVR. The dispatch informed them, via a rip-and-run sheet, that the

assignment involved a 40-year old, collapsed male. The Richmond Firefighters immediately prepared themselves, got in the fire truck and made their way to YVR.

Graeme, Jan 27, p. 36 lines 18-47

10. Just over six minutes later, at 1:40:57 a.m., the Richmond Firefighters arrived curbside at YVR. There was no traffic or other situation that delayed their arrival. The erroneous notation otherwise on Exhibit 13, Captain Graeme's Incident Report, was a result of Captain Graeme not being aware that there were other options available in the computer-generated drop-down box for explaining why the time spent enroute exceeded five minutes.

Graeme Jan 27, p. 46 lines 17-36; p. 63 lines 29-31

Kopp, Feb 18, p. 24 lines 16-18

Exhibit 13

11. Captain Graeme, Firefighter Cameron and Firefighter Duranleau entered the International Arrivals area of YVR at 1:42:00 while Firefighter Kopp remained in the fire truck.

Evidence from YVR Video, February 2, 2009 ("YVR Video, Feb 2"), p. 8 line 36

12. As they entered, the three Richmond Firefighters proceeded directly towards Mr. Dziekanski. It took them about 30-40 seconds to cross the approximately 40 metres that lay between the entrance and Mr. Dziekanski. They walked towards Mr. Dziekanski in a controlled manner to avoid creating a sense of panic. In Captain Graeme's words, they are trained to "diligently walk safely".

Graeme, Jan 27, p. 47 line 43; p. 48 lines 1-4; p. 61 lines 45-46; p. 70 line 15

Duranleau, Jan 28, p. 64 lines 45-47

13. During the 40 second walk to Mr. Dziekanski, Captain Graeme conducted a scene assessment to ensure the scene was safe for his crew. During this assessment he noted that there were four RCMP officers standing back from Mr. Dziekanski. He noted that three of the RCMP officers were standing together about 10 metres behind Mr. Dziekanski, and that the fourth officer was standing by himself, about 5 metres behind Mr. Dziekanski. He did not see anyone checking Mr. Dziekanski's breathing or pulse or otherwise attending to Mr. Dziekanski.

Graeme, Jan 27 p. 38 lines 2-6; p. 50 lines 16-30

14. Firefighter Duranleau remembers the RCMP officers standing 10-15 feet away from Mr. Dziekanski on their arrival. She did not see anyone assessing or monitoring Mr. Dziekanski.

Duranleau, Jan 28, p. 64 lines 12-16; p. 65 lines 35-43

15. Firefighter Cameron remembers seeing two or three RCMP standing by Mr. Dziekanski's feet. He did not see anyone assessing or monitoring Mr. Dziekanski.

Cameron, Feb 18, p. 46 lines 4-6; p. 47 lines 12-16

IV. Information Gathering

16. As soon as the Richmond Firefighters reached the scene, Captain Graeme began gathering information while his crew began assessing Mr. Dziekanski. Captain Graeme testified that information gathering and assessment overlapped, or happened simultaneously given how quickly the Richmond Firefighters were responding to the situation in the time they were on scene prior to the BLS paramedics arriving.

Graeme, Jan 27, p. 93 lines 11-17

Graeme, Jan 28, p. 33 lines 22-25

17. Captain Graeme asked the RCMP officer closest to Mr. Dziekanski what had happened to Mr. Dziekanski. The RCMP officer advised that Mr. Dziekanski had been tasered multiple times and had been down ever since. Captain Graeme then asked how long Mr. Dziekanski had been down and was told “a few minutes”.

Graeme, Jan 27, p. 38 lines 16-24

Graeme, Jan 28, p. 37 lines 38-44; p. 38 lines 42-47

18. Captain Graeme then asked to have the handcuffs taken off Mr. Dziekanski and was told by the RCMP officer closest to Mr. Dziekanski that because Mr. Dziekanski had been violent, he would not remove the handcuffs. Captain Graeme advised that they needed the handcuffs off to conduct a proper assessment.

Graeme, Jan 27, p. 38 lines 30-45; p. 40 lines 40-42; p. 51 lines 8-14; p. 59 lines 29-34

Graeme, Jan 28, p. 36 lines 13-17

V. Assessment of Mr. Dziekanski

19. After the 40 second walk to Mr. Dziekanski, the Richmond Firefighters assessed Mr. Dziekanski for approximately 1 minute and 20 seconds before the arrival of the BLS paramedics.

