

**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.

February 2, 2009

PROCEEDINGS AT
HEARING (DAY 9)

COPY

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Commissioner:	T.R. Braidwood, Q.C.
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(ii)

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Counsel for Vancouver Airport Authority:	D. Stewart, C. Friesen; B. Ergun
Counsel for B.C. Civil Liberties Association:	G. Pastine, S. Dubinsky
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Counsel for Corporal Benjamin Robinson:	R. Harris
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Counsel for Constable Bill Bentley:	D. Butcher
Counsel for Constable Kwesi Millington:	R. Hira, Q.C.
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Counsel for City of Richmond:	J. Goulden, M. Kleisinger, G. Trotter
Counsel for TASER International, Inc.	D. Neave, J. Spencer
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Transcriber:	P. Neumann

Vancouver, B.C.
February 2, 2009

1
2
3
4 THE COMMISSIONER: Good morning.

5 THE REGISTRAR: The hearing is now resumed.

6 MR. VERTLIEB: Mr. Commissioner, I just want to outline
7 briefly how we think the day will unfold here. We
8 are going to start on a video that YVR provided to
9 the Commission, and it's a wide-angle view of the
10 International Reception Lounge, the meet-and-greet
11 area, and you can look on that video and see into
12 the semi-secure area that you've heard about.
13 It's probably the best angle shot of what happens.

14 You'll see different people coming in and out
15 of that video, and I've asked Mr. McGowan to at
16 different times stop the video and just point out
17 to people who we believe is being shown on that
18 segment. We're pretty sure in most cases who
19 these people are. There's a few people we're not
20 sure of, for example, Ms. Steckley, we've never
21 met her because she hasn't answered our requests.
22 So we think we know which one she is, but we're
23 not certain.

24 The video is probably about an hour long. It
25 goes right through the arrival of the fire
26 department, and then the arrival of the ambulance
27 people. And what we want to do is show it now,
28 this morning, and then once different witnesses
29 come before you as these events are brought to you
30 in live evidence, what we might do is again play
31 portions of the video and ask them to comment on
32 what they were doing. The reason I'm telling you
33 this is it's going to be a bit fragmented and
34 we're mindful of that, but we feel that's the best
35 way to handle this evidence.

36 So that presentation will be this morning.

37 And then hopefully this morning we will play
38 the Pritchard video, which has been mentioned many
39 times. As I have mentioned to my colleagues, Mr.
40 Pritchard is travelling out of the country and out
41 of the United States, and so his evidence is going
42 to come in by way of affidavit and attached to his
43 affidavit is the video that received so much
44 discussion months ago.

45 And then we have the first of the witnesses.
46 The first one is a Mr. Dhari, D-h-a-r-i, and he in
47 point of time is one of the early people that

1 MR. MCGOWAN: So you see it's playing now.

2 We're looking towards, Mr. Commissioner, the
3 IRL on the left-hand side. It is the railing,
4 which you'll ultimately see the RCMP officers step
5 over. And on the far left of the room is the
6 glass door, which you'll ultimately see Mr.
7 Dziekanski standing in front of and going through.

8 It's the laneway that exits from the IRL into
9 the meet-and-greet area.

10 So I've just played in fast-forward, we're at
11 1:04 now.

12 If you could just pause it there for a
13 moment.

14 In the right-hand side we see a gentleman,
15 who appears to have exited from within the IRL,
16 pushing what might be some carts. We believe that
17 may be a Mr. Dhari, who is coming this afternoon.
18 He's a cart attendant.

19 Now, you'll recall Mr. Dziekanski is, I
20 believe, in the meet-and-greet area at this time,
21 and should appear shortly on the left-hand side up
22 towards this area.

23 Now, the top left-hand corner, Mr.
24 Commissioner, it's difficult to see but -- and for
25 the record the time count is 1:06. It appears Mr.
26 Dziekanski is putting luggage or something over
27 the railing in the top left-hand corner by the
28 pillar.

29 He's still visible in the top left corner.
30 It appears as if he may be attempting to climb
31 over the railing. That's Mr. Dziekanski. The
32 time counter is approximately 1:06:50.

33 It's 1:07:30. Mr. Dziekanski appears to be,
34 if you look carefully, in front of the IRL doors.
35 That's the moving glass doors that go between the
36 meet-and-greet area into the IRL, again up in the
37 top left corner of the room.

38 We believe that may be Mr. Dhari walking up
39 the walkway towards Mr. Dziekanski. It's 1:08 on
40 the time counter.

41 Now, there's another woman in the frame on
42 the left-hand side. We haven't met her but we've
43 been led to believe that may be Ms. Steckley. The
44 time is currently 1:09:55 -- or 1:08:55.

45 It appears Mr. Dhari, Mr. Dziekanski and a
46 woman, possibly Ms. Steckley, are up near the IRL
47 doors.

1 Now, walking in from the right-hand side at
2 approximately 1:09:21 is a woman who I believe is
3 Ms. Ashrafinia. She'll be coming as a witness as
4 well.

5 I believe this may be Ms. Ashrafinia standing
6 next to the kiosk walking towards the railing.

7 The time counter is now 1:10. It appears Mr.
8 Dhari is moving away from the IRL doors, as is the
9 woman who is standing beside him.

10 Now entering the laneway is a gentleman
11 walking up past Mr. Dhari. We believe that to be
12 Mr. Meltzer, who is coming as a witness as well.
13 It's 1:10:30. He walks past Mr. Dhari and
14 proceeds towards Mr. Dziekanski, who it appears is
15 still standing by the IRL doors.

16 We see Ms. Ashrafinia walking up the railing
17 into the area where Mr. Dziekanski and Mr. Meltzer
18 are. It's 1:11:05.

19 1:12:20, we believe that may be Ms. Steckley
20 walking back towards the door, although we haven't
21 that confirmed. Mr. Dziekanski and the other
22 individuals, Mr. Meltzer and I believe Ms.
23 Ashrafinia, are still up in that same area.

24 Mr. Commissioner, I've just paused the video
25 here.

26 The time is 1:13:20 on the counter, and
27 that's approximately the time that this door is
28 opened with Mr. Meltzer's Prox card. The Prox
29 records will have the exact time, and we'll
30 ultimately see what appears the doors perhaps
31 opening on this video if you look carefully.

32 And Mr. Dziekanski entering the IRL if you
33 watch carefully.

34 The time is 1:14 and we'll see Mr. Meltzer
35 and Ms. Ashrafinia and the other woman proceeding
36 away from the IRL doors, again up in this area of
37 the screen.

38 It's 1:14:30. Ms. Ashrafinia appears to be
39 heading back in the direction of the IRL doors and
40 Mr. Dziekanski.

41 In the bottom right of the screen it's Mr.
42 Meltzer, Mr. Dhari, and the other woman, who we
43 believe may be Ms. Steckley, speaking. 1:15 is
44 currently the time counter.

45 Now, the time is 1:15:15, and right -- a
46 gentleman just entered the frame on the right-hand
47 side. We believe that to be Mr. Canzon, who is an

1 airport cleaner, who will be coming as a witness.

2 It's 1:15:40. Mr. Canzon is entering the
3 walkway to the IRL.

4 Now, I've just paused the video.

5 The time is 1:16:14. It's approximately the
6 time Mr. Canzon intersects with Mr. Dziekanski at
7 the IRL doors. And Mr. Canzon ultimately enters
8 the IRL past Mr. Dziekanski.

9 Now some movement can be seen by the IRL
10 doors and in the glass way behind. It's difficult
11 to make out but it appears some of the movement at
12 least is Mr. Dziekanski. It's 1:17:05 on the time
13 counter.

14 If we could just pause it there, please.

15 I believe that's Mr. Melzer re-entering the
16 frame and the time is 1:18:29.

17 Now it's 1:19. It appears Mr. Meltzer has
18 reached the IRL doors. And if one looks carefully
19 it appears that Mr. Dziekanski is in the same area
20 and the doors ultimately swing open and are
21 moving.

22 Pause it there, please.

23 It's 1:20:40. Mr. Meltzer is still at the
24 IRL doors and it appears as if Mr. Dziekanski may
25 reappear or emerge at those doors, although it's
26 somewhat difficult to see.

27 1:20:48 we see Mr. Melzer move away from the
28 IRL doors and it appears he hops over the railing.

29 It's 1:21:28. Mr. Dziekanski can be seen
30 moving behind the glass ever so slightly.

31 It's 1:22:23. It appears Mr. Dziekanski can
32 again be seen if one looks carefully in the area
33 of the IRL doors, and it appears that the doors
34 can be seen moving.

35 The time counter is 1:24.

36 Now, I believe this is Mr. Meltzer, and it
37 appears as if he may be holding a phone to his
38 ear. The time is 1:25.

39 It's 1:25:25. Mr. Meltzer appears to be
40 walking up the laneway towards the IRL again.

41 If we could just pause it there.

42 The time is 1:25:45. From the left-hand side
43 of the screen several people just entered. I
44 expect we'll hear that two of those were YVR or
45 security guards employed by Securiguard. Their
46 names are Mr. Rudek and Mr. Arora. Sorry, if I
47 said left side of the screen, I should have said

1 right.

2 It appears the security persons are speaking
3 with several people at this point in the meet-and-
4 greet area, including Mr. Meltzer. It's 1:26:05.
5 Mr. Meltzer and two of the security guards appear
6 to be proceeding up the laneway towards the IRL
7 again.

8 If we could just pause it there, please. The
9 time is 1:27:15. A gentleman has just entered
10 from the right-hand side of the screen. We're not
11 certain but we're led to believe that may be a Mr.
12 Jorssen, J-o-r-s-s-e-n, who we expect to be coming
13 as a witness.

14 If we just pause it. There's a figure right
15 here on the right-hand side of the screen who
16 appears to have just exited from the IRL. We
17 believe that's Mr. Canzon, who we saw enter the
18 IRL where Mr. Dziekanski was some time ago. We
19 expect he'll be coming as a witness. The time is
20 1:27:25.

21 If we could pause it just there, please. The
22 time is 1:28:04. It appears three RCMP officers
23 enter the screen from the right-hand side
24 proceeding left towards the railing. Sorry, make
25 that -- there's two initially and then two more.

26 There's a -- perhaps we could just run that
27 back and run it one more time from just before
28 1:28.

29 Okay. The time now is 1:28:04. We start to
30 see the first RCMP officer enter from the right
31 side of the screen just before that. We should
32 see three enter and then a fourth come in a little
33 bit later. So there's one, two, three, and then
34 I'm led to believe that the fourth officer
35 entering momentarily right there is Officer
36 Robinson, Corporal Robinson.

37 Pause, please. The time is 1:28:34 and it
38 appears the first three RCMP officers step over
39 the railing near the IRL doors at this point.

40 If we could pause, please. It's 1:28:49,
41 just a short time ago it appears the final officer
42 stepped over the railing. We believe that to be
43 Corporal Robinson.

44 And we could pause, please. The time on the
45 counter is 1:29. If one looks carefully there can
46 -- some movement behind the glass can be seen. It
47 appears to be the RCMP interacting with Mr.

1 Dziekanski.

2 If we could pause there. The time is 1:29:09
3 or 1:20:10. It appears to be the approximate time
4 that Mr. Dziekanski is tasered. It's difficult to
5 tell, but if one looks at his movements, that
6 appears to be about when it happens from this
7 video's time counter.

8 If we could pause, please. A gentleman
9 entered a few moments ago in the dark clothing.
10 We believe that to be a Mr. Enchelmeyer. He works
11 with Securiguard. He'll be coming as a witness.
12 Another security guard has just entered in a
13 yellow jacket. We believe that's a Mr. D'Sa, who
14 will also be coming. The time is 1:29:25 on the
15 counter.

16 I believe that's Mr. Enchelmeyer running
17 towards the IRL doors. The time counter is
18 1:29:50.

19 If we could pause it there. The time counter
20 is 1:30:35. We haven't met Mr. Nick Le, although
21 we're led to believe this may be Mr. Le proceeding
22 towards the IRL doors. Nick Le, last name is
23 spelled L-e. We understand that he worked for a
24 limousine service and this may be him walking up
25 the walkway.

26 There's a second person, a woman seen walking
27 up the walkway again. We don't know, although
28 we're led to believe it may be Ms. Steckley. The
29 time counter is 1:31.

30 If we could just pause there, please. The
31 time is 1:31:24. Just at the end of the laneway
32 coming from the IRL we see one of the RCMP
33 officers exiting.

34 It's 1:31:25. Mr. Butcher advises that he
35 believes that's Officer Rundel.

36 If we could pause there, please. It's
37 1:32:03. We see a gentleman walking up towards
38 the IRL doors. We believe that's a Mr. Ginter,
39 who will be coming as a witness, G-i-n-t-e-r.

40 If we could pause there, please. It appears
41 the RCMP officer, who we believe is Rundel,
42 reappears from the right-hand side of the screen,
43 accompanied by a security guard, who we believe is
44 a Mr. D'Sa, D-apostrophe-S-a. The time counter is
45 1:32:16.

46 If we could pause there, please. And the
47 small cart here, we believe that's a Mr. Dhari

1 leaving the area of the meet and greet area.
2 1:33:54.
3 If we could pause there. The time is
4 1:34:35. It's an RCMP officer who's exited the
5 IRL, walked down the laneway and is entering the
6 meet-and-greet area. We're not certain, although
7 we believe that is a Mr. -- Officer Bentley.
8 If we could pause it there, please. Entering
9 from the right-hand side of the screen appears to
10 be Officer Bentley returning. It appears as if he
11 may have something in his hand. The time is
12 1:36:02.
13 1:36:20, he's now walking back towards the
14 IRL doors.
15 We're not certain, although we believe the
16 gentleman exiting at the bottom of the screen may
17 be a Mr. Nick Le. It's 1:36:36.
18 The time counter is 1:38:50. I'm not
19 certain, but we've been led to believe this may be
20 Nick Le proceeding up towards the IRL doors again.
21 Just for those watching, the time counter is
22 1:41:15.
23 If we could just pause there for a moment.
24 The time is 1:42 on the time counter. We start to
25 see a number of passengers enter. We're led to
26 believe these may be passengers from the Cathay
27 Pacific flight who had been rerouted through an
28 exit route which did not pass through the IRL.
29 If we could just pause there, please. In the
30 top right side of the room behind the glass we see
31 what appears to be three figures in dark clothing
32 enter -- entering. We believe that to be the
33 Richmond Fire and Rescue. The time on the counter
34 is 1:42:10. I wonder if we could just back that
35 up a few seconds and watch again, please.
36 The time is now 1:42.
37 If we could pause there, please. The time
38 counter is 1:43:59. In the right corner again
39 where we previously saw the firefighters entering,
40 it appears we see the first BC Ambulance crew
41 entering. If we could just perhaps back that up a
42 few seconds and watch them enter so we can get the
43 precise time.
44 Yes. I see them first enter the screen at
45 1:43:56.
46 The time counter is 1:45:30. In
47 approximately two-and-a-half more minutes we'll

1 see the second -- what we believe to be the second
2 BC Ambulance Unit entering.

3 Mr. Commissioner, perhaps just while we're
4 waiting for that to happen, I should make it clear
5 that the time counters we'll come to see, and
6 perhaps you've already noticed with the YVR videos
7 don't match up. They're not synchronized with the
8 cameras from the Customs and Immigration side. So
9 while they show some of the same things, and they
10 both have a time counter, those aren't
11 synchronized.

12 THE COMMISSIONER: All right.

13 MR. MCGOWAN: If we could just pause there, please. On
14 the top right-hand corner we see somebody in what
15 appears to be a yellow jacket and two people
16 entering from the right. We believe that to be
17 the second ambulance arriving and the time counter
18 is 1:47:55.

19 Now, the time is 1:49:30. We see who we
20 believe to be Mr. Meltzer having run from the
21 direction of the IRL doors and greeting somebody.

