

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

Room 801
Federal Courthouse
701 West Georgia Street
Vancouver, B.C.

April 22, 2009

PROCEEDINGS AT
HEARING (DAY 40)

ORIGINAL

McEachern & Associates
2390 Kensington Avenue
Burnaby, B.C. V5B 4E2
Phone: (604) 299-3595; Fax: (604) 299-3545
Toll-free: 1-866-366-2202

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Commissioner:	T.R. Braidwood, Q.C.
Commission Counsel:	A. Vertlieb, Q.C.
Associate Commission Counsel:	P. McGowan
Counsel for Zofia Cisowski:	W. Kosteckyj, S. Whiteley, S. Parhar

(ii)

Counsel for Government of Canada:	J. Brongers, H. Roberts
Counsel for Vancouver Airport Authority:	D. Stewart, C. Friesen, B. Ergun
Counsel for B.C. Civil Liberties Association:	G. Pastine, S. Dubinsky
Counsel for Government of Poland:	D. Rosenbloom
Counsel for Corporal Benjamin Robinson:	R. Harris
Counsel for Constable Gerry Rundel:	T. Beaubier
Counsel for Constable Bill Bentley:	D. Butcher
Counsel for Constable Kwesi Millington:	R. Hira, Q.C.
Counsel for Public Service Alliance of Canada:	C. Buchanan, B. Matthews
Counsel for City of Richmond:	J. Goulden, M. Kleisinger, G. Trotter
Counsel for TASER International, Inc.	D. Neave
Registrar:	L.N. Giles
Court Recorder:	P. Kealy, C.V.R., C.M.
Transcriber:	D. Rochfort

1
Dale Carr
In chief by Mr. Vertlieb

Vancouver, B.C.
April 22, 2009

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3
4 THE REGISTRAR: The hearing is now resumed.

5 THE COMMISSIONER: Good morning.

6 MR. VERTLIEB: Good morning, Mr. Commissioner. We have
7 as the witness for today, Corporal Carr. I wish
8 to thank Corporal Carr because he's here and in
9 the witness box. I know Mr. Giles will deal with
10 the oath.

11 THE REGISTRAR: Good morning. Do you wish to be sworn?

12 MR. CARR: Yes, sir.
13

14 DALE CARR, a witness, sworn.
15

16 THE REGISTRAR: Would you state your full name, please?

17 A My full name is Dale Laverne Carr.

18 THE REGISTRAR: Thank you. Be seated.
19

20 EXAMINATION IN CHIEF BY MR. VERTLIEB:
21

22 Q Corporal Carr, let's just deal with your
23 background in the RCMP. Would you take us through
24 the month and year that you first went to Depot
25 and then take us through your commissioning and
26 your work history.

27 A Well, I was first sworn into the RCMP in September
28 of 1986. I went to our Depot in Regina for nine
29 weeks at that time, and I was a special constable
30 for four years. Then in January of 1990, I
31 returned to Regina and took an additional 17 weeks
32 training and was promoted to the rank of
33 constable.

34 Q So you became a constable and finished your field
35 training when, sir?

36 A In -- in -- I finished my field training in -- it
37 would have been in about 1991, January or February
38 of 1991.

39 Q Where were you first stationed?

40 A My first posting as a general duty constable was
41 in Surrey detachment.

42 Q Have you been in British Columbia since you
43 entered the force?

44 A Yes. My entire service has been here in British
45 Columbia in the Lower Mainland.

46 Q When did you become a corporal?

47 A It was in March of 1999, I was promoted to the

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1 rank of corporal.

2 Q And that's your rank today?

3 A Current -- my current rank is corporal, yes.

4 Q You are a Media Relations Officer?

5 A Yes. I am a Media Relations Officer for the
6 homicide investigation team that conducts
7 investigations throughout the Lower Mainland with
8 the exception of Vancouver City, West Vancouver
9 City and Delta.

10 Q Let's go through your experience/background as a
11 Medial Relations Officer. When did you first
12 start doing that type of work for the RCMP?

13 A It dates back to approximately the year of 2000.
14 I was then the Operations NCO for Surrey Traffic
15 Section. At that time, the Media Relations
16 Officer of Surrey detachment had quite a workload
17 and I offered to take off some of the workload of
18 hers and deal with all the traffic issues for her,
19 and that's when I first got started into media
20 relations, so it was about -- about 2000. I don't
21 remember the month.

22 Q And that was an unofficial entrée into media
23 relations work. You were just doing it to help?

24 A Indeed. It was -- as what we would refer to in
25 our field as a back-up Media Relations Officer.

26 Q Now, I understand that there is a training program
27 you would go through if you're going to go into
28 serious work as a Media Relations Officer.

29 A That's correct. And that -- prior to me taking on
30 that back-up role in Surrey, I was provided that
31 training. I was provided that training at "E"
32 Division. It was a one-week long course that I
33 attended and successfully completed.

34 Q So even to be a media relations officer, there was
35 a considerable amount of training, one week, as
36 you've just told the Commissioner.

37 A That's correct.

38 Q And that's a full week?

39 A It's a full week, yes.

40 Q In a brief way, tell the officer why you'd be
41 there a week. What were you being trained? The
42 Commissioner, sorry.

43 A Well, there's a variety of things are taught
44 there. We were taught on how to draft a news
45 release, for one example. We're taught on how --
46 you know, how to address the media. It's just a
47 number of lectures. There were some lectures on

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1 law, there was -- there's just kind of going
2 through the entire process of what's required to
3 be a media officer.
4 Q And it was a full week at "E" Division
5 headquarters?
6 A Yes, sir.
7 Q Okay. Have you been in the media relations police
8 duties ever since the year 2000?
9 A Off and on. As -- as the back-up, it wasn't a
10 full-time role. It was from time to time. When
11 -- in 2000 in Surrey, I did that while I was in
12 the Traffic Unit. I then -- and I don't recall
13 the exact year I left the Traffic Unit, but I did
14 -- I do recall leaving and going back to uniform
15 patrol in charge of a foot patrol unit in the city
16 centre of Surrey, and I was not in a media
17 capacity at that time. I did that for about a
18 year. That was -- I'm just trying to recall the
19 years here.
20 Q Maybe approach it this way. When did you start as
21 a full-time Media Relations Officer as your police
22 duty?
23 A That would have been -- I'm just reflecting back
24 here. Just give me one moment while I think.
25 We're at -- it was approximately -- approximately
26 2002 or 2003 I was transferred to Langley
27 detachment as their full-time Media Relations
28 Officer, and I did that for a period of three
29 years prior to leaving media relations and going
30 into the Community Policing Unit in Langley
31 detachment. I then -- I was in that Community
32 Policing Unit for a year and then I was
33 transferred to the Integrated Homicide Team as an
34 investigator with the view -- knowing full well
35 that eventually I would end up in their full-time
36 media capacity.
37 I was transferred to the Integrated Homicide
38 Team in September of 2006 and took on the full-
39 time media relations duties in about January of
40 2007.
41 Q So you actually worked as an investigator on the
42 homicide and serious criminal investigation work
43 for the RCMP.
44 A Yes, I have, yes.
45 Q And that would help you understand the type of
46 work that the IHIT unit would be doing, so that
47 you'd understand how to talk to the media about

1 what was going on.

2 A Yes. It gave me insight and to understand why --
3 why certain things needed to be held back, why
4 certain things were -- in a homicide capacity, why
5 there was -- why we did what we did, and it gave
6 me that true insight being on a team and being an
7 investigator for three-and-a-half months.

8 Q You know that yesterday Sergeant Lemaitre was here
9 and discussed a number of the media issues with
10 the Commissioner.

11 A I'm aware that he testified yesterday, yes.

12 Q I'm not going to take you through the Guide. He
13 was asked some questions about it, but you're
14 familiar with the RCMP policy manual concerning
15 your spokesperson's role?

16 A Yeah, I have a familiarity with it, yes.

17 Q Okay. So starting then in '07, January, you're a
18 full-time Media Relations Officer attached solely
19 to the IHIT unit.

20 A That's correct, yes.

21 Q Let's, then, talk about Mr. Dziekanski and your
22 first introduction to this to this matter. Tell
23 us about how you first became involved concerning
24 Mr. Robert Dziekanski.

25 A My involvement became -- the morning of the
26 incident, October 14th, 2007, I received a phone
27 call from one of the -- the team commander or team
28 leader from IHIT explaining to me that there had
29 been an in-custody death at the airport in which a
30 Taser was used. He advised me that there was
31 really no concern for me to arrive at this
32 particular time. It was pretty early. I believe
33 the call came in at about -- I would suggest it
34 was around 2:00, 2:30, in the morning. I never --
35 I did not note the time, but it was pretty early
36 in the morning.

37 He had indicated that there were no media on
38 scene, so there was no need for me to necessarily
39 attend at that particular time, that I could wait
40 and do that at a later time.

41 I hung up the phone and attempted to go back
42 to sleep and then came to the realization that,
43 really, what he had said, I kind of ran it back
44 through my mind and realized that perhaps I should
45 get there sooner rather than later, as this could
46 be something that the media would be very, very
47 interested in and I would want to have my

1 information well ahead of time, so I started to
2 get ready to go to the airport at that particular
3 time.

4 Q What was it about this case that made you realize
5 that you better -- even though you weren't asked
6 to get involved, get involved?

7 A Well, there were a couple of things. Firstly, in-
8 custody deaths are always an interest to the media
9 and to the community, and raise a great deal of
10 media attention. Over and above that, an in-
11 custody death involving a Taser even increased
12 that interest from the media. And then over and
13 above that, the incident occurred at an
14 international airport on a Sunday where there was
15 going to be -- I was assuming there would be a
16 great deal of travellers coming through and
17 there'd be some inconvenience to travellers. I
18 was thinking that the media, you know, would be
19 concerned with that as well and be playing on
20 that. So I just felt that there was a need, just
21 a -- based on my experiences in the past.

22 Q Okay. So the result is that you, with your
23 experience and knowledge, said I better get up and
24 get going, and you went into the airport.

25 A Yes. I started to head into the airport after
26 getting ready, and I think it was -- again, I
27 don't have the time, but I do know that, you know,
28 it took me about an hour to get ready by the time
29 I showered and whatnot, and then started
30 proceeding to the airport and started thinking
31 about, oh, what am I going to be saying here, and
32 what -- you know, I wonder what -- what is going
33 on and how this washed out. I just can recall,
34 you know, thinking about that as I was driving.

35 And then realizing to myself that, hold on.
36 With this being an in-custody death with the use
37 of a Taser and at the international airport, I
38 think this is frankly out of my area of
39 responsibility. I started trying to make contact
40 with Sergeant Lemaitre as he was the division
41 spokesperson at the time.

42 I made contact with a colleague at "E"
43 Division to obtain Sergeant Lemaitre's phone
44 number at home, and I made contact with him and
45 advised him of the information and he indicated to
46 me that he was going to come in to Richmond and
47 deal with the matter.

6

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- 1 Q Okay. Now, the team -- the person from IHIT that
2 phoned you was Sergeant -- Staff Sergeant Attew,
3 A-t-t-e-w?
4 A That's correct.
5 Q Okay. And he was the team leader on this case?
6 A That's correct.
7 Q So you're driving in and you're starting to
8 reflect on the magnitude of this event and you
9 decided you want to get Lemaitre. Why Lemaitre?
10 Why would you want him when you are media
11 relations for IHIT?
12 A Well, although I am media relations for IHIT, I
13 have to -- part of my role and part of my
14 responsibility is identifying when an incident is
15 more global than IHIT and has a -- has a
16 responsibility of a divisional or a national
17 responsibility. If something in my opinion had a
18 responsibility at a provincial level, or at a
19 divisional level, I would involve "E" Division
20 headquarters.
21 Q Now, just so you know, the reason I'm asking in a
22 bit more detail is that yesterday, when Officer
23 Lemaitre was here, I believe he told us that he
24 thought he was being brought in because of the
25 French language benefit that he would bring to it.
26 A Well, that's an additional factor. You know, he
27 brings along a skill that he has, French language.
28 I can frankly tell you that that's not my number
29 one priority. I do want to provide French
30 language services when I can, and I do on a
31 regular basis, but that's not my sole reason for
32 involving Sergeant Lemaitre.
33 You know, that was -- I would look at the
34 fact that he had French language skills an
35 additional benefit, but not a sole reason. It was
36 because of the nature of the file that we were
37 going to be facing.
38 Q So tell us, then, what time you arrived at the --
39 in Richmond.
40 A I believe I -- I don't have a note of that time
41 that I arrived in Richmond. I went directly,
42 initially, to the airport.
43 Q And what time was that, roughly?
44 A Roughly -- I would suggest it was in the
45 neighbourhood of about 4:30, between 4:00 and 4:30
46 in the morning.
47 Q So you -- in your car, out of the Valley where you

- 1 live, you drove to the airport. And this is
2 having spoken to Lemaitre on the phone, but not
3 having met him face to face.
- 4 A That's correct.
- 5 Q And at the airport, describe the scene when you
6 arrived.
- 7 A When I arrive at the airport, there, there's --
8 the airport's quite sparse. There's nobody --
9 like the area that the incident occurred, that Mr.
10 Dziekanski was at, there was hardly anybody
11 around. There was police line tape up and there
12 were forensic identification RCMP officers there
13 conducting their work.
- 14 I sought out Paul Hoivik -- or Corporal Paul
15 Hoivik who is the person in charge of exhibits on
16 this file.
- 17 Q Yes. We've heard from him already.
- 18 A And I sought him out, understanding that he was
19 the contact at the scene, just to -- and my sole
20 purpose for going there was to get a -- kind of
21 get a look and a feel of where this event occurred
22 so that I could give a good description so I could
23 have a good mental picture in my mind as to, you
24 know, what was what and how things were laid out,
25 because oftentimes I'm called upon to describe
26 things over the radio or in an interview and I
27 have to paint a picture of it, and if I don't go
28 to see that, I find that awfully difficult.
- 29 Q Okay. And, when you were there, none of the RCMP
30 officers involved in the -- dealing with Mr.
31 Dziekanski were there, the four RCMP who were on
32 duty.
- 33 A No, the only RCMP officers that I saw when I went
34 to the airport first thing were Corporal Hoivik
35 and the -- the officers involved with forensic
36 identification, and I do not know who they are.
- 37 Q Okay. So then from the airport, you ended up
38 going to the detachment, the Richmond detachment?
- 39 A That's correct, yes. First I went to the airport
40 detachment, that's correct.
- 41 Q And then to Richmond detachment?
- 42 A That's right.
- 43 Q Now, we heard from the officer -- Sergeant
44 Lemaitre that he met you in the parking lot of the
45 Richmond detachment, so presumably you arrive
46 before him.
- 47 A Yes.

1 Q Do you remember approximately what time you
2 arrived at the Richmond city detachment?
3 Approximately.

4 A Yeah. I'm thinking it would be probably very
5 close to six o'clock in the morning. You know,
6 very close to that time.

7 Q Now, how long were you at the sub-detachment, the
8 airport sub-detachment?

9 A It wasn't -- my recollection of being there wasn't
10 long. And I -- and I say that because when I
11 spoke to Corporal Hoivik at the scene, he
12 indicated to me that they were at the detachment,
13 and I took that to be the sub-detachment. I
14 thought that's where IHIT was going to work out
15 of, not thinking that everybody was going to be
16 back at Richmond main detachment, so that's why I
17 went there, to look for the team.

18 Once I found that there were no IHIT team
19 members there, or the ones that were there were
20 involved in interviews, and they weren't -- that's
21 not where the command centre was going to be, I left.
22 So I was there perhaps 15 or 20 minutes, 25
23 minutes, maybe.

24 Q You didn't --

25 A Time -- time, frankly, flies along very quickly in
26 the morning like that, so it could have been about
27 25 minutes.

28 Q You didn't talk to any of the four RCMP officers?

29 A No, I -- I've never formally met any of the
30 officers ever.

31 Q Well, you met Robinson. He was at the briefing.

32 A Not formally. I just knew who he was when he came
33 into the room.

34 Q Right, okay. We're going to come to that. But
35 you've never interviewed, in any way, or spoken to
36 the three constables?

37 A I haven't interviewed or spoke to any of the
38 officers, no.

39 Q Okay. Command centre, meaning what? You used the
40 term "command centre". What do you mean?

41 A Yeah. It's a term we use to -- as the centre of
42 where the -- where the investigation is going to
43 be held from. Oftentimes we'll go into a
44 boardroom and take that boardroom over as a
45 command centre. That's where we'll hold our
46 briefings and it'll become our office, our working
47 office for the period of time that we're at that

- 1 office.
- 2 Q So you're at the Richmond detachment about 6:00
- 3 a.m., more or less?
- 4 A More or less.
- 5 Q Till what time? Total time there that morning
- 6 approximately?
- 7 A A couple of hours perhaps. Left, you know,
- 8 roughly around -- I think we left -- yeah, I think
- 9 I left shortly after the briefing that was held at
- 10 7:20.
- 11 Q Okay. And you went to the airport?
- 12 A And then we went to the airport.
- 13 Q We, meaning you and Sergeant Lemaitre.
- 14 A Myself and, yeah, Sergeant Lemaitre, yes.
- 15 Q Okay. So you met Lemaitre in the parking lot. Do
- 16 you remember that or no? If you don't remember
- 17 that --
- 18 A I don't remember actually meeting him in the
- 19 parking lot. I don't.
- 20 Q Okay. So let's get into the briefing that took
- 21 place in the building. Now where -- tell us about
- 22 the place that this took place. Tell us about the
- 23 briefing room and who was there?
- 24 A Well, the briefing room is simply a room that is,
- 25 in Richmond detachment, used -- it's in their
- 26 Serious Crime Unit, and it's used for projects,
- 27 investigational projects from time to time, and
- 28 when IHIT is involved with a file at Richmond
- 29 detachment, that's where we'll work out of. It's
- 30 just a room in the building. It's nothing --
- 31 nothing's really special about the room.
- 32 Q Okay.
- 33 A I don't quite understand what you're wanting me
- 34 to --
- 35 Q How many RCMP members were there?
- 36 A I didn't really -- I didn't take a note of how
- 37 many officers were there, but I can tell you there
- 38 were a number of IHIT -- IHIT is the Integrated
- 39 Homicide Team. There were a number of IHIT
- 40 officers there, and I know that we had one of our
- 41 electronic file administrators there, a civilian
- 42 member that works for IHIT that helps with
- 43 disclosure and file administration. We often call
- 44 them out for technical support on files.
- 45 I recall seeing the EFA there, and I recall
- 46 seeing Corporal Robinson enter the briefing room.
- 47 Q Okay. Well, let's come to that now. You've made

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1 -- you have notes of your dealings on this case?

