

**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 5, 2009

PROCEEDINGS AT
HEARING (DAY 12)

COPY

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1
Sima Ashrafinia
Cross-exam by Mr. Harris (for Corporal Robinson)

Vancouver, B.C.
February 5, 2009

1
2
3
4 THE REGISTRAR: The hearing is now resumed.
5 THE COMMISSIONER: Good morning, all.
6 THE REGISTRAR: Ms. Ashrafinia, may I remind you you're
7 still under oath.
8 THE WITNESS: Yes.

9
10 SIMA ASHRAFINIA, a witness,
11 recalled, warned.
12

13 CROSS-EXAMINATION BY MR. HARRIS ON BEHALF OF CORPORAL
14 ROBINSON:
15

16 Q Ms. Ashrafinia, my name is Reg Harris. I'm a
17 lawyer for one of the officers who were present on
18 this unfortunate evening.

19 A I know.

20 Q And I have a few questions for you, ma'am.

21 A Firstly, I was reflecting back on your evidence
22 with respect to seeing Mr. Dziekanski moving his
23 luggage, and I'm going to suggest to you, ma'am,
24 if you orientate yourself and reflect back to
25 where those swinging doors were that go into the
26 controlled area --

27 A Yes.

28 Q Immediately on the public side of those doors, or
29 the main access side of those doors is that
30 railing that goes down and around. You're
31 familiar with that?

32 A Yes, I am.

33 Q And I'm going to suggest to you what in fact you
34 saw, ma'am, was Mr. Dziekanski picking up his
35 luggage and putting it up and over the railing so
36 it would land on the other side near the doors.
37 Would that be correct?

38 A I'm not sure. I think he put it under -- from
39 under the rail and then he went from above the
40 rail.

41 Q All right. And where on this -- along this rail
42 might this have occurred? Was it very close to
43 the doors?

44 A Very -- about maybe two metre to the door. Like
45 the end that is attached to the door, the end --
46 one end of the rail that is attached to the door.

47 Q All right.

1 A From that point, maybe about two, three metres,
2 two metres, yes.

3 MR. HARRIS: Dr. Lui (sic), if you could go to the
4 Pritchard video, please, and if you could take us
5 to a portion -- it doesn't need to be the one that
6 can slow it down. The other one that gives a
7 better view. If you can take us to a portion of
8 the video -- and, I'm sorry, I don't have a
9 precise time, but near the beginning of it.
10 Pritchard number 2, yes.

11
12 (VIDEO BEING PLAYED)

13
14 MR. HARRIS: Okay, if you could just stop it there,
15 sir, and just back it up ever so slightly. A bit
16 more as well so you can see more of the railing,
17 if you would. Okay, if you play forward and I'll
18 just tell you when to stop. Oh, I think we're
19 going to have to go back even more than that. I
20 apologize. Right near the beginning I guess.
21 Okay, stop it there. Stop it there.

22
23 (VIDEO PAUSED)

24
25 MR. HARRIS:

26 Q Now, ma'am, if you look at that, the images there,
27 can you see the area where he was pushing the
28 luggage underneath? Can you point to that for us,
29 please.

30 A About this area. Is not on the picture right now,
31 but I think from that point to where he was there
32 is about two, three metres.

33 Q Okay.

34 A That's what I think.

35 Q How many more posts out of the screen do you think
36 it -- can you estimate that for us?

37 A I cannot estimate. It was in middle of the rail.
38 It was very -- toward that area. Was maybe right
39 there, maybe two, three rail --

40 Q All right.

41 A -- of those sections.

42 Q And when he was doing this, the luggage cart
43 that's depicted there, did you see if he picked
44 his stuff up off of the luggage cart and put it
45 over top?

46 A I don't remember. I don't think so, because there
47 is an entrance door right there in the corner.

- 1 Q You're pointing to the right off the screen?
2 A To -- yes, that goes to outside.
3 Q Yes.
4 A When I saw Mr. Dziekanski was walking from that
5 area and dragging his luggage toward this area.
6 Q All right. To which area? Can you just circle
7 again, please?
8 A Toward this area.
9 Q Okay. Thank you. Now, you -- I want to make sure
10 I understood your evidence correctly. At one
11 point Mr. Dziekanski, you saw him pick up a table
12 and smash it into the glass?
13 A At one point, I guess so.
14 Q And it was your view that the police were present,
15 had just entered when that occurred; is that
16 right?
17 A I don't remember exact time.
18 Q All right. In any event, when the -- you've seen
19 the video of yourself there when Mr. Dziekanski
20 smashed the table into the glass, and a voice off
21 camera directs you to move; correct?
22 A That is correct, yes.
23 Q And you -- you followed the advice of that voice
24 and you did move away; correct?
25 A Not right away, though. I didn't move right away.
26 There is a picture of me at --
27 Q Not -- madam, I'm not suggesting you moved right
28 away.
29 A Sorry.
30 Q I'm just saying you did move.
31 A I did move, yes.
32 Q Yes. And you've looked at the video. You're not
33 depicted on this video. In other words, you're
34 somewhere behind or way off to the side of the
35 person shooting the video. Would that be fair?
36 A It is -- it is fair.
37 Q And in fact the view that you had at that time, as
38 I read your statement, is that you had a view of
39 Mr. Dziekanski's upper body and back area. Would
40 that be fair?
41 A At that moment?
42 Q When you moved -- once you'd moved positions, the
43 view that you had was his upper body and back.
44 A I don't remember exactly when I moved away all I
45 saw from Mr. Dziekanski was his upper body on that
46 specific moment that you're referring to.
47 Q Moments before he, Mr. Dziekanski, the Taser was

1 applied, moments before that occurred, you just
2 had a view of his upper shoulders -- his shoulders
3 and his upper back.
4 A When I heard the Taser, I had a good view of full
5 body of Mr. Dziekanski and officers there.
6 Q When you say "full view", you couldn't see his
7 feet, could you, ma'am?
8 A 98 percent of his body I could see. I couldn't
9 see his feet, I couldn't see his shoes.
10 Q You could see his knees?
11 A No -- back of, yeah, of his leg, like from back to
12 his ankle. I could see 98 percent of his body.
13 Q On October 16th, 2007, a television crew attended
14 at your residence; correct?
15 A Correct, yes.
16 Q And, at that time, they interviewed you for just
17 over nine minutes; correct?
18 A I don't remember the length of the time, but it is
19 correct they interviewed me.
20 Q And they interviewed you in the dining area of
21 your room -- your home?
22 A That is correct.
23 Q And you've seen that video?
24 A Of the interview?
25 Q Yes.
26 A I think -- yes, I have seen.
27 Q And you looked at it where? On the computer or on
28 the TV?
29 A On TV.
30 Q All right. And I'm going to suggest to you,
31 ma'am, that approximately 0543 of that interview,
32 you said that you could just see his upper body
33 and back. Do you recall saying that to the camera
34 crew, ma'am?
35 A I remember I said to camera crew and also
36 yesterday, at one point I was able just to see Mr.
37 Dziekanski, upper half of his body. So what --
38 exactly which time are you saying that I mentioned
39 that?
40 Q All right, ma'am. Just before he's tasered,
41 whereabouts are you positioned in relation to that
42 window?
43 A I am right there in this area, right there.
44 MR. HARRIS: If we could move the -- the frame forward,
45 please.
46 MR. BUTCHER: Dr. Perra, before you do that, do you
47 have the time of that frame, please?

5

Sima Ashrafinia

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

1 DR.PERRA: This is just at the start.

2 MR. HARRIS: If you could move it to 3:27 please, sir.

3

4 (VIDEO BEING PLAYED)

5

6 MR. HARRIS:

7 Q We've got it stopped there. You'll recall your
8 last answer, ma'am, as to where you believed that
9 you were standing. I don't see you where you
10 indicated.

11 A Yeah, because all of the officers, they haven't
12 entered yet.

13 Q All right.

14 A I was right there when all four officers entered.

15 MR. HARRIS: Could we please play it a little further.
16 Stop it.

17 Q Madam, do you see yourself there at any time?

18 A Not yet.

19 MR. HARRIS: And what time is that, please, sir?

20 DR. PERRA: 3:37.

21 MR. HARRIS: I might just have a moment, Mr.
22 Commissioner.

23 THE REGISTRAR: This is the registrar. I'll just let
24 everybody know that we now have slow motion and
25 stop capability.