22 Now, Mr. Commissioner, there's approximately
23 ten minutes left in this video. While there's a
24 fair amount of activity that's going to be
25 happening, there's two points of significance to
26 be watching for. One in approximately three
27 minutes, we're going to see what appears to be the
28 fourth firefighter entering. So that gives us
29 some information about timing. And when the time
30 counter hits 1:58 we'll see an RCMP officer leave
31 the IRL, which again is going to assist us with
32 timing of certain events.

33 If we could just pause there. The time
34 counter is 1:52:59. It's at approximately this
35 time we see what appears to be a firefighter,
36 possibly accompanied by somebody else, entering
37 from the right side of the screen behind the glass
38 doors.

39 THE COMMISSIONER: This would probably be the driver,

40 MR. MCGOWAN: Yes, Mr. Commissioner, I believe that's
41 correct.

42 For the record, the time counter is 1:55:30.
43 We've got approximately three more minutes of
44 footage until we see an RCMP officer exiting from
45 the left walkway.

46 The time is 1:58. And we see several people
47 exiting from the area of the IRL doors.

1 Now one of them you can see at this point,
2 the time is 1:28:28 (sic). I wonder if we could
3 just pause it there. One of them appears to be an
4 RCMP officer who was walking up the inside of the
5 lane. There are two others who will shortly, it
6 appears, see walk across the screen in his
7 company. Though we're not certain, we believe
8 those two to be Horizon Air employees.

9 I believe that's Officer Bentley we saw just
10 exiting the screen at the bottom. The time is
11 1:58:45. There's approximately one minute left on
12 this section of footage, Mr. Commissioner.

13 The time is 2:00 a.m. and that's the
14 conclusion of that section of video footage from
15 that camera.

16
17 (END OF VIDEO)

18
19 THE COMMISSIONER: Okay. We'll take the morning break
20 then.

21 MR. MCGOWAN: Thank you, Mr. Commissioner.

22 THE REGISTRAR: The hearing will now recess for ten
23 minutes.

24
25 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

26 (PROCEEDINGS RECONVENED)

27
28 THE REGISTRAR: The hearing is now resumed.

29 MR. MCGOWAN: Mr. Commissioner, the last piece of
30 footage we watched covered the time period from
31 1:00 till 2:00 a.m. from one camera angle.
32 There's an additional hour of footage, it's camera
33 22233, which also covers that same hour of time
34 from 1:00 a.m. till 2:00 a.m. I have asked Dr.
35 Perra to put up on the screen a shot of that
36 camera angle so everybody can get a sense of where
37 it is.

38
39 (VIDEO BEING PLAYED)

40
41 MR. MCGOWAN: Just for your information, Mr.
42 Commissioner, it appears to be looking towards the
43 glass doors, which exit to what's been referred to
44 as "curbside", the road outside where ultimately
45 the police and other emergency vehicles pull up.
46 Also can be seen in the footage a portion of the
47 laneway or railing which exits from the IRL into

1 the meet-and-greet area. As I said, the footage
2 covers the same time period as the last video
3 footage we watched. Many of the events seen in
4 the last piece of footage can also be seen in this
5 video.

6 There is one thing which is seen in this
7 video which is not seen in the last one, which may
8 be significant, and that is because the doors can
9 be viewed, it appears we can observe the timing of
10 the RCMP vehicles arriving outside. And by my
11 estimation, the time is 1:27:37 that we see the
12 first RCMP car arrive outside, followed quickly by
13 two other RCMP vehicles.

14 Mr. Commissioner, it's not my intention to
15 play this additional hour of footage in real time
16 for you now, but it's certainly available to other
17 counsel if they want to make use of it or play it
18 for any of the witnesses.

19 And that is the extent of the YVR security
20 video, which we plan to play for you, Mr.
21 Commissioner.

22
23 (END OF VIDEO)

24
25 THE COMMISSIONER: All right, thank you.

26 MR. VERTLIEB: Now, next we want to deal with the
27 Pritchard evidence, and we have an affidavit from
28 Mr. Pritchard that was sworn in Alberta. And let
29 me give you the original, which has the exhibit
30 with the video on it.

31 THE COMMISSIONER: All right. That will be marked as
32 the next exhibit.

33 THE REGISTRAR: This will be marked as Exhibit 31.

34
35 EXHIBIT 31: Original - Affidavit of Gary
36 BIGG with attached Statement of Paul
37 PRITCHARD; Writ of Summons; Affidavit of
38 Paul PRITCHARD; Statement of Claim and CD
39 disc

40
41 MR. VERTLIEB: Now, I'd just like to outline how we are
42 going to handle this evidence, subject of course
43 to your direction, Mr. Commissioner. As I
44 mentioned earlier this morning, Mr. Pritchard is
45 not here and he has been gone for some time. And
46 before he left the country we were able to arrange
47 to have the evidence prepared and sent to a lawyer

1 in Calgary to have Mr. Pritchard swear it for the
2 purpose of your proceeding.

3 The affidavit that's just been marked as
4 Exhibit 31 contains the statement that he gave to
5 the RCMP, the IHIT investigator, and we put that
6 in so it's evidence in the proceeding. The
7 affidavit that was just filed as Exhibit 31 also
8 contains pleadings from the action he commenced in
9 British Columbia when he wanted to get the video
10 back. And so part of that proceeding that was
11 filed here in B.C. was his writ and his statement
12 of claim, and an affidavit in support. And the
13 affidavit in support is before you, and we want to
14 read some of that evidence into the record. And
15 then finally from Mr. Pritchard we have his actual
16 video, the one that he had, and his lawyer, Mr.
17 Pearson in Victoria, arranged to help us get that.

18 There are three sections to that evidence.
19 And what we'd like to do is have those played here
20 this morning, and then have Mr. Barski, an
21 interpreter, tell you what he has gleaned from
22 those three soundtracks, and we've just passed out
23 translations this morning to our colleagues here.
24 So that you can then hear what is being said by
25 Mr. Dziekanski as he spoke.

26 THE COMMISSIONER: Now, the soundtrack came from Mr.
27 Pritchard's cell phone?

28 MR. VERTLIEB: Yes, off his -- off his video camera.

29 THE COMMISSIONER: Oh, video camera.

30 MR. VERTLIEB: Yes. And what we did with that is sent
31 the video for enhancement to do the best possible
32 audio that we could get on this to make it -- to
33 give us the best chance of getting the words that
34 Mr. Dziekanski was speaking.

35 So we have the exhibit taken by Mr.
36 Pritchard, which is his video camera. The video
37 could not be enhanced, but the audio could be
38 somewhat enhanced and that is what Mr. Barski has
39 seen. Mr. Barski also worked with another Polish
40 interpreter, so it's the result of the two Polish
41 interpreters independently -- independently asked
42 by your Commission to view this enhanced audio and
43 tell us what Mr. Dziekanski is saying.

44 So if that's agreeable then, let's just play
45 the Pritchard video, and there will be three
46 sections, and then we'll deal with what is being
47 said in Polish.

1 Just so everybody understands, the enhanced
2 audio does not show the video. It's a separate
3 audio portion. It's a separate audio that was
4 enhanced. The audio was totally separate in
5 enhancement from the video. As I said earlier, we
6 couldn't do anything with the video.

7 Now, I think Dr. Perra is just setting up the
8 audio now to match up with the video.

9 We have copies, Mr. Commissioner, for the
10 participants, which is the video by Mr. Pritchard,
11 with the enhanced audio by Sharpe, S-h-a-r-p-e.

12 And what we should do, Mr. Giles, is mark one
13 of the enhanced...

14
15 (VIDEO BEING PLAYED)

16 (VIDEO STOPPED)

17
18 THE REGISTRAR: Is that to be marked separately?

19 MR. VERTLIEB: Please. That's the enhanced audio to be
20 marked as a separate exhibit.

21 THE REGISTRAR: The enhanced audio disc will be marked
22 as Exhibit number 32.

23 MR. VERTLIEB: Thank you.

24
25 EXHIBIT 32: Original Disc - Video by Paul
26 PRITCHARD

27
28 MR. VERTLIEB: Now, perhaps we should start again,
29 then.

30
31 (VIDEO BEING PLAYED)

32
33 MR. VERTLIEB: Dr. Perra, we're hearing the audio. I
34 trust that you could start the video and rewind
35 the audio?

36
37 (END OF VIDEO)

38
39 MR. VERTLIEB: And I believe that was soundtrack
40 004897. And then there's a third -- this whole
41 disc is indecipherable to the translators, just so
42 you know.

43
44 (VIDEO BEING PLAYED)

45 (END OF VIDEO)

46
47 MR. VERTLIEB: Dr. Perra, is that the end of the three

14
Kris Barski
In chief by Mr. Vertlieb

1 sequences?
2 DR. PERRA: Yes.
3 MR. VERTLIEB: Thank you.
4 While we have that fresh, perhaps we could
5 have Mr. Barski come and give evidence about the
6 translation, if that's agreeable, please?
7 THE COMMISSIONER: Yes, all right. Mr. Barski.
8 MR. VERTLIEB: So the next witness then would be Kris
9 Barski. Let's have you take the witness stand
10 right here, please.
11 THE WITNESS: I need to write down those, so I can see
12 them.
13 MR. VERTLIEB: Oh, okay. Would you prefer the...
14 THE WITNESS: Please.
15 MR. VERTLIEB: Okay, please. Thank you.
16 THE REGISTRAR: This is a translator.
17 MR. VERTLIEB: Yes. But I will take him through his
18 evidence in English, though, Mr. Registrar.
19 THE REGISTRAR: Before you're seated, do you wish to be
20 sworn or affirmed?
21 THE WITNESS: Sworn, please.
22 THE REGISTRAR: I will give you the interpreter's oath.
23 MR. VERTLIEB: No, Mr. Giles, he is not -- he will be
24 giving his evidence in English of what --
25 THE REGISTRAR: Oh, I'm sorry.
26 MR. VERTLIEB: That's all right, there's no problem.
27
28 KRIS BARSKI, a witness, sworn.
29
30 THE REGISTRAR: Would you state your full name, please.
31 A Kris, and the last name is Barski, B-a-r-s-k-i.
32 THE REGISTRAR: B-a-r --
33 A S-k-i.
34 THE REGISTRAR: -- s-k-i. Thank you. You may be
35 seated. Counsel.
36
37 EXAMINATION IN CHIEF BY MR. VERTLIEB:
38
39 Q Mr. Barski, you are born in Poland and left the
40 country at what age?
41 A I was 26 years old when I left Poland.
42 Q How long have you been in Canada?
43 A Thirty-one years.
44 Q Approximately how long have you been doing
45 interpretation for lawyers and courts from Polish
46 to English?
47 A Twelve years.

- 1 Q And in that period of time have you interpreted in
2 court for judges?
- 3 A Yes, I did. I interpreted in both criminal and
4 civil cases.
- 5 Q And in what courts have you then translated?
- 6 A Provincial Court, Supreme Court of B.C. and also
7 Federal Court.
- 8 Q And you have been doing this, you said, for about
9 12 years?
- 10 A That's correct.
- 11 Q You are not registered or certified for the yearly
12 sum you pay to some association; is that correct?
- 13 A That's correct.
- 14 Q And if you wanted to be registered, what would
15 that do for you as an interpreter?
- 16 A Not much. I would only need registration if I
17 wanted to be registered with the clerks' court and
18 be called by the court. But since I've got so
19 much work outside of the court, I'm being called
20 by lawyers, WCB, ICBC, that I don't really need
21 certification.
- 22 Q Now, you were asked by the -- by Commission
23 counsel to listen to videotapes and tell us what
24 the Polish equivalents would be.
- 25 A That's correct.
- 26 Q And to do that you also worked with someone who
27 was another Polish interpreter, and her name,
28 please, would you give the Commissioner her name?
- 29 A It's Malgorzata, Margaret.
- 30 Q And that's M-a-l-g-o-r-z-a-t-a.
- 31 A That's correct.
- 32 Q And her last name, please?
- 33 A I don't have that last name here with me.
- 34 Q Let me help you. It's -- the phonetic is
35 Jaszczewska, J-a-s-z-c-z-e-w-s-k-a.
- 36 A Jaszczewska, that's correct.
- 37 Q And tell the Commissioner, please, how you and she
38 worked together.
- 39 A Well, I went to her home office on Friday and we
40 sat down in front of her computer and she got the
41 enhanced version of these three disks. We went
42 over and we agreed upon the translation.
- 43 Q You have now before you a typewritten translation
44 covering three soundtracks?
- 45 A I do.
- 46 Q And you've signed that to authenticate it as being
47 your translation and confirmed by this other

16
Kris Barski
In chief by Mr. Vertlieb

1 interpreter?

2 A I did.

3 MR. VERTLIEB: May that be the next exhibit if we
4 haven't already marked it. I gave you the
5 original, Mr. Registrar, with the little stickie,
6 it looks like this.

7 THE REGISTRAR: Yes. That will be Exhibit number 33.

8 MR. VERTLIEB: Thank you, sir.

9

10 EXHIBIT 33: Original - Translation prepared
11 by Kris BARSKI on January 31, 2001

12

13 MR. VERTLIEB:

14 Q Now, do all of the words in Exhibit 33 translate
15 word for word from Polish to English?

16 A No, some of them cannot be translated word for
17 word because it wouldn't make sense. So it's as
18 close as we can get to the meaning of Polish
19 words.

20 Q Why is that, sir?

21 A There's certain words that are impossible to
22 transfer, translate word for word. There's no
23 equivalent word in English for the Polish word.

24 Q Were you able to understand Mr. Dziekanski's
25 speaking as you heard it on the audio?

26 A Yes, I did.

27 Q What impression did you have of the -- of the way
28 he spoke or the demeanour in the way he spoke?

29 A He was confused and he was scared.

30 Q Let's have you just link up Exhibit 33 with the
31 video, then, please. Let's play them one by one.
32 We only have the two videos to go through, Dr.
33 Perra. Let's do the very first one which is
34 soundtrack 004896. And, Mr. Barski, when you're
35 going to tell us the first statement, tell the
36 operator, please, to stop so you can tell us what
37 it is being said in English.

38 A I will.

39 MR. VERTLIEB: Thank you.

40

41 (VIDEO BEING PLAYED)

42

43 A Can you stop. It's:

44

45 *Rozpiardole to biuro.*

46

47 I will trash this office.

17
Kris Barski
In chief by Mr. Vertlieb

1 MR. VERTLIEB: Okay. Now, just before you continue, is
2 there a way to show the time counter, Dr. Perra,
3 up on the screen? We have the time.
4 Q This time counter was prepared by -- by you, Mr.
5 Barski, with the other interpreter?
6 A That's correct.
7 Q So that was at -- just so we understand exactly
8 what you've put by time, you've got 0:30, what
9 does that mean?
10 A Which is 30 seconds into the video.
11 Q Okay. All right. If we can jump ahead. The next
12 statement is at 40 seconds.
13 A Please stop.
14
15 *Spierdalajcie.*
16
17 Which means:
18
19 *Fuck off.*
20
21 Q Okay. Thank you. Continue, please.
22 A Please stop.
23 Q This is at 1 minute 11 seconds?
24 A That's correct.
25 Q Please.
26 A
27
28 *Rozpierdolę szyby, i rozpierdolę tutaj szyby.*
29 *I zobaczycie.*
30
31 I will smash the glass, and I will smash the
32 glass here. And you will see.
33
34 Q Thank you. Continue then, please.
35 A Please stop.
36
37 *Co powiedziałaś? Ty mnie nie pozwolisz?*
38
39 What did you say? You will not let me?
40
41 And, no, a little bit farther. Please stop.
42
43 *Ty mnie nie pozwolisz?*
44
45 You will not let me?
46
47 Q Okay. Keep going.