20. Captain Graeme testified as to the protocol his crew is trained to follow when dispatched to an assignment involving a collapsed male. First, the responder assesses the patient’s level of consciousness by determining whether the patient responds to verbal or pain stimuli or does not respond at all. The responder then assesses the “A B C’s” of first aid – airway, breathing and circulation. Airways are assessed by checking

to see if anything is obstructing the patient's mouth. Breathing is assessed by looking to see if the patient's chest rises and falls, listening at the patient's mouth for breathing sounds, and feeling at the patient's mouth for breath. Circulation is assessed by taking the radial and carotid pulse. If the patient is not breathing and has no pulse, the responder uses the AED to determine whether to shock the patient. If the AED advises not to shock the patient, the responder will do CPR for two minutes, check the AED and repeat until the patient is declared dead.

Graeme, Jan 28, p. 27 lines 26-47; p. 28 lines 1-8

Graeme, Jan 27, p. 84 lines 14-20

21. Firefighter Duranleau and Firefighter Cameron both assessed Mr. Dziekanski. In total, this took about one minute.

Graeme, Jan 27, p. 81 lines 1-17

22. Firefighter Duranleau, immediately upon reaching Mr. Dziekanski, knelt down to do a level of consciousness assessment. She determined that Mr. Dziekanski did not respond verbally or to pain. She did this by saying "Sir, sir, can you hear me" in order to determine if Mr. Dziekanski would respond verbally. She was then informed that Mr. Dziekanski did not speak English. At the same time she did a trap squeeze to see if he would respond to pain.

Duranleau, Jan 28, p. 70-71

23. Firefighter Duranleau then attempted to assess Mr. Dziekanski's breathing. She put her ear by his mouth to see if she could feel or hear breathing, and at the same time looked to see if Mr. Dziekanski's chest was moving. He was not breathing. She communicated to Firefighter Cameron that he was not breathing. It was at that point

that Firefighter Cameron asked to have the handcuffs taken off. She went on to feel for a radial and carotid pulse but could not find one.

Duranleau, Jan 28, p. 70-71

24. Firefighter Cameron had also checked Mr. Dziekanski's breathing by putting his head down to Mr. Dziekanski's face and also did a trap squeeze.

Cameron, Feb 18, p. 32-33

25. As soon as Firefighter Cameron determined that Mr. Dziekanski was not breathing, he made the Richmond Firefighters' second request to have the handcuffs removed so that they could begin the CPR and AED protocols. Firefighter Cameron explained that in situations like this the niceties are gone and he simply stated words to the effect of "I need these handcuffs off right now. I don't feel any breathing." The RCMP officer told him that he would not take the handcuffs off because Mr. Dziekanski had been violent. Firefighter Cameron advised that he likely would have reiterated his request had the BLS paramedics not arrived seconds after this exchange.

Cameron, Feb 18, p. 39 lines 26-47; p. 40 lines 1-2; p. 57 lines 30-47; p. 58 lines 1-19

Duranleau, Jan 27, p. 71 lines 34-42; p. 73 lines 1-14

26. Firefighter Cameron explained his concern during his testimony:

A 11 My concern was that he wasn't breathing and I wanted to get him on his back, so that if we had to do CPR and hook up the AED, that's – he would have to be on his back in order to do that, so I'd asked the RCMP to remove the handcuffs so that we could get him onto his back.

Q 17 Continue

A 18 At that – at that point, they indicated to me that he'd been quite agitated and was causing quite a commotion that they didn't want to take the handcuffs off him. I told them that's he not breathing, you know, and it was almost like within a few seconds after that, the ambulance crew arrived. Keeping in mind this is all with – I don't know the exact time frames, but within seconds, they arrived. The first paramedic that got there, checked for breathing. He checked his breathing, thought he felt a breath, but once again, asked the RCMP to remove the handcuffs which they – which they subsequently took – took their direction.

Cameron, Feb 18, p. 33 lines 11-31

27. Firefighter Cameron's evidence that the assessment had just been completed and they were proceeding to initiate CPR and AED protocols on the arrival of the BLS paramedics is consistent with Captain Graeme's evidence that he was preparing to begin AED and CPR protocols by getting out the AED patches when the BLS paramedics arrived.