2 A I have some notes, absolutely.

3 Q This is a copy from the original notebook. You
4 actually have your original notebook with you?

5 A I do, yes.

6 Q Okay. These are notes made by you?

7 A Yes, sir.

8 Q Is it all in your handwriting?

9 A Yes.

10 MR. VERTLIEB: Thank you. May that just be the next
11 exhibit, please?

12 THE COMMISSIONER: Yes, next exhibit.

13 THE REGISTRAR: It'll be marked as Exhibit number 99.

14 MR. VERTLIEB: Thank you.

15

16 EXHIBIT 99: Handwritten notes of Corporal
17 Dale Carr

18

19 MR. VERTLIEB:

20 Q Tell us about your approach to note-keeping as the
21 media relations duty unfolded. Tell us why you
22 kept notes?

23 A Well, I take notes -- as we go through the
24 briefing, I'll take notes of details that I want
25 to bring up as -- I want to approach the team
26 commander on to see if this is information that I
27 can release, have a discussion with that team
28 commander who ultimately makes the decision on
29 what -- what gets released.

30 Q Okay.

31 A Also, I take notes of people that have left me
32 messages so that I can refresh my memory, you
33 know, later on down the road. I deal with a great
34 deal number (sic) of homicides and it's hard to
35 remember them all from day to day, so I take a few
36 notes.

37 Q Just -- do you have Exhibit 99 there, the
38 photocopies?

39 A Yes, sir.

40 Q These were photocopied, I believe, in the order
41 that they appeared in your book. Does that look
42 right to you?

43 A Yes. There are some pages -- the pages are not
44 numbered, and I'm going to -- actually I -- I
45 didn't number the pages, but there are some pages
46 that I would have in this notebook that don't
47 exist here that are in sequential order, but

1 because they had no bearing on this matter, I
2 didn't photocopy them.

3 Q Okay. So let's just go through your notes, just
4 because page 1, the first entry is YVR Manager
5 Ops, that's Operations. The question, just so the
6 Commissioner understands, the very first note is
7 about -- with the name of Greg Sambrook. Now, we
8 know who Sambrook is 'cause he's been here and his
9 name has been mentioned a number of times. Why
10 would that be the first comment in your notebook?
11 It would seem out of order. You didn't see
12 Sambrook that morning at the airport when you
13 first went there.

14 A Actually, if I could, I'll explain to you --

15 Q Just tell us.

16 A Yeah, I'll explain to you that in fact it's not
17 out of order. The first notes that I would have
18 taken are on the right-hand side of a page which
19 would be the next page that is in your -- in your
20 -- in Exhibit 99. At IHIT, our practice is to use
21 the right-hand side of the page for information,
22 and the left-hand side of the page for personal
23 information for ease of disclosure, easier --
24 easier for vetting information.

25 So I would have started on this right-hand
26 page, and then something came to my attention, an
27 individual I may need to contact, and I would have
28 wrote it on the left-hand side.

29 Q Thank you. I just wanted -- that's -- we
30 understand the explanation, having heard it. I
31 just wanted you to give us that. So page 2 of
32 Exhibit 99 would really be the first start of your
33 notes?

34 A That's correct.

35 Q Thank you. The very first reference, a reporter
36 from CKWX. Does that mean that reporter phoned
37 you or...?

38 A That reporter would have left me a voice message.
39 I don't typically write down when I get a phone
40 call and I deal with it at that moment. I
41 typically do not write that person's name down in
42 my notebook as a person I've contacted. What I
43 typically will do is if a voice message has been
44 left, I will write it down, their phone number,
45 once in a while the time in -- the timing that the
46 call came into me, and -- just so that I can have
47 that number ready to, you know, call that person

1 back.
2 Q It's good that you're telling the Commissioner
3 this so it helps him understand how your notes
4 come to exist. Top corner -- top of the page, are
5 those file numbers?
6 A Yes. The IHIT number and the Richmond file
7 number, yes.
8 Q So the first note of substance deals with this
9 briefing at the Richmond detachment.
10 A That's correct.
11 Q Okay. So you've already told the Commissioner
12 about the number -- the number of people there.
13 We heard from Officer Lemaitre that perhaps a
14 dozen people I think he said. Is that something
15 you're in agreement with?
16 A I would say there would be perhaps a dozen people
17 in the room.
18 Q Okay. Now, I think I heard you say just a moment
19 ago that Corporal Robinson came in.
20 A Yes. So -- sorry.
21 Q So when you first got into the briefing room, he
22 was not there; is that what you're telling us?
23 A Yes. I was in the briefing room and we were --
24 you know the people were getting set up with their
25 computers and -- and there's quite a process when
26 we first get engaged into a file such as this, or
27 a homicide file. There's a process of us, you
28 know, getting a link to the internet and getting
29 all set up. That takes a period of time, and
30 that's sort of what was going on in the room prior
31 to waiting for the briefing to occur.
32 Q What do you mean "getting set up with the internet
33 link" and that? Just help us understand what the
34 activity was.
35 A Certainly. We all -- we all carry our laptops
36 with us wherever we go because our -- at the
37 Integrated Homicide Team, we could be working in
38 Richmond today, in Chilliwack tomorrow and then
39 Mission the following day. So we -- although we
40 do have an office and we do work from an office
41 from time to time, we are very mobile and, as
42 such, when we arrive at an office, we have to set
43 up a hub so that we can access our information
44 that's back on the main server. We can access our
45 e-mail system and that takes some time to get that
46 process together, just linking -- linking all the
47 computers up and getting them all hooked up.

1 Q Now, was there someone in charge of the session?

2 A Well, typically, the team commander or team leader
3 would be the person that's running the briefing or
4 the primary investigator. You know, that role
5 varies from time to time, but it's usually one of
6 those three.

7 Q Who was it that morning?

8 A I don't have a note of that, but my recollection
9 makes me want to recall -- I believe it was
10 Sergeant Attew.

11 Q Okay. Now, was there then an introduction to the
12 event before Corporal Robinson was brought in to
13 give a briefing on detail?

14 A Well, let me make this clear to you. My
15 recollection of Corporal Robinson coming in,
16 Corporal -- my recollection is that Corporal
17 Robinson came into the room, spoke to one of our
18 officers kind of on the side, just talked to them,
19 and I'm not certain what was said at that
20 particular time. I was on the other side of the
21 room not really paying much attention to what was
22 going on between -- I recall him coming in.

23 Then my recollection is we have a briefing.
24 Who's in that briefing and whether Corporal
25 Robinson departed, I don't have a note of it and I
26 can't recall. I've been trying to do that over
27 the last couple of days, to recall who exactly was
28 in there. I just don't remember.

29 Q So I'm not clear. Are you suggesting that
30 Robinson only spoke to one officer privately, or
31 did he speak to the room?

32 A I don't recall if he spoke to the entire room or
33 if -- I recall him coming in, speaking to one
34 individual. That's my recollection, and I don't
35 recall if he actually addressed the entire room
36 with the incident, or if somebody else did that.
37 I would have been sitting at a table basically
38 taking notes and just listening. I didn't really
39 pay much attention to who was actually speaking,
40 and I didn't make note of it either.

41 Q Well, you've got the notes here. So 7:23 is the
42 briefing.

43 A That's right.

44 Q So take us through the briefing.

45 A Well, typically -- a typical briefing I -- in a --
46 I can tell you what a typical briefing is like.

47 Q Just one second. Do me a favour? Just move your

14
Dale Carr
In chief by Mr. Vertlieb

1 microphone a bit further away because --
2 A Oh, further away? Sorry.
3 Q Yeah, it's just distorting. You're leaning into
4 it and --
5 A Sorry.
6 Q -- we want you to be comfortable.
7 A Is that okay?
8 Q Thank you. So tell us about the briefing that
9 occurred this morning. It's in your notes, and
10 so I want you to tell us what your notes say.
11 A Yes. Well, the briefing would have revealed
12 information such as the demeanour of Mr.
13 Dziekanski, and I've made note that he was seen
14 throwing stuff around the information booth. That
15 he was an agitated -- in an agitated state, that
16 he grabbed a computer, that YVR security attempted
17 to intervene. Police -- I have a note here that
18 says police RCMP arrived. I've got in brackets
19 "four members" [as read].
20
21 Swinging an article at members. Members
22 attempt to control verbally. He was non-
23 compliant. CEW used and once on ground,
24 continued to fight.
25
26 Q The last two lines?
27 A Oh, I'm sorry.
28
29 Monitored security, first aid.
30
31 And then:
32
33 Four separate vehicles, four members attend.
34
35 So I've noted that twice.
36 Q So this is information that someone who is at the
37 actual scene of the event has given.
38 A Somebody has given us this information and then
39 it's relayed at the briefing, indeed.
40 Q I just want to be clear. Are you telling us today
41 that you don't remember this information coming
42 directly from Corporal Robinson when he was in the
43 room?
44 A I honestly don't remember who was absolutely
45 speaking at the briefing. Briefings -- well,
46 typically will be a number of people talking,
47 people that were -- that have the information.

- 1 They will feed all that information to the IHIT
2 team so that we can have a sense of what went on.
3 But in this briefing and many other briefings that
4 I've attended, I don't recall who was talking and
5 who -- you know, who directly gave us the
6 information.
- 7 Q That's fair. But let me be clear with you. I
8 understand that the briefing is to learn about
9 what happened.
- 10 A That's correct.
- 11 Q And the practice is that somebody who was involved
12 in the incident would come to tell your IHIT team
13 what happened.
- 14 A That's correct.
- 15 Q And I think you might put it this way - and you
16 said it earlier last week - that it's best to hear
17 from the horse's mouth, so to speak.
- 18 A It is best, absolutely.
- 19 Q There's less of a chance of getting it wrong.
- 20 A That's correct.
- 21 Q Okay. So what I'm suggesting is that that's why
22 Corporal Robinson was there, to inform the IHIT
23 team, of which you were a member, about what had
24 happened.
- 25 MR. HARRIS: I'm going to rise. I don't think this
26 officer can say why he was there. There is no
27 evidence this officer even summoned Corporal
28 Robinson. How can he answer that question?
- 29 THE COMMISSIONER: Well, I'm sure the officer can say
30 whether he can answer it or not.
- 31 MR. HARRIS: Thank you.
- 32 A Yeah, I understand your suggestion, sir, and what
33 I'm telling you and Mr. Commissioner is that I was
34 at the briefing. I recall seeing Corporal
35 Robinson come into the room. I recall him
36 speaking to somebody. I don't recall who was
37 speaking specifically at the briefing and whether
38 or not Corporal Robinson addressed the briefing
39 himself. I don't recall that, I did not make
40 notes. I've attended, since then, probably 150
41 briefings and I don't recall a lot of what goes on
42 at briefings.
- 43 MR. VERTLIEB:
- 44 Q Okay. I accept what you're saying. The point,
45 though, is that the reason you, as a member of
46 IHIT, have the officer involved there is so you
47 can hear it from the person who was actually

1 involved.

2 A That's typically what -- you know, how we'll get
3 the information. As an example, Mr. Commissioner,
4 I can tell you that a typical briefing that we
5 would hold for our regular homicides, all of the
6 officers that attend that scene to -- that have
7 had a role in it, they'll come in and they'll
8 explain all of their roles so we have an actual
9 picture of what went on. We'll take a few notes
10 of that, and those officers will go on.

11 That's how a typical briefing is done. I
12 can't tell you who spoke on that particular day.
13 I just don't have the recollection and I've tried
14 for hours over the last few days to try to
15 recollect this for this Commission. I just can't
16 do it, I'm sorry.

17 Q Do you remember which officer Robinson spoke to?

18 A I do not recall. I recall him standing and
19 talking to who I believe would have been an IHIT
20 member, but I don't remember if it was, which one
21 of those officers it was.

22 Q These notes are notes made by you of facts that
23 you thought would be important for you to do your
24 job.

25 A That's correct.

26 Q Did you discuss, before going to the airport, what
27 your plan of action was going to be?

28 A With Sergeant Lemaitre?

29 Q With anybody.

30 A Indeed. Sergeant Lemaitre and I discussed what I
31 would call a bit of a strategy on how we should
32 handle this, this particular incident. Based on
33 some experiences we've had from the past, we
34 thought that it would be best to get as much
35 information out about the incident as we could in
36 a timely manner so that that information is out
37 there and then shared with the community. That
38 was our goal that morning, to get as much as
39 accurate of information as we could, that we knew,
40 out to the community as quickly as we could.

41 Q Okay. Was it your idea to go back to the airport
42 or Lemaitre's or someone else's?

43 A Well, the media was at the airport and they were
44 requesting interviews. That would have been the
45 most logical place to do that, so we went back and
46 decided that as a team, as a -- together.

47 Q Okay. The first page of your notes "primary" --

- 1 you got "Brassington primary", meaning...?
2 A Primary investigator is the lead investigator of
3 -- of the incident.
4 Q That's IHIT?
5 A Of IHIT, yes.
6 Q "Coordinator, Johnston," meaning...?
7 A He would be the file coordinator, the person
8 responsible for ensuring all the documents come in
9 and they get filed properly. And "Scene" means
10 Hoivik, Paul Hoivik, who we've discussed earlier.
11 Q Okay. Now, we've covered the notes that you made,
12 and these are the notes that you chose to make
13 about what you thought would be of importance to
14 you, to do your job, right?
15 A Yes.
16 Q In addition, though, there was a video shown at
17 the briefing that you saw.
18 A That's correct.
19 Q That's not in your notes, but it did in fact take
20 place.
21 A Yes, yes.
22 Q And this video you now -- you know has now come to
23 be known as the Pritchard video.
24 A Yes.
25 Q So tell us everything about the showing of that
26 video.
27 A My recollection of seeing that video is firstly on
28 a very -- my recollection is on a very small
29 screen, perhaps still in the camera of -- Mr.
30 Pritchard's camera, and just very quickly taking a
31 look at it up until the time Mr. Dziekanski falls
32 to the ground, and then the video was stopped and
33 I never looked at it again until -- and I didn't
34 really -- really look at it carefully. When
35 Pierre was -- pardon me, when Sergeant Lemaitre
36 was looking at it on a monitor, we were both kind
37 of reviewing it again very briefly, less than -- I
38 would say about a minute.
39 Q So you said -- when Lemaitre was watching it on
40 the monitor --
41 A It -- I believe we watched it on like a monitor or
42 a laptop or, you know, some other device other
43 than the very, very small screen.
44 Q So you saw it twice, once on the small screen from
45 -- probably from the camera itself.
46 A That's right, yes.
47 Q Because the actual camera was seized. You know

1 that.

2 A I do know that, yes.

3 Q And then you saw it on the laptop or a larger
4 screen, monitor you called it.

5 A That's right.

6 Q Now -- so tell us who else would have been
7 watching it or aware of the fact that it was being
8 played and available for viewing?

9 A Well, that would suggest that I knew everybody --
10 you know, all the -- I can remember all the people
11 in the room and I don't remember all the people in
12 the room. Again, I know that there were a number
13 of IHIT members in the room. But a situation like
14 this, as with any of our files, are very -- things
15 are moving, things are very dynamic. People are
16 in and out of a room. They could be there one
17 minute and then not in there the next minute. I
18 could have been, you know, staring at the monitor
19 and someone come in and then went back out again,
20 so it wasn't like it was a closed door, controlled
21 environment where I know everybody that's in the
22 room.

23 I know that I was in the room and I know that
24 Sergeant Lemaitre was there. I recall those two
25 people -- or us, I should say, and I believe the
26 EFA was there. In fact, I feel confident in
27 saying the EFA, the Electronic File Administrator,
28 the civilian member that works with us with
29 technical support.

30 Q So the -- I'm just trying to get a sense of this
31 for the Commissioner's benefit. There was no
32 secret viewing of this. It wasn't kept secret
33 between you and Lemaitre, that only you two could
34 see it. Anybody who wanted to see it, could see
35 it.

36 A I would say no to that. I would say that if
37 anybody walked in that didn't -- that wasn't part
38 of the team, somebody would have picked up on
39 that. Not necessarily me, but somebody, one of
40 the team, either Sergeant Brassington or Corporal
41 Johnson would have picked up on that and asked the
42 person to leave. Typically --

43 Q Maybe my question was confusing. I said "anyone".
44 I didn't mean anyone in the world or in the
45 detachment building. I meant anybody in the room.
46 If any of the IHIT members wanted to look at it,
47 or anybody else who was there, they could look at

1 it.
2 A Okay.
3 Q It wasn't being kept private and secret in a
4 corner.
5 A Oh, certainly, now that that's clarified,
6 absolutely, yes.
7 Q Okay.
8 A Bearing in mind, sir, that it's on a small laptop
9 and hunkered around by a couple of bodies, there's
10 not many people -- not many others that can see it
11 in the room. I tend to make a big wall in front
12 of a small monitor.
13 Q Did the -- did this video generate any interest in
14 the room? Do you recall there was a curiosity
15 about what it might show?
16 A Well, certainly it was some evidence, and people
17 were interested, investigators were interested in
18 reviewing it to see, you know, what we were
19 dealing with.
20 Q Was there any discussion between you and any other
21 officer including Sergeant Lemaitre about the
22 video, and whether the video was consistent with
23 what you had heard in the description of the
24 event?
25 A No, I don't recall having a discussion on the
26 consistency of, you know, my notes and the video.
27 I recall reviewing these notes with the team
28 commander, with Sergeant Attew and saying, you
29 know, are we good to go with this information and
30 we were given that approval and off we went.
31 Q Hmm. Okay. So off you went to the airport.
32 Separate cars, you and Lemaitre?
33 A Yes.
34 Q Lemaitre did the press conference or media scrum
35 at the airport, not you?
36 A Yeah, he would have -- just by his very -- by my
37 calling him out, he would have been now the lead
38 spokesperson. I would have been a support at that
39 particular time, and I had no spokesperson role at
40 that time once --
41 Q You -- you were --
42 A -- once --
43 Q You were with him, in fact, beside him when he
44 spoke.
45 A Yes, I was in the same general area as him, beside
46 him --
47 Q I think he said that you were beside him. Is that

1 something you --

2 A Well, when you say beside, what -- are you
3 speaking like shoulder to shoulder? No.

4 Q No?

5 A But I was there with him, yes.

6 Q Yes. So you could hear what he was saying.

7 A You know, I wasn't really paying attention exactly
8 to what he was saying. There were a number of
9 other things -- when we went back to the airport,
10 it was a stark contrast to when I went there the
11 first time. The difference being there were
12 thousands of people going through the airport.
13 There was a great deal of media. There was a
14 great deal of demand on our time. Our phones --
15 or my phone, frankly, was ringing constantly, and
16 at that particular time as I was standing next to
17 Sergeant Lemaitre, I was dealing with phone calls,
18 I was facilitating other interviews for Sergeant
19 Lemaitre to attend to.