18
Kris Barski
In chief by Mr. Vertlieb

1 A Please stop.

2

3 *Kurwa go mać. Oskarżę Ciebie i wszystkich.*

4

5 For fuck's sake. I will sue you and everybody
6 else.

7

8 The sound, "Uhm."

9 Q That's at 1:50. Keep going, please.

10 A Please stop.

11

12 *Dobra, dobra. [Nie do odszyfrowania] jesteśmy*
13 *w innym kraju [Nie do odszyfrowania].*

14

15 Fine, fine [Indecipherable] we are in a
16 different country so [Indecipherable].

17

18 Q So the words in -- stop one second, Doctor.

19 The words that you have in Exhibit 33 in
20 brackets, that is your Polish for what you're
21 saying is...?

22 A Equivalent of "indecipherable".

23 Q Okay. That's not what Mr. Dziekanski is saying,
24 of course.

25 A No, that's my explanation.

26 Q Okay, thank you. So we've got, what you do take
27 it, the 1 minute 54 seconds, is "Fine, fine", and
28 then something, and then he says, "we are in a
29 different country so", and that's it.

30 A That's correct.

31 Q Let's go ahead if we can to 2:13, 2 minutes, 13
32 seconds.

33 A Please stop.

34

35 *Rozpierzdołę całą szafkę. Rozpierzdołę całą*
36 *szafkę. [Nie do odszyfrowania] kłopotu.*

37

38 Which means:

39

40 I will smash the entire desk. I will smash
41 the entire desk. [Indecipherable] trouble.

42

43 Q Keep going, please, then.

44 A Please stop.

45

46 *Dajcie mnie święty spokój. Odejdźcie mówię.*

47

19
Kris Barski
In chief by Mr. Vertlieb

1 Leave me alone everybody. Go away I said.
2
3 Please stop.
4
5 Kurwa mać.
6
7 Which means:
8
9 For fuck's sake.
10
11 That's the end of disk number 1.
12
13 (END OF VIDEO)
14
15 MR. VERTLIEB: Okay, thank you. Let's go to the next
16 one, then, please. And this will be soundtrack
17 004897.
18
19 (VIDEO BEING PLAYED)
20
21 A Please stop.
22
23 *Jak długo już mam czekać.*
24
25 How long do I still have to wait.
26
27 Q And that's six seconds in?
28 A That's correct.
29 Q Thank you.
30 A So it's not very -- you cannot hear very well in
31 here, but I listened it through the earphones, and
32 what he's saying at this time is:
33
34 *Co mnie nie puścicie? Nie dacie mnie stąd*
35 *wyjsć?*
36
37 Which translates into:
38
39 So you will not let me go? You will not let
40 me out of here?
41
42 A Stop.
43
44 *Policja, Policja.*
45
46 Police, Police.
47

20
Kris Barski
In chief by Mr. Vertlieb

1 A Well, maybe you want to run it for a few more
2 seconds and we will hear the entire sentence.
3 Please stop.
4
5 *Odczep się. Odczep się. Co wy zdurnieliście?*
6 *[Nie do rozszyfrowania]*
7
8 Leave me alone. Leave me alone! Did you
9 become stupid.
10
11 Or you can also say:
12
13 Are you out of your mind? Why?
14
15 That's just before he was hit with the first taser
16 shot.
17 Q If you want to stop there a second. You said you
18 can also say "Are you out of your mind?"
19 A That's correct, because the sentence, "Did you
20 become stupid" it's direct -- direct translation
21 from the Polish-English dictionary. So but it's
22 got the same meaning as "Are you out of your
23 mind?"
24 Q So that's at 3 minutes 43 seconds.
25 A That's correct.
26 Q That's by your timing.
27 A That's correct.
28 Q And Mr. Dziekanski says, "Leave me alone. Leave
29 me alone!" The word-for-word translation is "Did
30 you become stupid."
31 A That's correct.
32 Q But you say it could also mean "Are you out of
33 your mind."
34 A That's correct.
35 Q And that's the last word he said there?
36 A Well, I'm under impression that he said "Why", but
37 it's so fast, then if you slow the tape, I could
38 tell you exactly, but my impression is that he
39 said "Why".
40 Q So you're not as certain of him saying "Why" as
41 you are of the rest of your commentary?
42 A No, I am not.
43 Q But you think that's what's being said?
44 A That's correct.
45 Q Was there anything else said that you could
46 understand at that moment in time, so that's 3
47 minutes, 43 seconds?

21

Kris Barski

In chief by Mr. Vertlieb

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

1 A That's it.

2 Q And you said that was said just about the time of
3 the shot. You mean the Taser?

4 A Just fraction of the second before the shot was
5 fired.

6 Q Did it help you to hear the enhanced audio?

7 A Yes.

8 Q Keep in mind, Mr. Barski, what we're showing to
9 the Commissioner right now and everybody else is
10 not the enhanced audio from this video.

11 A That's correct.

12 Q Okay. So then the next thing said by Mr.
13 Dziekanski, please keep going.

14 A If we can go back, because at 3:50 I think I can
15 hear a faint "Police, Police". That's correct.
16 Right after that. Right here. That's my
17 understanding that he says:

18

19 *Policja, Policja.*

20

21 *Police, Police.*

22

23 Q Why don't we stop it there, please.

24 A Right here. So on my enhanced copy it sounds like
25 faint "Police." I put "indecipherable" because I
26 wasn't 100 percent sure. But it sounds like
27 "Police" again.

28 Q And is that the end of what you could make out
29 being spoken in Polish?

30 A That's correct.

31

32 (END OF VIDEO)

33

34 MR. VERTLIEB: We've covered the translation, Mr.
35 Commissioner. And that's as -- that concludes
36 this part of the evidence.

37 THE COMMISSIONER: Does anybody have any questions of
38 Mr. Barski?

39 MR. KOSTECKYJ: Walter Kosteckyj, counsel for Zofia
40 Cisowski.

41 THE COMMISSIONER: Thank you.

42

43 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA
44 CISOWSKI:

45

46 Q Mr. Barski, I am looking at 3:43, which is the:

47

Kris Barski

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

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

1 Leave me alone. Leave me alone! Did you
2 become stupid.

3

4 A Mm-hmm.

5 Q Could that also be translated as "Have you lost
6 your minds?" or "Have you gone insane"?

7 A That's correct. Or out of -- "Are you out of your
8 mind?"

9 Q So it has that type of meaning translated from
10 Polish, which is in the literal, but the effect of
11 it is "Have you lost your minds?"

12 A That's correct.

13 Q Now --

14 A In the sense that "Why are you doing it?"

15 Q Now, at 1:54.

16 A Mm-hmm.

17 Q No, sorry, 2:20. You've translated that as:

18

 Leave me alone everybody. Go away I said.

19

20

21 A Mm-hmm.

22 Q Could it also be -- could it also mean "Give me
23 some peace"? I'm thinking of that "*spokój*".

24 A No, you cannot translate it. It doesn't have a
25 "peace". You cannot translate it 100 percent, the
26 meaning of "*święty spokój*" because it would be a
27 "holly peace", which doesn't make sense.

28 Q But the word "*spokój*", what does that word -- how
29 does that translate?

30 A "Peace" or it also can mean "quiet".

31 Q So it can mean "peace" or "quiet", "*spokój*"?

32 A Calm.

33 Q Calm.

34 A That's another meaning, as well.

35 MR. KOSTECKYJ: All right. Thank you, those are my
36 questions, Mr. Commissioner.

37 THE COMMISSIONER: Anybody else?

38 MS. ROBERTS: For the record Helen Roberts for the
39 Government of Canada.

40

41 CROSS-EXAMINATION BY MS. ROBERTS ON BEHALF OF
42 GOVERNMENT OF CANADA:

43

44 Q Mr. Barski, do you have any training as a
45 psychologist?

46 A No.

47 Q All right. So when you told the Commissioner

1 earlier that you thought Mr. Dziekanski was
2 confused and scared, you were judging by his
3 words, were you?
4 A His words, actions and behaviour.
5 Q All right. Sticking with his words, would you
6 agree with me that his words were angry?
7 A No.
8 Q All right. You don't consider swearing and
9 threatening to destroy property as a sign of
10 anger?
11 A No, not in this case. He was confused and scared,
12 fear.
13 Q All right. If he was scared, would he not ask for
14 help?
15 A He was asking through his actions.
16 Q Right. Let's stick with your expertise, which is
17 interpreting the words.
18 A That's correct.
19 Q Are there any words here where he's asked for
20 help?
21 A No.
22 Q In fact, your interpretation suggests that he's
23 telling people to go away?
24 A He was telling people just to leave him alone in a
25 form. "Go away", means "leave me alone, leave me
26 in peace".
27 Q All right. Are there any words in here that you
28 can point out that indicate to you he was
29 confused?
30 A Well, the --
31 THE COMMISSIONER: Counsel, I'm not interrupting, but
32 it's very difficult for words to have meaning
33 without their context. You're severing the words
34 totally from their context.
35 MS. ROBERTS: Well, Mr. Commissioner, most interpreters
36 simply interpret words and do not give their
37 personal impressions of something they see on the
38 video.
39 THE COMMISSIONER: Oh, I understand that. I understand
40 that.
41 MS. ROBERTS: I'm just asking him if somebody's
42 confused they might say "Where am I? What's going
43 on?" There would be words that would indicate
44 some confusion. In fact, Mr. -- the
45 interpretation we've been given shows that Mr.
46 Dziekanski knew there was an office, there was a
47 computer, he knew the police were there, that he

1 recognized things that were going on around him.
2 So I'm wondering what words he's relying upon to
3 say that Mr. Dziekanski was confused.

4 THE COMMISSIONER: All right, go -- all right, go
5 ahead. But I have that in mental reservation, but
6 continue.

7 MS. ROBERTS: Thank you.

8 A Okay, I can answer that question. On soundtrack
9 897 at 6 seconds, he's asking, "How long do I
10 still have to wait?" Right, "How long. When can
11 I go?" That -- "How long do I still have to wait?"

12 MS. ROBERTS: All right. Mr. Commissioner, you've
13 talked about context. We know from Mr. Chapin's
14 evidence that Mr. Dziekanski was told he was free
15 to go.

16 THE COMMISSIONER: Go ahead. I'm not stopping you.

17 MS. ROBERTS:

18 Q Did Mr. Dziekanski at any time indicate what he
19 was waiting for?

20 A No.

21 Q Did you interpret Mr. Dziekanski's use of swear
22 words as being confused and scared?

23 A That's how a person would behave under stress, and
24 some of these words don't really have meaning.
25 It's just you know, when a person babbles to
26 himself or herself. It's subconscious. It's like
27 in English saying "shit" or "what the hell". So
28 it's -- it's just subconscious.

29 Q So in the context of throwing a computer on the
30 floor and smashing a table, you don't see those
31 swear words as aggressive?

32 A Well, but he's not saying anything when he's
33 throwing a computer, so I cannot tell you.

34 Q Did you not say that you had interpreted his words
35 in the context of what you'd seen on the video?

36 A That's correct, but not in that particular
37 timeframe. It was when he was in the exit where
38 the sliding doors were and he said:

39
40 *Rozpierzdołę szyby, i rozpierzdołę tutaj szyby.*
41 *I zobaczycie.*

42
43 I will smash the glass, and I will smash the
44 glass here.

45
46 Q Right. And you don't see those words as
47 aggressive in any way?

Kris Barski

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

Cross-exam by Mr. Hira (for Constable Millington)

1 A Well, you don't want me to express my opinion,
2 right, so...

3 Q Well, the Commissioner has permitted you to
4 express your opinion.

5 A Okay. That's a self-defence of the person who is
6 cornered, so "If you won't leave me alone, I'll do
7 something." That's the meaning what he's doing at
8 that point.

9 Q Before you prepared this interpretation had you
10 seen media coverage of what occurred at the
11 airport?

12 A Yes, I did.

13 Q All right. Had you spoken to Mrs. Cisowski or her
14 counsel?

15 A No. I've never seen her in my life until today.

16 Q All right. Did you have any impression of the
17 events that happened at the airport before you
18 undertook this interpretation?

19 A Well, I have to become -- sorry. I have to be
20 impartial. So whatever I saw before didn't enter
21 into my interpretation.

22 Q So when you talk about context, you have
23 selectively chosen some context but not others to
24 interpret the words?

25 A No, we can go through every scene and I will tell
26 you what the context is. I'm just answering your
27 questions.

28 Q All right. On the third disk that you say is
29 indecipherable, is that because you can't hear it,
30 or because you can't understand it, or in what way
31 is that indecipherable?

32 A I cannot hear it.

33 Q All right. And that's because it's behind the
34 glass?

35 A Yes.

36 Q And presumably the doors were closed at that point
37 in time?

38 A Yes.

39 MS. ROBERTS: All right, thank you.

40 THE COMMISSIONER: Yes, Mr. Hira.

41 MR. HIRA: Thank you, Mr. Commissioner.

42

43 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE
44 KWESI MILLINGTON:

45

46 Q My name is Ravi Hira. I appear for Officer
47 Millington. I have two areas that I want to

1 examine you on, cross-examine you on. In the
2 second video, from about 3:43 onwards.
3 A Mm-hmm.
4 Q "Leave me alone. Leave me alone! Did you become
5 stupid. Why?" 3:50, "Police, Police."
6 A Mm-hmm.
7 Q You'll agree with me that he is behind the glass
8 and you can hear him, correct?
9 A Yes.
10 Q And you can also hear screaming while he's behind
11 the glass.
12 A That's correct.
13 Q Now, in the enhanced version of the video.
14 A Mm-hmm.
15 Q Were you able to hear any other voices from behind
16 the glass, i.e., voices of police officers?
17 A No.
18 Q All right. Now I'm going to something that I am
19 just not qualified to do, but why not try.
20 A Mm-hmm.
21 THE COMMISSIONER: Before you do, I see it's 12:30, but
22 if we could finish, that would be good. How are
23 we doing here?
24 MR. HIRA: I will be three minutes, maybe four in
25 trying to do something I --
26 THE COMMISSIONER: All right. Let's carry on, then.
27 MR. HIRA: -- I'm not qualified to do.
28 THE COMMISSIONER: Go ahead.
29 MR. HIRA:
30 Q And perhaps looking at page 1 of Exhibit 33, I
31 note at 1:54, and forgive my pronunciation.
32 A Mm-hmm.
33 Q "*Nie do odszyfrowania*" which you note as
34 "Indecipherable", correct?
35 A I don't know which word you are referring to.
36 MR. HIRA: May I approach the witness?
37 THE COMMISSIONER: Yes.
38 MR. HIRA:
39 Q At 1 -- I'm at page 1.
40 A Mm-hmm.
41 Q At 1:54.
42 A Mm-hmm.
43 Q And after "*Dobra, dobra*", there are the words "*Nie*
44 *do odszyfrowania*".
45 A He didn't say that. That's what I'm saying that I
46 cannot understand what he's saying,
47 "indecipherable".

1 Q I understand that. But the words "*Nie do*
2 *odszyfrowania*", are those his words or your words?

3 A My words. That's -- everything in brackets is my
4 words.

5 Q Okay. So going to page 2 at 4:30, the last entry,
6 "*Indecipherable*".

7 A Mm-hmm.

8 Q "*Nie do rozszyfrowania*", those are your words
9 again?

10 A That's correct. But I -- like I told you, while
11 watching video that there is a faint word that I
12 could translate as "Police".

13 Q And that was at 4:30?

14 A 4:30, that's correct.

15 MR. HIRA: Thank you. Those are my questions, Mr.
16 Commissioner.

17 THE COMMISSIONER: Anybody else, any other questions?

18 Sir, thank you very much for being helpful to
19 us.

20 A Okay.

21

(WITNESS EXCUSED)

22

23
24 THE COMMISSIONER: All right, we'll adjourn for lunch.