Graeme, Jan 28, p. 46 lines 27-47; p. 47 lines 1-2

VI. Arrival of BLS Paramedics

28. Allan Maciak and Mike Egli, the BLS Paramedics, arrived at YVR at 1:43:56 am, approximately two minutes after the Richmond Firefighters arrived.

YVR Video, Feb 2, p. 8 lines 37-45

29. It was just as they were arriving that Firefighter Duranleau communicated that Mr. Dziekanski was not breathing and did not have a pulse, that Firefighter Cameron asked to have the handcuffs removed to begin CPR and AED protocol and that Captain Graeme was getting the peel-and-stick AED patches out of the side holder and preparing to apply them to Mr. Dziekanski.

Graeme, Jan 28, p. 46 lines 27-47; p. 47 lines 1-2
Duranleau, Jan 28, p. 71 lines 40-43; p. 73 lines 1-14
Cameron, Feb 18, p. 57 lines 17-28

30. On medical calls, when BLS paramedics arrive they become the incident commanders and take control of the patient. As such, as soon as they arrived Captain Graeme gave the BLS Paramedics an update on what had happened and the patient's condition. He informed them that Mr. Dziekanski had been tasered a couple times and been down ever since. Firefighter Cameron also conveyed the limited information that he had – that there was no breath and no pulse.

Graeme, Jan 27, p. 41 lines 22-31
Cameron, Feb 18, p. 57 lines 42-44

31. Mr. Maciak and Mr. Egli do not recall receiving this information from the Richmond Firefighters. However, Mr. Maciak testified that when he arrived at the scene and started to ask questions his focus was on immediately conducting his own assessment and that he therefore may not have provided the Richmond Firefighters' an opportunity to respond to his queries. This is consistent with his Emergency Health Services ("EHS") Commission Occurrence Report, which he completed the day after the incident, on October 15, 2007, where he states that he could not recall what the response to his questions were.

Transcript of Allan Maciak, March 26, 2009 ("Maciak, Mar 26"), p. 41 lines 43-47

Transcript of Mike Egli, March 26, 2009 ("Egli, Mar 26"), p. 84 lines 34-36

Exhibit 67

32. As the Richmond Firefighters had just done, the BLS paramedics requested the RCMP officers to remove the handcuffs and Constable Robinson acceded to their second request. The BLS paramedics requested that the handcuffs come off the same reason as the Richmond Firefighters. That is, it would be better from them to conduct CPR and AED protocols, which the BLS paramedics had also determined were appropriate, if Mr. Dziekanski was on his back. Once the handcuffs were off, the BLS paramedics began to initiate the protocols with assistance from the Richmond Firefighters. The Richmond Firefighters assisted with preparing the AED, with chest compressions and with holding the IV bag.

Graeme, Jan 27, p. 41 lines 1-6

Egli, Mar 26, p. 78 lines 10-17

VII. Summary

33. Though the Richmond Firefighters' inability to remove the handcuffs slowed down their assessment of Mr. Dziekanski, they were able to complete the assessment in accordance with their training and were preparing to initiate CPR and AED protocols, the same protocols that the BLS paramedics ultimately initiated on their arrival once the RCMP removed the handcuffs from Mr. Dziekanski.

34. The Richmond Firefighters provided care as quickly as possible in the circumstances, which accords with Captain Graeme's evidence on behalf of RFR that he is acutely aware of the significance of delay in providing treatment to a patient in Mr. Dziekanski's position.

Graeme, Jan 27, p. 44 lines 33-35; p. 49 lines 16ff

Graeme, Jan 28, p. 54 lines 35-38

35. There was no time for the Richmond Firefighters to undertake any further action to assist Mr. Dziekanski prior to the arrival of the BLS paramedics. With the benefit of hindsight, Captain Graeme with his 20 plus years of experience remains satisfied that he and his crew acted appropriately given all the circumstances:

39 Q Is there anything else that your firefighters and yourself could have done from your arrival until the ambulance arrival?

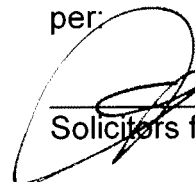
41 A No, sir. We did our -- we did our best.

Graeme, Jan 27, p. 43 lines 39-41

Respectfully submitted this 29th day of September, 2009.

Bull, Housser & Tupper LLP

per:



Solicitors for the City of Richmond