26 MR. HARRIS: All right. If you just play it a little
27 bit further, please, sir.

28 Q What's your positioning at this stage, ma'am?

29 A I don't see myself in that frame, but I am there.

30 Q Do you know where you were at this time, ma'am?

31 A Not exactly. Behind the chair, by the chair.
32 There is a set of chairs there.

33

34 (VIDEO PAUSED)

35

36 MR. HARRIS: All right. One of the things I think you
37 will agree with is that from your position, just
38 before Mr. Dziekanski, the Taser was applied, is
39 what you do remember is that he had grabbed a
40 stapler. You remember that.

41 A I do remember that.

42 Q You also remember that he was waving the stapler
43 at the police.

44 A He was -- he grabbed the stapler at this position.

45 Q And you described it, on October the 19th, 2007,
46 that he was waving the stapler at the police when
47 they came. Do you recall that?

6

Sima Ashrafinia

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

1 A That's what I thought according to this statement
2 on October 19th.
3 Q And that was true at the time, was it not, ma'am?
4 A Counsel Harris --
5 Q And I apologize. I misquoted. The statement was
6 October 17th.
7 A Yeah, October 17th. Mine says, yeah, October 17.
8 It is exactly about two days or three days after
9 the incident. When I read this whole statement
10 yesterday, I found lots of discrepancy on this one
11 and --
12 Q Let me explore that for a moment. I'd like --
13 THE COMMISSIONER: Please. Let her finish, please.
14 MR. HARRIS: I apologize.
15 A Yeah. I found lots of discrepancy on this 68, 69
16 pages. I can -- there is a couple of section I
17 highlighted. I can show it to you. I don't find
18 anywhere on this one that Constable Teboul have
19 stopped the tape recorder and explain a couple of
20 issues off the record to me. I don't see any. So
21 that's another confirmation that there is a
22 discrepancy on this one. That's one -- pardon me.
23 The other thing, lots of sentences here from
24 me doesn't make sense.
25 Q On October 17th, 2007, ma'am, you told the police
26 officer that Mr. Dziekanski grabbed a stapler and
27 he was waving the stapler at the police when they
28 came. Are those your words to the police officer?
29 A I believe so, yes.
30 Q Were you telling the truth when you said those
31 words?
32 A That's what I thought. That's what --
33 Q Is there any reason --
34 A -- I thought.
35 Q -- why you would -- your mind would mislead you?
36 A Yeah, because it just happened. I was emotionally
37 under lots of pressure. I needed time to rest and
38 relax and then see things differently.
39 Q Okay. You said you were -- needed time to rest
40 and relax, but on October 16th, you consented to a
41 camera crew coming to your home.
42 A Yes.
43 Q On October 16th, you consented to sitting down and
44 being interviewed by the media?
45 A Yes, I did.
46 MR. HARRIS: All right. If the film could be backed up
47 -- video could be backed up to 3:44, please.

(VIDEO BEING PLAYED)

1
2
3 DR. PERRA: 3:43?
4 MR. HARRIS: Yes, please. And if you could just click
5 it through slowly, sir. Keep going. Keep going.
6 Stop.
7 Q I'm going to suggest a couple of things, ma'am.
8 At this stage, Mr. Dziekanski has picked up the
9 stapler. Can you comment on that?
10 A No, I can't.
11 Q Would you agree with that?
12 A I can't comment on that.
13 Q Okay. Do you recall from your memory if he had
14 picked it up at this stage?
15 A I don't remember it was this stage that he picked
16 it up. I don't remember.
17 Q Okay. Would it be fair to say you can't rule that
18 out?
19 A I can't rule that out, no.
20 Q Now, I'm going to ask that it be played forward a
21 couple of seconds in just a moment. And when I do
22 -- when it's played forward, ma'am, I want you to
23 watch the officer that you see the most of. That
24 is the gentleman that's most faced towards us.
25 A Yes.
26 Q The one that would be to the right of Mr.
27 Dziekanski.
28 A Yes.
29 Q I'm going to ask you to watch his movements.
30 MR. HARRIS: If you'd please play it. Stop it.
31 Q Did you see what caused that officer to suddenly
32 move sharply to the right of the picture?
33 A No, I can't see that. I can't see that.
34 MR. HARRIS: All right. I'm going to ask you now to
35 just click through frame by frame.
36 Q But before we get going on that, I'm going to ask
37 you now, ma'am, to focus on the right shoulder and
38 below the elbow of Mr. Dziekanski, if you will.
39 A Sure.
40 MR. HARRIS: Just click it through, please. Keep
41 clicking. If you could back it up even a bit
42 more. I apologize, sir. Probably be about 3:44.
43 Just click through. Keep going. You can't --
44 stop. If you just back up a bit more, a second,
45 the last frame back.
46 DR. PERRA: Bit more?
47 MR. HARRIS: Bit more, one more. Okay, stop there.

1 Q Mr. Dziekanski's right arm appears to be bent at
2 the elbow. Do you recall noticing that on that
3 particular morning, ma'am?

4 A No, I don't.

5 MR. HARRIS: All right. Click through again.

6 Q And it appears now to have dropped down lower. Do
7 you recall that on that morning?

8 A No, I don't.

9

10 (VIDEO STOPPED)

11

12 MR. HARRIS:

13 Q Would it be fair to say, ma'am, that what you can
14 tell us is you know that at some point he picked
15 up a stapler. You agree with that?

16 A I do. I agree with that.

17 Q And, at some point, you saw him swinging the
18 stapler?

19 A This way? Yes, I did.

20 Q And you saw him swinging that in the direction of
21 the police officers; correct?

22 A According to this statement, yes. Swinging --

23 Q What about --

24 A Sorry, Mr. Harris. Swinging is -- could you
25 define it for me, please?

26 Q All right. Well, you used the word "swinging" in
27 your statement. What --

28 A Okay. According to this statement, yes.

29 Q I'm going to suggest to you what you meant is he
30 brought it up in front of his body similar to what
31 I'm doing now. Would you agree with that?

32 A Pardon me. In my dictionary, swinging is this
33 way.

34 Q All right.

35 A But he grabbed the stapler like that.

36 Q All right. And that was -- the only people in the
37 immediate vicinity of him at that time were the
38 police officers; correct?

39 A That is correct, yes.

40 Q And you assumed he was directing it in some way,
41 shape or form to the police officers?

42 A According to this statement, yes.

43 Q Well, for --

44 THE COMMISSIONER: Just a minute. Let's be clear. We
45 want to know what happened.

46 A Yes.

47 THE COMMISSIONER: Not so much what's in the statement.

1 A Because Mr. -- pardon me, Mr. Commissioner. Mr.
2 Harris is referring to this statement.
3 THE COMMISSIONER: Yes.
4 A I just want to make clear there is a discrepancy
5 on this statement.
6 THE COMMISSIONER: Yes.
7 A That's why I'm referring to this statement.
8 According to this statement, yes, what you're
9 saying is correct.
10 MR. HARRIS:
11 Q Okay. But now, as per Mr. Commissioner, I'm
12 focusing on what you recall of that night. You
13 recall Mr. Dziekanski with the stapler in hand;
14 yes?
15 A I do recall that -- recall that, yes.
16 Q You recall Mr. Dziekanski raising the stapler;
17 yes?
18 A Yes.
19 Q You recall when he raised it there were police
20 officers in front of him.
21 A It is correct.
22 Q All right. And from your perception at that time,
23 what you recall is it was a threatening gesture
24 towards the police officers.
25 A According to this statement, yes.
26 Q According to what you recall, not your statement.
27 A What I recall? No. Mr. Dziekanski grabbed the
28 stapler, black stapler, raised it like that. He
29 wasn't swinging or waving.
30 Q It wasn't a friendly gesture.
31 A It was a defensive gesture.
32 Q It was a defensive gesture?
33 A Defensive, yeah. That's how it translated. Sorry
34 about that.
35 Q And you translated -- oh, you don't need to
36 apologize for your answers, ma'am. That's what
37 you translated from standing behind; correct?
38 A Yes.
39 Q All right. And what you've called a defensive
40 gesture, by this stage none of the police officers
41 had touched him?
42 A No.
43 Q None of the police officers had made any sudden
44 gesture like they were going to touch him from
45 what you saw? Like they weren't rushing onto him?
46 A I saw one of the officers raising his arm, "Get
47 down, get down." That was one gesture. And --

1 Q Okay.

2 A May I? And also the position that the officer,
3 the same gentleman you were pointing at on Mr.
4 Dziekanski's right-hand side, the way he's
5 standing, these are -- I would be in a defensive
6 position too if somebody's standing in front of me
7 like that.