25

(PROCEEDINGS ADJOURNED FOR NOON RECESS)

26

(PROCEEDINGS RECONVENED)

27

28

29 THE REGISTRAR: The hearing is now resumed.

30

30 MR. VERTLIEB: Now, Mr. Commissioner, in terms of Mr.
31 Pritchard, we haven't given up all hope that he is
32 unavailable. Just so you know there's a chance
33 that he might be back in Canada and if he does
34 become available, we're happy to bring him here.

35

35 THE COMMISSIONER: All right.

36

36 MR. VERTLIEB: It was just the geographics of it that
37 present the necessity of this approach. I want to
38 just read in a bit of the evidence from his
39 affidavit that's -- that was filed in the Supreme
40 Court proceedings in October 2007, and that is
41 part of Exhibit B. And then I believe Mr. Hira
42 wishes a portion of the Pritchard video to be
43 replayed, and in doing so we're happy to oblige.
44 We presume, of course, that that's just to point
45 out some facts and not to make submissions, as it
46 were, but we're happy to oblige Mr. Hira, and I
47 think he's shown Dr. Perra what needs to be put

1 up.

2 So let's just go with the Pritchard video --
3 Pritchard affidavit. This is an affidavit sworn
4 October 30, 2007 in the Supreme Court of British
5 Columbia, and this is the proceeding that he
6 brought with his lawyer, Mr. Pearson, in Victoria
7 to regain possession of the video. So starting at
8 paragraph 3.

9 THE COMMISSIONER: Now, just a moment now. I have this
10 exhibit. Whereabouts are you reading from the
11 affidavit?

12 MR. VERTLIEB: Yes, it's his affidavit that's filed in
13 British Columbia's proceeding. If you want, I'll
14 give you a copy here just to facilitate you
15 finding it. It's all part of the --

16 THE COMMISSIONER: Is this the one with just three
17 paragraphs?

18 MR. VERTLIEB: No. The one that's brief is the one
19 filed for your proceeding here, and as part of
20 that statutory declaration is attached the
21 affidavit that he filed in Supreme Court in the
22 year 2007.

23 THE COMMISSIONER: All right, we've got it.

24 MR. VERTLIEB: Oh, good. Thank you. Thank you, Mr.
25 Registrar.

26 So this is all filed, but just for the record
27 here this afternoon, paragraph 3:

28
29 In the early morning hours of Sunday, October
30 14, 2007 I was at the Vancouver International
31 Airport after flying in from China. Due to a
32 missed connection, I had ended up at the
33 Vancouver airport at 10:00 p.m. on October 13
34 and was waiting to take a 5:25 a.m. bus to
35 the first ferry to Victoria in the morning.
36 I waited in the international arrivals public
37 waiting area and fell asleep on one of the
38 seats.

39
40 4. Some time after midnight I woke up to the
41 sound of a hand banging on glass. I saw an
42 individual, later identified as Robert
43 Dziekanski, acting strangely. It was clear
44 to me that he was confused and was attempting
45 to get back into the secure area of the
46 airport.

47

1 footage clearly and accurately depicted the
2 events I have described. Cst. Mulhall
3 commented that the footage was of high
4 quality and would be helpful to police.
5

6 13. Cst. Mulhall asked me if he could take a
7 copy of the Dziekanski footage. Wanting to
8 be of assistance to police, I agreed. I
9 waited while Cst. Mulhall carried out other
10 duties. I heard him make a telephone call to
11 other officers checking to see if someone had
12 the technology at the airport to make copy.
13 He eventually approached me and stated that
14 due to technical limitations, he was not
15 going to be able to take copy at the airport,
16 and asked if I was willing to go to "the
17 station" and provide them with a copy of the
18 Dziekanski footage as well as a statement. I
19 agreed to this plan.
20

21 14. Cst. Mulhall left to presumably deal
22 with other witnesses. When he returned he
23 stated that he was going to take a statement
24 at the airport, but that he wanted to take my
25 camera and the Card with him. I advised him
26 I wasn't happy with this suggestion and that
27 I wanted everything back.
28

29 15. Cst. Mulhall stated that the camera, the
30 Card, and its contents would be returned to
31 me within 48 hours. He specifically
32 commented that once I got the camera and Card
33 back, I should not delete the Dziekanski
34 footage, as it was important. I stated I
35 wouldn't delete the footage. I agreed to
36 temporarily lend the Card and camera to
37 police. I would not have handed these items
38 over to police if they had not agreed to
39 return them to me.
40

41 Paragraph 17:
42

43 The next day, I received a telephone call
44 from Pat Mulhall, who told me that the police
45 had changed their minds, and although they
46 would return my camera and a replacement
47 Memory Stick flash memory card, they would be

1 keeping the Dziekanski footage and not
2 releasing it back to me. I expressed my
3 concern with this and asked when I could
4 expect it back. Cst. Mulhall told me that it
5 would take between 1 1/2 to 2 1/2 years to
6 return the footage to me.
7

8 18. Two days later, I received a courier
9 package with my camera, a replacement memory
10 card with photos and video that had been on
11 the Card, but not the Dziekanski footage.
12

13 And that's all I need to read at this time.

14 THE COMMISSIONER: All right.

15 MR. VERTLIEB: Now, before leaving the subject, then,
16 Mr. Commissioner, of the Pritchard evidence, maybe
17 Mr. Hira could take us to the portion that he
18 would like to have played.

19 THE COMMISSIONER: Yes, Mr. Hira, have you spoken to
20 Dr. Perra?

21 MR. HIRA: I have. I have given him an eight-second --
22 sorry, a 12-second portion. It starts on the
23 second video at 3:38, Mr. Commissioner. The
24 police at this stage have arrived, jumped over the
25 barrier, and are dealing with him. And the part
26 that I'd like to direct your attention to is a
27 black block on the right-hand centre side of the
28 desk. And you'll see the black block at between
29 3:38 and 3:40. You'll see him pick up the black
30 block at 3:43, appear to move it to his other hand
31 at 3:46. That black block is the stapler. So
32 it's an 8- to 12-second clip, Mr. Commissioner.

33 THE COMMISSIONER: All right, let's have a look.
34

35 (VIDEO BEING PLAYED)
36

37 MR. HIRA: If you could stop at 3:40. You see the
38 black block.

39 If you'd go back to 3:38.

40 There. It's in the middle right-hand side.

41 Thank you. If you could continue, please.

42 Okay, stop right there. I don't know whether
43 Mr. Commissioner can see through that -- it's the
44 hand in the area. If you could just go over one
45 more second. Keep going. And now there is no
46 black block where it originally was, Mr.
47 Commissioner.

1 Keep going. And that's -- that's fine.
2 You saw the black block raised over the head.
3 That's all I wanted to draw to your attention at
4 this stage, Mr. Commissioner.

5 THE COMMISSIONER: Thank you.

6 MR. VERTLIEB: Now, I assume no one else has portions
7 of the Pritchard video they need to have played
8 for the Commissioner. We've heard nothing other
9 than from Mr. Hira.

10 Okay, that's fine, thank you.

11
12 (VIDEO STOPPED)

13
14 MR. VERTLIEB: So I think we've concluded with the
15 Pritchard evidence. The next witness is *viva voce*
16 and Mr. Stewart has brought him here this
17 afternoon.

18 MR. MCGOWAN: Mr. Commissioner, the next witness is a
19 Mr. Joginder Dhari.

20 THE REGISTRAR: Do you need a translator on this? Do
21 you need a translator?

22 MR. MCGOWAN: Is there a translator? Yes, Mr.
23 Commissioner, my friend, Mr. Hira, expects that he
24 may wish to cross-examine this witness ultimately
25 using one of the statements that was originally
26 provided in a language other than English. So I
27 understand we do have an interpreter for that
28 purpose.

29 THE COMMISSIONER: All right.

30 MR. MCGOWAN: It may be convenient to swear the
31 interpreter at the outset in case there's any
32 language difficulties.

33 THE COMMISSIONER: Yes. Come on forward, sir, and over
34 here.

35 THE INTERPRETER: I wish to affirm, Mr. Commissioner.

36 THE COMMISSIONER: Affirm, yes, all right.

37
38 SARB SANDHU, Punjabi
39 interpreter, sworn.

40
41 THE COMMISSIONER: Thank you.

42 THE REGISTRAR: Would you state your full name, please.

43 THE INTERPRETER: Sarb, S-a-r-b, my first name, Mr.
44 Commissioner, and the last name is Sandhu, S-a-n-
45 d-h-u.

46 THE COMMISSIONER: Thank you very much, Mr. Sandhu.
47 There's a chair there I think if you'd like to.

Joginder Dhari (for Vancouver Airport Authority)
In chief by Mr. McGowan

1 THE INTERPRETER: Thank you.
2 THE COMMISSIONER: Now, maybe we can swear the witness.
3 THE INTERPRETER: I would like to ask for
4 clarification, Mr. Commissioner. Am I required
5 throughout continuously, or on a standby basis?
6 THE COMMISSIONER: On standby.
7 THE INTERPRETER: On standby. Okay.
8 THE REGISTRAR: Would you stand, please. Do you wish
9 to be sworn or affirmed?
10 THE WITNESS: Sworn.
11 THE REGISTRAR: Sworn?
12 THE WITNESS: Yes.
13 THE REGISTRAR: Place your right hand on the Bible
14 please.
15
16 JOGINDER DHARI, a witness,
17 sworn.
18
19 THE REGISTRAR: Would you state your full name, please.
20 A Joginder Dhari.
21 THE REGISTRAR: Would you spell your last name, please.
22 A D-h-a-r-i.
23 THE COMMISSIONER: Thank you, Mr. Dhari.
24 THE REGISTRAR: Thank you. You may be seated.
25 A Thank you.
26
27 EXAMINATION IN CHIEF BY MR. MCGOWAN:
28
29 Q Mr. Dhari, English is not your first language; is
30 that right?
31 A No.
32 Q Okay. What is your first language?
33 A Punjabi.
34 Q Okay. Punjabi. But you have been speaking
35 English for quite a number of years as well?
36 A Yes.
37 Q And you attend and conduct your work using the
38 English language whenever you're at work; is that
39 correct?
40 A Yes. Yes.
41 Q So you're reasonably proficient in carrying on a
42 conversation in English?
43 A Yes.
44 Q And your plan today is to attempt to give your
45 evidence in English to the extent you're able; is
46 that correct?
47 A Yes.

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- 1 Q Okay. And you understand if you run into any
2 difficulty giving your evidence, understanding a
3 question that I or one of the other lawyers asks,
4 or expressing yourself in the form of an answer,
5 you can seek the assistance of the Punjabi
6 interpreter who is seated beside you?
7 A I try to give -- I try to understand, if I can't,
8 yeah, then I would ask him.
9 Q Okay. You understand the interpreter is there if
10 you have any difficulty understanding, correct?
11 A Yeah.
12 Q Okay. You just say so.
13 A Thank you.
14 Q Okay. Now, I'm going ask you to make sure you
15 direct your voice right into the microphone there.
16 A Okay.
17 Q And keep your voice up so that I can hear you over
18 here.
19 A Okay.
20 Q Okay. Now, sir, you moved to Canada in 1969?
21 A Yes.
22 Q You initially after your move to Canada worked in
23 a sawmill in Williams Lake; is that correct?
24 A Yes.
25 Q And you worked there for 26 years?
26 A Yes.
27 Q And what was your job at the sawmill?
28 A As a lumber grader.
29 Q Okay. And after the 26 years at the sawmill in
30 Williams Lake you moved to the Lower Mainland; is
31 that correct?
32 A Yes.
33 Q And you operated your own business?
34 A Yes.
35 Q You had a restaurant, I understand?
36 A Yes.
37 Q And where was that located?
38 A It was in Richmond.
39 Q Okay. And when did you stop running that
40 restaurant?
41 A 2001 July.
42 Q Is that when you finished?
43 A Yes.
44 Q Okay. And you now work at the Vancouver
45 International Airport?
46 A Yes.
47 Q And what year did you start at the airport, sir?

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- 1 A In 2006.
2 Q Okay. And have you been there continuously since
3 2006?
4 A I missed three, four months in 2006 but then I go
5 back again and I end up for 2006.
6 Q Okay. I wonder if you'd tell the Commissioner
7 what your job at the airport is, please.
8 A I'm just getting the carts, you know, the carts
9 the people use for the luggage. I'm collecting
10 them and put it together and take away to the
11 inside.
12 Q Okay. Is your described as cart attendant?
13 A Yes.
14 Q Okay. So your job is to go around the airport and
15 collect the used luggage carts and return them to
16 the place where people pick up the luggage carts?
17 A Yes.
18 Q Okay. And do you work that job full-time, sir?
19 A Yes.
20 Q Okay. Do you have a regular shift that you work?
21 A Yes.
22 Q And what is that shift?
23 A I usually work the 7:00 to 3:00 in the daytime.
24 Q 7:00 a.m. till 3:00 p.m. in the daytime?
25 A Yes.
26 Q And are there other shifts where cart attendants
27 work?
28 A No, I mostly work on the days.
29 Q Okay. Have you sometimes worked the night shift
30 as well?
31 A If I get a call for overtime or somebody short,
32 you know, then.
33 Q Okay. Now, you understand that ultimately I'm
34 going to be asking you some questions about some
35 events that happened sometime after midnight,
36 correct?
37 A Yes.
38 Q That was one of the nights when you were working
39 the graveyard shift?
40 A Yes.
41 Q Okay.
42 A I used to work before in the graveyard, but then I
43 switched to days.
44 Q Okay. In October of 2007 you were working the
45 graveyard shift?
46 A Yes.
47 Q Now, when you were collecting carts did you have a

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- 1 specific area of the airport in October that you
2 were responsible for?
- 3 A Well, we usually go in the graveyard shit, and now
4 we go in the whole airport, you know, wherever we
5 can collect it, you know, we collect in and put it
6 inside the Customs.
- 7 Q Okay. Where -- once you've collected the carts,
8 you said put them inside Customs. So you would
9 collect them from the public areas of the airport;
10 is that correct?
- 11 A Yeah, the public area and parking lots and
12 everything, you know, wherever we can get.
- 13 Q Okay. And once you'd collected the carts, where
14 did you return them to?
- 15 A Well, we'd make about 100 carts in a line, you
16 know, then we tie it and take it into -- into the
17 Customs.
- 18 Q Okay. So that's into the secure area of the
19 airport?
- 20 A Yes.
- 21 Q So did you have a card that allowed you to access
22 the secure area of the airport?
- 23 A Yes.
- 24 Q And that's a Prox card, is that right?
- 25 A Yes.
- 26 Q Okay. And that's how you entered into, for
27 example, the International Reception Lounge?
- 28 A Yes.
- 29 Q Okay. Now, we see a person that we think is you
30 on the video, that's the Vancouver Airport video,
31 and this person at one point appears to be driving
32 a small cart or using some sort of machinery. Did
33 you use a machinery or a cart?
- 34 A Yes.
- 35 Q Okay. And were you using one on the night of
36 October 13th?
- 37 A Yes.
- 38 Q In the early morning hours of the 14th?
- 39 A Yes.
- 40 Q Okay. Now, sir, I'm going to ask you about your
41 observations on the night of October 13th or the
42 morning of October 14th. I wonder if you could
43 tell the Commissioner what shift you were working
44 that night?
- 45 A Well, I was just on overtime in the graveyard
46 shift.
- 47 Q Okay. What was the graveyard shift scheduled to