20 It was assumed by the media that I was the
21 go-to spokesperson, and so therefore I was getting
22 all the phone calls and facilitating and making
23 those arrangements for Sergeant Lemaitre to do the
24 next interview.

25 We had to -- at one time, we conducted -- or
26 I should say Sergeant Lemaitre conducted an
27 interview or a scrum of interviews. Then we left
28 that scrum and went to -- just about the opposite
29 side of the airport to meet with another news
30 agency who wanted to do a live shot, and we, you
31 know, walked through the airport. I got him there
32 to that, and then I found out that there was
33 additional media that hadn't been at the original
34 scrum.

35 So through the phone calls that I was on the
36 phone with -- call after call, I was on the phone
37 explaining that I'm not the key spokesperson, but
38 I'll make the arrangement because he's here with
39 me.

40 Q All right. I think you -- my question was not
41 very well worded. I'm specifically talking about
42 the interview that Sergeant Lemaitre gave at the
43 airport. You and he were together at the airport,
44 correct?

45 A We were both at the airport, yes.

46 Q And he was there to brief the media. By now there
47 was a lot of media there.

1 A That's correct.
2 Q And you were in proximity to Sergeant Lemaitre,
3 whether you're shoulder to shoulder or a few feet
4 away, I'm not really interested. You were beside
5 him in some way.
6 A Indeed. We were fairly close to each other.
7 Q And you could hear what he was saying.
8 A Well, you're telling me that and I disagree with
9 you.
10 Q No, I'm asking you.
11 A No.
12 Q Could you hear?
13 A Well -- sorry, I don't mean to be argumentative.
14 Q That's fine. Could you hear what he was saying?
15 A I could not hear totally what he was saying. I
16 could hear from time to time what he was saying if
17 I turned my attention to him. But there was a lot
18 of noise. At that particular time, I also want to
19 tell you and tell the Commissioner I would not
20 have been able to hear that clearly in that
21 environment as I was hearing impaired in my left
22 ear and wore a hearing aid. In those -- in that
23 environment, it was difficult to hear things
24 unless I was focused and directly paying attention
25 to the individual. And I was busy doing a lot of
26 other things, facilitating for Pierre Lemaitre.
27 Q How long was that briefing that took place for the
28 media at the airport that morning?
29 A At the airport, it -- there were several. The
30 first one might have went on for 15, 20 minutes.
31 Q And the second?
32 A The second one, we went up to meet with Global and
33 I believe, if my memory serves me, that was about
34 10 minutes, 15 minutes, and then we went back and
35 did an additional meeting with media that hadn't
36 been at the first scrum, and that was again
37 another 20 -- 20 minutes or so.
38 Q All that morning?
39 A All that morning, indeed.
40 Q October 14, '07?
41 A All that morning.
42 Q Did you ever watch those interviews on television?
43 A I tend to not watch the news too often.
44 Q In this case did you watch?
45 A No, I -- I would say -- you know, that's a
46 difficult question to answer, and I say that
47 because I don't want to -- I don't want to say I

1 didn't watch any of the news. I may have seen
2 some of the news, but I did not intentionally sit
3 down to watch the news because I just make it a
4 practice (a) I don't have the time, and oftentimes
5 I'm not home in time to watch the news. So I may
6 have caught pieces of it, but not intentionally
7 sat down to view the news, no.

8 Q So you were with Lemaitre three times at three
9 different interviews that morning.

10 A I'm trying to recall if there was a fourth
11 interview. You know, I seem to recall there was a
12 fourth interview done with an Asian market news
13 agency that was very late, and, you know, Sergeant
14 Lemaitre set up with them and I was just -- you
15 know, I was talking -- in fact, oftentimes, during
16 these -- between -- during the interviews with me
17 taking phone calls and people were coming up and
18 asking what was going on, and I was explaining to
19 the public, you know, that there'd been an
20 incident here involving the police. So there
21 were, you know, several things going on at the
22 same time. So there may have been four interviews
23 and not just three. A little foggy on that part.

24 Q I'm trying to avoid playing Lemaitre's interview.
25 Let's just see if we can cut through it this way.
26 Lemaitre gave interviews about the circumstances
27 as he understood them. You know that to be the
28 case.

29 A I do know that to be the case.

30 Q And you heard some of those explanations that he
31 was giving. You heard some of that.

32 A I heard bits of it, yes.

33 Q Right. Where did he get that information?

34 A I briefed Sergeant Lemaitre and -- yeah, I would
35 have briefed him through it with my notes here.

36 Q And you briefed him before you went to the
37 airport?

38 A I believe I did.

39 Q Sergeant Lemaitre said you were the source of the
40 information that he gave to the media. Do you
41 agree with that?

42 A I would agree with that, yes.

43 Q Lemaitre was the media spokesperson on this case
44 for how long?

45 A For two days.

46 Q And then what happened?

47 A Well, on -- on Tuesday, the 16th, it was decided

1 by Superintendent Rideout, who is the officer in
2 charge of the Integrated Homicide Team, that we
3 wanted to take back the media relations for a
4 couple of reasons. Number one, the primary reason
5 was the fact that Sergeant Lemaitre's office is
6 all the way in Vancouver. The IHIT office is all
7 the way into Surrey, and it was difficult for
8 Sergeant Lemaitre to attend operational briefings,
9 to get accurate updates, and just that
10 communication line was too difficult to work with.
11 It was better if the communication was in my
12 hands and just with the idea to keep Sergeant
13 Lemaitre abreast of how things were going with it,
14 and essentially take back control of it.

15 So it was that. And that Superintendent
16 Rideout wanted to essentially, at that time, stop
17 all communication of evidence out to the community
18 and concentrate solely on process, and the process
19 that we're going to go through.

20 Q So from then on you were the media officer for
21 this case?

22 A That's correct.

23 Q And over the course of the case, how long did you
24 actively disseminate information approximately
25 from October 14 until when did you disseminate
26 information about this case?

27 A I would say until the day that Crown counsel made
28 the decision not to lay charges and we held a news
29 conference in relation to that, and up until that
30 time I was, from time to time, providing
31 information to the media about our process and --
32 investigational process.

33 Q So you were on this from October '07 to December
34 of 2008.

35 A Roughly, yes.

36 Q During the months October, November, you issued a
37 number of media advisories or press releases you
38 might call them.

39 A Yes, I did.

40 Q You did interviews with different TV
41 organizations?

42 A Yes, I did.

43 Q You've made a number of pages of notes. What I'd
44 like to have you clarify for the Commissioner is
45 that you would, from time to time, sit in on IHIT
46 meetings to discuss this case?

47 A I would.

- 1 Q How many meetings did you sit in as a member of
2 the Integrated Homicide Team between October and
3 the end of the year?
- 4 A When you say the end of that year, you're speaking
5 of '07?
- 6 Q Yes.
- 7 A I have notes of a couple of those meetings, but I
8 don't recall every meeting that I went to.
9 Sometimes I'd be in for just a few moments and
10 then I would leave. To put that into context,
11 this was not my only investigation that I was a
12 spokesperson for throughout that time. In fact,
13 there were a great deal of homicides, and one that
14 was very, very public, known as the Surrey Six
15 that came days after this that draw -- drew a lot
16 of attention of mine away, so I had -- you know,
17 couldn't be at every meeting, but I could attend
18 from time to time.
- 19 Q So, for example, you went to another meeting
20 October 16, 2007?
- 21 A I did, yes.
- 22 Q And that meeting was at the general headquarters,
23 "E" Division headquarters?
- 24 A Yes, that was at "E" Division headquarters
25 according to my notes here.
- 26 Q So this is the meeting with members of the IHIT
27 team.
- 28 A This is a meeting -- actually this is the meeting
29 that we have with Sergeant Lemaitre, myself,
30 Superintendent Rideout and I believe another
31 employee at "E" Division media office, discussing
32 the fact that we feel that we should be taking
33 back the role and giving our rationale and getting
34 the support from Sergeant Lemaitre, and then just
35 going over the information and our -- the steps
36 that we are showing with respect to the process
37 that we're going to talk about and not about
38 evidence at this time.
- 39 Q So why would you -- just tell the Commissioner why
40 would you actually sit on the meetings with the
41 investigators, rather than just have one of them
42 come and tell you what to say to the press?
- 43 A Well, they're -- they're very, very busy
44 individuals, and I don't want to take up double
45 their time when we can accomplish that in one
46 meeting rather than a secondary meeting to take up
47 that individual's time again. It just makes

1 sense. It's time -- a time sense issue.

2 Q Did you also believe that it made it easier for
3 you to do your job 'cause you actually were part
4 of the investigation team and heard firsthand what
5 was going on?

6 A Indeed. And, you know, I consider myself -- and
7 am part of the Integrated Homicide Team and I'm
8 invited into these meetings to hear what is going
9 on. I will tell you, Mr. Commissioner, that I am
10 uninvited to some meetings for strategic reasons.
11 There's information that I'm not entitled to have,
12 and -- so there are times where I'm not invited to
13 meetings.

14 Q And do you -- this is something that you think
15 helps you be accurate when you're going to give
16 information out to the media.

17 A That's correct.

18 Q Now, there's a -- I don't want to go through all
19 the meetings, they're in your notes. Others may
20 wish to. I want to just ask one question about a
21 meeting November 6th, 2007, 9:15 in the morning.

22 A I'm just looking for it in my notebook.

23 Q Did you find that?

24 A I'm just -- I'm continuing to look. Just one
25 moment, please.

26 Q This is the one with Assistant Commissioner
27 Macintyre.

28 A It may be in my other book here. Okay, I've found
29 it, yes.

30 Q Okay. Now, this is now -- and of course Lemaitre
31 is well off the case.

32 A Well off, yes.

33 Q Tell us who was at that meeting and where was it?

34 A I've got a note here, it says meeting at -- it
35 says "SFOB" in my notebook, and that's -- SFOB
36 stands for the Surrey Federal Operations Building,
37 and that's a building in Surrey, a police
38 building, that we have our -- a portion of our
39 federal operations works out of, and there's a
40 large meeting room in there that we were able to
41 secure for this particular meeting.

42 In attendance at that meeting was Assistant
43 Commissioner Al Macintyre, Chief Superintendent
44 McGowan, who was at that time the Operations
45 Officer for the Lower Mainland district, Inspector
46 Bill Fordy, who was at the time the Operations
47 Officer for IHIT, Staff Sergeant Ward who was at

- 1 that time the Staff Sergeant in charge of "E"
2 Division Communications, Sergeant Lemaitre, myself
3 and a civilian member by the name of Atoya
4 Montague.
- 5 Q And what's her role?
- 6 A Atoya Montague is a civilian member of the RCMP
7 and she is a communications strategist that works
8 at "E" Division.
- 9 Q Now, Macintyre is the top person in the RCMP in
10 this province?
- 11 A No, he's not. He's the -- he's what we call the
12 Criminal Operations Officer. He would be referred
13 to likely as the second-in-charge.
- 14 Q He's an Assistant Commissioner of the force?
- 15 A He's Assistant Commissioner. Deputy Commissioner
16 Gary Bass is the person in charge. He's the
17 commanding officer of "E" Division and the Pacific
18 Region.
- 19 Q Got it. Just so you know, Macintyre came to the
20 Phase 1 part of the case, so we've seen him
21 before. Would this be a -- would -- you might
22 describe this as the top brass of the RCMP in
23 British Columbia, excluding Bass of course?
- 24 A Well, two of them are.
- 25 Q Was this unusual to have that group of people
26 assembled to discuss a case?
- 27 A Not at all. No, not at all. This is a very
28 important case that has, quite frankly, a
29 provincial and national interest. It's absolutely
30 appropriate and common for Assistant Commissioner
31 Macintyre or the Chief Superintendent of the Lower
32 Mainland District. In fact, oftentimes the
33 Assistant Commissioner in charge of the Lower
34 Mainland District will be in a meeting of this if
35 there's, you know, any sort of concerns and
36 whatnot.
- 37 Q What was the concern that morning?
- 38 A Well, this was a meeting reflecting around the
39 returning the video to Mr. Pritchard and how
40 that's going to be dealt with.
- 41 Q Okay. Now, I want to go to the information
42 Sergeant Lemaitre gave to the media and to the
43 public that you've agreed was information given by
44 you to him. Okay?
- 45 A Okay.
- 46 Q And I really don't want to go through a number of
47 specific factual errors. Let's see if we can do

1 it more simply. Do you agree that a number of
2 things that Sergeant Lemaitre said were factually
3 wrong?
4 A With the -- with the benefit of hindsight, I do
5 now, yes, absolutely.
6 Q Benefit of hindsight. So you're the source of the
7 information that he spoke about.
8 A That's correct.
9 Q The question then is where did you get the
10 information that turns out to be wrong? Where did
11 you get it?
12 A I got it while attending a briefing on the morning
13 of October the 14th at 7:23 in Richmond
14 detachment.
15 Q For example, you know that Sergeant Lemaitre said
16 the Taser was fired only twice. You know that?
17 A I now know that, yes.
18 Q Yeah, well, you would have heard it at the time,
19 would you not?
20 A Yes. Yes.
21 Q It's not now. You knew it then.
22 A I did know then, yes.
23 Q Thank you. And "then", I mean in October 2007.
24 A Correct.
25 Q And you know it's wrong because you've seen --
26 you've seen and heard that the Taser was used four
27 or five times, whatever. You know that's wrong
28 too?
29 A I know that that's wrong now. I did not know it
30 was wrong that day.
31 Q No, no, I understand what you're saying, and I'm
32 not suggesting that you knew it was wrong at the
33 time. Where did you get that information from,
34 that the Taser was fired twice?
35 A I don't have information here that it says -- and
36 I'm not certain that I gave that information to
37 Sergeant Lemaitre. I gave him the information
38 that -- and I can be very confident that I gave
39 him the information that's in my notebook. I
40 don't know where the information came from with
41 respect to how many times the Taser was deployed.
42 It may have been something we heard in the
43 briefing and I didn't note it. Why I didn't note
44 it, I have no idea. I would normally have noted
45 something like that.
46 Q So the comment that the gentleman did not go down
47 after the first Taser comment -- commentary about

1 it not being effective or to no avail, where did
2 that come from? Because you gave that to Sergeant
3 Lemaitre. Where did you get that information?
4 A You know, I can tell you, sir, that I gave
5 Sergeant Lemaitre what's here in my notebook. I
6 can say that with all confidence. Additional
7 information, additional editorial comments that
8 Sergeant Lemaitre made, I can't be confident that
9 I gave him that information. I made notes. I
10 know that I gave him the information that's in my
11 notebook.
12 Q Okay. I want to ask you about the video. You
13 know that Sergeant Lemaitre said to the public
14 there was no airport video of the room where this
15 took place. You know what I'm talking about in
16 terms of the secure area of the airport, and
17 apparently there was no airport video in that room
18 at the time. You know that's the fact, correct?
19 A Are you asking me if I know that there was -- the
20 airport did not have any video?
21 Q In that room.
22 A In that room. Yes, I know that, yes.
23 Q Thank you. And you know that during the initial
24 briefing Sergeant Lemaitre told the public,
25 through one of the reporter's questions, that
26 unfortunately there was no airport video of the
27 area where this happened. Do you know words to
28 that effect were said?
29 A I know that there was -- I know that now
30 certainly. I don't know if I remember hearing him
31 say that, that morning.
32 Q There was no disclosure that morning of the
33 existence of the video now known as the Pritchard
34 video.
35 A I don't believe there was.
36 Q And you knew of its existence because you had seen
37 it.
38 A I had viewed it myself, indeed.
39 Q Did you think that was in any way likely to give
40 an improper impression of one of the facts of the
41 event?
42 A I'm sorry?
43 Q The fact that -- why was the existence of the
44 Pritchard video not made known?
45 A It was evidence, police evidence in an
46 investigation. I very commonly never talk about
47 all of our evidence that we have gathered. It's

1 very, very common. I just -- we don't go through,
2 as a common practice, go through all of our
3 evidence. This is what we've gathered. It's just
4 -- we just don't do that. Unless it was asked of
5 us directly, we're not going to talk about that
6 type of thing.

7 Q So then just following up on this, October 30, you
8 issued a press release called a media advisory in
9 your language. You've given this to the
10 Commission. I'll just read this one paragraph,
11 it's the second.
12

13 Recent reports and statements made by the
14 lawyer acting on behalf of a witness to the
15 incident under investigation say that the
16 investigative team is not cooperating with
17 requests to return video evidence to the
18 witness.
19

20 A You know, sir, can I stop you for one moment?

21 Q Sure.

22 A I'm finding it very difficult to hear you with the
23 noise in the background.

24 THE COMMISSIONER: Yes.

25 A And I'm finding it very difficult to hear you.

26 MR. VERTLIEB:

27 Q Sorry.

28 A So if we could turn up the speakers or whatever, I
29 am --

30 Q No, thank you for telling us. That's fine. One
31 of the things we'll do is turn the fan off and
32 that may help. We know there's some noise out
33 there so I'm glad you -- I'm glad you mentioned
34 it. I'll speak up.