8 THE COMMISSIONER: All right. You're placing your left
9 hand on your left hip.

10 MR. HARRIS:

11 Q So just so I understand, an officer pointing
12 saying, "Get down" --

13 A Yes.

14 Q -- or words to that effect -- you said "Get down."
15 It could have been, "Put that down"?

16 A No.

17 Q It was "Get down."

18 A "Get down". Officer was so loud. Their voice was
19 so loud and clear.

20 Q What about "Calm down. Calm down."

21 A "Get down."

22 Q All right. So an officer said "Get down",
23 pointed. They didn't run towards him and point.
24 They stood there and pointed, "Get down," correct?

25 A No, they didn't run towards Mr. Dziekanski.

26 Q They stood there and pointed; yes.

27 A They step -- they took one step forward Mr.
28 Dziekanski.

29 Q What else did they do, ma'am?

30 A They were moving slowly, as I said yesterday, kind
31 of moving gently toward Mr. Dziekanski.

32 Q And I'm going to suggest to you that the time in
33 which the officer suddenly moved to the right was
34 when Mr. Dziekanski had the stapler in his hand.
35 Do you agree with that?

36 A Yes, I do. I do agree with that.

37 Q Immediately after the first -- you heard the sound
38 of the electricity, the first sound of the
39 electricity, Mr. Dziekanski walked or moved to the
40 end of the long table; that is, the desk that we
41 see there. You agree with that?

42 A I do. I agree with you.

43 Q Now, you talked about seeing wires. Do you recall
44 yesterday testifying about seeing wires?

45 A Yes, I do.

46 Q Where were these wires? Where did you see these,
47 ma'am?

1 A Do you want me to refer to the video?
2 Q I'd like to hear your verbal description --
3 A Oh, verbal.
4 Q -- of where you recall --
5 A In the group, all five of them moved to the other
6 side of the desk.
7 Q Sorry, all five of them? Who's all five?
8 A Four officer and Mr. Dziekanski.
9 Q Yes.
10 A All five of them --
11 Q Yes.
12 A -- moved to the other side of the long table, that
13 desk, and as I said, I was walking back and forth.
14 Q Yes.
15 A At one point I saw one of the officer on the right
16 of the picture, right of where I'm looking at, had
17 -- I thought is a gun with the wire coming out of
18 the tip of the gun.
19 Q And that officer, can you still see him in that
20 picture up there?
21 A I'm not sure if it was this officer.
22 Q All right.
23 A But an -- "a" officer, "a" officer was there.
24 Q Was he a Caucasian officer?
25 A Counsellor Harris, I have problem to understand
26 that word. Who do you refer as a Caucasian? Am I
27 Caucasian?
28 Q Well, madam, you were asked that question in your
29 interview.
30 A Yes, and I didn't understand the response from the
31 officer.
32 Q Well, just -- maybe I'll get back to that once I
33 find the page number --
34 A Sure.
35 Q -- of where the reference is about that. But your
36 view was -- or your opinion was when you were
37 interviewed that there were two tasers used that
38 night.
39 A Yes.
40 Q And you told the interviewing officer that you in
41 fact saw two devices, two distinct --
42 A Yes.
43 Q -- separate devices.
44 A Yes, and I still say that.
45 Q Now, you've testified about not feeling threatened
46 by Mr. Dziekanski. Do you remember testifying to
47 that?

- 1 A Yes, sir.
- 2 Q And when you answered that question, you were
3 speaking for yourself personally, not for others
4 in the area; correct?
- 5 A Correct.
- 6 Q And in fact you recognized that feeling threatened
7 is very much based on an individual's life
8 experience.
- 9 A Absolutely.
- 10 Q And in fact when you were asked by Corporal Teboul
11 about whether or not you feel threatened and how
12 did you perceive it, you told the officer you
13 didn't feel threatened; correct?
- 14 A That is correct.
- 15 Q And you explained to the officer, well, you're
16 used to -- or you used to fall asleep with the
17 sound of machine guns firing; correct?
- 18 A Yes, correct. Not any more, though. Yeah.
- 19 Q And you told the officer, "So is that violent to
20 me," about what Mr. Dziekanski is, and you said,
21 no, not to you; correct?
- 22 A Correct.
- 23 Q But you also then went on to tell him [as read]:
24
25 But, in general, in Canada, in Vancouver, is
26 it violent?
27
28 Yes, it is violent.
29
- 30 A That is correct.
- 31 Q And that was true when you told him that; correct?
- 32 A Yes. Pardon me? Mr. Harris, are you referring to
33 the example that I said falling asleep with the
34 gunshot -- sounds of gunshot? Yes, it is violence
35 in Vancouver.
- 36 Q Well, also what you saw of Mr. Dziekanski, you
37 thought it was violence in Vancouver.
- 38 A In Vancouver?
- 39 Q Yes.
- 40 A Yes.
- 41 MR. HARRIS: If I might just have a moment, Mr.
42 Commissioner.
- 43 Q Now, if I understand, when the Taser was being
44 deployed, ma'am, there was a woman who worked, as
45 we now know, with Horizon -- the Horizon Airline
46 right beside you.
- 47 A I do remember that lady.

- 1 Q You remember that. And when the Taser was being
2 deployed, you were having verbal dialogue with
3 her; correct? You were talking with her.
- 4 A After, I was talking with her.
- 5 Q All right. Immediately after you spoke to her.
- 6 A Immediately after Mr. Dziekanski fell down, I did
7 spoke to lady who had Horizon uniform.
- 8 Q All right. And, in that regard, at that precise
9 moment, or within seconds thereafter, she had told
10 you, she said, "Oh, they're tasing him," didn't
11 she?
- 12 A Probably. I don't remember exactly, but I
13 remember we had a conversation, like, "Oh my God,
14 they tasered him," or, "They are tasing him."
15 Something of that nature.
- 16 Q And your response to her was, "Yeah, I think they
17 have no other choice because he's out of control."
- 18 A May I please say something?
- 19 Q First of all, was that your response?
- 20 A With not that tone of voice. I didn't say that
21 with your tone of voice.
- 22 Q Okay. Okay. I accept that. Did you say those
23 words, ma'am?
- 24 A Yes, I did say those words.
- 25 Q And that was within seconds of the matter
26 unfolding; correct?
- 27 A Yes.
- 28 THE COMMISSIONER: Madam, what were you going to say
29 about your tone of voice?
- 30 A Mr. Commissioner, those words that I said, it
31 wasn't like -- it -- the way I exactly say it, I
32 said, "Oh, they don't have any other choice?"
33 There is same vocabulary we can use with different
34 tone of voice that gives total 180 degree
35 different impression.
- 36 THE COMMISSIONER: Well, the way you just said it
37 there, you raised your voice at the end,
38 questioning it.
- 39 A Yeah, questioning it. Like, for instance, when I
40 say, "She paid me \$20, that's example. Or if I
41 say, "She paid me \$20," that means \$20 in my
42 culture is too much money.
- 43 THE COMMISSIONER: Yeah, all right.
- 44 A Or you know what I'm trying to say?
- 45 THE COMMISSIONER: Yes, I know exactly what you're
46 trying to say.
- 47 A Thank you very much.

Sima Ashrafinia

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

Cross-exam by Mr. Butcher (for Constable Bentley)

1 MR. HARRIS:

2 Q Now, I asked you a few moments ago and I had to
3 find the spot about the two officers that were
4 holding the Tasers that you saw. And the Corporal
5 Teboul was trying to -- from the questions, trying
6 to identify their nationality. Do you recall
7 that?

8 A Yes, I do remember that.

9 Q And you responded you had no idea.

10 A That is correct.

11 Q And he went on to ask you more probing questions,
12 "Were they Caucasian?" "Were they Asian?" "Were
13 they black?" That type of thing.

14 A That is correct.

15 Q And you told Corporal Teboul [as read]:

16
17 No, they weren't black.

18
19 And then you went:

20
21 One of them is what you could call Canadian.

22
23 A One of them I called Canadian?

24 Q Yes.

25 A They all were Canadian.

26 Q All right. And he asked you Caucasian, and you
27 said, "Yes."

28 A And then after that, I said, "Could you define
29 Caucasian for me?" "Am I Caucasian?" He said,
30 "Yes." I said, "I think I'm brown."

31 MR. HARRIS: Correct. Fair enough. Thank you for
32 answering my questions, ma'am.

33 A You're welcome.

34

35 CROSS-EXAMINATION BY MR. BUTCHER ON BEHALF OF CONSTABLE
36 BENTLEY:

37

38 Q Mrs. Ashrafinia --

39 A Hello.

40 Q -- I'm David Butcher. I act for Constable Bill
41 Bentley, who I think is the officer you described
42 as looking younger than your son. So the first
43 question that I have for you is how old is the son
44 that you were comparing him to?