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- 1 be?
2 A It's from -- it's from 10:00 to 6:30 in the
3 morning, 10:30 to 6:30 in the morning.
4 Q Okay. And what time had you started your shift
5 that particular day?
6 A On that day 10:30 in the night.
7 Q Okay. And do you get scheduled breaks during your
8 shift?
9 A Usually not.
10 Q Okay. And do you take breaks when you can?
11 A Usually as a -- yeah, we take a break twice a --
12 twice during a shift.
13 Q Okay. And the graveyard shift in October of 2007
14 did you have regular times that you took your
15 breaks?
16 A Yes. We started the first break it's started at
17 1:30.
18 Q Yes.
19 A And the second is around four o'clock.
20 Q Okay. Now, did you make some observations of
21 something happening in the International Arrivals
22 area shortly before you were scheduled to take
23 your first break?
24 A Yes.
25 Q Okay. Where were you when you first saw something
26 that you found notable?
27 A I was just putting the line inside the Customs,
28 then I come back to the outside in the Arrival
29 area.
30 Q Into the Arrivals area?
31 A Yes.
32 Q Okay. Now, when you came back into the Arrivals
33 area, where did you come from?
34 A Usually the door is on the right-hand side.
35 Q Is that the automatic door we've heard about, or
36 is that the other door without the Prox reader?
37 A Automatic.
38 Q The automatic door. So you exited and you entered
39 into the meet-and-greet area?
40 A Yeah.
41 Q Okay. I wonder if you'd tell the Commissioner
42 what you saw taking place when you first came into
43 the meet-and-greet area?
44 A I was just parked my machine over there and I was
45 heading straight to go to my break. Then I saw
46 the -- the people, the guy looking for something,
47 you know, so I thought maybe he need help. So I

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1 ask him "What do you need?" So he can't
2 understand anything. And then --
3 Q Okay. Just let me -- let me stop you there for
4 one second just so I can get an understanding of
5 where you are and where everybody else is. Now,
6 the gentleman you're talking about, we've seen and
7 am I right, he's a gentleman wearing a white coat
8 who we ultimately understand to be Mr. Dziekanski?
9 A Yeah. I don't know that is a white coat or
10 whatever, you know. We don't -- I don't remember
11 on that.
12 Q Okay.
13 A But, yes, he was there.
14 Q Okay. Sir, have you seen the video on television
15 ever, the video that we know was taken by a Mr.
16 Pritchard?
17 A I just saw couple of weeks ago.
18 Q Okay. And the person you saw in that video, is
19 that the person you were trying to talk to that
20 night?
21 A Yes.
22 Q Okay. So when you first saw this man, where was
23 he? Was he inside the secure area or outside?
24 A He was outside in the Arrival.
25 Q Okay. And is that the area we call the meet-and-
26 greet area?
27 A Yeah.
28 Q And what part of that meet-and-greet area was he
29 in?
30 A He was just about in the middle.
31 Q Okay. And what did you see him doing when you
32 first saw him?
33 A Well, he just wandering, you know, and, you know,
34 there's lots of people, other peoples too, you
35 know, they just trying to find their way, you
36 know, and then whatever you think, you know, he
37 needs something, you know, we ask him to -- what
38 are you looking for? And if he tell us, you know,
39 then we can tell him, you know, where to go.
40 Q Okay. Did you personally walk up to this
41 gentleman?
42 A Yes.
43 Q Okay. And did you attempt to speak with him?
44 A Yes.
45 Q What did you say to him?
46 A Well, I just try to help and but he don't
47 understand anything.

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- 1 Q Okay. Did he say anything back to you?
2 A No.
3 Q Okay. Did he make any noise?
4 A Yeah, he just himself, you know, just like
5 nervous, you know, and that's about it.
6 Q Okay. Did he make any gestures or motions that
7 you recall?
8 A Well, just in making noise, you know, himself,
9 using bad words for himself and not to anybody
10 else.
11 Q Okay. Was he -- you didn't understand what he was
12 saying, I take it?
13 A No.
14 Q Okay. I wonder if you could describe what the man
15 looked like, not his physical appearance, but
16 anything you noticed about him to the Commissioner
17 at this time when you first saw him?
18 A He was healthy and nice and strong, you know, and
19 that's about it.
20 Q Okay. Did you notice whether he was sweating?
21 A Yeah, he -- yes.
22 Q Okay. And what did you see?
23 A Well, just, you know, like mad, you know, and
24 that's about it.
25 Q I wonder if you could tell the Commissioner what
26 you mean by that.
27 A Well, you know, he go like the -- you know, he was
28 just come from, and he is sitting inside, you
29 know, I heard about seven, eight hours. So he
30 just got frustrated, you know, and that's all, is
31 he got nervous.
32 Q Okay. So I'll ask you to try when I ask you
33 questions to tell the Commissioner things that you
34 actually saw, if you could. I know sometimes it's
35 difficult because you've learned some other
36 information. But I'm going to make sure my
37 questions ask you about things that you saw, all
38 right?
39 A Yes.
40 Q Okay. Did you see -- did I understand that you
41 did see that the man was sweating?
42 A No.
43 Q You did not see that?
44 A No.
45 Q Okay. Fair enough.
46 Q Now, after you attempted to speak with the man,
47 what happened then?

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- 1 A Well, I tried to help him, but he don't understand
2 anything to me. And then I asked somebody else to
3 help him, you know, see if he can.
- 4 Q The other person you asked, was it a man or a
5 woman?
- 6 A A man.
- 7 Q Okay. Do you know who that man is?
- 8 A It was I think, the limousine driver or somebody,
9 you know, I didn't know personally, but at the
10 time --
- 11 Q Do you recall if he was a White man or an Asian
12 man?
- 13 A Yeah, it was White man.
- 14 Q Okay. Carry on.
- 15 A I ask him, you know, to help him, you know. And
16 he talked to him and he did the same thing, you
17 know, he don't understand him, and Dziekanski. He
18 didn't understand him and I didn't. And so then
19 we decided, you know, that I talked to the
20 limousine driver to ask him to go get the
21 security.
- 22 Q So you asked the limousine driver to go and get
23 security.
- 24 A Yeah.
- 25 Q And where was Mr. Dziekanski at this point?
- 26 A That time was right in the middle of the door
27 where the people arrival.
- 28 Q Okay. And why had you asked for security to be
29 contacted?
- 30 A Because he was trying to punch in the wall
- 31 Q Okay. Who was trying to punch in the wall?
- 32 A Dziekanski.
- 33 Q Okay. Which wall did you see him trying to punch?
- 34 A You know, that door the swing -- that swing, you
35 know, he tried to do in that doors.
- 36 Q Okay. Did he hit it with his hand?
- 37 A Yes.
- 38 Q Okay. And what part did he hit with his hand?
- 39 A I don't know exactly, he punching like this
40 (gesturing), or like this (gesturing), you know.
41 I can't remember.
- 42 Q So you're demonstrating you don't know if he was
43 hitting with an open hand or a closed fist?
- 44 A No, I don't.
- 45 Q Okay. How hard was he hitting, or could you tell?
46 Did he look like he was knocking on the door or
47 attempting to push the door open, or what did you

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1 see?
2 A No, he tried to push the door open.
3 Q Okay. Those doors don't open from the outside, am
4 I right about that?
5 A No.
6 Q Without a Prox card?
7 A Yeah. No.
8 Q Now, aside from yourself and the limousine driver,
9 had you seen anybody else at this point attempt to
10 speak with Mr. Dziekanski?
11 A There was a lady who make the video on the cell
12 phone. She was before me and she was talking to
13 him, too.
14 Q Okay. How long did she appear to talk to him for?
15 A Oh, over five, six minutes.
16 Q Now, did he appear to be attempting to speak back
17 to either yourself or any of the other people that
18 spoke with him?
19 A No.
20 Q Did you hear him saying any words in a different
21 language?
22 A No.
23 Q Okay. Did you hear him making any noise?
24 A Well, he was making a noise just himself, you
25 know.
26 Q Okay. What volume was the noise he was making at?
27 A Well, it was loud.
28 Q I'm sorry, it was loud or was not loud?
29 A It was loud.
30 Q It was loud, okay. Did he make any threatening
31 gestures towards you at any point?
32 A No.
33 Q When you asked the limousine driver to get
34 security, did he go?
35 A Yes.
36 Q Okay. And what did you see happen after that?
37 A Security comes and they talk to him and they can't
38 help either, you know, so then they call the
39 police.
40 Q Okay. And where is Mr. Dziekanski when you see
41 security speaking to him?
42 A Right in that door.
43 Q Did you observe the interaction between the
44 limousine driver and Mr. Dziekanski?
45 A No.
46 Q Okay. Did you see the limousine driver talk to
47 Mr. Dziekanski?

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- 1 A Yes.
- 2 Q Okay. Tell me what you saw happening there.
- 3 A Well, he was just doing the same thing what I am
4 trying to talk to him, and that's it.
- 5 Q Did you hear anything that was said by either of
6 them?
- 7 A No.
- 8 Q Specific words?
- 9 A No.
- 10 Q Now, when the security was talking to Mr.
11 Dziekanski, was he inside the IRL?
- 12 A I can't remember.
- 13 Q Okay. Are you able to tell us anything about his
14 behaviour at this point that you saw?
- 15 A Well, he didn't threatening to anybody. He just
16 himself is get mad, you know, and trying to open
17 and close the door, you know, and the people
18 coming from the Customs, you know, there he was
19 right in the middle of them and they can't go
20 anywhere.
- 21 Q Okay. How close did you observe other people get
22 to Mr. Dziekanski when they were attempting to
23 speak with him?
- 24 A Well, about five -- five, ten feet.
- 25 Q Okay. How close did you go to Mr. Dziekanski?
- 26 A About the same thing, you know, around five feet,
27 probably.
- 28 Q Did you ultimately see the police arrive?
- 29 A Yes.
- 30 Q Tell the Commissioner about that, please.
- 31 Q When police comes, you know, they go over the
32 barrier, and then I don't think they tried to talk
33 to him, and they just go inside and trying to get
34 him. So then they start the video -- I mean, the
35 tasing to him. And then the Dziekanski, he fell
36 down, and the one guy was sitting on him, put his
37 legs under his neck, and they're two guys sitting
38 on him and the third guy, you know, he putting the
39 handcuff, and the fourth guy was tasing, you
40 know.
- 41 Q Okay. Now, you said you saw the police come in
42 and go over the barrier. Do you recall how many
43 police you saw?
- 44 A Yes.
- 45 Q How many did you see?
- 46 A Four of them.
- 47 Q Okay. Once they entered the area where Mr.

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1 Dziekanski was, the International Reception
2 Lounge, what did you see Mr. Dziekanski do?
3 A Well, he grabbed the chair when he saw the police,
4 you know, he grabbed the chair to throw in the
5 wall. Then the police said "Don't do that," you
6 know, then he just throw that chair on the floor
7 and then he grab the computer, he throw that one
8 in the floor, too.
9 Q Okay. Now, you saw him pick up these articles and
10 throw them?
11 A I saw the chair.
12 Q Okay. And after that the police arrive?
13 A Yes.
14 Q Okay. How long after the police crossed the
15 barrier -- well, let me ask you this. The police
16 crossed the barrier and we know they then went
17 right into the International Reception Lounge.
18 You saw them go inside?
19 A Yes.
20 Q How did you know the Taser had been fired? Did
21 you see it or did you hear it or either?
22 A No, I saw him.
23 Q You saw the officer fired, or you saw Mr. --
24 A Yeah.
25 Q -- Dziekanski's reaction?
26 A No, the tasing him, you know, I saw him.
27 Q Okay. How long after the police entered the IRL
28 do you think it was before they fired the Taser?
29 A I don't think more than a minute or something like
30 that.
31 Q Okay. Did you see which officer was holding the
32 Taser?
33 A Yes.
34 Q Which one, or if you're able to describe him?
35 A I think the Black man was the tasing.
36 Q Okay. Now, after Mr. Dziekanski was tasered, what
37 did you see happen to him?
38 A Well, when he fall down, then I saw the three
39 policemen, you know, the one is just sitting on
40 his neck, and the one is putting the handcuff, the
41 other one is sitting on the back and the third
42 one, and the fourth one has the Taser gun in his
43 hand.
44 Q Okay. Let me ask you this, where are you standing
45 right now that you're -- when you're --
46 A I was about -- I was outside.
47 Q You're in the meet-and-greet area?

Joginder Dhari (for Vancouver Airport Authority)
In chief by Mr. McGowan

- 1 A Yes.
2 Q Okay.
3 A And they was inside.
4 Q So you're looking at this through the glass?
5 A Yeah.
6 Q Do you have a clear view of Mr. Dziekanski and the
7 police officer, or is there anything in your way?
8 A Oh, I can see clear, yes.
9 Q Okay. Is there anybody standing between you and
10 Mr. Dziekanski blocking your view?
11 A No, nobody.
12 Q Okay. Now, you mentioned one officer and
13 something to do with Mr. Dziekanski's neck. Tell
14 us about that.
15 A Yeah. One of the guy, you know, sitting on his
16 neck, put leg -- put his leg on the neck.
17 Q Okay. Can you describe that officer at all?
18 A No.
19 Q Is Mr. Dziekanski making any movements or sounds
20 at this point?
21 A That time I saw he was crying. That's what it...
22 Q What's the other officer doing?
23 A Well, the one guy, the guy was sitting on the -- I
24 mean put one leg on his neck. The other guy, one
25 of them is hitting, the other one is putting the
26 handcuff.
27 Q Okay. So how many officers in total are having --
28 are touching Mr. Dziekanski when he's on the
29 ground?
30 A There was four of them.
31 Q Okay.
32 A Including the Taser guy.
33 Q Okay. Now you told us that you saw Mr. Dziekanski
34 you believe to be crying. Was he moving at all at
35 this point?
36 A Well, that time, you know, that was on the floor
37 and at that time he was moving, yes.
38 Q Okay. At some point did that change, did Mr.
39 Dziekanski stop moving, to your observation?
40 A No, I wasn't, you know, I was going to my break.
41 Q Okay. Tell me how that came about. At what point
42 did you leave to go on your break?
43 A At that time, you know, when I go to break, you
44 know, then I thought when the police they got it
45 now, you know, so I better go. You know, I didn't
46 want to waste my time.
47 Q Okay. And when you left, how -- where were the

Joginder Dhari (for Vancouver Airport Authority)
In chief by Mr. McGowan

- 1 police in relation to Mr. Dziekanski?
2 A At that time was in the -- inside in the Customs
3 area.
4 Q Okay. Were they still on top of Mr. Dziekanski,
5 to your observation, when you left?
6 A When I left, yeah, they were still on.
7 Q Did you see or hear anything else to do with this
8 incident that evening?
9 A After that, no.
10 Q Okay. At some point did you return to the
11 International Reception Lounge later in the
12 evening?
13 A Yes.
14 Q Okay. And what happened then?
15 A That time, you know, they blocked the whole area,
16 you know, and nobody can go around.
17 Q Did you have a conversation with somebody about
18 what happened to Mr. Dziekanski?
19 A That -- in that night, yes.
20 Q Okay. You found out that Mr. Dziekanski had been
21 tasered and had not lived; is that correct?
22 A Yes. You know, I know when they tasered, I saw
23 him. But after that, you know, I got to my break.
24 After break, you know, and there's a security
25 guard, he told me the guy is already passed away.
26 Q Okay. Did you speak with the police that evening?
27 A No.
28 Q Okay. Did you speak with the police at some later
29 time?
30 A No.
31 Q Sir, did a police officer come and take a
32 statement from you when he recorded it?
33 A Well, that was a couple of months later.
34 Q Okay. Is that the only time that you spoke with
35 the police?
36 A Yes.
37 Q All right. Is there anything else, sir, about
38 that evening that you observed that is important
39 for the Commissioner to know?
40 A No, that's -- that's all I remember.
41 MR. MCGOWAN: Those are my questions for this witness,
42 Mr. Commissioner. Sir, please answer any
43 questions your counsel, Mr. Stewart, or any of the
44 other lawyers might have.
45
46
47

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Stewart (for Vancouver Airport)

1 CROSS-EXAMINATION BY MR. STEWART ON BEHALF OF VANCOUVER
2 INTERNATIONAL AIRPORT:
3

4 Q Mr. Dhari, you know me, I'm Dwight Stewart and I
5 act on behalf of the Airport.

6 A Mm-hmm.

7 Q I just have a couple of questions. You were
8 describing first you trying to speak to Mr.
9 Dziekanski?

10 A Yes.

11 Q Do you interact with people that don't speak
12 English in the airport?

13 A Yes.

14 Q People sometimes come and ask you for help?

15 A Yes.

16 Q Is it fair to say that Indian people come up,
17 hoping that you can speak Punjabi?

18 A Yes, Indian or whatever it is, you know, whoever
19 need help, you know, if they ask, you know, we
20 tell them.

21 Q Okay. And so -- so people in any language come
22 and --

23 A Yes.

24 Q Do you -- you just find a way to --

25 A Yeah, if we can't understand the language, we tell
26 them by hand, or whatever you know, is available,
27 we can do that.