35 So I'm just reading from a media release --

36 A That's correct.

37 Q -- that you gave us, and we appreciate you being
38 cooperative and giving us this.
39

40 Recent reports and statements made by the
41 lawyer acting on behalf of a witness to the
42 incident under investigation say that the
43 investigative team is not cooperating with
44 requests to return video evidence to the
45 witness.
46

47 A Right.

1 Q Okay. Now, here's the sentence I want to ask you
2 about in a moment.

3
4 This video evidence is vital to the
5 investigation and its release to the public
6 at this time could clearly compromise the
7 investigator's goal of conducting a fair and
8 unbiased investigation.

9
10 That's your release.

11 A That's my release authorized by the team commander
12 to put out to the public.

13 Q You then say:

14
15 There are still a number of witnesses that
16 have yet to be interviewed by investigators.
17 The release of the video could compromise
18 what the witness has to offer.

19
20 A Yes.

21 Q Okay. At that point in time, there had been
22 multiple interviews of each of the four RCMP
23 officers. You knew that.

24 A I did not know that.

25 Q You didn't? Okay.

26 A No, that would be an -- I just want to, again,
27 make it very clear to the Commissioner so that he
28 understands my role. I don't know each and every
29 step that occurs in an investigation, whether it
30 was this investigation or any other homicide
31 investigation. I don't know who's been
32 interviewed. I know that there's a need to
33 release some information. I go and I speak with
34 the team commander to get permission and
35 authorization to release that information and
36 create -- have enough information to speak on that
37 release and then we move forward from there.

38 But to suggest that I knew that, you know,
39 there were a number of interviews done, I don't
40 know. I can't keep up with -- I respond to each
41 and every homicide in the Lower Mainland. I can't
42 keep up on top of that stuff. It's just
43 impossible for me.

44 Q Fair enough. Just so you know, there had been at
45 least two statements taken from each of the four
46 RCMP by the end of October.

47 A Thank you for telling me that.

1 Q Was that news to you?

2 A At that time of that release, that's news to me,
3 yes.

4 Q Okay. By the end of October, there were 24
5 witness statements taken from non-police. Did you
6 know that?

7 A No, I did not.

8 Q Okay. The question is how would the -- how would
9 this impact or compromise the investigators' goal
10 if that video was released?

11 A I'm not sure I understand your question, but I
12 think I do. So you're suggesting that because
13 there was a number of statements taken from the
14 officers and 24 other non-police witnesses had
15 been interviewed, you feel that releasing the
16 video -- you're wondering how the release of the
17 video would have compromised the further
18 investigation? Is that your -- am I understanding
19 you correctly?

20 Q Well, firstly, I'm not feeling anything, I'm just
21 asking a question. Your press -- your media
22 release -- and these are your words -- that's what
23 I'm asking you.

24 A Yeah, I --

25 Q Okay, just so we're clear.

26 A Yeah, I understand they're my words.

27 Q Okay. So I just wanted to ask you, you've told
28 the community by your press release, the video is
29 vital to the investigation.

30 A Right.

31 Q And I think -- okay, it's pretty clear you've said
32 that. You say:

33
34 Its release to the public could clearly
35 compromise the investigator's goal of
36 conducting a fair and unbiased investigation.
37

38 A That's correct.

39 Q What was it you meant by that comment?

40 A What I meant by that comment is that if the video
41 was released -- our goal as investigators is to
42 get what a person saw and not what they're told.
43 By releasing that video to the community, we're
44 essentially telling them what they're seeing, and
45 it could change, in their mind, what they saw.
46 It's common. I mean, we would not never, in any
47 one of our investigations -- we wouldn't go to a

- 1 bank robbery, for crying out loud, and release the
2 video that we get from the bank showing the bank
3 robbery at the same time we're conducting witness
4 statements and ask them, "Is this what you saw?"
5 We ask them, "Tell us what you saw," and we take
6 the video -- I'm sorry -- hands -- partly French.
7 We take the video away and we compare what people
8 saw to what the video says, and then we know that
9 there's -- once in a while, there's
10 inconsistencies, but we live with those.
- 11 Q You wouldn't disagree that after the end of
12 October, there was just -- there were very few
13 interviews conducted. I understand perhaps four
14 or five.
- 15 A You know --
- 16 MS. ROBERTS: I have to object at this point. Corporal
17 Carr is not here to discuss the IHIT investigation
18 and what remaining witnesses there were or what
19 witnesses they hoped to interview, et cetera.
20 He's already been very clear he was not privy to
21 all the details of the investigation. My
22 understanding is the Commissioner is not
23 interested in the IHIT investigation in any event.
24 I think Corporal Carr is being clear that he
25 cleared those words or got those words from the
26 team commander, and that's it. That's all he can
27 say about it.
- 28 MR. VERTLIEB:
- 29 Q You intended -- just on the comments of counsel
30 for your force, you actually though sat in on
31 these meetings of IHIT as they were meeting from
32 time to time to discuss the Dziekanski case and
33 their investigation.
- 34 THE COMMISSIONER: Mr. Vertlieb, I think --
- 35 MR. VERTLIEB: Sorry.
- 36 THE COMMISSIONER: -- there's some validity in what's
37 being said. As you know, it's a tender area as to
38 where to draw the line here.
- 39 MR. VERTLIEB: Okay. I'll leave it to others on that
40 point, then.
- 41 Q Now, I wanted to ask you without -- again without
42 going through each of the statements that were
43 incorrect, did you ever take action to correct the
44 facts that were disseminated early on that were
45 wrong?
- 46 A It was certainly discussed.
- 47 Q Tell us about that.

1 A It was discussed and decided and determined that
2 we will correct that information in due time, but
3 the time was not going to be until we (a)
4 determined -- at the beginning, on the 16th of
5 October when I took over as spokesperson, the
6 instructions that I was given were that we're not
7 going to release and speak of direct evidence.
8 We're not going to talk about the evidence, and
9 we're going to talk about process.

10 Because, at that particular time, the
11 investigation was in a mode of fact-finding to see
12 if a criminal investigation needed to be done. So
13 until we had determined whether or not a criminal
14 investigation was being inquired -- or, pardon me,
15 conducted, we weren't going to start putting out
16 information that could compromise a criminal
17 investigation.

18 Once a criminal investigation was determined,
19 we were absolutely not going to give that
20 information out because it could -- it could,
21 well, jeopardize the investigation. It could
22 jeopardize -- if charges were laid down the road,
23 it could jeopardize a court proceeding and we
24 would be highly criticized for giving out that
25 information. So, at that time, we were going to
26 -- we chose to speak about process until we had
27 all of the facts before us, and then once we had
28 all of the facts and we learned that charges were
29 not going to be laid, at that time Superintendent
30 Rideout made it clear and set the record straight
31 back in December '08.

32 Q You say "we" decided and "we" discussed. Who
33 instructed you? 'Cause you take instructions on
34 what to do.

35 A Superintendent Rideout.

36 Q Okay. So he was the driving force of this area of
37 your interest.

38 A He was the officer in charge and it was a decision
39 that he very carefully made based on what he felt
40 was -- you know, the direction of the
41 investigation, not unlike, you know, we do here in
42 this process. You know, someone has to make that
43 decision.

44 MR. VERTLIEB: Thank you. Mr. Commissioner, I
45 understand that we've had -- we've been continuing
46 all morning with video -- with audio difficulties
47 and I've been trying to limp through some of this

1 in the hopes that it would be corrected. I regret
2 that it seems as though we're still having some
3 trouble, so maybe we should break and see if we
4 can sort that out. I know that everyone is
5 interested in making sure that this --

6 THE COMMISSIONER: All right. I think -- I think it's
7 common knowledge that in today and tomorrow we are
8 attempting to deal with the witnesses on the list
9 so that next week we're clear to deal with the
10 medical evidence. And as everyone, I know, would
11 understand, scheduling the doctors is very
12 difficult, so I'm going to do what I can, and of
13 course, with your cooperation, to finish our
14 agenda this week.

15 All right. We'll take a break.

16 MR. VERTLIEB: Thank you.

17 THE REGISTRAR: We are now recessed for ten minutes.

18
19 (WITNESS STOOD DOWN)

20
21 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

22 (PROCEEDINGS RECONVENED)

23
24 THE REGISTRAR: The hearing is now resumed.

25 MR. VERTLIEB: Thanks, Mr. Commissioner. I believe
26 we've got the technical sorted out. Thank you.

27
28 DALE CARR, a witness,
29 recalled.

30
31 EXAMINATION IN CHIEF BY MR. VERTLIEB, continuing:

32
33 Q I just want to wrap up briefly here, Corporal
34 Carr. Did you, in the days and weeks following
35 the death of Mr. Dziekanski, come to realize that
36 misinformation had been provided to the public?

37 A Eventually, yes.

38 Q Did you personally take any steps to correct that
39 situation?

40 A I did take steps to attempt to correct it. I
41 spoke with superintendent in charge of the unit
42 and my direction was to hold on. We will not talk
43 about evidence. We will -- everything will be
44 corrected eventually. It's just not going to be
45 right now at this particular time.

46 Q And that superintendent was Superintendent
47 Rideout?

1 A That's correct.

2 Q Okay. Now, one last area I wanted to ask you. As
3 part of your job, you would do media interviews.
4 We covered that earlier this morning, correct?

5 A That's correct.

6 Q You had an interview with CBC anchor Ian
7 Hanomansing on November 30, 2007.

8 A I did, yes.

9 Q And Hanomansing asked you this, he said:

10

11 But one of your colleagues, Pierre Lemaitre,
12 said in an interview in French with Radio-
13 Canada that he had been given wrong
14 information by the officers at the scene.
15 That's why his initial accounting of what
16 happened when he spoke publicly was different
17 from what he saw in the video, and yet
18 neither he nor anyone else with the RCMP ever
19 corrected the record before the public saw
20 the video.

21

22 That's a transcript of what Hanomansing asked you.
23 Do you accept that?

24

A If it's the transcript, I accept -- I recall
25 having an interview with Mr. Hanomansing and in
26 fact I recall it well, because it's the only
27 interview I've ever had with Mr. Hanomansing.

28

Q Okay. Thank you. Here was your answer, what you
29 said:

30

31 Well, certainly I haven't seen Mr. Lemaitre's
32 -- or Sergeant Lemaitre's interview. I don't
33 know what he said, and I'm not going to try
34 to contradict what he said.

35

36 The question I have for you is just tell us,
37 please, why you said that, at that time.

38

A I was responding to Mr. Hanomansing. I didn't see
39 the video of what he -- I hadn't seen the response
40 of Mr. Lemaitre -- or, pardon me, Sergeant
41 Lemaitre -- and I hadn't -- and I wasn't about to,
42 without the benefit of seeing what he said, you
43 know, stand there and contradict what he said.

44

You know, I wasn't about to --

45

MR. VERTLIEB: Thank you, Corporal.

46

MS. ROBERTS: For the record, Helen Roberts for the
47 Government of Canada.

1 CROSS-EXAMINATION BY MS. ROBERTS ON BEHALF OF THE
2 GOVERNMENT OF CANADA:

3

4 Q Just a housekeeping matter first. Corporal Carr,
5 the notes that you provided to -- the copies of
6 the notes that you provided to the Commission, do
7 they contain phone numbers for people?

8 A Yes. There's phone numbers there from -- there's
9 media personnel that have called, that I have
10 their phone numbers in the book, and I have to go
11 through each and every note, but there are phone
12 numbers of people in the book, yes.

13 Q For instance, on the first page, there are phone
14 numbers for Mr. Sambrook. Am I right in
15 interpreting that one of the phone numbers is a
16 home phone number?

17 A Yes, you are right in interpreting that,
18 absolutely.

19 THE COMMISSIONER: So if you want these deleted, I'm
20 quite happy to agree with you.

21 MS. ROBERTS: I was about to ask that, Mr.
22 Commissioner, if they could be deleted from any
23 copies provided to the media or the public, that
24 would be much appreciated.

25 THE COMMISSIONER: Yes, indeed.

26 MS. ROBERTS: And rather than have Corporal Carr go
27 through each number, out of an abundance of
28 caution, I wonder if all phone numbers could be --

29 THE COMMISSIONER: Yes, no problem with that.

30 MS. ROBERTS: -- blacked out. Thank you.

31 THE REGISTRAR: I will go through that with you,
32 counsel.

33 MS. ROBERTS: Thank you.

34 A Thank you.

35 Q Now, you've given evidence about your training and
36 experience as a media relations officer for the
37 RCMP. What do you see as your goal as a Media
38 Relations Officer, your primary goal?

39 A Well, my primary goal is to get enough information
40 to the community so that they have an
41 understanding of what's going on without affecting
42 or compromising how our investigation is going.
43 We have the ultimate goal of gathering the
44 evidence and putting that forward to Crown counsel
45 and having that go to trial. We do not want to
46 compromise a trial with information that we've
47 given to the community or to the media.

- 1 Q And, in this particular case, you've testified
2 that you ran by, I think it was Sergeant Attew,
3 some comments that you were planning to make?
- 4 A I believe so, yes. Yes.
- 5 Q And is that standard practice or was that unusual
6 and just done in this case?
- 7 A No, in fact with -- with the Integrated Homicide
8 Team, my exact role is when I -- when I have a
9 news release done or when I have information that
10 I want to share, I have to run it by the -- or
11 have it approved by the team commander before it
12 goes out, and -- each and every time. In fact, so
13 much so that even a simple - what I would refer to
14 as an innocuous comment - gets approved to leave
15 the -- to leave the organization.
- 16 Q All right. You were asked about the team that you
17 were attached to or part of, and as I understand
18 it, that's the Integrated Homicide Investigation
19 Team?
- 20 A Yes.
- 21 Q And what does the "Integrated" refer to?
- 22 A Integrated is the fact that we are integrated --
23 not only RCMP are working in this office. We are
24 integrated with municipal police departments such
25 as Abbotsford Police, the Port Moody and the New
26 Westminster Police Service, along with all RCMP
27 detachments in the Lower Mainland District.
- 28 Q So this is not solely an RCMP team?
- 29 A Absolutely not, no.
- 30 Q And you've been asked about some information that
31 Sergeant Lemaitre gave to the media that turned
32 out to be -- or was inaccurate.
- 33 A That's right.
- 34 Q And you've also been asked about your notes. For
35 instance, your notes indicate four members
36 attended the airport and, at some point, Sergeant
37 Lemaitre has indicated there were three members
38 arresting Mr. Dziekanski. Do you have any
39 explanation for the discrepancy between what he
40 said and what your notes indicate and you believe
41 you relayed to him?
- 42 A Well, I feel fairly strongly -- I feel very
43 strongly that I would have given him the
44 information that's in my notebook, and my only
45 thought about the discrepancy would be perhaps
46 Sergeant Lemaitre, when he was asked of how many
47 officers were arresting Mr. Dziekanski, he was

- 1 referring to, perhaps, the three officers that
2 actually were physically attempting to secure Mr.
3 Dziekanski. There was one officer that kind of
4 stood back from that altercation if you will.
5 That's the only thing that I can think of as I've
6 gone through it in my mind and said how did he
7 come (sic) up with that number.
- 8 Q And you've given evidence that you were present
9 with Sergeant Lemaitre at the airport when he gave
10 some interviews. Were you also present when he
11 gave an interview at CTV studio the next day?
- 12 A No, I was not.
- 13 Q And were you present when he gave interviews
14 outside the "E" Division Headquarters on the
15 Monday or the Tuesday?
- 16 A No, I was not.
- 17 Q You were asked about what correction was done of
18 the mistakes or errors that were made, and you
19 referred to an explanation by Superintendent
20 Rideout. Were you present when he gave that
21 explanation or were you involved in preparing
22 that?
- 23 A Are you talking about the -- I'm sorry, at the
24 announcement in December of '08? Is that you're
25 referring to?
- 26 Q That's what I understood your evidence to be, yes.
- 27 A Yeah, right. I was indeed present at that
28 announcement, yes, and I -- I believe
29 Superintendent Rideout made these -- his notes and
30 his -- the decision to what he was going to talk
31 about on his own and provided it to us afterward.
32 I don't recall being involved directly in what Mr.
33 -- pardon me, what Superintendent Rideout was
34 going to say.
- 35 Q Right. Do you recall what his explanation was for
36 not correcting the errors immediately?
- 37 A I do. It was in order to not compromise the
38 investigation and by allowing the video to be seen
39 by witnesses and potentially -- potentially
40 compromising what they saw originally, and having
41 it hampered by what they would have seen through
42 the video.
- 43 Q Now, you've testified that you were busy in
44 October 2007. I think you talked about other
45 crimes or incidents that occurred. Was there
46 another major incident that occurred in Richmond
47 not long after Mr. Dziekanski's death?

1 A There was, that I -- there was another major
2 incident that occurred that IHIT was not involved
3 with, I recall that, on the 19th of October.
4 There was a plane crash into a building on that
5 evening of October 19th or the afternoon. But
6 over and above that, that same night, the bodies
7 of six murdered men were found in an apartment in
8 Surrey.

9 Q I'm sorry, that was October 19th that the victims
10 were found --

11 A Of 2007.

12 Q -- in Surrey?

13 A Yes.

14 Q So five days after Mr. Dziekanski's death.

15 A Yes.

16 MR. ROSENBLUM: (Indiscernible - not using
17 microphone).

18 A What's that?

19 MS. ROBERTS:

20 Q I'm sorry, Mr. Rosenbloom says that I said 2006.
21 I thought I said six days after his death.

22 MR. ROSENBLUM: (Indiscernible - not using
23 microphone).

24 MR. ROBERTS:

25 Q Are we talking about 2007?

26 A I can't hear Mr. Rosenbloom and --

27 Q Are we talking about October 2007 for both Mr.
28 Dziekanski's death, the Richmond plane crash and
29 the -- what's become known as the Surrey Six?

30 A Absolutely it is. They're five days apart from
31 each other.

32 Q Have you learned anything from your experience
33 doing the media relations in relation to Mr.
34 Dziekanski's death?

35 A Yes. I've learned a great deal. One thing I
36 would do completely different on this particular
37 day would be not to be in such a hurry to -- you
38 know, to meet deadlines that are imposed by the
39 media and sit down and kind of relax, get it all
40 out on a paper, get it all on a script and make
41 sure that whatever we're going to say is going to
42 be the words that are going to be said, and not
43 deviate from that.