45 THE COMMISSIONER: If you're going on with that, did
46 you not say you wondered whether he was older than
47 your son?

1 A That is correct.
2 MR. BUTCHER: I'm sorry.
3 Q You wondered whether he was older than your son?
4 A Yes, I was thinking --
5 Q You thought he was about the same age as your son.
6 A I was wondering my son is older or he is older.
7 Q Okay. And how old is the son that you're
8 referring to?
9 A 20. -- 24.6.
10 Q Then or now?
11 A Now.
12 Q So at the time, he would have just been 23 or
13 thereabouts.
14 A Yeah, something like that.
15 Q Now, yesterday -- do you have your statement with
16 you still?
17 A The one I had interview with --
18 Q Yes.
19 A -- RC (sic)? Yes, I do.
20 Q At page 64 of that statement, you made reference
21 to seeing Mr. Dziekanski shaking. Do you see
22 that?
23 A Page 64? Let me --
24 Q Yes, this was put to you yesterday by Ms. Roberts.
25 A My page 64, it will be your page 65; am I correct?
26 Q I thought we had the same --
27 A No, we don't.
28 Q -- statement.
29 A The counsel took it back.
30 Q I'm going to give you a copy of the --
31 THE COMMISSIONER: Just read the top paragraph, the top
32 sentence.
33 MR. BUTCHER: The top line that I have on page 64 is:
34
35 It could have been both.
36
37 A I don't have it. Oh, sorry.
38 Q Well, Ms. Ashrafinia, what I'm going to be --
39 A 65.
40 Q -- of the statement that we have.
41 A Sure. Thank you. Thank you very much.
42 MR. BUTCHER: Is that the statement you have, Mr.
43 Commissioner? You don't have a copy?
44 THE COMMISSIONER: I don't have a statement. It's not
45 in evidence.
46 MR. BUTCHER:
47 Q The top of page 64, you were asked these questions

1 by Corporal Teboul.

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Okay. Did you notice anything else um, particular about uh, Robert? Did you, do you remember noticing anything specific about him?

Answer:

He was kind of shaking.

Question:

Shaking?

Answer:

Shaking. He was shaking. And then when he was walking, at some point he was walking and like he was talking (sic) small step and (INDECIPHERABLE).

Have I read that correctly?

A Yes, sir.

Q And do you remember saying those words to the police officer?

A Yes, I do.

Q And today do you remember him shaking?

A Yes.

Q Do you remember when in the sequence of events that you saw him shaking?

A The most clear picture of Mr. Dziekanski that was shaking, when he was outside of that secured area and was looking at me. That was the most clear picture in my mind, I do remember, like --

Q Now, is it captured on the film or is it -- is it an observation you made before the film was taken.

A That was my observation before the film because that's a moment that I was trying to reach him. That's why I remember it clearly. And the film did confirm that.

MR. BUTCHER: Okay. I'm going to ask if we could please play the first Pritchard video from the beginning and play it in slow -- play it in ordinary time first.

Q You'll see fairly quickly Mr. Dziekanski has a clipboard in his hand, and then he has the table

1 in his hand. I'm going to ask if you can see the
2 shaking on the video, and then ask is that the
3 kind of shaking that you saw.

4 A Sure.

5

6 (VIDEO BEING PLAYED)

7

8 MR. BUTCHER: I'm going to just ask you to stop it
9 there, please. What time do we have, Dr. Perra?

10 DR. PERRA: This is at 36 seconds.

11 MR. BUTCHER:

12 Q Were you able to see Mr. Dziekanski's right hand
13 shaking with the clipboard?

14 A No.

15 Q In the video.

16 A No.

17 MR. BUTCHER: Okay. Can we go back just a moment?
18 Just a very short period of time. Okay, stop it
19 there.

20 Q Were you able to see it that time?

21 A No. Would you please rewind it again?

22 MR. BUTCHER: Stop it there.

23 Q Were you able to see that?

24 A No, I wasn't.

25 Q No, you weren't?

26 A No.

27 Q Okay. That's fair enough. Was it one hand
28 shaking, both hands shaking, his body shaking?

29 A Do we have the --

30 Q That you saw.

31 A Yeah, the one I saw was the kind when you get
32 shiver. That kind of shaking.

33 Q So you're indicating -- you're moving your hands
34 in front of you very fast up and down, but a very
35 short distance.

36 A Not his hands. I didn't see his hand his --
37 moving like that. His face was kind of -- you
38 know, when you get shiver.

39 Q Uh-huh.

40 A It was like that.

41 Q So he was shaking as though he was shivering,
42 that's what you saw.

43 A Yeah, kind of cold, shiver, yeah.

44 MR. BUTCHER: Now, Dr. Perra, what time are we at with
45 this video?

46 DR. PERRA: It's at 34 seconds.

47

1 (VIDEO STOPPED)

2

3

MR. BUTCHER:

4

Q Now, I'm going to ask you to look at both videos,
5 and the thing that I'm interested in, in both
6 videos, is where you are --

7

A Mm-hmm.

8

Q -- when the film is being taken, and I'm also
9 going to ask you to follow the redheaded police
10 officer, because you gave some evidence yesterday
11 about some things that you thought he'd done.

12

A Okay.

13

Q So those are the two things that I'm going to ask
14 you to watch.

15

A Okay.

16

Q But I'm -- I'm going to ask you to look at this
17 first video, because it's -- on my viewing of it,
18 you do not come into this picture until 2:06 on
19 the video. I'm going to ask -- the question I
20 want to know is where were you up until that
21 point.

22

A Mm-hmm.

23

Q So I'm going to see if you can answer that
24 question by looking at it.

25

A Sure, I do my best.

26

27 (VIDEO BEING PLAYED)

28

29

MR. BUTCHER:

30

Q You can tell Dr. Perra to stop if at any time you
31 are able --

32

A Yeah. Did you hear that voice? That was my
33 voice.

34

Q Okay. I was wondering whether you'd be able to
35 identify yourself by voice.

36

A Yeah. Yeah. That was my voice.

37

MR. BUTCHER: And what time is that?

38

DR. PERRA: Well, this was -- this is about 46 seconds
39 right now.

40

MR. BUTCHER: Thank you.

41

Q So at about 46 seconds, your voice is heard.

42

A Yes.

43

MR. BUTCHER: Now can we stop for a minute, please?

44

Q Are you behind Mr. Pritchard or to his side?

45

A I don't remember. I was -- I remember the lady
46 from Horizon was about two, three steps on my left
47 where I was standing, and I -- I was by the -- I

1 was by the -- that area.
2 Q At this point --
3 A This area, and then I walked -- I turned back, I
4 walked toward those few people that were
5 gathering. I do remember the lady with the
6 Horizon Air uniform a few steps on my left, then I
7 said something.
8 Q Now, how many feet or metres do you think you are
9 away from Mr. Dziekanski at this point?
10 A At that point, maybe four, five metre. I'm not
11 sure.
12 Q And is your view of him uninterrupted, unblocked?
13 A I had my back to Mr. Dziekanski when I was walking
14 that way, so I had no view of Mr. Dziekanski.
15 Q All right. So for a period of time while --
16 A Time, I was going back and forth.
17 Q -- these events are unfolding, you're not
18 watching.
19 A Yeah, yeah. Some of --
20 Q Is that --
21 A -- I keep walking back and forth. Was at this
22 point that I had to Mr. Dziekanski -- or another
23 20 seconds passed this picture I had my back to
24 Mr. Dziekanski, I'm not sure. All I know, I was
25 walking back and forth.
26 Q And when you were walking away, how far away did
27 you walk away altogether? What was the furthest
28 away.
29 A Furthest, from my seat to where you're standing.
30 That's the maximum I walked away. Because if this
31 is the glass door, where you're standing, I don't
32 know, is about five metres?
33 Q Would you agree that distance is about five
34 metres?
35 A About, yeah, because I'm 164 (sic).
36 MR. BUTCHER: Can we keep playing, please?
37 Q And as -- I'm gong to ask you to ask Dr. Perra to
38 stop it whenever you hear your voice or see
39 yourself.
40 A Sure. Sure. That's my voice.
41 MR. BUTCHER: And the time, Dr. Perra?
42 A There is two voice; one of them is mine.
43 DR. PERRA: This one is at 48.
44 MR. BUTCHER: Forty-eight seconds.
45 DR. PERRA: Looks like 48.
46 MR. BUTCHER: I'm going to stop it there. Dr. Perra,
47 what time are we at?