28 Q So that's what you tried first with Mr.
29 Dziekanski?

30 A Yes.

31 Q Okay. You then said that you asked the limousine
32 driver, his name is Mr. Meltzer. You asked the
33 limousine driver to help.

34 A Yes.

35 Q Why did you do that?

36 A Yes, well, you know, 'cause he can't understand me
37 or I can't understand him. So maybe I thought,
38 you know, the other guy, you know, he understand
39 his language, so that's why I ask him to go talk
40 to him.

41 Q Okay. And you also remember there being another
42 woman that was trying to speak with Mr.
43 Dziekanski?

44 A Yes.

45 Q Okay.

46 A She was the first lady to talk to him.

47 Q Okay. When you asked the limousine driver to go

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Kosteckyj (for Zofia Cisowski)

1 and call security, did you know that he was going
2 up the stairs?

3 A Yes.

4 Q You knew that there was --

5 A He asked me, you know, where is the security. I
6 told him to go upstairs.

7 MR. STEWART: Okay. Okay, thank you, Mr. Dhari, and I
8 think some of the other lawyers may have questions
9 for you.

10 A Okay.

11 MR. KOSTECKYJ: Walter Kosteckyj, counsel for Zofia
12 Cisowski.

13

14 CROSS-EXAMINATION BY MR. KOSTECKYJ:

15

16 Q Mr. Dhari, you met with a police officer back in
17 December of 2007 and gave a statement to him, did
18 you not?

19 A Yes.

20 Q And that -- that police officer, that was
21 Constable Senghera?

22 A Yes.

23 Q Had you ever met Constable Senghera before that?

24 A No.

25 Q All right. And when you spoke to Constable
26 Senghera, did you speak to him in English or in
27 Punjabi?

28 A In Punjabi.

29 Q All right. Have you seen a copy of the statement
30 that's translated into English?

31 A Yes.

32 Q And does that statement seem to be accurate as to
33 what you were telling Constable Senghera?

34 A Well, I don't know.

35 MR. KOSTECKYJ: Sorry?

36 MR. STEWART: Mr. Commissioner, if I could just
37 briefly, just it's the issue I think that the
38 reason why arrangements were made to have a
39 Punjabi interpreter. I certainly want in this
40 setting for everyone to have an opportunity to ask
41 Mr. Dhari his recollection. But with respect to
42 the use of the transcript, it's, I think, going to
43 be fairly difficult. Because what happened is the
44 Punjabi-speaking RCMP officer conducted most of
45 the interview with Mr. Dhari in Punjabi. It was
46 then translated to English and is written out, and
47 Mr. Dhari has had an opportunity to review that.

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Kosteckyj (for Zofia Cisowski)

1 His spoken English is better than his written
2 English. And I just even saw that this morning,
3 in terms of translations. I'm concerned about a
4 tape that was in Punjabi going to written English
5 and then being re-translated into Punjabi and put
6 back to Mr. Dhari in terms of his recollection. I
7 just want everyone to be alive to that limitation.
8 And ultimately, I suppose, if something really
9 turns on what he said, it may be that we might
10 have to listen to the audio file of what the
11 interview was. But I just offer that caution in
12 terms of the use of the transcript in fairness to
13 Mr. Dhari.

14 THE COMMISSIONER: All right. Go ahead, Mr. Kosteckyj.
15 MR. KOSTECKYJ:

16 Q Well, you have an interpreter, so if there's
17 anything that don't understand or you're not sure
18 of, please feel free to use the interpreter.

19 A Okay. Sure.

20 Q But this is a copy of the statement that I was
21 given, and maybe I'll just show it to you, and --

22 A No, I know, I have it.

23 Q I'll show it to you in any event.

24 A Yes.

25 Q Do you read English, Mr. Dhari?

26 A Yes, I can read, but sometimes is the meaning a
27 little hard for me.

28 Q All right. No, is this the same statement that
29 you remember giving to the police officer?

30 A Yes.

31 Q Except you gave it to him in Punjabi?

32 A Yeah.

33 Q All right. Now, when you met with him you met
34 with him on December the 18th, 2007?

35 A Yes.

36 Q So that was a couple of months after the events
37 occurred?

38 A Yes.

39 Q And so some things you still remembered and other
40 things you had some difficulty remembering,
41 correct?

42 A Yes.

43 Q Now, one of the things that you told the police,
44 and I'm looking at page 28 of your statement.

45 A Yes.

46 Q And Constable Senghera asked you:

47

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Kosteckyj (for Zofia Cisowski)

1 *Okay. Okay, is there anything else that your*
2 *(sic) remember that might be important to us?*

3

4 And your answer to him was:

5

6 *The only thing is that this innocent person*
7 *died by no fault of his own.*

8

9 Is that what you -- what you were asked as to what
10 was -- what you thought was important, did you
11 tell Constable Senghera that?

12

A Yes.

13

Q And then he goes on:

14

15 *Okay. Because this guy didn't have any*
16 *weapons --*

17

18 Or he goes, "Okay." And you answered:

19

20 *Because this guy didn't have any weapons or*
21 *anything.*

22

23 A Yes.

24

Q You said that?

25

A Yes.

26

Q Did you ever see Mr. Dziekanski with any kind of a
27 weapon?

28

A No.

29

Q And then you went on and Constable Senghera said
30 "Yes", and you said:

31

32 *Nor was he threatening or anything.*

33

34 Is that the way you saw Mr. Dziekanski?

35

A Yeah, he didn't threaten anybody.

36

Q Did you -- were you ever afraid of Mr. Dziekanski
37 when you were in his presence?

38

A No.

39

Q Now, I'm just going to take you to page 27 of your
40 statement, as well. Constable Senghera asked you
41 as to what happened when the security guards came.

42

A Yes.

43

Q Do you remember that?

44

A Yes.

45

Q And back in December you said:

46

47 *I don't think they spoke to that man. But I*

1 can't remember anything, you know.

2

3 So to the best of your recollection, is that what
4 you thought at the time, that they didn't even
5 speak to him?

6 A No, I mean, the police didn't talk to them. But
7 the security guard, they tried.

8 Q Okay. Because this is -- the question is he's
9 asking you about the security guards and back in
10 December of -- 18th, 2007, you said:

11

12 *I don't think they spoke to that man. But I*
13 *can't remember anything, you know.*

14

15 So is --

16 A That's true, yes.

17 Q So you weren't sure whether they spoke to him or
18 not?

19 A No. No.

20 Q Okay. Now, in the statement it talks about
21 punching the door, and we were talking about that
22 earlier.

23 A Yes.

24 Q Commission counsel asked you questions about that.

25 A Yes.

26 Q It wasn't clear to me if what you meant was that
27 he was actually punching the door or whether he
28 was pushing the door.

29 A No, well, he was just, you know, doing like this
30 (gesturing), you know.

31 Q He wasn't winding up and punching the door?

32 A Yeah.

33 Q He was or he wasn't?

34 A Well, I don't know for sure, you know. He doing
35 that by open hand or closed hand, you know, I
36 don't know.

37 Q Okay. Well, did you ever -- was he just -- was he
38 pushing on the door trying to get the door open?

39 A No, the doors he's doing hard, you know, by hand,
40 you know. I don't know is by closed hand or open.

41 Q Okay. So you can't say whether he was punching
42 the door or whether he was pushing it with his
43 open hand. He could have been doing --

44 A Well, if, you know, if just pushing to open it,
45 the door doesn't make any noise. But when you
46 punch it and eventually it's going to be noise,
47 right?

1 Q Okay. So he was pushing on it hard enough to make
2 some noise?
3 A Yeah.
4 Q All right. When the police tasered Mr.
5 Dziekanski, you saw that?
6 A Yes.
7 Q He went down right away, didn't he?
8 A Yes.
9 Q He hit the floor right after he was tasered?
10 A Yes.
11 Q Now, the area where this happened was right
12 outside the doors that -- or in the doors that go
13 into the International Reception Lounge, correct?
14 A Yeah, that was in the -- inside the security, it
15 was in there.
16 Q Right. But to begin with, you were on the --
17 A I was outside.
18 Q You were outside.
19 A Yeah.
20 Q And he was outside to begin with?
21 A Yeah.
22 Q Now, you told the police that usually there's a
23 security guard sitting there; is that correct?
24 A Yes, in the daytime.
25 Q Is there a security guard there in the evening
26 time at all?
27 A Not at that time.
28 Q Not that day, but other days is there a security
29 guard?
30 A No.
31 Q There isn't. Okay. So there's only a security
32 guard there during the day?
33 A Yes.
34 Q And there's a chair there for a security guard?
35 A Yes.
36 Q Now, you were telling -- I think you were asked
37 about in situations sometimes people come up to
38 you and they ask you for help. They may not speak
39 English?
40 A Yes.
41 Q Is there anybody in the airport that you can
42 direct them to? Is there someplace they can go to
43 get help?
44 A In that time, no.
45 Q All right. Did you actually walk past Mr.
46 Dziekanski? Did you walk right by him?
47 A Yes.

- 1 Q And when you walked by him there was no problem,
2 there was -- he didn't try to hit you or hurt you
3 or anything?
- 4 A No.
- 5 Q Now, when you -- you collect these carts?
- 6 A Yes.
- 7 Q And you return them back in -- there's a secure --
8 you know the secure area in the airport.
- 9 A Yes. Yes.
- 10 Q Where the Customs people are?
- 11 A Yes.
- 12 Q Are you allowed to go in there and take the carts
13 in there?
- 14 A Yes.
- 15 Q And do you have to have some kind of special badge
16 to do that?
- 17 A Same card, you know, the Prox. With that, you
18 know, we had a remote control and we open the
19 door, and we can take the carts in and come back
20 and from there, no problem.
- 21 Q Okay. Besides yourself, when you've been in
22 there, in that secure area where the Customs
23 people are.
- 24 A Yes.
- 25 Q Do you see other airport employees in there from
26 time to time?
- 27 A Yes.
- 28 Q So there are other airport employees that can walk
29 in and out of that area, back in October of 2007?
- 30 A Yes.
- 31 Q Am I right when I heard your evidence that you
32 thought that Mr. Dziekanski was a frustrated
33 traveller?
- 34 A Yes.
- 35 Q Now, you described him as being healthy, correct?
- 36 A Yes.
- 37 Q What did you mean when you told the constable that
38 you thought he was healthy?
- 39 A Healthy like, you know, as a strong -- doesn't
40 like, you know, sick, or anything like that, and
41 not a drunk or anything.
- 42 Q You indicated that -- I'm just going back to this
43 about being healthy, and you told the police
44 officer that you didn't notice anything unusual
45 about him, about his eyes?
- 46 A No.
- 47 Q You didn't notice anything unusual about his skin?

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Kosteckyj (for Zofia Cisowski)
Cross-exam by Ms. Roberts (for Government of Canada)

1 A No.

2 Q He looked healthy?

3 A No.

4 Q And that's what you told the police officer at the
5 time back in December of 2007?

6 A Yes.

7 Q Did you think that he was mentally ill or anything
8 like that when you saw him?

9 A No.

10 MR. KOSTECKYJ: Those are my questions, thank you.

11 A You're welcome.

12

13 CROSS-EXAMINATION BY MS. ROBERTS ON BEHALF OF THE
14 GOVERNMENT OF CANADA:

15

16 Q Mr. Dhari, my name is Helen Roberts. I'm a lawyer
17 for the Government of Canada. I have a few
18 questions for you.

19 A Okay, I know.

20 Q When you take the carts from the public meet-and-
21 greet area in through the IRL to the Customs Hall.

22 A Yes.

23 Q Do you have to use your Prox card to do that?

24 A No, it depend on if, you know, usually if the
25 security guard is there, they open the door for
26 us. But on the graveyard shit they close the door
27 around two o'clock, so then I can't go in.

28 Q All right. On the night where you saw Mr.
29 Dziekanski and all of this occurred, did you use
30 your Prox card to get in through that door to the
31 IRL?

32 A No. No, that time was the security guard inside
33 when I dropped the cart.

34 Q Was that before you saw Mr. Dziekanski and had
35 dealings with him?

36 A Well, that was before that.

37 Q All right. Have you had a chance to look at the
38 video from the airport?

39 A Yes.

40 Q All right. We had a chance to see that this
41 morning, and Mr. McGowan when you appeared on the
42 video.

43 A Yeah.

44 Q And it looked like you appeared on the video first
45 at 1:04 in the morning.

46 A Yes.

47 Q Does that accord with what you saw, as well?

1 A Yes.
2 Q All right. And then Mr. McGowan pointed out, or I
3 noticed that you walked up the passageway by the
4 barrier to the door --
5 A Yes.
6 Q -- into the International Reception Lounge at
7 about 1:08?
8 A Yes.
9 Q Does that sound about right from what you viewed?
10 A Yes.
11 Q All right. And then I observed that you left the
12 door and walked back down along the barrier at
13 1:10?
14 A Yes.
15 Q All right. And by 1:11 I saw that you were at the
16 end of the barrier, the farthest point from the
17 door?
18 A Yes.
19 Q All right. And at 1:12 you'd left that walkway
20 and you were out by the kiosk where they used to
21 sell candy?
22 A Yes.
23 Q All right. And then you appeared to leave the
24 video screen altogether at 1:15 with some carts?
25 A Yes.
26 Q And does that accord with what you remember?
27 A Yes.
28 Q And what you saw in the video of yourself?
29 A Yeah.
30 Q All right. So your dealings close up with Mr.
31 Dziekanski at the door into the IRL were from
32 about 1:08 to 1:10; is that correct?
33 A I don't know the exact time, but, yes, I was in
34 that area that time.
35 Q All right. Well, would you agree that it was
36 about two minutes you were at the door with Mr.
37 Dziekanski and possibly the limousine driver?
38 A Yes.
39 Q Now, in the statement to the police, you told them
40 that you saw Mr. Dziekanski punching at walls?
41 A Yes.
42 Q And it turns out you meant the glass door and
43 wall, did you?
44 A Yes.
45 Q All right. And you also told them that you
46 thought he was upset and you said he was flailing
47 his arms? Do you remember saying that?

- 1 A Yeah, he was upset, you know, because he was
2 sitting inside eight hours, you know, and normally
3 -- a normal guy, you know, when you travel, after
4 that, you know, you sit over eight hours then
5 everybody going to be frustrated, no matter who.
- 6 Q All right. If I can ask you, though, just to tell
7 me what you knew that night and not what you
8 learned later. You didn't know he'd been there
9 for eight hours, did you?
- 10 A No, I didn't.
- 11 Q All right. So you saw somebody who was upset,
12 punching against the glass door.
- 13 A Yeah.
- 14 Q And waving his arms?
- 15 A Yes.
- 16 Q And he looked upset?
- 17 A Yes.
- 18 Q And you saw him pick up a chair?
- 19 A Yes.
- 20 Q And throw it down?
- 21 A Yeah.
- 22 Q Did you see it break?
- 23 A Yes.
- 24 Q All right. And did you see him pick up the
25 computer and throw it down and break it, too?
- 26 A Well then that was inside, no, I didn't see the
27 computer, you know, he pick it up and throw it, or
28 -- no, I did not.
- 29 Q So that was after you left?
- 30 A Yeah.
- 31 Q All right.
- 32 A No, I was there in that area, but you see, the
33 computer was inside and I was outside, so I didn't
34 know he pick up the computer or not.
- 35 Q All right. Well, when I just went through the
36 timeline, it appeared from the video that you left
37 with some carts at about 1:15.
- 38 A Yeah, I just collecting from that area, you know,
39 to put it together, and that's all.
- 40 Q All right. So you saw Mr. Dziekanski damage the
41 chair?
- 42 A Yes.
- 43 Q Correct? And we heard on the video somebody
44 saying that there would be 300 passengers coming
45 through soon from a Cathay Pacific flight. Is
46 that something you had been aware of?
- 47 A I don't know.