44 By not having it laid out, I've learned --
45 and I've done this -- I do now this (sic) as my
46 practice. To not have it laid out, it allows for
47 the opportunity to add additional editorial

Dale Carr

Cross-exam by Ms. Roberts (for Government of Canada)

Cross-exam by Mr. Kosteckyj (for Zofia Cisowski)

1 comment that you would not -- you may not say in
2 one interview, but you may say in another
3 interview, and to get led down the proverbial
4 garden path during an interview. By having it
5 structured and with you, you -- I tend, and my
6 colleagues that I work with, tend to stay on the
7 message that we're trying to convey to the media
8 and to the community.

9 So would I have changed anything? Absolutely
10 I would have slowed down that morning. I would
11 have laid it all out and we would have compared
12 what we're going to say with what my notes are,
13 and have it -- secondary looked at by the team
14 commander before we went out.

15 But we were trying to be accommodating to the
16 media. My phone that morning -- I swear it was
17 ringing every 30 seconds, and it was just a
18 pressure that I had never really experienced
19 before, and have experienced on numerous occasions
20 and I'm very -- very capable of dealing with that
21 pressure now through these experiences.

22 MS. ROBERTS: Thank you. Those are all my questions.

23 A Thank you.

24
25 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA
26 CISOWSKI:

27
28 Q Corporal Carr, my name is Walter Kosteckyj. I'm
29 counsel for Zofia Cisowski. I do have some
30 questions for you.

31 Sir, you indicated that you were -- you're a
32 member of the IHIT team.

33 A Yes, sir.

34 Q And you started off as an active member of that
35 team working as an investigator; is that correct?

36 A I did in 2006, September, till pretty much
37 December, the end of December.

38 Q In order to do that, did you take an
39 investigator's course?

40 A Yes, I did.

41 Q And tell us a bit about that investigator's
42 course. How long did it take?

43 A Investigator's course is a two-week long course
44 put on out at the -- what we call the Pacific
45 Region Training Centre in Chilliwack. It's an
46 RCMP Training Centre.

47 Q And what is involved in that course generally?

- 1 A Investigative techniques, investigative -- it's a
2 lecture -- largely a lecture-based course where a
3 number of experienced serious crime investigators
4 come in and explain, you know, evidence-gathering,
5 interviewing techniques, major case management
6 principles. You know, it goes on from there, but
7 generally --
- 8 Q Discussing the significance of evidence and what
9 kinds of evidence might be significant, how you
10 might protect the scene better, all the general
11 things that an investigator has to know.
- 12 A Certainly.
- 13 Q So the point is that you weren't simply just a
14 media person that -- on this particular day. You
15 were a trained investigator as well. Is that a
16 fair assessment?
- 17 A Well, I am a trained investigator. On that day I
18 was in the capacity of a Media Relations Officer
19 and not an investigator.
- 20 Q Yeah, but you don't -- you don't take all the
21 skills that you've learned through your years of
22 police work and put them to the side when you're a
23 media person, do you, sir?
- 24 A I don't -- I don't set them aside, certainly not.
25 I use them to my -- to enhance my role as a Media
26 Relations Officer, but I was not an active
27 participant as an investigator in that
28 investigation.
- 29 Q No, I understand that. But you can assess the
30 information and you can form some assessments
31 about what's important, what needs to be
32 protected, what doesn't, because you have special
33 skills.
- 34 A Absolutely.
- 35 Q All right. Now, Mr. Lemaitre -- or, sorry,
36 Sergeant Lemaitre, he was your senior, was he not?
- 37 A He's senior by rank, absolutely, yes.
- 38 Q And he was senior by position.
- 39 A By position, yes.
- 40 Q Because you called him because he was in fact the
41 senior media relations person in British Columbia.
- 42 A That's correct.
- 43 Q So, on this particular day, you could see that
44 this was a large issue, and you went to your
45 superior, correct, notified him?
- 46 A That's correct.
- 47 Q And is it fair to say that when he got there, you

- 1 certainly worked in concert with him, but he took
2 ownership of the lead role from the media
3 perspective.
- 4 A He would have, in my mind, been the lead
5 spokesperson on that, and I was deferring all
6 calls to him.
- 7 Q Right. Now, also, as an IHIT investigator --
8 well, part of the IHIT team, let me put it that
9 way -- you're very interested in the information
10 that's being portrayed about your team.
- 11 A Certainly.
- 12 Q Correct?
- 13 A Yes.
- 14 Q You want to know what's being said about your
15 fellow members and about how your team is
16 conducting itself, correct?
- 17 A I do my best to do that, yes.
- 18 Q Well -- but my point is this: You were indicating
19 that you weren't really paying attention to what
20 Mr. Lemaitre -- or Sergeant Lemaitre was saying in
21 those early days, not watching the news. Isn't
22 that contrary to what your normal practice would
23 be when someone is speaking about your out -- your
24 outfit, your area, your team?
- 25 A It's not contrary to my practice, sir. I simply
26 do not have the time to watch all of the news and
27 stay on top of all of the news. I just -- I
28 depart my home most mornings at about 5:30 in the
29 morning and I get home about 6:30 in the evening.
30 The news of any importance is in the top 15
31 minutes, and I miss it. I'm not going to -- I'm
32 not going to take my time -- I need the balance of
33 that time for a lifestyle that I like to lead, so
34 I'm not going to sit down and try and look it up
35 on the internet or, you know -- so if I stumble
36 upon it or if I happen to, then, yeah, so be it.
37 But I don't make a point to go out of my way to
38 review the news.
- 39 Q But you, as a police officer and a media
40 specialist, review what the media is saying about
41 your unit.
- 42 A From time to time, I do.
- 43 Q All right. Back in October of 2007, nobody was
44 bringing to your attention that Corporal Lemaitre
45 was saying anything wrong, I presume, that he was
46 misrepresenting the facts as the IHIT team wanted
47 them presented, or did they?

1 A I believe I knew by Tuesday that there was some --
2 by the Tuesday there, so that would be the 16th.

3 Q Yes.

4 A That there was some information that wasn't
5 absolutely accurate. But the decision was made
6 that we weren't going to talk or correct -- we
7 weren't going to talk about evidence any longer.
8 We were going to talk about process. Once I took
9 control of being the spokesperson, once I -- the
10 spokesperson's role became mine, we were going to
11 talk about process. We weren't going to talk
12 about evidence, and any corrections would be done
13 once we had the full and thorough investigation
14 done, as -- as -- to go out and correct something
15 at that stage, we didn't have all the evidence.
16 We didn't have all the facts. We would be --
17 really, going out and correcting -- I can talk
18 about (a), but I can't talk about (b), because we
19 don't know it yet, but (c), I might have a little
20 bit of information. It's just -- it would have
21 been a mishmash of media relations, and it would
22 have just caused, in our opinion at that time,
23 more confusion.

24 So the decision was made to hold, talk about
25 process, talk about the process that we're going
26 through to -- with, you know, the CPC oversight
27 and the OPP oversight on the investigation,
28 talking about the process of that investigation.
29 That was the decision that was made. That's the
30 direction I went.

31 Q So the -- as I understand it, by October the 16th,
32 your superiors at IHIT were acknowledging that
33 mistakes had been made by Mr. -- by Sergeant
34 Lemaitre in his press releases.

35 A That's my recollection.

36 Q And that it was time to get, for lack of a better
37 term, Sergeant Lemaitre off the file and you onto
38 the file and go in a different direction.

39 A Absolutely not. Absolutely not.

40 Q Well, you were going in a different direction in
41 that you were going to stop talking about the
42 facts and start talking about process.

43 A Yeah, but you're -- you're suggesting by your
44 comments, sir, that the reason that we went in a
45 different direction is because of Mr. -- pardon
46 me, Sergeant Lemaitre. The reason and sole reason
47 that Sergeant Lemaitre was no longer going to be

- 1 the key spokesperson and it was going to go into
2 my hands, out of convenience and availability for
3 my role at the -- at the IHIT office. We're miles
4 apart, two different cities and Sergeant Lemaitre
5 had a number of other issues on the go at the
6 time, and he was more than willing to hand the
7 file back to me. It had nothing to do with the
8 fact that he had made some errors. Absolutely
9 nothing to do with that.
- 10 Q But it was --
- 11 A Absolutely nothing to do with that. I'll make it
12 clear one more time.
- 13 Q But there was a conscious decision to change the
14 file and to change from reporting facts to
15 reporting process.
- 16 A Absolutely there was.
- 17 Q All right.
- 18 A But it had nothing to do with Sergeant Lemaitre.
- 19 Q Now, let's talk about this meeting that occurred,
20 a briefing at 7:15. That's about -- that's the
21 time that it happened, wasn't it?
- 22 A I have noted in my notebook 7:23.
- 23 Q Sorry, 7:23, whatever, yeah. We were told by
24 Sergeant Lemaitre yesterday that he attended in
25 Richmond at approximately 6:30 when he met with
26 you, 6:30 in the morning. Does that accord with
27 your recollection?
- 28 A It that's his recollection, certainly. I don't
29 recall the exact time.
- 30 Q Well, the point I'm making or I want to get to is
31 do you recollect him being around for the
32 briefing?
- 33 A I recollect a number of IHIT members being at the
34 briefing and I don't know if Pierre was in the
35 briefing. I know I made notes and would have told
36 Pierre -- Sergeant Lemaitre the information that's
37 in my notebook. I would have shared that with
38 him. That's what I recall.
- 39 Q Is it a fair assessment that at that meeting at
40 7:23, by 7:23 when you got the briefing or the
41 briefing was done, that it was clear to you that
42 IHIT was not pursuing a criminal investigation of
43 the members?
- 44 A At the time of the briefing -- yeah, at the time
45 -- I would -- I would say that at the time of the
46 briefing on October 14th, it wasn't in my mind
47 that this could be a possible criminal

- 1 investigation.
- 2 Q And it wasn't in anybody else's. Nobody else was
3 conveying that to you either, were they, sir?
- 4 A I hadn't heard that at all, no.
- 5 Q Well, if it was in any way a criminal
6 investigation, Corporal Robinson would not have
7 been there, right, at the briefing.
- 8 A Well, I can't say that Corporal Robinson was at
9 the briefing. I can say that he attended the
10 room, spoke to somebody, and I don't recall who
11 was at the briefing. I want to just -- you know,
12 that you understand that that's my recollection of
13 it, sir.
- 14 Q But you know that he was there.
- 15 A He was there for a period of time. Whether he was
16 there during the time that the briefing took
17 place, I can't say. I don't recall. I've spent
18 the last two and more days trying to recall that
19 so I could come here and let this -- let the
20 Commissioner know that. I don't recall and I've
21 struggled with that, trying to recall that.
- 22 Q I understand that, sir, that you've tried. But
23 here's the -- here's the other point. You cannot
24 discount that Corporal Robinson spoke during the
25 course of the briefing either.
- 26 A I cannot.
- 27 Q No. Now -- so when these 12 individuals were
28 gathered at this meeting in the morning for this
29 briefing, this was not a criminal investigation,
30 was it, sir?
- 31 A In my mind it was not, no.
- 32 Q Now, when did you determine Mr. Dziekanski's
33 identification?
- 34 A That might have been -- that might have been
35 during the briefing because if -- according to my
36 notebook, I have Mr. Dziekanski's name on my -- on
37 the left-hand side of notebook and it's just above
38 where I've written the primary coordinator and the
39 scene. I believe at that time I was given that
40 information, right around the briefing time.
- 41 Q Okay. Did you inquire as to whether or not the
42 next of kin had been notified?
- 43 A You know, I -- I don't have a note of whether I
44 did, but I feel confident that I would have made
45 that inquiry and I say that because it's what I do
46 regularly.
- 47 Q It's something that anybody that's in the media

1 ought to do because you don't want to disclose
2 information getting back to the family before you
3 notify them.

4 A Absolutely. I am typically very cautious and very
5 sensitive to ensuring that information doesn't get
6 out with respect to a person's name before the
7 family is aware. In fact, I have a personal
8 policy that I try to stick to as tightly as I can,
9 to -- once the next of kin have been notified, I
10 do not release the name for an additional 24
11 hours. It gives the family time to tell
12 additional family, and notify friends and kind of
13 just get their head around the terrible, terrible
14 news they've just been given.

15 Q Were you -- were you aware that by October the --
16 at 7:30 at the morning at this meeting, or 7:20 or
17 whenever you left, and by the time that you did
18 your briefing, which -- well, let me just do this:
19 What time was that briefing at the airport
20 approximately?

21 A Briefing at the airport, sir?

22 Q Yeah, when you did the briefing to the media.

23 A Oh, briefing to the media. Well, Sergeant
24 Lemaitre did that.

25 Q Right, but you were there.

26 A I was present.

27 Q Right.

28 A And the time that that occurred would have been
29 after eight o'clock in the morning. I don't
30 recall.

31 Q Okay. Were you aware that the next of kin had not
32 been notified, that Mr. Dziekanski's family had
33 not been notified of his death yet by that stage?

34 A I think I would have assumed that they hadn't been
35 because I hadn't been told they had.

36 Q All right. Now, typically, how long do these
37 briefings last?

38 A Excuse me. I'm confused when you say "these
39 briefings".

40 Q Oh, sorry. The 7:23 briefing. Do you -- you
41 didn't make a note of when it ended?

42 A No, I did not.

43 Q All right. So my question to you is about that
44 briefing. Typically, how long do these briefings
45 last? Maybe there's not a typical time.

46 A There isn't. And they can go for 15 minutes and
47 they can go for -- I have notes here that show

1 that I've been in a briefing for two hours.
2 Q Okay.
3 A So they vary.
4 Q Well, in this particular case, the briefing would
5 have been -- told you who was involved, what the
6 weapon was, what the information was, the details
7 that -- as far as they knew about the deceased,
8 correct? All of that?
9 A Yes.
10 Q And you indicated that, did you not, to my learned
11 friend for the Commission when he was asking you
12 questions, that it would be normal in this kind of
13 a briefing for somebody like Corporal Robinson,
14 who was involved, to give his version of events.
15 A Yes, I would suggest that how else do we learn
16 that.
17 Q All right.
18 A Someone has to tell us.
19 Q All right. Now, can you, as a police officer and
20 a trained investigator, explain to me why it would
21 hurt the investigation to tell the public that a
22 Taser had been discharged five times, not two.
23 A I don't know that I ever said that it would hurt
24 the investigation. I'm not sure.
25 Q Now, were any of the other three police officers
26 who were involved at the briefing?
27 A No. I -- I've never, to my recollection, never
28 been in the same room with any of the officers
29 except Corporal Robinson who came into that room
30 for -- from my understanding, for a few moments,
31 and spoke to somebody, and then I don't recall
32 where he went or whether he remained in the room
33 'cause I was busy doing other things.
34 Q Okay.
35 A But I've never seen -- been in the same room with,
36 other than, you know, just in passing, like on --
37 occasionally I see it on the news or in the
38 *Province* newspaper. I've seen photographs of
39 them. Don't know who they are.
40 Q You were -- you can't -- can you categorically say
41 that the other three officers were not there?
42 A Yeah.
43 Q You're sure?
44 A I feel confident in saying that they were not
45 there.
46 Q Okay. And what time did you get to that briefing
47 -- or get to Richmond?

- 1 A I don't have an exact note of the time, but -- you
2 know, if I reflect back to that -- I was woken up
3 at 2:30 and then it took me about an hour to get
4 ready, would have been 3:30, about 45 minutes to
5 get there, stopped -- I'm thinking I arrived, you
6 know, at the detachment somewhere in the
7 neighbourhood of six o'clock, 6:30-ish. You know,
8 I really don't know.
- 9 Q Yeah. You watched the tape?
- 10 A I did, yes.
- 11 Q Were you able to observe on that tape that when
12 Mr. Dziekanski was tasered, he went to the ground?
- 13 A I did see that, yes. He fell to the ground.
14 That's where it stopped, where I stopped watching
15 it.
- 16 Q So you saw that on the morning of October the
17 14th.
- 18 A Yes.
- 19 Q All right. In your notes, sir -- and this is from
20 the briefing notes -- it says "swinging an
21 article".
- 22 A Mm-hmm.
- 23 Q "At M" -- what is that, "At members"? Is that --
- 24 A Yes.
- 25 Q -- short for members, MBRS?
- 26 A Yes, sir.
- 27 Q So on the morning of October the 14th, is it fair
28 to say that you didn't know there was a stapler
29 involved?
- 30 A I did not know there was a stapler involved.
- 31 Q Nobody had told you that there had been a stapler
32 involved or that Mr. Dziekanski had been swinging
33 a stapler?
- 34 A No, I knew it as an article.
- 35 Q And that's the way it was described to you in the
36 briefing?
- 37 A That's my understanding, yeah. I have that noted
38 here, "an article". I don't have any note of a
39 stapler.
- 40 MR. KOSTECKYJ: Those are my questions. Thank you.
- 41 THE COMMISSIONER: Thank you.
- 42 A Thank you.
- 43 THE REGISTRAR: Mr. Hira, you're soft-spoken. I'll
44 need you to speak up, please.
45
46
47

1 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE
2 KWESI MILLINGTON:
3

4 Q Officer, my name is Ravi Hira. I represent
5 Officer Millington. First, as I understand it,
6 the IHIT was called into this matter to -- because
7 it was an in-custody death; is that correct?

8 A That is correct, yes.

9 Q And then, as I understand it, the matter evolved
10 into a criminal investigation; is that correct?

11 A That is correct.

12 Q And the evolution into a criminal investigation is
13 a decision made by the investigators, not by you.

14 A That's absolutely correct.

15 Q And you were not part of that decision-making
16 process?

17 A Absolutely correct.

18 Q All right. Now, at that briefing and before that
19 briefing, we know that Constable Brassington
20 interviewed Officer Millington between 5:07 and
21 5:14 a.m. producing an eight-page typewritten
22 statement. We also know that Staff Sergeant Attew
23 interviewed Officer Rundel between 5:00 a.m. and
24 5:33 a.m. producing a 28-page statement. We also
25 know that Officer Teboul interviewed Officer
26 Bentley between 5:03 a.m. and 5:37 a.m. producing
27 a 22-page statement, and then after finishing that
28 interview, Officer Teboul interviewed Corporal
29 Robinson starting at 5:40 in the morning, though
30 we don't know what time that interview ended
31 because the last minute of the file is missing,
32 but it's a 23-page statement, so one would assume
33 that it took about a half hour or 40 minutes, with
34 the interviews then finishing by about 6:15, 6:30.