1 DR. PERRA: Fifty-nine.
2 MR. BUTCHER: Forty-nine seconds?
3 DR. PERRA: Fifty-nine.
4 MR. BUTCHER: Sorry, 59 seconds.
5 Q Did you see Mr. Dziekanski pick up that table?
6 A No, I wasn't watching, I was listening. Sorry, do
7 you want to play it again? I was trying to pick
8 my own voice, sorry.
9 MR. BUTCHER: Okay. Stop it there for a minute.
10 A Now, I saw Mr. Dziekanski picked up that chair,
11 yeah.
12 Q Okay. So you were watching at the time that he
13 picked up the chair?
14 A No, right now. I'm explaining right now I saw
15 that Mr. Dziekanski picked up the chair.
16 Q Okay. Sorry. You're saying that you saw it on
17 the video.
18 A Right now.
19 Q Did you see that at the time?
20 A At the time? I don't remember; I might have. I
21 don't remember.
22 MR. BUTCHER: Okay. Can we carry on, please?
23 A I do remember this.
24 Q Sorry?
25 A I do remember.
26 MR. BUTCHER: What time are we at now?
27 A This -- this point I do remember.
28 DR. PERRA: This is 1:20.
29 MR. BUTCHER:
30 Q So you recall actually seeing what we're seeing at
31 1:20 on the video.
32 A Yes, I do remember this -- this part.
33 Q With Mr. Dziekanski coming out of the swinging
34 doors and holding the wooden table in his hands.
35 A Yes, I do remember that.
36 Q Thank you.
37 A And that was my voice again.
38 DR. PERRA: One-twenty-one.
39 MR. BUTCHER: One-twenty-one.
40 A That was the voice of lady with the Horizon
41 uniform saying Russian.
42 Q So the Horizon woman asked, "Do you speak
43 Russian?"
44 A Yeah. Russian.
45 MR. BUTCHER: And the time?
46 DR. PERRA: That's 1:31 now, so --
47 MR. BUTCHER: One-thirty-one. Carry on. Stop it

1 there, please.
2 A That was the voice of the lady with the Horizon --
3 said "Russia".
4 MR. BUTCHER: Okay. Can we go back there, a frame or
5 two? (Indiscernible - video interfering) What
6 time is that?
7 DR. PERRA: This is 1:39.
8 MR. BUTCHER:
9 Q Now, there's a -- the frame at 1:39, there's a row
10 of chairs in the bottom right-hand corner.
11 A Oh, here?
12 Q Yes.
13 A Yeah.
14 Q Were you watching these incidents from behind that
15 row of chairs?
16 A I do remember I keep walking from this point about
17 five metres maybe. I don't know how many metres
18 from here to there. Back and forth, some points
19 from front of the chair, sometimes from behind the
20 chair. So it -- I was kind of circling like this.
21 Q All right. So now I've got a sense of what you're
22 doing. You're -- there's an aisle between the
23 railing and the first set of chairs, and you're
24 walking up and down that aisle --
25 A Yeah.
26 Q -- and then down the aisle behind that row of
27 chairs.
28 A Yeah.
29 Q And at the end of the row of chairs coming back --
30 A Yeah, I have --
31 Q -- up the aisle.
32 A I don't know in which manner, but I do remember
33 walking from this point to this point, stopping,
34 talking to a couple of people who were there or
35 listening to them. And now you're asking me did I
36 walk back? I don't remember. Did I walk back
37 again? I don't remember.
38 Q Do you remember having to move that cart?
39 A Pardon me?
40 Q Do you remember moving the cart that's in the way.
41 A No, I don't remember.
42 Q Do you think that you might not have walked past
43 the cart?
44 A I might have.
45 Q But you don't remember?
46 A No, I don't remember it.
47 Q Do you even remember the cart being there?

1 A No. It is in the picture though.
2 MR. BUTCHER: If we can carry on, please.
3 (Indiscernible - speaking while video playing).
4 A If I watch it, I can't listen, though.
5 MR. BUTCHER: We'll stop it there. What's the time
6 there?
7 DR. PERRA: This is 2:07
8 MR. BUTCHER:
9 Q So at 2:07, we can see you come into the video for
10 the first time.
11 A At the video.
12 Q In this video.
13 A In this video, yes.
14 Q And this is when you engage Mr. Dziekanski,
15 attempt to have a conversation with him.
16 A Yeah, get his attention by this --
17 MR. BUTCHER: If you can play it on, please.
18 A Excuse me, could you please stop that? A second
19 before that, that's what I meant he was shaking.
20 MR. BUTCHER: Okay. Can we just play that back for a
21 minute, then, please? Can we have a time on that,
22 please?
23 DR. PERRA: That's 2:42. We just passed where we
24 stopped previously.
25 MR. BUTCHER: Okay.
26 Q So it was somewhere just before 2:42 that you
27 thought you saw him shaking, and if you look,
28 you've turned away.
29 A Yeah.
30 Q Is that correct? Can you tell us what you're
31 thinking as you've turned away?
32 A That I can't do anything. I can't get any respond
33 (sic).
34 Q You've tried to communicate with him.
35 A Yes. And --
36 Q With all of your languages and your hand gestures,
37 and you've not been able to change his --
38 A I just -- I was telling Mr. Dziekanski, "*Senor,*
39 *por favore,*" then I realize he doesn't speak -- he
40 doesn't understand Italian. At one point,
41 somebody called me -- or something got my
42 attention that I turned. Somebody or something
43 beside Mr. Dziekanski.
44 MR. BUTCHER: So at this point, what's the time?
45 DR. PERRA: 2:42.
46 MR. BUTCHER:
47 Q You've been dealing with him for a little over 30

1 seconds and you've realized that you can't get
2 through to him, you can't communicate with him.

3 A Yeah, when -- at that point, yes.

4 Q And despite your best efforts.

5 A At that point, but that point is not all of my
6 efforts.

7 Q No, I understand.

8 A Yeah, that is correct.

9 MR. BUTCHER: We can carry on, please.

10

11 (VIDEO STOPPED)

12

13 MR. BUTCHER:

14 Q We've now come to the end of the video. I think
15 you'll agree that just at the end, you gestured
16 towards Mr. Dziekanski, asking him to come towards
17 you. Is that correct, or am I misinterpreting
18 that?

19 A The way I did -- I did my gesture?

20 Q Yes. You had to --

21 A In my mind, not him to come to me. Give me the
22 chair.

23 Q Okay. So that's what you were trying to ask him
24 to do.

25 A Yeah.

26 MR. BUTCHER: Okay. If we can go to the second
27 Pritchard video, please.

28

29 (VIDEO BEING PLAYED)

30

31 A May I please ask a question?

32 MR. BUTCHER: Yup.

33 A May I please ask a question? What is the time
34 differential between Mr. Pritchard's first video
35 and second video? Do we have that?

36 MR. BUTCHER: I'm afraid I can't answer that question.
37 I'll let Mr. Commissioner address that.

38 THE COMMISSIONER: No, I can't answer either.

39 A So there is a time gap between his first video and
40 second video.

41 MR. BUTCHER: Yeah, all I can tell you is at the
42 moment, I don't know, and maybe nobody here knows.

43 A There is a time.

44 MR. BUTCHER:

45 Q The very beginning of the second video shows a
46 much broader picture of the area with the two sets
47 of chairs and the aisle down the rail side and the

1 aisle down the other side that you were walking
2 around.
3 A Yes.
4 Q Is that fair?
5 A That is fair.
6 MR. BUTCHER: And what's the time now?
7 DR. PERRA: Well, this is zero.
8 MR. BUTCHER: This is -- okay. At zero on the new
9 video, the second video.
10 DR. PERRA: Yes.
11 MR. BUTCHER: Thank you. If you can please play it.
12 Can we stop it there, please? What's the time,
13 Dr. Perra, please?
14 DR. PERRA: This is 58 seconds.
15 MR. BUTCHER:
16 Q So we agree that the video has shown you
17 attempting to communicate with Mr. Dziekanski now
18 for 56 or 57 seconds.
19 A That is correct.
20 Q And you're probably less than a metre from him,
21 although separated by a glass wall.
22 A Totally less than a metre, yes.
23 Q And what were you doing during that 58 seconds to
24 try to communicate with him?
25 A I was signing to Mr. Dziekanski.
26 Q Were you signing in American sign language?
27 A I don't know if there is a similarity between
28 American -- North American sign language or
29 Persian sign language, but there is international
30 sign language.
31 Q And -- so it's an international sign language you
32 were using?
33 A It was. There is a sign language that we use,
34 like A, B, C. I wasn't practising that. I was
35 using general sign language. I said, "No," and
36 then I showed my hand like that. Because they
37 called the police, like that --
38 Q So you put your --
39 A -- says sign of handcuff.
40 Q You're two fists together --
41 A Yes. That's a sign of --
42 Q -- (Indiscernible - overtalking).
43 A -- handcuff. I was explaining or trying to tell
44 him that he --
45 Q That the police might come.
46 A I knew police is going to come because I heard
47 they're going to call police. I heard somebody is