1 Q All right. But you knew that the passengers, once
2 they clear Customs and Immigration, they --
3 A Yeah, they come through. Yeah.
4 Q -- come through there?
5 A Yes.
6 Q And they would need to go through the door that
7 Mr. Dziekanski was --
8 A Yes.
9 Q -- blocking?
10 A Right.
11 Q All right. So it would be important that somebody
12 deal with Mr. Dziekanski and get him moved from
13 that location because he was in the way of other
14 passengers?
15 A Yes.
16 Q All right. So you weren't surprised to see
17 security guards arrive?
18 A Well, security guards, we call them, you know,
19 then they come down, because they was on the third
20 floor.
21 Q All right. Did you call the security guards?
22 A No, the other guy, the limousine driver.
23 Q Okay.
24 A He go there and call them.
25 Q All right. And were you there when the security
26 guards arrived?
27 A Yes.
28 Q All right. And they didn't --
29 A I don't know exactly --
30 Q -- interact very much with Mr. Dziekanski, did
31 they?
32 A No, I don't know anything about that, you know.
33 Q All right. So it wouldn't have been a surprise to
34 you that the police had to come and deal with Mr.
35 Dziekanski?
36 A Yes, I know that when he told me, the security
37 guard, he told me they called the police already,
38 and that's that.
39 Q All right. Well, Mr. Dziekanski had damaged some
40 property belonging to the airport?
41 A At that time when I saw the chair damage, you
42 know, other than that, no.
43 Q All right. Well, it wasn't surprising the police
44 were called to deal with him because of that?
45 A Not the chair. The chair, when the police
46 arrived, you know, that time he grab the chair,
47 before wasn't.

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Ms. Roberts (for Government of Canada)
Cross-exam by Mr. Hira (for Constable Millington)

1 Q All right. So your recollection is he only
2 grabbed the chair after the police arrived?
3 A yes, I think.
4 Q I don't think that's what we see on the video, but
5 that's how you recall it?
6 A Yeah, that's what I thought in that.
7 MS. ROBERTS: All right.
8 You're welcome.
9

10 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE
11 KWESI MILLINGTON:
12

13 Q Mr. Dhari, my name is Ravi Hira. I am the lawyer
14 for Constable Millington.
15 A Mm-hmm.
16 Q Now, you've worked at the airport you said for
17 about five years up to this point in time, that
18 is, October 2007, correct?
19 A Yeah, I worked only about -- a little over two
20 years over there.
21 Q You started in 2002, right?
22 A 2006.
23 Q I beg your pardon. Sorry about that, my mistake.
24 In any event, let's deal with things one step at a
25 time.
26 A Yeah.
27 Q Have you ever seen a passenger banging or punching
28 on the IRL doors like you saw Mr. Dziekanski?
29 A No.
30 Q Have you ever had a passenger -- now, would you
31 agree with me that he had the doors blocked off
32 with chairs. Do you remember that?
33 A No.
34 Q You don't recall chairs blocking off the doors?
35 A Well, nobody block except that day.
36 Q I'm sorry?
37 A Only that day, you know, he was in there. Other
38 than that, nobody block the door.
39 Q But did you see Mr. -- that day, did you --
40 A He had his luggage in that door.
41 Q Yes.
42 A Right in the middle of the door.
43 Q Right. And were there also chairs in the middle
44 of the door?
45 A No.
46 Q All right. Have you ever -- and the luggage in
47 the middle of the doors, that was to block people

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Hira (for Constable Millington)

1 from entering or leaving?
2 A Yes.
3 Q Thank you. Have you ever seen that before, sir?
4 A No.
5 Q Now, you said that at some point in time you said
6 that there was a chair that was broken. Did I get
7 that correct?
8 A Yes, that was after when the police arrived, you
9 know, inside the -- inside where the computer is,
10 there was a chair, you know, he grabbed that one.
11 Q And he broke that?
12 A Yes.
13 Q Have you ever seen anybody do that inside the IRL?
14 A No.
15 Q Now, Ms. Roberts asked you whether you saw a
16 computer being broken. Is it your evidence that
17 you did not see him break a computer?
18 A Well, I didn't know even he throw the computer or
19 not, because I was outside and they was inside.
20 Q Fair enough. Have you ever seen the police have
21 to deal with a person in the IRL before?
22 A What was that?
23 Q Have you ever had -- have you ever seen the police
24 have to arrest somebody in the IRL?
25 A No.
26 MR. HIRA: Okay. Now, just so that we can understand
27 where you were, I wonder whether, Doctor, I could
28 impose upon you to go to the Dziekanski video,
29 Number 2, at 1 minute and 40 seconds.
30 MR. PERRA: The YVR video or the Paul Pritchard?
31 MR. HIRA: Sorry, I beg your pardon. The Pritchard
32 video at 1 minute and 40 seconds. It's video
33 number 2.
34 Q Now, while he's setting it up, Mr. Dhari, you'll
35 see the video on the screen.
36 A Okay.
37 Q Are you able to see that, or is it too close to
38 you?
39 A It's too close.
40 MR. HIRA: Mr. Commissioner, would it be possible for
41 the witness, perhaps, to move to the other witness
42 stand?
43 THE COMMISSIONER: Let's see what's happening here.
44
45 (VIDEO BEING PLAYED)
46
47 MR. HIRA: I'd have to move that chair, Mr.

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Hira (for Constable Millington)

1 Interpreter. 1 minute and 40 seconds, and are you
2 able to see, Mr. Dhari, or is that too close?
3 A That's too close.
4 THE COMMISSIONER: If you could go to some spot where
5 you're happy, and where you can look at it.
6 A Sure, I can probably watch from there.
7 MR. HIRA: Mr. Commissioner, may I suggest the other
8 witness stand, that way he has a mike in front of
9 him.
10 THE COMMISSIONER: How about next to counsel.
11 MR. HIRA: Or next to Mr. Kosteckyj.
12 THE COMMISSIONER: Yes.
13 MR. HIRA: Now, we're stopped at 1 minute and 40
14 seconds; is that right, Doctor?
15 MR. PERRA: 1:39.
16 MR. HIRA: 1:39. Could you go to 1:40, as best as --
17 okay.
18 Q Sir, the person that you see in the -- actually,
19 if you could go back to 1:39 briefly.
20 Now, the person in the yellow, that's one of
21 the security guards.
22 A Security guard, yes.
23 Q Did you see the chairs? Did you see those two
24 chairs?
25 A Yeah, they are sitting to --
26 Q Did you see the chairs blocking the -- or in the
27 area of the doors to the IRL at any time?
28 A Yes.
29 Q You did. All right. And could we go to 1:40,
30 please.
31 A He put it there.
32 Q Just a moment. Just a moment, Doctor.
33 When you say he put it there, you're saying
34 that Mr. Dziekanski put it there, that is, the
35 chairs?
36 A Yes.
37 Q Thank you. Now, we're at 1:40. There's a
38 gentleman to the left of the security guard, in a
39 black --
40 A Yes. Yes.
41 Q -- and yellow outfit.
42 A Mm-hmm.
43 Q Do you see that?
44 A Yes.
45 Q Is that another security guard?
46 A Yes.
47 Q So there are two security guard people there.

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Hira (for Constable Millington)

- 1 A Yes.
- 2 Q Where are you at this stage, sir?
- 3 A I was on the back.
- 4 Q So you were -- you were close to, say, the
5 escalators that lead up to the second floor; is
6 that correct?
- 7 A Yeah, something like that. Yes.
- 8 Q So you're really beyond the barrier that separates
9 the -- the IRL, that wooden barrier?
- 10 A Yeah.
- 11 Q That separates the IRL walkway from the people
12 that are there to meet passengers, correct?
- 13 A Yes. Yes.
- 14 Q So you're at the other end of the hall, is that
15 fair to say?
- 16 A Yeah, would -- yeah.
- 17 Q Okay. Could we go forward to 2:21, please. And
18 before we play -- play the 2:21, what type of
19 outfit were you wearing, sir?
- 20 A Well, I had just -- just T-shirt, I think.
- 21 Q Okay.
- 22 A And a jacket on it.
- 23 Q You weren't wearing a blue outfit with any yellow
24 flashings, were you, sir?
- 25 A Yes.
- 26 Q Sorry, were you wearing a blue outfit with yellow
27 flashings?
- 28 A No, actually, it was a blue jacket, but that's
29 what I --
- 30 Q So we're now at 2:20, I believe. The gentleman on
31 the left side of the video, do you -- sorry. My
32 lefts and rights are wrong. That's part of being
33 left-handed. The right side of the video. The
34 gentleman wearing a blue jacket and a blue cap
35 with yellow flashings.
- 36 A Yes.
- 37 Q Is that the type of uniform you were wearing, sir?
- 38 A No.
- 39 Q Okay. If we could go to 2:21. Keep going to
40 2:33.
- 41 Stop right there. The gentleman on the far
42 left side with the security guard. Do you
43 recognize that gentleman?
- 44 A No.
- 45 Q All right. Keep going.
- 46 If we could go forward to 3:23, please.
- 47 Stop right there. Now, that's the police

1 arriving, is that correct?

2 A Yes.

3 Q And you were still by the escalators at the far
4 side of the hall when the police arrived?

5 A No. It was pretty close to the middle of the
6 hallway.

7 Q But the end of the barrier, is that fair to say?

8 A Yeah, the middle of the barrier.

9

10 (VIDEO STOPPED)

11

12 MR. HIRA: Could I have Exhibit 2, please, Mr.
13 Registrar.

14 Q Now, we have a large map of the Customs area, the
15 Customs Hall, which is dark blue.

16 A Okay.

17 Q The IRL, which is dark green.

18 A Yeah.

19 Q And the meeting area, which is light green. Do
20 you recognize that, sir?

21 A Yes.

22 Q And if I may, these are the totem poles. Do you
23 recognize that?

24 A Yes.

25 Q And the barrier that separates the walkway from
26 the IRL --

27 A Yeah.

28 Q -- that leads from the IRL to the meeting area?

29 A Yeah.

30 Q And some escalators in the meeting area?

31 A Right.

32 Q And is it fair to say that you were here by the
33 escalators when the police arrived?

34 A I don't know exactly it's there or just by the
35 barrier.

36 Q And could you point out where you think you were,
37 sir?

38 A I'm thinking, you know, it was around here.

39 Q Around there.

40 A Yeah.

41 Q And you're pointing to, if I may --

42 A Yes.

43 Q -- an area just by the "G" on "meeting area"; is
44 that correct?

45 A Yeah.

46 Q Great. So you were a good 40, 50 feet away from
47 the police?

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Hira (for Constable Millington)
Cross-exam by Mr. Harris (for Corporal Robinson)

1 A Yes.

2 Q And you'll agree with me that they were the
3 security guards that were also in the doorway
4 area?

5 A Yes.

6 Q And it was difficult for you to see what was
7 happening between the police and Mr. Dziekanski?

8 A Yes.

9 MR. HIRA: Those are my questions, Mr. Commissioner.

10 MR. HARRIS: Mr. Commissioner, I do have some
11 questions. I'm wondering if now might be an
12 appropriate time for the break.

13 THE COMMISSIONER: Yes. I think we'll break now.

14 THE REGISTRAR: The hearing will recess for ten
15 minutes.

16

17 (WITNESS STOOD DOWN)

18

19 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

20 (PROCEEDINGS RECONVENED)

21

22 THE REGISTRAR: The hearing is now resumed.

23

24 JOGINDER DHARI, a witness,
25 recalled.

26

27 THE COMMISSIONER: Yes, Mr. Harris.

28 MR. HARRIS: Thank you, Mr. Commissioner.

29

30 CROSS-EXAMINATION BY MR. HARRIS ON BEHALF OF CORPORAL
31 BENJAMIN ROBINSON:

32

33 Q Mr. Dhari, I'm over here. My name is Reg Harris,
34 and I'm a lawyer for one of the RCMP officers that
35 were in attendance that early morning. I have a
36 few questions for you, sir.

37 A Okay.

38 Q Now, if I understand your evidence, you saw Mr.
39 Dziekanski either punching or pushing at the
40 doors, correct?

41 A Yes.

42 Q You also, I saw in your statement where you
43 mentioned him punching at a wall. Did you see him
44 do that?

45 A I saw him around the door and he was punching the
46 wall or the door.

47 Q All right.

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Harris (for Corporal Robinson)

- 1 A That's what I remember anyway.
- 2 Q All right, sir. And as well you mentioned about
3 hearing him swear. Do you recall that?
- 4 A Yeah.
- 5 Q And when he was swearing, from what you could tell
6 he didn't sound happy about something, he was
7 upset?
- 8 A Yes.
- 9 Q And from what your observations were, is he was
10 swearing at nobody, it was like --
- 11 A Nobody, no.
- 12 Q -- he was talking to no one. There was no one
13 around him and he was just talking, correct?
- 14 A Yes.
- 15 THE COMMISSIONER: Excuse me. I didn't hear the
16 witness say there was nobody around.
- 17 MR. HARRIS: I've taken it from his statement.
- 18 THE COMMISSIONER: All right.
- 19 MR. HARRIS:
- 20 Q But just putting it to you, that's how you recall
21 it, he's swearing and talking, but he's not
22 talking to anybody. There's no one near him?
- 23 A The people was around there, but he didn't talk to
24 anybody.
- 25 Q Yeah. From your observations, he wasn't talking
26 to those people nearby. He was just talking out
27 in the air, correct?
- 28 A Yeah.
- 29 Q Okay.
- 30 A Nobody speak his language, you know, so that's the
31 problem.
- 32 Q All right. Now, sir, you -- that night when you
33 saw this man, you didn't know he had been in the
34 airport for several hours, did you?
- 35 A No.
- 36 Q That's something you came to learn later, correct?
- 37 A Yes.
- 38 Q And that's what you've relied on to believe that
39 he was frustrated?
- 40 A Yes.
- 41 Q That's what makes you -- all right. And if you
42 hadn't have known that, you would have thought
43 what you saw was bizarre behaviour, correct?
- 44 A Yes.
- 45 Q The swearing, not at any person particularly, the
46 punching at the door, and even the throwing of the
47 chair, that's bizarre behaviour, correct?

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Harris (for Corporal Robinson)

1 A Yes.

2 Q And the chair that you saw him throw, do you
3 recall if it was wooden, or can you give us any
4 description of that chair?

5 A It was wooden.

6 Q All right. And he threw that right into the
7 glass, did he not?

8 A I think he throw on the floor.

9 Q All right. We've cued up the video and I want to
10 see if this is the time that you saw a chair being
11 thrown. If you want to move down where you may
12 get a better view, sir, I encourage you to do so.

13 A Okay.

14 MR. HARRIS: If someone could just activate the
15 microphone beside the witness, please. Thank you.

16

17 (VIDEO BEING PLAYED)

18

19 MR. HARRIS: We'll just stop it there, please.

20 Q Is that the point where you saw the chair being
21 broken, sir?

22 A Yes, I think so.

23 MR. HARRIS: All right. Thank you. You can return
24 back, please.

25

26 (VIDEO STOPPED)

27

28 Q I guess, sir, when you saw that you thought that
29 was pretty crazy behaviour. Would that be
30 accurate?

31 A I think that he just scared from the police, you
32 know, that's why he pick it up and throw that, you
33 know.

34 Q Okay. Were the police there at the time the chair
35 was broken or were the security there?

36 A No, it was the police, then that throw the chair.

37 Q All right. Certainly not the type of behaviour
38 you would expect to show fear of someone picking
39 up and throwing a chair?