35 The first question that I have is were any of
36 those officers, Brassington, Attew or Teboul, at
37 the briefing?

38 A I believe they were. I believe they were. I
39 can't say with certainty that they were because I
40 didn't write down who was in the briefing. But
41 it's very usual, common practice, for the primary
42 investigator to be at the briefing. We would
43 typically wait to hold the briefing until the
44 primary investigator was there. So that would be
45 Brassington.

46 Insofar as Teboul and Attew, certainly being
47 a team commander, we would typically wait for them

1 as well to start a briefing, so based on that, I
2 would suggest that they were. I can't tell you
3 with confidence though.

4 Q So let me understand that. Are you confident that
5 Brassington -- well, first of all, Brassington was
6 the primary investigator; is that correct?

7 A I am confident in that, yes.

8 Q Are you confident, then, that the primary
9 investigator was present at the briefing?

10 A I want to -- I just want to say that I believe he
11 would have been because that would be common
12 practice to wait for the primary investigator. I
13 don't have a note who was there so I can't say
14 with confidence that he was there.

15 Q And your notes, your briefing notes that are at
16 page 1 of the last exhibit are something that you
17 went over with the primary investigator; is that
18 correct?

19 A With the team commander which would have been
20 Attew.

21 Q Who had interviewed Officer Rundel.

22 A Correct.

23 Q Thank you.

24 A According to your notes. I did not know that at
25 the time.

26 Q Fair enough. Now, just moving to another point.
27 Regarding your -- regarding the change from
28 releasing evidence to -- or talking about the
29 evidence to talking about the process, which you
30 say occurred on October the 16th, and you were
31 also referred to a press release that was given on
32 October the 30th. Was the -- where there's an
33 expression about concern that witnesses would see
34 the video. Am I correct in saying that the
35 concern was that witnesses would see the video and
36 give statements based upon the video to the extent
37 that they hadn't given statements?

38 A That's my understanding of what we're -- what I'm
39 -- that's what we're meaning when we say it would
40 taint their evidence as to what they actually saw.
41 They would give -- it's our feeling that they
42 would give a statement or they would give
43 testimony based on the video because you can't
44 dispute the video. It's -- it is there. It's
45 there.

46 But what people's perceptions were is what we
47 were after and what they saw and were going

1 through emotionally. That's what we were after,
2 to capture on statements.

3 Q And that leads to the second part of the issue
4 which is -- and you said that they would give
5 statements or testimony based on the video. Was
6 it also a concern that if they'd given statements,
7 that they might give testimony or change their
8 testimony based upon their view of the video?

9 A Absolutely it was a concern.

10 MR. HIRA: Thank you. Those are my questions.

11

12 CROSS-EXAMINATION BY MR. HARARIS ON BEHALF OF COPORAL
13 MONTY ROBINSON:

14

15 Q Sir, just so I understand this meeting at the
16 Richmond detachment, it's been called a briefing.
17 Was it specifically designed as an IHIT briefing
18 or was it a briefing of the overlapping groups,
19 for example, the Richmond detachment, the YVR
20 detachment, the commanders from those detachments
21 as well as IHIT being present?

22 A The briefing that I'm referring to that I have
23 notes on, I would characterize it as our
24 investigative briefing so that IHIT members are
25 aware of what sort of -- one consistent sort of
26 information, where to start, what we're dealing
27 with.

28 Q All right. And, by this stage, you would expect
29 to -- or correct me if I'm wrong, you would expect
30 to get an understanding, a general description of
31 what transpired that night?

32 A Yes, that would be the intent of the briefing.

33 Q Okay. And that information can come from several
34 sources?

35 A Absolutely.

36 Q Including the investigators that in fact
37 interviewed the officers, correct?

38 A Absolutely.

39 Q All right. And at -- involving an in-custody
40 death in a certain detachment or location, it
41 wouldn't be uncommon to also have the detachment
42 commander present at the briefing?

43 A It would not be uncommon. It would not be
44 uncommon.

45 Q And in this case, I take it, you can't rule out
46 whether or not the detachment commander was
47 present or not?

- 1 A I can rule that out actually.
- 2 Q You can?
- 3 A Yes, sir.
- 4 Q What about other representatives from that
5 detachment?
- 6 A I can't rule out others. I do know that
7 Superintendent Clapham was not there because he
8 had phoned me that morning. I have a note in my
9 notes to phone him when the briefing was done. I
10 recall failing to do that because I got caught up
11 and taking a bit of heat for that.
- 12 Q All right. Now, with respect to Corporal
13 Robinson, your only memory of him is being in the
14 room briefly for a period of time.
- 15 A That's my recollection and, again, I just want to
16 -- I don't know how more to express this. I have
17 really -- I've spent a great deal of time trying
18 to recall everything that went on in that morning
19 and my recollection is him coming into the room,
20 talking with somebody, standing there talking.
21 I'm over on the other side of the room. There's a
22 lot of activity going on, phone calls going on,
23 and I see him. Someone tells me that that's Monty
24 Robinson, the corporal in -- that was there at the
25 scene, and then I really don't recall if he
26 actually left the room or if he stayed in the
27 room. I just remember seeing him come in and
28 start talking with somebody.
- 29 Q All right. Now, in an in-custody death, I take it
30 what you try and do during those types of
31 investigations is you try and keep the officers
32 involved insulated from other information that
33 your investigation might have uncovered.
- 34 A Yes.
- 35 Q Would that be correct?
- 36 A Yes, it would be.
- 37 Q In other words, just like any investigation, you
38 would not want to contaminate the witnesses?
- 39 A Absolutely. That would be -- yeah, absolutely,
40 yes.
- 41 Q And, in this case, you -- am I correct in
42 understanding that you did not want to, or the
43 team did not want to display the video for fear of
44 contaminating witnesses?
- 45 A That's correct.
- 46 Q And that fear, does that remain even though a
47 statement's been obtained of a witness?

- 1 A It does. Our -- the concern seemed to be, and is,
2 that the people have given their statement as to
3 what they saw. Then this video is going to be
4 played pre any sort of criminal sanctions or
5 inquiries, and people would change their
6 recollection based on what they're seeing over and
7 over again.
- 8 Q With that process in mind, are you able to tell us
9 if it's more likely or unlikely that Corporal
10 Robinson would have seen the video in that room at
11 the briefing?
- 12 A I would say based on that process, it is unlikely
13 that they would have allowed Corporal Robinson to
14 see the video.
- 15 Q Now, I've reviewed your notes regarding the
16 briefing and I'm just trying to get a little bit
17 of a flavour for your note-taking style, Corporal.
18 Do you try and capture not word-for-word but
19 significant details that you learn in your notes?
- 20 A Yes.
- 21 Q All right. So, for example, the grabbing of a
22 computer, the action and what the item is, was,
23 from your perspective, significant, correct?
- 24 A That's correct.
- 25 Q Right. Now, I note that you have down in there,
26 partway down, "swinging article" and then the
27 symbol for "at" and your abbreviation for
28 "members".
- 29 A Yes.
- 30 Q Have I read that correctly?
- 31 A Yes, you have.
- 32 Q All right. When you wrote that note, you were
33 trying to be as detailed vis-à-vis what the
34 specific item was?
- 35 A That's what I -- I did not know what it was and I
36 was told by this -- if I knew it to be a knife or
37 if I knew it to be a stapler, or if I knew it to
38 be anything else, I would have wrote that item
39 down. So it was an article, and that's what it
40 was told to me as.
- 41 Q So would it be fair to say that, based on that
42 note, the declarant - that is, the person that
43 provided the information to you - either did not
44 or could not tell you what the article was?
- 45 THE COMMISSIONER: Well, that's speculation.
- 46 MR. HARRIS: All right.
- 47 Q Well, let me put it this way: The fact that you

Dale Carr

Cross-exam by Mr. Harris (for Corporal Monty Robinson)

Cross-exam by Mr. Rosenbloom (for Government of Poland)

1 put "article" down, is that the totality of the
2 information that you had with respect to the item
3 that Mr. Dziekanski had?

4 A Yes.

5 Q Now, Corporal, your -- your meeting with your
6 colleague, Sergeant Lemaitre, you didn't make
7 notes of that meeting and what was discussed, the
8 first one, correct?

9 A That's correct.

10 Q All right. And certainly at this IHIT briefing,
11 you didn't make detailed notes of when Corporal
12 Robinson came in or left, correct?

13 A No, I did not, you're right. Correct.

14 Q Was there any indication to you that now, quite
15 some time later, you'd be in having to testify
16 about all those events?

17 A Absolutely not. The furthest thing from my mind,
18 frankly.

19 Q Was there any indication to you that you would
20 have to remember and recall all these details
21 later on?

22 A Absolutely not.

23 Q All right. You're answering questions about --
24 from one of the counsel, Mr. Kosteckyj, and that
25 question was put to you that you cannot discount
26 that Corporal Robinson spoke at the briefing, that
27 is, stood up and spoke. And you answered, no, you
28 cannot discount that. The flip of that applies, I
29 would suspect, as well. You can't point to
30 anything to suggest that he in fact did speak at
31 that meeting, can you?

32 A I cannot. Absolutely.

33 MR. HARRIS: All right. Thank you answering my
34 questions, Corporal.

35 A Thank you. Who's next?

36

37 CROSS-EXAMINATION BY MR. ROSENBLOOM ON BEHALF OF THE
38 GOVERNMENT OF POLAND:

39

40 Q Corporal, my name is Don Rosenbloom and I appear
41 for the government of the Republic of Poland. I
42 have some questions for you.

43 A Thank you.

44 Q The Commission has provided us with a series of
45 DVDs of media scrums and interviews that were
46 conducted both with Sergeant Lemaitre and
47 yourself. In the first of the DVDs, Eric Rankin

1 of the CBC reports on air that you informed him --
2 and I should tell you that this interview takes
3 place before the release of the Pritchard video --
4 that you informed him in this interview that after
5 the release of this video, the RCMP and the
6 officers will be able to "hold their heads high".
7 Do you recall saying something like that to Mr.
8 Rankin?

9 A No. I'd have to -- and this is -- this is me?
10 I'm saying this on tape, you say?

11 Q No, it --

12 A I'm confused in how -- the context of that.

13 Q I appreciate that. I'm happy to have the video
14 shown. It is Eric Rankin of CBC on air stating
15 that you had said to him that once this tape was
16 released, the RCMP and the officers involved would
17 be able to "hold their" -- "hold their heads
18 high". You have no memory of that?

19 A No.

20 Q Might you have said that?

21 A Well, I don't know that I would say that we would
22 hold our heads high. Someone died. I mean, why
23 would we hold our heads high when someone just
24 died? That's -- to me -- this is a -- it would
25 have been -- it's very sad. I don't know if I
26 would have ever said anything like that. I don't
27 know.

28 Q You have no recollection?

29 A I could see -- I could see in the context of our
30 investigation and -- 'cause I believe at that time
31 I was talking again about process and about how we
32 -- the steps that we take to ensure that the
33 investigation is without bias and that we have a
34 number of checks in place, and that the
35 investigation would be fair and unbiased and come
36 to the truth. I could see me saying that, at the
37 end of this investigation we could hold our head
38 high meaning in the context of it would be a good,
39 fair and unbiased investigation.

40 Q So Reporter Rankin in his item certainly speaks to
41 the fact that you made those comments in the
42 context of the tape being released, and when it
43 was released that this is the way the -- your
44 perception of how the RCMP would -- would feel
45 after the public saw the tape, but you don't
46 remember that; is that correct?

1 A Well, I don't, and, you know, frankly, unless I've
2 -- unless it's actually on video, I don't think --
3 I can't be held accountable for what he's saying
4 that I said.

5 Q All right. I've made clear that what is on video
6 is not your comments --

7 A Right.

8 Q -- but rather Mr. Rankin reporting that you said
9 that. And you say you have no memory --

10 THE COMMISSIONER: Ms. Roberts, are you...?

11 MS. ROBERTS: I'm concerned about the relevance of this
12 first of all, and secondly, if he's saying that
13 Corporal Carr said something on video, I think it
14 should be shown to Corporal Carr, given he has no
15 recollection of it, if in fact this is relevant at
16 all.

17 THE COMMISSIONER: Well, I take your point, but I don't
18 think it's going to help because he doesn't
19 remember this.

20 A Exactly.

21 THE COMMISSIONER: And of course context would be
22 everything.

23 MR. ROSENBLUM:

24 Q I have no further questions in respect to that
25 matter. I do have other questions, Officer. I'd
26 like to focus on that first 48 hours from the time
27 of the incident. Do I gather that Sergeant
28 Lemaitre's involvement in the media relations side
29 of this incident terminated after 48 hours?

30 A Yes, it would be -- he started on the 14th, all
31 day on the 15th, and then at about -- I don't have
32 the time, but it was in the late morning, I
33 believe, we -- myself and Superintendent Rideout
34 attended "E" Division and we had that discussion.
35 That's at the time we decided that I would take --
36 I would become the key spokesperson.

37 Q I don't need the exact time.

38 A Yeah.

39 Q Sergeant Lemaitre is no longer with media
40 relations, is he?

41 A No, he's not. He's with a different unit now.

42 Q I'm sorry?

43 A He is with a different unit, yes.

44 Q Yes. And when did he leave media relations?

45 A I have no idea.

46 Q Thank you. Now, you were obviously contacted as

- 1 you've informed us, those early morning hours.
2 You attended first at the scene as you reported to
3 us, out at YVR. You then attended at the RCMP
4 Richmond detachment where you held the meetings
5 that have been discussed and you've testified to.
6 Let me ask you this: When you arrived for that
7 meeting or that briefing, was Sergeant Lemaitre
8 with you at that time?
- 9 A I -- my notes do not reflect who was in that
10 meeting, in that briefing at all. For me to
11 recall back 18 months ago exactly who was in that
12 meeting, I just don't recall. And I don't know if
13 he was in that meeting with me, or if I attended
14 it and then he arrived. He says he arrived at
15 6:30. By that nature, I would suggest he was in
16 the room.
- 17 Q Well, when you attended the Richmond detachment
18 office and you went to that briefing room, you
19 never left that room until you headed out to the
20 YVR, is that not fair to say?
- 21 A I don't know if I left the room. I specific --
- 22 Q Well, you never went down -- sorry, go ahead.
- 23 A Well, when you say "left the room", I want to be
24 very careful because, you know, in the next breath
25 you're going to say, well, you know, you did leave
26 room and -- okay.
- 27 Q No. But what I am going to suggest to you is
28 after you attended at the room, you didn't go down
29 to the parking lot?
- 30 A I don't know if I did. You know, you've got to
31 remember, sir, this is 18 months ago, and whether
32 I walked out of the room and went outside for five
33 minutes, I can't remember that. I didn't make a
34 note of that. That's just --
- 35 Q No, but --
- 36 A -- I don't know where we're going with this. This
37 is ridiculous.
- 38 Q I'll tell you where we're going with this.
39 Sergeant Lemaitre testifies that he met you in the
40 parking lot of the Richmond detachment. You have
41 no reason to disbelieve that, do you?
- 42 A I have no reason to disbelieve it.
- 43 Q And can I assume that on meeting Sergeant Lemaitre
44 at the parking lot, you and he attended for the
45 first time at the meeting at the briefing room
46 that we've described?

- 1 A I don't know that. I suggest to you that, you
2 know, if that's what Sergeant Lemaitre remembers,
3 then that's the way it is. I don't remember it,
4 whether I met him in the parking lot and then we
5 went up for the first time, or I was there and
6 then I went down and met him. I could very well
7 have gone down to meet him because he had no
8 access to Richmond detachment. He may have called
9 me and I may have gone down to let him in the back
10 door. I could see that happening and saying to me
11 -- phoning me and saying, "Hey, I'm five minutes
12 away, can you come and let me in?" Meet him in
13 the parking lot and then going up. I can see that
14 occurring. I don't have a note of it and I don't
15 have recollection of it.
- 16 Q There has been much focus on the statements that
17 the attending officers gave to the IHIT
18 investigators during the first 48 hours. Have you
19 ever had an opportunity to review those
20 statements?
- 21 A No.
- 22 Q We had the -- as you've described it -- the first
23 briefing out at YVR with Sergeant Lemaitre. Then
24 there were a series of further briefings, as
25 you've described them, by Sergeant Lemaitre on the
26 day in question, the 14th, onto the 15th and 16th;
27 is that correct?
- 28 A When you say "briefings", you're speaking of media
29 briefings?
- 30 Q I'm speaking of scrums. I'm speaking of telephone
31 calls --
- 32 A Okay, I just want to be clear of operational
33 briefings and media briefings.
- 34 Q No, no, I'm speaking of media briefings.
- 35 A Yeah, on that morning we went and we dealt -- when
36 I say "we", you know, Sergeant Lemaitre being the
37 spokesperson, went and dealt with three or four
38 different media interviews, and then we left the
39 airport. My understanding that Sergeant Lemaitre
40 then went and wrote a news release about the same
41 sort of information. And then the next day, he
42 was on his own and I referred all calls to him.
- 43 Q And the news release in question, is it not
44 Exhibit 98 in these proceedings? Is that what you
45 mean?
- 46 A I would -- I would think so, yes.

1 Q And that news release was seen by you before it
2 was released?

3 A No, it was not.

4 Q Did you read it after it was released?

5 A I don't believe I did. I mean, after -- I've read
6 it since, so yes, after.

7 Q No, I mean within 24 hours of the release to the
8 media.

9 A I don't think I did.

10 Q And so would it come as a surprise to you that in
11 this media release, Sergeant Lemaitre refers to
12 the fact that -- and I quote:

13
14 Three officers attempted to speak with the
15 man who continued to ignore their commands.
16

17 A Yes, it would.

18 Q Pardon me?

19 A It would come as a surprise to me.

20 Q Did you have any other briefings with the IHIT
21 investigators during that first 48 hours other
22 than what you've already testified to?

23 A Other than what I've already testified to, no.

24 Q You spoke about viewing the video at the Richmond
25 detachment office at that first briefing on a
26 small monitor, normal screen. When did you next
27 view the video?