1 calling 9-1-1.
2 Q Uh-huh.
3 A And what he was doing there, I signed him that
4 they're going to handcuff, no, no, no. And he was
5 looking at me.
6 Q And if I recall your evidence correctly, you have
7 a deaf brother?
8 A And sister.
9 Q And sister. So you've learned in your family
10 experience to have to communicate very well with
11 hand gestures.
12 A Yes.
13 Q And that wasn't working with Mr. Dziekanski
14 either.
15 A No, that wasn't -- my sign language wasn't
16 working.
17 Q Yes. So at about 59 seconds, we see you turn away
18 and walk away from Mr. Dziekanski.
19 A Yes.
20 Q What are you thinking at this point?
21 A I don't remember, but I might have think that it
22 didn't work, what I did.
23 MR. BUTCHER: Can we please play the video further?
24 Whoa, now, can we stop it there. What time is
25 that, Dr. Perra?
26 DR. PERRA: That's at 1:09.
27 MR. BUTCHER:
28 Q So there at 1:09, Ms. Ashrafinia, it's very clear.
29 You saw Mr. Dziekanski throw the computer to the
30 floor.
31 A Yes.
32 MR. BUTCHER: Thank you. If we can continue. Can we
33 stop it, please?
34 DR. PERRA: So 1:17.
35 MR. BUTCHER:
36 Q At 1:17, you've clearly seen Mr. Dziekanski throw
37 the wooden table at the glass wall.
38 A Yes, and I was clearly not surprised. I didn't
39 jump, I didn't run away.
40 Q No, I can see you don't run away, but you do react
41 a little bit.
42 A No, I was going to sit down. I heard that, and I
43 paused to see what happened.
44 MR. BUTCHER: Okay. We can carry on.
45 A That's the words of lady from Horizon Air, telling
46 me, "Ma'am, could you get away."
47 MR. BUTCHER: Okay. And what time is that?

1 DR. PERRA: It's 1:32.
2 MR. BUTCHER:
3 Q Okay. Just before that, you had actually sat down
4 in the chair.
5 A Yes.
6 Q Because you were still expecting your husband to
7 come through those swinging doors.
8 A At that point, I wasn't thinking about my husband.
9 Q Okay. You were focused on Mr. Dziekanski?
10 A Yes.
11 Q And at the time that he threw the computer and the
12 table, you were about two metres away from him?
13 A About, if it's two metres, it's two metres.
14 MR. BUTCHER: Okay. If we can carry on, please. Now,
15 we may have to replay that for a moment, because I
16 think we can see that you opened the cell phone --
17 A Yes.
18 Q -- and walk away. Can you check that? Have I
19 described that accurately? Is that what happened?
20 A Yeah, I was doing something with my cell phone,
21 texting, getting message or -- I don't know.
22 Q Perhaps trying to get a hold of your husband.
23 A I don't think so.
24 Q Okay. And at this point, you go out of the
25 screen. I'm going to ask you to watch the video
26 and see where you come back, when you come back.
27 A That's my voice. I'm saying, with very poor
28 grammar, "He -- he's so scared himself." That's
29 what I said.
30 MR. BUTCHER: And what time is that?
31 DR. PERRA: It's 1:57.
32 MR. BUTCHER:
33 Q Mrs. Ashrafinia, I don't think any of us
34 unilinguists are going to be worried about your
35 grammar in your fourth language.
36 A That's good. I'm happy, then. I'm so happy.
37 Thank you.
38 MR. BUTCHER: So we can carry on, please. Actually, if
39 we can stop.
40 Q How far away do you think you were at that point
41 and were you watching still?
42 A Is this the time that RCMP officer arrived?
43 Q They're going to arrive in about a minute-and-a-
44 half. So --
45 A Okay. I think I was behind the second row of
46 those red chairs that you saw.
47 Q Okay. And were you still watching?

1 A I don't remember if I'm still watching.
2 MR. BUTCHER: Okay. Thank you. Please stop it there,
3 please. What time is that?
4 DR. PERRA: This is at 2:20.
5 MR. BUTCHER:
6 Q You can see that at 2:20, the camera has panned
7 out, but you're not in the video, are you?
8 A No, I'm not in this shot.
9 Q And so do you think you're sitting behind the
10 second row of chairs, or standing behind the
11 second row of chairs?
12 A I might have, yes. I might have there.
13 MR. BUTCHER: Thank you. Carry on. Stop. Can we
14 please stop it there, please? That's the time
15 that we hear the words "Politzia" and we see the
16 police officers arrive. What time is that?
17 DR. PERRA: That would be 3:02.
18 MR. BUTCHER: Okay. If you can go forward. Sorry.
19 Q Do you see the police officers come into the
20 building?
21 A I saw them walking in the -- what do you call it
22 -- common area. There's a common -- meeting --
23 Q You don't see them coming through the doors, but
24 you see them walking towards the IRL doors.
25 A I -- the first time I saw the police officer just
26 passed that sliding door that comes from outside,
27 outside of the building.
28 MR. BUTCHER: All right. Let's play it forward a bit.
29 Let's stop there.
30 DR. PERRA: 3:17.
31 MR. BUTCHER:
32 Q At 3:17, which is the officer that you've
33 described as being in similar age to your son?
34 A This first officer.
35 Q The first officer, the one with the reddish hair?
36 A Yes.
37 MR. BUTCHER: Thank you. If we can just go back a
38 moment.
39 Q I'm going to ask if you can see yourself very
40 quickly in the very right-hand corner of the
41 screen.
42 Were you standing with those two men?
43 A I don't remember, but I do remember I was standing
44 in this corner because of -- like I was in a 45-
45 degree angle of Mr. Dziekanski on my right, and
46 officers walking from this side. It must be like
47 this angle.

- 1 MR. BUTCHER: How -- what time do we have now?
2 DR. PERRA: This is 3:21.
3 MR. BUTCHER:
4 Q 3:21. How far away are you from the point where
5 the officers jump over the railing?
6 A I don't remember how far. They keep walking, is a
7 moving object. How can I say two metre, three
8 metre? They keep moving.
9 Q No, at the point where they're jumping over the
10 railing. How far are you --
11 A Yeah, I was in that corner.
12 Q And are you able to see them jump over the
13 railing?
14 A Yes, yes.
15 Q Would you agree that's about three or four metres
16 away?
17 A Probably.
18 Q Okay. Do you, at any point in the events that
19 unfold, do you think you moved closer to the
20 corner of the railing and the glass door?
21 A If I did, it must be after the officers, all four
22 of them, entered there because out of respect to
23 their procedure, I stayed away.
24 Q Okay.
25 A And then at one point I do remember I walked
26 toward the railing, at one point. What time was
27 it, how many metre, I don't remember.
28 MR. BUTCHER: Okay, let's -- let's carry on. Now, if
29 you can run it forward a couple of steps. Stop
30 there, please. What time do we have?
31 DR. PERRA: 3:29.
32 MR. BUTCHER:
33 Q Now, there's been some discussion about the ethnic
34 origin of these officers and how you classify
35 yourself as a Persian person. But are you able to
36 identify one of these officers now as being of
37 African descent?
38 A Right now with this picture, that's a classical
39 description of African-Canadian descent, but all
40 of them are Canadian.
41 Q Oh, I agree with you completely. Did you
42 remember, before seeing the video, that one of the
43 officers was of African descent?
44 A No, I don't -- I don't see people like that. I
45 see them as whole. I don't go is Chinese or
46 Persian or what. I see them as a whole somebody,
47 a person.