40 A No.

41 Q Would you agree with that? All right. And in
42 fact at one point you were aware that someone was
43 going to go get security, correct?

44 A Well, actually the -- I talked to the limousine
45 driver to send him to -- get the security from
46 there.

47 Q You wanted the security to be there on the scene?

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Harris (for Corporal Robinson)

- 1 A Yeah. But nobody was there before.
2 Q You wanted to make sure that they were there so no
3 one got hurt?
4 A Yeah.
5 Q You wanted to make sure that they were there so no
6 property got damaged?
7 A Yes.
8 Q You felt that the situation was above sort of the
9 average person's capabilities?
10 A Well, the problem is, you know, nobody understand
11 him what he want.
12 Q All right. And so you wanted to see some people
13 there with a little more expertise in dealing with
14 the problem?
15 A Yeah, to help him, you know.
16 Q All right. Now, sir, when the police arrived and
17 they jumped over the barrier and stood at the
18 doorway of the IRL.
19 A Yes.
20 Q They're at the doorway and Mr. Dziekanski's in
21 front of them, correct?
22 A Yeah, he was in the door.
23 Q All right. And you could see the backs of the
24 police officers?
25 A Yes.
26 Q You couldn't see their faces?
27 A Well, I seen when they arrive, but I didn't pay
28 attention much, you know.
29 Q Okay. So you weren't paying too much attention
30 when they were interacting with him right at the
31 doorway of the IRL?
32 A No.
33 Q Okay. You can't tell us if the police pointed and
34 directed Mr. Dziekanski, can you?
35 A No, I can't.
36 Q And you're not ruling out that there could have
37 been words spoken by the police at that point, are
38 you?
39 A I don't think they spoke anything.
40 Q Well, sir, you can't rule that out, can you?
41 A No.
42 Q Now, sir, immediately before Mr. Dziekanski was
43 tasered, his back was towards the greeting area,
44 correct?
45 A Yes.
46 Q In other words, he was facing into the IRL and
47 standing in the IRL?

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Harris (for Corporal Robinson)

- 1 A Yes.
2 Q And you couldn't see his face at that time?
3 A No.
4 Q You couldn't see his hands at that time?
5 A No.
6 Q You couldn't tell what he may have been saying to
7 the police officers?
8 A No.
9 Q All right. You don't know if he had anything in
10 his hands at that time, do you?
11 A No, he didn't have anything. I don't believe
12 anything in his hands.
13 Q You said "believe", sir. You couldn't see his
14 hands from your position. They were in front of
15 him, correct?
16 A Yes.
17 THE COMMISSIONER: I'm sorry, that was two questions.
18 MR. HARRIS: I'm sorry.
19 Q Mr. Dziekanski's hands were in front of his body,
20 correct, just before he was tasered, correct?
21 A I didn't see that, because he was inside.
22 Q All right. So from his position, where Mr.
23 Dziekanski was, and where you were, you couldn't
24 tell if he had something in his hands immediately
25 before he was tasered?
26 A Well, he didn't have anything before in his hands,
27 you know, so how he can get anything from inside?
28 There is nothing inside.
29 Q Okay. So just to back up, sir, then, you're
30 assuming he had nothing in his hand just before he
31 was tasered, would that be fair?
32 A Yes.
33 Q And the counter that he's on the IRL side of,
34 travellers don't go in behind that counter and
35 take things out from it, do they?
36 A No.
37 Q All right. And at the time just before Mr.
38 Dziekanski is tasered, you can't tell us if he's
39 making threatening gestures with his hands or not.
40 You can't see them, is that right?
41 A No.
42 Q And as soon as the Taser was deployed, is it your
43 evidence Mr. Dziekanski fell immediately to the
44 ground?
45 A Yes.
46 Q And you were asked by one of the lawyers that Mr.
47 Dziekanski did not appear mentally ill to you,

Joginder Dhari (for Vancouver Airport Authority)
Cross-exam by Mr. Harris (for Constable Robinson)
Re-exam by Mr. McGowan

1 correct?
2 A No, he wasn't mentally sick or anything.
3 Q All right. Sir, you're certainly not an expert in
4 mental health, are you?
5 A No, I'm not.
6 Q And you had a very short period of -- your
7 timeframe to observe him was very short indeed,
8 correct?
9 A Yes.
10 Q All right. And but we do know during that time
11 you saw some behaviour that you thought was
12 bizarre, correct?
13 A Yes.
14 Q All right. One other point, sir. You felt that
15 Mr. Dziekanski was strong. Do you remember saying
16 that?
17 A Yes.
18 Q And that's because of his body movements, so the
19 way you saw him move, correct?
20 A Yeah, it was active -- active, you know that.
21 Q And when he was down on the ground with the police
22 officers around him he could still move around a
23 bit, correct?
24 A When he was down, no.
25 Q Never at all did he move once on the ground?
26 A Well, not as far as I saw it, you know, he didn't.
27 Q He did not.
28 A No.
29 MR. HARRIS: Okay. Thank you for answering my
30 questions, sir.
31
32 RE-EXAMINATION BY MR. MCGOWAN:
33
34 MR. MCGOWAN: Mr. Commissioner, there appears to be
35 some confusion as to exactly where Mr. Dhari was
36 at various times. I think it might be a good idea
37 for us to take a look on the video. I believe he
38 can be seen and we can sort this out with some
39 degree of precision. I know a couple of my
40 friends have expressed some confusion about it,
41 and I think it would benefit us all if we took a
42 quick look at a couple of these videos.
43 THE COMMISSIONER: Well, all right, let's look at the
44 video.
45 MR. MCGOWAN: Thank you. I'm going to ask Dr. Perra to
46 first of all load up camera 22233, part 2. Cue
47 that up to 1:07:40, please.

Joginder Dhari (for Vancouver Airport Authority)
Re-exam by Mr. McGowan

1 Mr. Commissioner, this is the camera in the
2 meet-and-greet area looking out towards the
3 curbside doors running from 1:00 a.m. till 2:00
4 a.m. and I am asking that it be cued up to 1:07:40
5 in the morning on October 14th.

6 If you could just tell us the time counter,
7 please.

8 MR. PERRA: 1:07:41.

9
10 (VIDEO BEING PLAYED)

11
12 MR. MCGOWAN: Thank you.

13 Q Now, Mr. Dhari, I'm going to ask you to watch and
14 tell us when you appear in this video. I think it
15 should happen in just a few seconds.

16 Just pause it there, please.

17 Mr. Dhari, does that appear to be you?

18 A Yes.

19 Q Okay. And is that the uniform you were wearing
20 that night; I take it, it was?

21 A Yes.

22 Q I wonder if you could just describe for the
23 Commissioner what it is you're wearing there,
24 please?

25 A I've got a blue T-shirt and jacket on, blue.

26 Q Okay. And what colour pants?

27 A Black.

28 Q Okay. And is that what you wore for the entirety
29 of that evening?

30 A Yes.

31 Q During the time you were in --

32 A I always wear that.

33 Q Okay.

34 A Yeah.

35 Q So that's what we should be looking for you
36 wearing when we're looking in the video, correct?

37 A Yes.

38 Q Okay. And the time counter at this point?

39 MR. PERRA: 1:07:58.

40 MR. MCGOWAN: It's 1:07:58.

41
42 (END OF VIDEO)

43
44 MR. MCGOWAN: Now, I wonder if we could load the next
45 YVR camera angle for the same period. It's camera
46 22244. If we could cue --

47 THE COMMISSIONER: Do we know whether or not the time

Joginder Dhari (for Vancouver Airport Authority)
Re-exam by Mr. McGowan

1 on the two different shots are the same?

2 MR. MCGOWAN: My understanding, Mr. Commissioner, is
3 that all of the YVR cameras have their times
4 synchronized. So the video that we're going to
5 watch now should match up with the last one,
6 although I'm going to take you to a different
7 time.

8 MR. PERRA: And the time you want?

9 MR. MCGOWAN: 1:25:30, please.

10 MR. PERRA: 1:25:28.

11

12 (VIDEO BEING PLAYED)

13

14 MR. MCGOWAN:

15 Q Mr. Dhari, are you able to make yourself out on
16 this?

17 A Yes.

18 Q Okay. I wonder if we could just pause it there
19 for a second, please.

20 Sir, I'm going to bring you a laser pointer.
21 It's quite simple. You should just press this
22 button here and it makes a laser.

23 A I press this?

24 Q That's correct, sir.

25 A Okay.

26 Q I wonder if you could aim that at the video and
27 point to yourself, please.

28 A Okay.

29 Q Okay. And if we could roll the video and we'll
30 see you speaking with somebody in a moment.

31 Just pause it there. Are you speaking with
32 the two security guards and ultimately the
33 limousine driver, as well?

34 A Yeah. That's the guy I talking to.

35 Q Okay. Keep playing the video, please.

36 Now, sir, where you -- which direction are
37 you walking here. I wonder if you could show the
38 Commissioner where you are.

39 A Walking into that door.

40 Q Okay. We'll just keep watching this if we could
41 play it forward, please.

42 Now, if we could just stop it there. Where
43 are you now, sir?

44 A Right there, you know, by the candy shop.

45 MR. MCGOWAN: Thank you. And the time count?

46 MR. PERRA: 1:26:35.

47 MR. MCGOWAN: Thank you. I wonder if we could just

Joginder Dhari (for Vancouver Airport Authority)
Re-exam by Mr. McGowan

1 play it forward and perhaps in fast speed for the
2 next minute and a half till we get to just before
3 1:28.
4 Q We're going to speed up the speed, sir, but you
5 can still watch yourself on the video. I wonder
6 if you could jus keep track were you are for us.
7 If you need us to slow it down, let us know.
8 Now, do you know where you are here?
9 A No, I can't remember from here.
10 Q Keep rolling it forward in regular time.
11 A Yeah, I think that's the one, standing over there.
12 MR. MCGOWAN: Keep playing it forward in regular time,
13 please. If we could have the time count.
14 MR. PERRA: 1:28:10.
15 MR. MCGOWAN: Okay, pause it now.
16 MR. PERRA: 1:28:30.
17 MR. MCGOWAN:
18 Q Okay. Sir, and do I understand that you are
19 behind the totem pole at this point?
20 A Yes.
21 Q Okay. Just keep carrying on the video for a few
22 more moments, please.
23 Do you see yourself, sir?
24 A Yes, right in the back one.
25 Q Point to yourself with the laser pointer, please.
26 A Right there.
27 Q Thank you. Okay, roll it forward, please.
28 And where are you now, sir?
29 A Behind that candy shop.
30 MR. MCGOWAN: And if we could run it now in fast, right
31 up to 1:33. Perhaps if we could just pause it for
32 a moment there. Mr. Stewart is pointing out.
33 Q Mr. Dhari, you're on the left-hand side of the
34 screen there?
35 A Yes.
36 Q I may have misspoke. I think I said on the left.
37 I meant -- the left side of the screen, but just
38 to the right of the white shop there?
39 A Yeah. Yeah, that's me.
40 Q If you could point to yourself just for the sake
41 of clarity.
42 A Right here.
43 Q Because my question was confusing.
44 All right. Now, fast forward right to 1:33,
45 please, 1:33:40.
46 If we could have a time, please.
47 MR. PERRA: 1:33:40.

Joginder Dhari (for Vancouver Airport Authority)
Re-exam by Mr. McGowan

1 MR. MCGOWAN: Okay.

2 Q Now, sir, have you been seeing yourself, we've
3 watched it in fast, but you're generally in the
4 meet-and-greet area, in the area mostly behind --

5 A Yes, right there.

6 Q -- the candy --

7 A Right by the machine.

8 Q Yes. And for the last few minutes you've been
9 mostly in the area on the opposite side of the
10 candy stall and the totem poles?

11 A Yes.

12 Q Okay. Do you see yourself now standing beside the
13 yellow cart on the right-hand side at --

14 A Yes.

15 Q -- 1:33:40. And we'll just watch the next few
16 seconds, and I believe we'll see you exit the
17 screen.

18 If you could roll the tape, please.

19 Is that you on the yellow cart?

20 A Yes.

21 Q Is this when you're leaving for your break?

22 A Yes.

23 MR. MCGOWAN: Time count, please.

24 MR. PERRA: 1:34:07.

25 MR. MCGOWAN: That's 1:34:07. If we could stop that
26 one there, please.

27

28 (END OF VIDEO)

29

30 MR. MCGOWAN: If we could load the second of the
31 Pritchard videos, please, the second clip from the
32 Pritchard tapes and cue it up to 4:15, please.

33

34 (VIDEO BEING PLAYED)

35

36 MR. MCGOWAN: The time count, please.

37 MR. PERRA: You want it 4-something?

38 MR. MCGOWAN: I'd like to know what the time is we're
39 watching right here.

40 MR. PERRA: Oh, 06 seconds.

41 MR. MCGOWAN: Okay. If we could take it right up to 4,
42 let's say 4:10, please.

43 MR. PERRA: 4:08.

44 MR. MCGOWAN: Thank you. Please play it forward.

45 Q And, sir, just, Mr. Dhari, I wonder if you could
46 just watch and tell us if you see yourself in this
47 video, please.

Joginder Dhari (for Vancouver Airport Authority)
Re-exam by Mr. McGowan

1 A No, I wasn't there that time.
2 Q Okay. Just keep watching, sir.
3 A Okay.
4 Q If we could pause there.
5 A Oh, yeah, right there. Yeah, right there.
6 Q Okay. Do you see yourself now?
7 A Yes.
8 Q Where do you see yourself?
9 A I was outside.
10 Q No, where -- do you see yourself on the screen?
11 A Yes.
12 Q If you could point to yourself, please.
13 A Right there.
14 Q Okay. So your head is obscuring the bottom right
15 quarter of the screen approximately.
16 A Yes.
17 Q That's you we see there?
18 A Yes.
19 Q Okay. And is that the view you had of the police
20 interacting with Mr. Dziekanski when Mr.
21 Dziekanski was on the ground?
22 A Yes.
23 MR. MCGOWAN: Time count, please.
24 MR. PERRA: 4:24.
25 MR. MCGOWAN: Thank you. I wonder if we could just
26 roll a few more seconds, please.
27 That's fine, thank you. We can stop that
28 there.
29
30 (END OF VIDEO)
31
32 MR. MCGOWAN: Thank you, sir. I wonder if you could
33 just go back to your seat.
34 A Thank you.
35 MR. MCGOWAN: Mr. Commissioner, I don't have any
36 further matters to raise with this witness.
37 THE COMMISSIONER: Mr. Hira?
38 MR. HIRA: Just one thing arising out of that last
39 clip. I wish to ask this witness whether he is
40 looking away from 04:24 up to the next few
41 minutes.
42 THE COMMISSIONER: Well, you're certainly welcome to,
43 but we all saw it. But go ahead if you wish.
44 MR. HIRA: Well, if we've all seen it --
45 THE COMMISSIONER: Would you come forward, please.
46 MR. HIRA: If we've all seen it, the video speaks for
47 itself.

1 THE COMMISSIONER: I thought so, but...

2 MR. HIRA: No, I -- I won't interfere with something
3 that's clear.

4 THE COMMISSIONER: All right. Well, gentlemen, thank
5 you very much for your time, most helpful.

6 A Thank you, sir.

7

8 (WITNESS EXCUSED)

9

10 THE COMMISSIONER: All right. I see it's four o'clock
11 so we'll adjourn till tomorrow.

12 THE REGISTRAR: The hearing is now adjourned until
13 10:00 a.m. tomorrow morning.

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15

16 (PROCEEDINGS ADJOURNED TO FEBRUARY 3, 2009 AT
17 10:00 A.M.)

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