28 A Oh, I thought you had more. Oh, boy.

29 Q Take your time.

30 A You know, I really have no idea when I would have
31 next viewed it. I know I didn't have an
32 overwhelming -- and this is going to come out
33 wrong -- I didn't have a desire to rewatch it. I
34 just found it -- personally I just found it
35 upsetting and didn't really want to see it again.
36 You know what, it may have been when it was aired
37 on the news.

38 Q So is it your testimony that it may have been that
39 you never saw the video on a second occasion from
40 the time you saw it at Richmond detachment office
41 on the 14th for over a month when the public first
42 saw it?

43 A Well, I -- I've said here today that I saw it
44 twice on that morning.

45 Q Yes. And putting that aside --

46 A Putting that aside.

1 Q Fair enough.

2 A You know, I don't feel comfortable being that
3 definitive. I really don't know the answer to
4 that. I don't know when I saw it again next. I
5 would be -- I'd be speculating as to when I did
6 and I'm not going to do that.

7 Q Corporal, you were aware there was a lot of
8 controversy swirling around in the public forum
9 about the video and the release of the video,
10 correct?

11 A Yes.

12 Q Yes. And you appreciated that the video was very
13 clearly material evidence in respect to the
14 incident?

15 A Yes, I did, yes.

16 Q Weren't you concerned during that period, from the
17 October 14th until the release of the video on
18 November the 7th to Mr. Pritchard, as to whether
19 that video depicted events as you were describing
20 them to the media during your media scrums and
21 briefings during that period?

22 A Well, I've already -- I have already said here
23 today that on the 16th, we knew that there was
24 some information that was not stated correctly,
25 and that it was decided that we weren't going to
26 attempt to try and correct any of that
27 misinformation until we had all of the -- all of
28 the facts and all of the evidence before us.
29 Because it would have been -- it would have been
30 an exercise in trying to correct one piece but not
31 being able to correct another because we didn't
32 have all of the information on that.

33 So knowing that we were eventually going to
34 be able to correct all that information once we
35 had all the facts in evidence, it -- yeah, I would
36 say no. I knew that eventually this would all
37 come out at the end of -- you know, the proverbial
38 end of the day, and it wasn't a concern of mine
39 because I knew we had -- we had the video, we had
40 a copy of the video and, you know, what was
41 misrepresented or what was misstated at the
42 beginning would be -- would be corrected once the
43 investigation was complete.

44 Q But Corporal, you were the Media Relations Officer
45 in respect to this incident throughout this period
46 leading up to the release of the video, correct?

1 A I was, yes.

2 Q Weren't you curious to take an inventory of where
3 there had been misrepresentations given by
4 Sergeant Lemaitre and yourself during the period
5 leading up to the release?

6 A That would have been one of the investigator's
7 role to do that. My curiosities -- I'm curious
8 about a lot of things that I'm not allowed to deal
9 with. I'm curious about -- there's a -- like I've
10 stated earlier, I've been involved as the Media
11 Relations Officer in over 150 homicides, and I'm
12 curious about a lot of that information, but I
13 don't get it.

14 Q But you knew that upon the release of the video on
15 November the 7th, that there would be public fury
16 or public attention to the fact that the video did
17 not jive with the facts that had been given by you
18 and Sergeant Lemaitre to the media.

19 A Yes.

20 Q So didn't you want to prepare yourself for that
21 assault, if I can put it that way, by the public,
22 by the media, once that release of the video was
23 made?

24 A I was prepared. I was prepared to say that we're
25 not going to talk about the video. We're not
26 going to talk about evidence until the entire
27 investigation is complete, and at that time, when
28 we are in a position to discuss it, we will
29 discuss it. So, in my opinion, the day that that
30 video was released, I was totally prepared to deal
31 with the, as you put it, assault from the media.
32 I dealt with it and there's a video there to show
33 that.

34 Q And it's your testimony that you may have only
35 seen the video on two occasions on the 14th of
36 October prior to the release of the video. That's
37 your testimony?

38 A No, it's my testimony to say that I can -- I can
39 assured -- tell you that I saw it twice on the
40 morning of October 14th, and I don't recall the
41 next time I saw it.

42 THE COMMISSIONER: I think this would be a good place
43 to break for lunch.

44 THE REGISTRAR: The hearing will now recess till two
45 o'clock.

46

1 (WITNESS STOOD DOWN)

2
3 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

4 (PROCEEDINGS RECONVENED)

5
6 THE REGISTRAR: The hearing is now resumed.

7 THE COMMISSIONER: Yes, Mr. Rosenbloom.

8 MR. ROSENBLROOM: Thank you.

9
10 DALE CARR, a witness,
11 recalled.

12
13 CROSS-EXAMINATION BY MR. ROSENBLROOM FOR THE GOVERNMENT
14 OF POLAND, continuing:

15
16 Q Officer, my understanding of your evidence this
17 morning was that you decided not to correct the
18 record in respect to some of the misinformation
19 that was out there in the early days because there
20 was a calculated decision by IHIT that facts would
21 no longer be provided to the media, that you would
22 only speak to the media about process; is that
23 correct?

24 A By and large, our goal was to steer away from
25 talking about direct evidence and trying to
26 correct any misstatements at that particular time.
27 Stick to -- stick to, by and large, process, and
28 at the end of the investigation, once it was
29 either determined to be -- if it's determined not
30 to be a criminal investigation, at that particular
31 time then we would come out. If it was determined
32 to be a criminal investigation, we'd come at the
33 end when -- once Crown made a decision as to
34 whether or not there was charges. And that's
35 indeed what happened.

36 Q Corporal, when was that decision made by yourself
37 and IHIT?

38 A My recollection to that would be right around
39 October the 16th.

40 Q So approximately 48 hours after --

41 A Roughly.

42 Q -- the incident. Did you receive those marching
43 orders from Sergeant Rideout?

44 A He's Superintendent Rideout and --

45 Q I'm sorry, Superintendent, yes.

46 A -- and "marching orders"? A little strong, but --

1 Q Well, all right.

2 A -- certainly -- certainly my instructions were
3 that that's the direction we were going to go.

4 Q Yes. And did those instructions come from
5 Superintendent Rideout?

6 A Indeed, absolutely.

7 Q All right. I'm perplexed by the fact that you say
8 that such a policy was implemented approximately
9 the 16th of October when you were issuing press
10 releases from the media department of your force
11 on, for example, November the 30th. I want to
12 draw to your attention one particular press
13 release of November the 30th. I believe these
14 press releases have been marked as exhibits, have
15 they?

16 THE COMMISSIONER: No.

17 MR. ROSENBLOOM: But they're in the possession of all
18 counsel.

19 Q You're familiar with this press release?

20 A I am, yes.

21 Q Would you agree with me, without belabouring the
22 point, that in this press release of November
23 30th, you are dealing with the facts of the case
24 and not about process. To refresh your memory, as
25 you review this press release, are you not talking
26 about the medical attention that was given to Mr.
27 Dziekanski, the first aid, the Emergency Services
28 involvement?

29 A Yes, we are.

30 Q Well, can you reconcile for me why you have
31 testified that as of approximately the 16th of
32 October, you were instructed by the superintendent
33 not to speak about facts with the media, and then
34 here in one particular press release on November
35 30th, you're doing just that?

36 A Yeah. You know, we would have to assess at times
37 throughout the investigation whether or not, you
38 know, something needed to be addressed. This
39 particular issue, it was determined that it wasn't
40 -- it wasn't evidence that would support a
41 criminal charge, whether or not medical attention
42 was administered or applied by the officers, and
43 therefore we felt at that time that it could be
44 corrected.

45 Q Why do you say that the level of prudence or
46 imprudence by the police officers with the

- 1 delivery of medical care might not be a criminal
2 matter, Officer?
- 3 A Well, I can tell you that based on some
4 consideration, careful consideration over whether
5 to respond to the fire department's accusation
6 that we did absolutely nothing, which was our
7 belief that that was not the case, it was reviewed
8 and it was felt -- and approved by Superintendent
9 Rideout that I could go ahead and speak to that
10 individual piece of information.
- 11 Q So the superintendent's directive to you around
12 October the 16th wasn't a hard and fast rule, was
13 it?
- 14 A Well, it was his instructions to me that we would
15 stick to process and not talk about the evidence.
16 From time to time that was reviewed for certain
17 instances, I suppose.
- 18 Q And was that reviewed in the context of the
19 misinformation that had been provided to the
20 public during that early period?
- 21 A I believe it was, and I believe that one of the --
22 one of the rationales for not correcting some
23 other information was the mere fact that we didn't
24 have all of those details. It would not service
25 anything by coming out with half that information.
26 Like -- yeah, it was not -- that's what it...
- 27 Q Well, I'll come back to that in a moment. You
28 spoke this morning about the fact that the policy
29 or direction from Superintendent Rideout was
30 motivated by the fact that you did not want to
31 compromise the investigation, correct?
- 32 A Yes.
- 33 Q Yes. Would you not agree with me, Officer, that
34 the delivery to the media of misinformation during
35 those early days, in itself, would compromise the
36 investigation?
- 37 A Would I not agree with you which? I'm --
- 38 Q I'll do it again.
- 39 A I'm sorry.
- 40 Q Would you not agree with me that the
41 misinformation that was disseminated to the media
42 during the early days --
- 43 A Yes.
- 44 Q -- would have compromised the investigation?
- 45 A It could have, absolutely. I would agree with
46 you.

1 Q And having -- and appreciating that fact, did you
2 not think it incumbent upon yourself and the IHIT
3 investigators to at least clear up the record and
4 to inform the public of what was the best
5 information?

6 A Well, that was considered and knowing what we knew
7 and what the misinformation was, we felt that we
8 would be able to decipher the difference in the
9 investigation, so we knew that eventually that
10 information would come forward, and it did come
11 forward. It came forward in December of '08.

12 Q Sorry, came forward in...?

13 A December of 2008.

14 Q Fourteen months later.

15 A That's how long it took to complete the
16 investigation and for Crown to approve the
17 charges, absolutely.

18 Q Yes. But the point I'm making is that during the
19 first 48 hours, and within the early period after
20 this incident, there was misinformation provided
21 to the media that was generated from your office,
22 correct?

23 A Yes.

24 Q And my question to you is did you not feel it
25 incumbent upon yourself and your fellow officers
26 to clear up the record, to at least inform the
27 public of the facts as you then later learned them
28 to be?

29 A And I've testified to that, sir. I've said that
30 we addressed it with Superintendent Rideout and
31 his direction was that we were not going to go
32 further with any evidence and speak about process.

33 Q Were you -- sorry.

34 A And that -- and that, at the end of the
35 investigation, whichever it ends up being, whether
36 it is a criminal investigation and determined not
37 to be one, we would then correct the record. If
38 it's a criminal -- pardon me, a criminal
39 investigation, we would then correct the record
40 once Crown has made a decision, and that's what
41 happened in December of '08.

42 Q Let's focus on one aspect of the misinformation.
43 That is where Sergeant Lemaitre, and I believe
44 yourself, informed the public that there had been
45 only two deployments of the Taser. When did you
46 learn that in fact there had been four or five

1 deployments of that Taser?
2 A I don't know the answer to that. I'll have to --
3 you'll have to give me a few moments to look
4 through my notes and --
5 Q Yeah --
6 A I don't even know if I have that as a note.
7 Q Let me assist you just a little bit.
8 A Okay, that'd be great.
9 Q If I may. The information in question was
10 provided to the IHIT investigators from Officer
11 Baltzer of the Delta Police Force. That's your
12 understanding?
13 A That's my understanding.
14 Q And it's further my understanding that his report
15 to the IHIT investigators was October the 24th,
16 2007, and that it was delivered up to your Officer
17 Hoivik on October 25th, 2007. Does that all make
18 sense to you?
19 A Yes, yeah.
20 Q And does it make sense to you that you then learnt
21 of the contents of that report soon after?
22 A Yes. That makes absolute sense.
23 Q Yes. So appreciating that in late October 2007,
24 you knew that the information you had provided to
25 the media earlier on of only two deployments was
26 incorrect, why did you at that point believe that
27 it was in the interest of the investigation to
28 leave that misinformation on the public record?
29 A It was my instructions by Superintendent Rideout
30 that we were going to talk about process and talk
31 about -- and not talk about, sorry, about the
32 evidence. That new information that was learned
33 and the factual information about the deployment
34 of the CEW would, in time, be shared with the
35 community and with the media. And it was in
36 December of '08.
37 Q But Officer, wasn't it more compromising to the
38 investigation that that misinformation remained on
39 record month after month after month from this
40 incident?
41 A I don't see it as so.
42 Q You don't?
43 THE COMMISSIONER: Yes, Ms. Roberts?
44 MS. ROBERTS: Mr. Commissioner, this is getting quite
45 repetitive and I'm not sure it's of any relevance
46 to the report that you'll have to write as to his

1 personal --
2 THE COMMISSIONER: Well, I'm beginning to think --
3 MS. ROBERTS: -- views on the decision made by
4 Superintendent Rideout with which he complied.
5 THE COMMISSIONER: I'm beginning to think that's true.
6 As you know, I've had some trouble in this area.
7 Also, of course, we know there's an awful lot more
8 to it than how many downloads -- how many times
9 the Taser was discharged. There's all the problem
10 about the degree to which the charge entered the
11 body and the whole thing. So it goes on and on.
12 I don't see where this can go, Mr. Rosenbloom.
13 MR. ROSENBLOOM:
14 Q Corporal Lemaitre testified yesterday that he was
15 uncomfortable with the fact that the record had
16 not been cleared up in terms of misinformation
17 generally. He testified of having an animated -
18 I'm using his words - animated conversation with
19 you and fellow officers within the media group.
20 Do you recollect such meetings taking place where
21 he expressed his concern?
22 MR. HIRA: (Indiscernible - not using microphone) he
23 spoke with Ward and not Carr.
24 MR. ROSENBLOOM: Well, I'm in the hands of counsel. I
25 recollect him stating that he was -- he had a
26 meeting with his fellow officers of the media
27 section. If I'm misrepresenting the evidence, I
28 want to hear about it.
29 MS. ROBERTS: My recollection is he talked about having
30 discussions, not a single meeting.
31 MR. ROSENBLOOM: Discussions. I'm happy to frame my
32 question as discussions.
33 THE COMMISSIONER: Well, isn't the question simply,
34 "Did you discuss this topic?"
35 MR. ROSENBLOOM: Well, I want -- in fairness to the
36 witness, I wanted him to know what Sergeant
37 Lemaitre said yesterday.
38 Q Did you have any discussions with Sergeant
39 Lemaitre concerning his uncomfortableness (sic)
40 with the situation where the record had not been
41 cleared up?
42 A Would we -- yes, yes.
43 Q And you had a number of conversations with him
44 about it?
45 A Yes.
46 Q In both informal and formal sessions?

1 A Yes.

2 Q And is it fair to say that Sergeant Lemaitre
3 expressed his concerns that the record remained
4 without correction?

5 A I'm sorry, he...?

6 Q Did -- did Sergeant Lemaitre express concerns
7 during these various discussions with you that he
8 was concerned that the record had not been
9 corrected in terms of the misrepresentations?

10 A Well, we -- you know, as both of us are
11 communicators and we both deal all the time with
12 the media, I think we both had that same concern
13 that, you know, how long is this going to go on.
14 But I work for an organization that we make
15 decisions on a daily basis based on a variety of
16 things, and I -- whether or not -- it remains to
17 be seen if it was the right decision to make at
18 the time. It was done with the interest of that
19 investigation in place, and it was a concern that
20 if we were to start talking about evidence, once
21 we had determined -- and I believe, if I remember
22 correctly, once we learned that the Taser had been
23 down -- there'd been five deployments of that CEW,
24 I believe our minds turned to criminal
25 investigation. I believe that's the time frame.
26 I don't recall it exactly, but I believe that's
27 the time frame.

28 I'm certain that we would be criticized for
29 putting out information about a criminal
30 investigation, so it was a -- kind of a rock and a
31 hard spot situation.

32 Q But you've just told us that indeed Sergeant
33 Lemaitre expressed his concern to you during these
34 conversations. I believe he testified yesterday
35 that he did not express these concerns directly to
36 Superintendent Rideout, that you were the one who
37 was responsible for the conduit of information,
38 that you were the one that was directly involved
39 with the IHIT team. Did you ever inform
40 Superintendent Rideout of the concerns expressed
41 by Sergeant Lemaitre regarding the misinformation?

42 A No. And I say that because it was never expressed
43 to me in a manner that I left that conversation
44 believing that that's what Sergeant Lemaitre
45 wanted me to do. It was a conversation not
46 unlike, you know, I would have had yesterday with

- 1 somebody saying, "I have concerns about having to
2 testify here today because it makes me nervous,"
3 or, "I have concerns about, you know, making it
4 here on time because of traffic." You know, it
5 was just -- it was that kind of context.
- 6 Q Did you ever request of Sergeant -- excuse me, of
7 Superintendent Rideout that you have access
8 directly to the officers, the four attending
9 officers to discuss their statements?
- 10 A No.
- 11 Q You had an interview with CBC's Ian Hanomansing on
12 November the 30th, and I have a transcript of the
13 excerpts of that interview.
- 14 A Do you wish this back? Do you wish this back?
- 15 Q Now, I'm going to lead you to certain excerpts of
16 that interview. Do you happen to recall that
17 interview?
- 18 A Absolutely I do.
- 19 Q You say it so assertively. Why? Was there
20 something special about that interview?
- 21 A Nothing special other than the fact that I've
22 never been interviewed any other time prior to or
23 since by Ian Hanomansing and I know him through a
24 loose -- like a sixth degree of separation. I
25 just know him from that. So it was just -- I
26 remember it.
- 27 Q Okay. Well, just to try to briefly deal with
28 this, much of this interview related to the issue
29 of medical attention to Mr. Dziekanski in his
30 final hours; is that correct?
- 31 A Yes.
- 32 Q Final minutes. And you told Mr. Hanomansing, at
33 page 1, that there was continuous monitoring of
34 Mr. Dziekanski's vital signs, correct?
- 35 A Yes, I did.
- 36 Q Corporal Robinson has informed us under oath in
37 these proceedings that he cannot remember how many
38 times he took Mr. Dziekanski's pulse. Did you
39 have information at the time of this interview on
40 November 30th regarding the occasions of which
41 Corporal Robinson or anyone else monitored the
42 vital signs of Mr. Dziekanski?
- 43 A No, I was -- I was told that the information was
44 that they continuously monitored him.
- 45 Q And you got that information from whom?
- 46 A Investigators.