1 Q You can see that -- that the young officer that
2 you've described --
3 A Yes.
4 Q -- is in the middle of those three people at this
5 point, of the three officers, is that --
6 A That is correct, yes.
7 MR. BUTCHER: If we can move it forward a few seconds,
8 please. No, keep going. Stop it there, please.
9 What time do we have now?
10 DR. PERRA: 3:36.
11 MR. BUTCHER:
12 Q You'll agree that between the last stop and this
13 stop, you're not seen in the video screen at all,
14 are you?
15 A In this shot? No, I'm not in this shot of this
16 video.
17 Q Where are you at the time?
18 A I must be in that corner that I said --
19 Q So you're further away --
20 A Yes.
21 Q -- than the camera angle is showing --
22 A I'm --
23 Q -- the right of the screen.
24 A -- away from this shot.
25 Q Okay. And just in a moment in your -- Commission
26 asked you about seeing the young officer touch
27 something on his belt. Do you remember that?
28 A A minute ago?
29 Q No, yesterday when you gave some evidence, you
30 made some -- a comment about --
31 A I made comment, yes, that had -- the officer had
32 his left hand on his left side, and had his legs a
33 bit apart of each other.
34 MR. BUTCHER: Okay. Let's see if we can capture that
35 point --
36 A Like that. Like that.
37 MR. BUTCHER: -- in the video. Right there. If we can
38 stop it. What time do we have?
39 DR. PERRA: 3:41.
40 MR. BUTCHER:
41 Q Now, I'm curious, Mrs. Ashrafinia, as to whether,
42 firstly, you saw that at the time.
43 A Yes.
44 Q And -- and did you think it meant anything at the
45 time? What did you think was happening when the
46 red-haired young officer put his left hand on his
47 duty belt?

1 A I thought he's going to shot him (sic).
2 Q He was going to shock him?
3 A Shot him. Shoot him.
4 Q Okay. No guns ever come out, do they?
5 A No, you asked me what I was thinking.
6 Q Right.
7 A I was thinking he might shoot him.
8 Q But at no time does any of these police officers
9 pull their pistol out of their holster.
10 A No. Apparently what I thought, it was wrong,
11 yeah.
12 Q Right. And is that why you made a note of it at
13 the time, because you thought he was going for a
14 gun?
15 A Because of his position, yeah. The position he
16 was standing, I thought he's going to shoot --
17 shoot him, yeah.
18 MR. BUTCHER: Okay. But that obviously -- if you --
19 let's roll it forward two seconds.
20 A No, it wasn't true. No, it wasn't the right
21 thought, no.
22 MR. BUTCHER: Stop there.
23 Q So that concern that you had was one that didn't
24 come to fruition.
25 A No. But I -- what I thought immediately after
26 that, they all are ready.
27 MR. BUTCHER: All right. If we can roll it forward a
28 few seconds, please. We can stop it there.
29 What's the time there?
30 DR. PERRA: This is 3:44.
31 MR. BUTCHER:
32 Q At this point, the young officer is moving to the
33 right of Mr. Dziekanski; is that correct?
34 A Yes.
35 MR. BUTCHER: And if you can keep moving, just very
36 slowly at this point, please. Okay. Stop.
37 Q Do you see --
38 MR. BUTCHER: What time do we have?
39 DR. PERRA: This is 3:46.
40 MR. BUTCHER:
41 Q Did you see in the video the young officer
42 suddenly move backwards and fast?
43 A In the video?
44 Q Yes.
45 A Yeah, right now?
46 Q Yes.
47 A Yeah, I saw something like that.

1 Q At this point, when that officer does that, Mr.
2 Dziekanski is in front of the desk, isn't he?
3 A Oh, I see the -- I call it back of the desk. I
4 say this part front of the -- yes, yeah.
5 Q All right. No, I'm happy to use your way.
6 A Yeah, the other side of the desk, yeah.
7 Q He's on the other side of the desk.
8 A Yes.
9 Q And you can't see --
10 A No.
11 Q -- below his waist or below his elbows.
12 A No, I can't.
13 Q You're not -- at this point when the officer moves
14 back very fast, you've got a very limited view of
15 what Mr. Dziekanski is doing.
16 A Very correct, yes, yeah.
17 Q Is that fair?
18 A Yeah.
19 MR. BUTCHER: If we can --
20 Q And watch the officer with the red hair, because
21 he moves off screen for a while.
22 MR. BUTCHER: Okay. Can you -- what time do we have
23 now?
24 DR. PERRA: This would be 3 -- it's still like 3:46.
25 MR. BUTCHER:
26 Q So at 3:46, he's gone and off the screen; correct?
27 A Yeah, according to --
28 Q I'm going to stop you now. Do you remember at the
29 time the officer moving -- that officer moving
30 back very fast or not?
31 A No, I don't remember.
32 MR. BUTCHER: Okay. We can keep going. I'm just going
33 to ask you, Dr. Perra, to keep going until that
34 officer comes back into the -- stop there. What
35 time do we have there?
36 DR. PERRA: It's 3:56.
37 MR. BUTCHER:
38 Q So at 3:56, the -- the young red-headed officer is
39 just on the right side of the screen; is that
40 correct?
41 A Is it correct? Yeah, possibly.
42 Q He's not in contact with Mr. Dziekanski at all at
43 this point, is he?
44 A According to this video?
45 Q Right.
46 A How can I say anything from this video?
47 Q Okay. You're not able to say that?

1 A No.

2 MR. BUTCHER: Okay. Let's go forward.

3 Q I'm going to ask you to go back because you made
4 some comment yesterday about the baton that you
5 thought you saw. Do remember giving some evidence
6 about that yesterday?

7 A Yes, I do.

8 MR. BUTCHER: Dr. Perra, I'm going to ask --

9 DR. PERRA: (Indiscernible - not at microphone).

10 MR. BUTCHER: Right, but there's actually -- if you can
11 keep -- if you can go back a bit from here. Can
12 you go back to 3:52, please?

13 DR. PERRA: 3:52?

14 MR. BUTCHER: I'm going to ask that be played very
15 slowly at this point.

16 DR. PERRA: Do you want me to go to slow motion?

17 MR. BUTCHER: Yes, you can go to slow motion. Are you
18 able to move it forward to --

19 DR. PERRA: Well, it's moving very slowly.

20 MR. BUTCHER: Do we have different forms of slow
21 motion, different speeds?

22 DR. PERRA: Well, this is -- yeah, I can speed it up a
23 bit.

24 MR. BUTCHER: Stop there, please. Could you go back
25 just a moment?

26 Mr. Commissioner, I'm in your hands. I see
27 the time. I've got about ten more minutes. I'm
28 happy to continue.

29 THE COMMISSIONER: All right. We'll take the morning
30 break.

31 THE REGISTRAR: The hearing will now recess.

32

33 (VIDEO STOPPED)

34

35 (WITNESS STOOD DOWN)

36

37 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

38

39 (PROCEEDINGS RECONVENED)

40

SIMA ASHRAFINIA, a witness,
recalled.

41

42

43

CROSS-EXAMINATION BY MR. BUTCHER ON BEHALF OF CONSTABLE
BENTLEY:

44

45

46

MR. BUTCHER: Dr. Perra, are we at 3:54?

47

Q I'm going to ask you again, Ms. Ashrafinia, to

1 look and see when the red-headed officer comes
2 back on the screen.

3

4 (VIDEO BEING PLAYED)

5

6 MR. BUTCHER: Stop. Stop. Okay, go back. Can you go
7 back to 3:54 and play it in slow motion, please.
8 Stop it there, please. What time are we at?

9 DR. PERRA: This is 3:55.

10 MR. BUTCHER:

11 Q 3:55, can you see that the red-haired officer is
12 back in the right-hand corner of the screen?

13 A Yes, I do.

14 Q And he appears to be lifting something up out of
15 the left side of his belt.

16 A Does, yeah.

17 Q Is that fair?

18 A That's what it happened (sic).

19 MR. BUTCHER: Thank you. You can carry forward. You
20 can go back to normal time for a moment, real
21 time. Can you stop it there, please? What time
22 do we have?

23 DR. PERRA: This is 4:07.

24 MR. BUTCHER:

25 Q Now, at 4:07, you can see two police officers on
26 top of Mr. Dziekanski on the floor and what you
27 can now see is a black police officer appearing to
28 hold something in his hands pointing at him above.
29 Is that fair?

30 A Yes.

31 Q And the red-haired police officer is not in the
32 screen at this point.

33 A He's on the right there, right there.

34 Q You can see a -- well, you've got to be -- I'll
35 tell you you've got to be careful here because
36 there's some shadows of the officers.