1 Q I'm sorry?

2 A The investigative team. The investigative team.

3 Q Yes. Did anyone inform you, leading up to this
4 interview on November 30th, that the officers
5 observed laboured breathing by Mr. Dziekanski
6 after he was handcuffed?

7 A No. What -- what I remember of this is -- I'm
8 wondering if I could see that news release back
9 again.

10 Q Sorry, see the what?

11 A That news release that you showed me earlier.

12 Q Yes, absolutely.

13 A Thank you. Thank you. So the information I would
14 have had -- and again, this would have been --
15 this news release would have been compiled and
16 then approved by Superintendent Rideout prior to
17 me going out to the media as was every one of my
18 news releases that I went out with.

19 So the information I would have had was
20 exactly what's in here, and that there was regular
21 ongoing assessment and the officers noticed that
22 he'd become unconscious.

23 Q Yes. There's evidence before these proceedings
24 that the attending officers observed laboured
25 breathing, that they observed him turning bluish,
26 which is cyanotic condition. Were you aware of
27 any of that when you gave this press conference?

28 A No.

29 Q So when you stated, as you did on page 2 of the
30 transcript, that there was no need -- this is line
31 17:

32

33 There was no need at that point to conduct
34 any sort of first aid.

35

36 You weren't aware of the deteriorating condition
37 as observed by the officers?

38 A No, I was not.

39 Q All right. You weren't aware at that time of
40 carrying out this interview that Code 3 had been
41 called?

42 A That's interesting that you bring that up, because
43 I -- I've heard that term a lot through this
44 process, and I don't know if I heard that for the
45 first time through this process or if I learned it
46 before. I can't recall if I -- I knew it at this

1 time.

2 Q If you can turn to page 4 of this transcript. Mr.
3 Hanomansing states -- or asks you, and I'm leading
4 you to line -- he's focusing on the issue of
5 whether the record -- why the record had not been
6 cleared up, and he says -- excuse me just one
7 moment. He says:

8

9 But one of your colleagues, Pierre Lemaitre,
10 said in an interview in French with Radio-
11 Canada, that he had been given wrong
12 information by the officers at the scene.
13 That's why his initial accounting of what
14 happened when he spoke publicly was different
15 from what we saw in the video, and yet
16 neither he nor anyone else with the RCMP ever
17 corrected the record before the public saw
18 the video.

19

20 You answered at page 4, and if I can just take a
21 portion of your answer down at line 19.

22

23 Did we perhaps err in not correcting
24 something that we saw, that could have been
25 the case.

26

27 Let's stop there for a moment. Do you still
28 subscribe to what you said there?

29

A I can't find that.

30

Q I'm sorry, line 19.

31

A "It's the information they knew at the time"?

32

Q

33

It's the information they knew at the time.
34 Did we perhaps err in not correcting
35 something that we saw, that could have been
36 the case.

37

38 A That could have been the case.

39

Q Do you see that? Do you still subscribe to that,
40 that you could have erred?

41

A Oh, sure.

42

Q Did you err?

43

A In not going forward immediately with a
44 correction?

45

Q Immediately or --

46

A Okay, what's your question with --

1 Q -- a month later -- excuse me.

2 A -- respect to the error?

3 Q If I may just finish my question --

4 A I'm sorry.

5 Q -- before you answer.

6 A I'm sorry.

7 Q Immediately or a month later or two months later,
8 but not having to wait 14 months for the Crown --
9 Criminal Justice Branch to give their report.

10 MS. ROBERTS: I'm not -- sorry, I'm not clear on the
11 question. Is he asking this witness's opinion as
12 to whether that was the right decision made by
13 Superintendent Rideout? Is that the question?

14 MR. ROSENBLOOM: No.

15 MS. ROBERTS: What is -- I'm sorry, I'm not clear on
16 what the question is.

17 MR. ROSENBLOOM: My question -- the Corporal stated at
18 November 30th that perhaps they erred. My
19 question is:

20 Q Do you still believe that perhaps you erred?

21 A You know, it could have been -- you know, it could
22 be -- just give me a minute here. Yeah, I would
23 say that given the principles of major case
24 management and our policies in not giving
25 information out with respect to evidence on a
26 criminal investigation, I would say it was not an
27 error.

28 In a public relations -- with respect to and
29 the context of a public relations exercise,
30 absolutely it's an error.

31 Q You say further on in that transcript, if you keep
32 it in front of you, down at the bottom of page 4,
33 four lines from the bottom:

34

35 But bear in mind, this was evolving every
36 day, and there were heavy, heavy demands on
37 my time and on Sergeant Lemaitre's time and
38 -- you know, it's just probably something
39 that was an oversight more than the big
40 conspiracy that we were out to lie to the
41 public. That is the furthest, absolutely
42 furthest thing from my mind.

43

44 You see that?

45 A I see that.

46 Q And you said it.

1 A I said it.

2 Q Corporal, are you suggesting to us that the
3 failure to clear up the record in respect to the
4 misinformation was simply an oversight?

5 A No, not at all.

6 Q And yet did you not just -- did you not say that
7 in the passage that I just am referring to?

8 A Yeah, I erred in making a comment like that.

9 Q Well, you told us today that the justification in
10 not clearing up the record in respect to the
11 misinformation was that you had an order from
12 Superintendent Rideout.

13 A Yes.

14 Q Why did you not say that to the CBC on November
15 the 30th? Why did you say it was an oversight?

16 A I don't know why I said that. It was an error and
17 I shouldn't have said it, and I apologize for
18 saying something like that.

19 THE COMMISSIONER: But let it be said that the words
20 are, "Bear this in mind...".

21 MR. ROSENBLoom: Yes?

22 THE COMMISSIONER: It's not put forward as the only
23 answer.

24 MR. ROSENBLoom: I wasn't suggesting it was, but it
25 does -- the qualification "bear in mind" -- and
26 I'm not wanting to argue with you, Mr.
27 Commissioner -- I don't know if that speaks to the
28 point you have made, but it does go on and say:

29
30 ...you know, it's just probably something
31 that was an oversight.

32
33 THE COMMISSIONER: Yes. "Bear that in mind...". All
34 right.

35 MR. ROSENBLoom:

36 Q Now, you testified this morning about a meeting
37 that took place out at the Surrey -- one of your
38 Surrey offices on November the 6th, 2007, and in
39 attendance was Assistant Commissioner Macintyre
40 and a number of other senior people, correct?

41 A Correct.

42 Q And you have your notes in front of you that gives
43 us information as to who was present. Sir, that
44 was a day before the Pritchard video was returned
45 to the owner, Mr. Pritchard, correct?

46 A Correct.

1 Q And that meeting was for the purpose of
2 strategizing about how to deal with the media
3 attention that would be generated from the public
4 release of that video?

5 A No, it was -- it was a meeting to discuss how it
6 was going to be handled, whether or not we were
7 going to -- we were. Not whether or not we were
8 going to give it back. We had in our mind we were
9 giving it back. There was no doubt in our mind
10 that we were giving it back. In fact, at no time
11 did we ever say that we wouldn't give that back to
12 Mr. Pritchard. It was always of our mind that we
13 were going to give it back. It was just, again,
14 in due course.

15 This being the date that it was decided it
16 was going to be returned, we were discussing what
17 our -- whether or not we would release a copy of
18 that to the media, or we would just simply give it
19 to Mr. Pritchard, knowing full well that it would
20 be given to the media himself.

21 Q Well, Corporal, there is an affidavit of Mr.
22 Pritchard I believe tendered in evidence already.
23 I'm just looking to Commission counsel for
24 confirmation.

25 MR. VERTLIEB: Yes.

26 MR. ROSENBLOOM: Pardon me?

27 MR. VERTLIEB: The Pritchard video is Exhibit 31.

28 MR. ROSENBLOOM: I'm not speaking of the video. I'm
29 speaking of the affidavit.

30 MR. VERTLIEB: The affidavit, yes.

31 MR. ROSENBLOOM: Is Exhibit 31? Yes.

32 Q And Mr. Pritchard in that affidavit states that at
33 a point in time he was informed by the RCMP by
34 Constable Mulhall, or Corporal Mulhall, that the
35 video would not be returned for one-and-a-half to
36 two-and-a-half years. My question is do you have
37 any personal knowledge about that situation?

38 A I do know that there was a point in which Mr.
39 Pritchard was told that he would get the video
40 back in relatively short order, and then that had
41 to be changed, bearing in mind that we were
42 thinking that this was going to be kept for a --
43 as evidence in a criminal investigation and we
44 could therefore not return it. And then
45 eventually it was returned to him.

46 Q Do you have any personal knowledge as to whether a

- 1 decision was made by the RCMP to hold back on the
2 video for one-and-a-half to two-and-a-half years?
- 3 A I don't know if it was -- no, I don't, no. I know
4 of the -- I've heard of that language, but I don't
5 know if it was, like, to hold back or was -- the
6 idea was to hold onto it until the investigation
7 was wrapped up.
- 8 Q At the Surrey meeting on November the 6th with the
9 Assistant -- with the Assistant Commissioner --
10 Commissioner.
- 11 Q -- and others, was the video shown?
- 12 A No.
- 13 Q There has been reference made in these proceedings
14 to an Ontario Provincial Police Report conducted
15 on behalf of the RCMP. Have you seen that report?
- 16 A No, I have not.
- 17 Q Yesterday Officer Tim Shields, outside this
18 hearing room, apologized to the public about how
19 the media relations were handled in this matter.
20 Are you also of the opinion that an apology to the
21 public is in order?
- 22 A I'm certainly sorry that -- absolutely sorry that
23 misinformation got portrayed and we're here today
24 to try and sort that out. Absolutely. It's never
25 been my intention, ever, ever, to mislead the
26 public. I'm not a liar. I don't intend to lie to
27 anybody ever, and absolutely I'm sorry that this
28 has gotten to the point that it is today. It's
29 just beyond me --
- 30 Q Did it --
- 31 A -- to -- absolutely I'm sorry for that.
- 32 Q And it is your testimony that your hands were tied
33 and that you were unable to clear up the record
34 because of direction from IHIT and from the
35 Superintendent Rideout.
- 36 A You know, I don't want to say my hands were tied.
37 I belong to a large organization that is
38 responsible for conducting criminal
39 investigations. In keeping with the investigative
40 standards and practices in not releasing evidence,
41 the decision was based on that. To go outside of
42 that, it's just -- it would have been
43 inappropriate for us to do so. And so my hands
44 are tied on every one of my files that I'm
45 involved with as a Media Relations Officer to
46 release details, evidence to the public. So it's

1 -- my hands are continuously tied.

2 Q There came a point where the IHIT report was
3 completed, the investigation was completed.

4 A Yes.

5 Q Do you know when that was?

6 A I don't recall the exact date.

7 Q A matter of --

8 A I believe it was several months prior to the
9 Crown's decision.

10 Q Yes. Once that investigation was completed
11 several months before the Crown made their
12 announcement in December of '08, why didn't your
13 force go public and clear up the record?

14 A Well, it was not done at that time because it was,
15 in our mind, that this had been investigated as a
16 criminal matter, and it was before Crown for them
17 to make an assessment on whether or not a charge
18 would be approved based on all the facts and
19 evidence that had been forwarded.

20 If we had gone out with -- to the public with
21 evidence, it would then perhaps prejudice the
22 opportunity for a fair trial of the members had
23 there been charges relayed -- pardon me, laid.

24 So it's no different than if I was to start
25 to talk about evidence in a homicide that we
26 discovered just prior to Crown approving it. It's
27 not appropriate. We just don't do it.

28 MR. ROSENBLOOM: I have no further questions, thank
29 you.

30 THE COMMISSIONER: Officer, thank you very much for
31 coming. It's most appreciated to have your time
32 here. Thank you.

33 A Thank you, Mr. Commissioner.

34

35 (WITNESS EXCUSED)

36

37 MR. VERTLIEB: My colleagues have concluded more
38 quickly than perhaps they had thought, and that's
39 not a bad thing. So we had originally thought
40 we'd get Corporal Gillis today, but out of concern
41 for having him wait around all day and not get on,
42 we said not to have him come today. So he's not
43 here, and that's -- that was our decision as
44 counsel.

45 So we're going to have Corporal Gillis
46 tomorrow morning at 10:00 a.m., and we will plan

1 to have him as the only witness tomorrow, and we
2 can proceed next week with the schedule as set
3 out.

4 THE COMMISSIONER: Yes, Ms. Roberts.

5 MS. ROBERTS: Mr. Commissioner, there is a difficulty
6 with getting Corporal Gillis here tomorrow. He's
7 been rescheduled a number of times. It's true
8 that he was scheduled to be here for tomorrow. I
9 was -- he was denotified yesterday at 4:48.
10 Although I met with him, I met with him only
11 briefly because at that point I understood that he
12 was going to be rescheduled in May.

13 He was originally being called to testify
14 about the CEW training provided to three of the
15 members in 2007. He certainly can be ready to
16 testify about that tomorrow. But I understand
17 from Mr. Hira and several of the counsel for RCMP
18 members, that they wish to put to him the
19 statements of assumed facts that they put to
20 Sergeant Fawcett and to get his evidence and his
21 opinion on that. He has -- I only just gave him
22 those statements yesterday. He's not had an
23 opportunity to review them, and he's not ready --
24 he cannot be ready for tomorrow.

25 In lieu of that, we've offered up several
26 alternatives to Commission counsel. One is that
27 he will reschedule his training and become
28 available on May 11th as they had proposed
29 recently, or he's available any day from Monday
30 until May 11th. Another alternative is that if he
31 could have another day and we could sit Friday
32 instead of Thursday, that would give him a little
33 more breathing room. Another alternative is that
34 he could come and testify about the training, and
35 then come back on another day and testify or
36 answer questions about the assumed statement of
37 facts.

38 We've done our best to accommodate Commission
39 counsel, but with all these changes in scheduling,
40 we've been caught off guard by this, this
41 morning's request that we produce him tomorrow.

42 THE COMMISSIONER: Yes, I can understand that. I --
43 quite frankly, I'm amazed that the scheduling has
44 gone as well as it has, and I'm very much obliged
45 to that. All of us here have had extensive trial
46 experience, we know that it is unusual for matters
47 to proceed the way this has, and I'm very happy

1 about it.

2 Now, counsel, what do you think? Shall we
3 have him in part or not at all or what?

4 MR. MCGOWAN: Well, Mr. Commissioner, Officer Gillis
5 has been on the witness list for a number of
6 weeks. My friend is aware of that. He was
7 scheduled to start this afternoon and perhaps
8 spill over until tomorrow, and that's been the
9 case for some time.

10 Late yesterday afternoon, in an attempt to
11 avoid him sitting around, an e-mail was sent to my
12 friend canvassing the possibility of moving him.
13 It wasn't a denotification. It was [as read]:

14
15 Further to our brief discussion, I've spoken
16 with Commission counsel and their view is
17 unless scheduling issues dictate otherwise,
18 it may be best to reschedule him.

19
20 Unfortunately, scheduling issues do dictate
21 otherwise. Officer Gillis has some training
22 scheduled which we were advised of, and advised
23 that he'd be unavailable on the other date we have
24 available.

25 As you know, Mr. Commissioner, we have a
26 number of professional witnesses coming, some from
27 out of town, and scheduling is a little bit
28 tricky. We have tomorrow available, and my
29 understanding is Officer Gillis is ready to come
30 and give evidence on the issues which we'd always
31 intended to canvass with him and on which we'd
32 been requested to bring him for.

33 We were -- he's coming at the request for
34 counsel for some of the participants and we were
35 asked to call him to address specifically the
36 training that was provided to the three RCMP
37 officers who were trained by him with respect to
38 the use of the Taser. That's the area that we
39 intended to have him here for. That's all we
40 intend to canvass with him. My understanding is
41 he's prepared to come and give evidence on those
42 matters.

43 I understand, as of just a short time ago,
44 some of my friends may wish to canvass other areas
45 with him. To the extent he doesn't have a
46 knowledge base sufficient to answer those
47 questions, I suppose he won't be able to answer

1 them. If my friends feel it's important enough,
2 once he's concluded his evidence and they get into
3 their cross, that they want to ask to have him
4 stood down for a period of time to cover those
5 issues, that that may very well be a reasonable
6 request, but we've got the day available tomorrow
7 and I suggest we bring Officer Gillis, get him
8 through the matters we intend to canvass with him,
9 and if we run into a problem, perhaps we'll have
10 to have him back for a brief period somewhere down
11 the road.

12 THE COMMISSIONER: Mr. Hira?

13 MR. HIRA: It is not possible to sever training and use
14 of force as suggested. We need to put the assumed
15 facts --

16 THE COMMISSIONER: Well, nobody is saying there's any
17 problem with that.

18 MR. HIRA: No, but I -- I'm just trying to give you an
19 appreciation for how physically it's not a useful
20 use of your time, because apparently - and I
21 learned this yesterday at about 6:20 - he hasn't
22 viewed the videos. So if he -- what will be --
23 what will be happening physically, we'll be --
24 we'll be dealing with training. Then we'll sort
25 of get into use-of-force in the course of the
26 training, and then he'll be reviewing the videos
27 in the witness stand. That is just not an
28 efficient use of this Commission's time.

29 THE COMMISSIONER: Well, isn't that what happened to
30 the other witness?

31 MR. HIRA: No, the other witness had viewed the videos
32 and had done a report on his own and, you know, if
33 we're going to be going through eight minutes of
34 video --

35 THE COMMISSIONER: Well, I'm afraid I'm against you. I
36 want him to come and see how far we get. I'm not
37 precluding that we can finish, but I think we --
38 I'd like to do what we can do. Otherwise, we'll
39 lose the day. So tomorrow at 10:00 and we'll see
40 how we can make out.

41 THE REGISTRAR: The hearing is now adjourned till ten
42 o'clock tomorrow morning.

43
44 (PROCEEDINGS ADJOURNED TO APRIL 23, 2009 AT
45 10:00 A.M.)
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