37 MR. BUTCHER: But keep going. Now stop it. What time
38 do we have here?

39 DR. PERRA: Now, this is 4:10.

40 MR. BUTCHER:

41 Q At 4:10, clearly the red-haired officer is back in
42 the picture.

43 A Yes.

44 MR. BUTCHER: Keep going. Maybe we can turn the sound
45 off for the slow motion. Thank you.

46 THE COMMISSIONER: Mr. Butcher, is there some point in
47 all this?

1 MR. BUTCHER: Yes, there is.
2 THE COMMISSIONER: All right. I'm not going to stop
3 you. Go ahead. I mean, you're just asking the
4 witness, do you see this, do you see that. Go
5 ahead.
6 MR. BUTCHER: Are we at ordinary speed?
7 DR. PERRA: Not yet, no.
8 MR. BUTCHER: Okay. So if we can stop it there just
9 for a minute. What time do we have?
10 DR. PERRA: This is 4:57.
11 MR. BUTCHER:
12 Q 4:57, now you can see the red-haired officer
13 behind -- at the bottom of Mr. Dziekanski. Now,
14 were you watching at this point when all of the
15 officers were on top of him?
16 A At this specific moment?
17 Q Yes.
18 A I may not.
19 Q Okay. Did you ever see the red-haired officer
20 pull a baton out when you were at the airport that
21 night?
22 A No, I just saw it now.
23 MR. BUTCHER: Okay. If you can keep going in normal
24 time, please. Stop. If you can go back just a
25 moment. Back just a little bit before that to
26 where the red-haired officer got up. If you can
27 -- what time do we have at this point?
28 DR. PERRA: Now, this -- I'm not sure, but -- just
29 started pointing it, it jumped back, so -- 5:11.
30 MR. BUTCHER: Stop there.
31 DR. PERRA: That was 5:10.
32 MR. BUTCHER: That's 5:10.
33 Q Did you see the red-haired officer pick up the
34 baton off the floor?
35 DR. PERRA: This is 5 --
36 A Just now?
37 MR. BUTCHER:
38 Q Yes.
39 A Yes.
40 Q Did you see that at the time at the airport?
41 A No.
42 Q Okay.
43 DR. PERRA: It's at 5:08.
44 MR. BUTCHER: You can stop it now for a moment. What
45 time do we have?
46 DR. PERRA: So this is 5:30.
47

1 MR. BUTCHER:

2 Q You saw just a moment ago the baton in the
3 officer's hand.

4 A In this video right now, yes, I did.

5 Q Did you see that at the airport?

6 A No, I -- no.

7 MR. BUTCHER: Carry on.

8 A I saw that at the airport.

9 MR. BUTCHER: Can you stop for a minute? What time do
10 we have now?

11 DR. PERRA: This is 5:37.

12 MR. BUTCHER:

13 Q Okay. So in your evidence in chief, when you were
14 asked questions by Commission counsel, you
15 described what you thought was a baton being
16 collapsed. Do you remember that?

17 A Yeah, yeah, I just said --

18 Q And now you've just --

19 A -- I remember that part. I saw it in the airport.

20 Q So -- so is the only part that you saw of the
21 officer with the baton was at the moment that he
22 collapsed the baton?

23 THE COMMISSIONER: No, Mr. Butcher, that question makes
24 no sense.

25 MR. BUTCHER: Okay. Thank you.

26 THE COMMISSIONER: I'm sorry.

27 MR. BUTCHER:

28 Q When you were at the airport, did you see any --
29 did you see the baton at any other time other than
30 when it was being collapsed?

31 A No.

32 Q No, you didn't see it at any other time?

33 A No, I didn't see. I just saw the last part that
34 the officer was hitting that baton on the --

35 Q On the ground.

36 A -- ground, yes.

37 Q And I took it from your evidence yesterday that
38 you were concerned that that was done too close to
39 Mr. Dziekanski's head.

40 A That was my personal opinion, yes.

41 Q Would you agree, looking at the video, that it
42 appears to be about three or four feet away from
43 head? Or are you not able to say.

44 A In feet, I can't. I'm metric. Just tell me how
45 many centimetre I can --

46 Q Was it a metre or a metre and a half away?

47 A Less than that. About half a metre.

1 Q That was your recollection at the time?

2 A That's my -- yes.

3 MR. BUTCHER: Okay. Now, that's the end of the video.

4

5

(VIDEO STOPPED)

6

7

MR. BUTCHER:

8

Q But that -- I think we've reviewed in considerable detail what you were able to see that night.

9

10

A Yes.

11

Q I'm now going to go back to something that the -- Mr. Harris and the Commissioner asked you about, and that's this comment on page 10 of your statement. In the middle of page 10, you said this to the police officer:

12

13

14

15

16

17

Those ladies from Horizon, they walked a bit closer. And she told me, "Oh they are tasing him." I said, "Yeah think they have no other choice because he's out of control."

18

19

20

21

22

That's what you told the police officer on December the -- sorry, October the 17th, 2007, isn't it?

23

24

25

A My paper said 17. Yours -- the one you gave me says October 19th. So --

26

27

Q Yes, actually, there are two different dates. If you look at the very first line on the first page, it says:

28

29

30

31

Today is the 17th of October, 2007.

32

33

A Yes.

34

Q But it appears that the statement incorrectly has the date October the 19th at the top of each page.

35

36

A Yes.

37

Q Is that --

38

A Yeah.

39

Q -- fair? Do you remember which of those two days it was? Which of those two dates is the mistake?

40

41

A I don't remember.

42

Q Okay. Let's go back to this comment. These -- when the Horizon Air personnel or staff member said, "Oh, they are tasing him." You said to her at the time, at the airport:

43

44

45

46

47

Yeah think they have no other choice because

1 he's out of control.

2

3 A Something like that, yeah. Something like that.

4 Q And you said that at that time because that is
5 what you thought about the circumstances based on
6 what you had been able to see, and based on your
7 attempts to interact with Mr. Dziekanski; is that
8 correct?

9 A The reason I said that, I thought they are
10 following their standard operation procedure.
11 That's what they're supposed to do. That's what I
12 meant.

13 Q Okay. You said -- and I'm going to read it again.

14

15 Yeah think they have no other choice because
16 he's out of control.

17

18 A Mm-hmm.

19 Q You hadn't been able to control Mr. Dziekanski,
20 had you?

21 A Who am I? Am I psychologist? I'm just a ordinary
22 resident with no professional education or, you
23 know, skills.

24 Q No, you'd used all of your experience in life to
25 try to help him and calm him down.

26 A Yeah, whatever I remember in that moment, the
27 specific moment, I tried to use it, yes.

28 Q And you hadn't been able to change his behaviour.

29 A No. As an ordinary person, no, I wasn't able to
30 change the situation.

31 Q And what I was trying to get from you was simply
32 that comment that you made to the Horizon Air
33 staff member was your honest opinion based on what
34 you had seen and heard in the few minutes
35 beforehand.

36 A Yeah, as I mentioned before, this recorded and
37 typed -- the statement without the respect doesn't
38 -- doesn't reflect what I believed. For instance,
39 in page -- my page 64, second paragraph on the
40 top, I say:

41

42 Limo driver was maybe in his twenties.

43

44 He's not in his twenties. The third paragraph
45 after that, another one. And the next page
46 another one.

47 Q Okay. No, I understand --

1 A And this is something the same nature. What I
2 said -- what I meant when I talked to the lady in
3 Horizon, that RCMP, they are following their
4 standard operation procedure. That's what they
5 supposed to do.

6 Q All right. So you assumed, having seen what they
7 did, and with your knowledge of what happened --

8 A Yeah, they supposed to do that.

9 Q -- that they had done what they were supposed to
10 do.

11 A They're supposed to do that.

12 Q I just want to confirm, because you are saying
13 that there are things in this statement that
14 aren't correct. But at the time, you said to the
15 Horizon Air staff person words to the effect:

16
17 Yeah think they have no other choice because
18 he's out of control.

19

20 A Yeah.

21 Q And if I can take you just to page 22 and 23. So
22 you understand that that was a thought that you
23 had at the airport on the night in question.

24 A Yes.

25 Q If you go to page --

26 A 22.

27 Q -- 22 and 23, I'm going to suggest this was the
28 thought or opinion that you had a few days later
29 when you spoke to the police officer, and I'm
30 going to read this into this record -- into the
31 record. The police officer said to you:

32

33 ...the ultimate goal is not to have this
34 (INDECIPHERABLE) person dead.

35

36 And you replied:

37

38 No, not uh, dead. I mean he deserved the
39 taser.

40

41 Top of the next page:

42

43 Yeah.

44

45 Answer:

46

47 He deserved the taser. My question is maybe

1 the taser gun is not one-size-fits-all.

2

3

Have I read the transcript correctly?

4

A No.

5

Q Okay. Well, you read the transcript then of those
6 four questions -- two questions and two answers,
7 sorry.

8

A Okay. Can I go up on your page 22?

9

Q Sure.

10

A When Constable Teboul asks me:

11

...in Canada that somebody, that, that the
12 end result...

13

14

I say, "Yes."

15

Q Okay.

16

A Then Constable Teboul says:

17

...is gonna be somebody losing their life.

18

19

Q I'm going to stop you there because --

20

THE COMMISSIONER: No, please, let the witness --

21

MR. BUTCHER: Well, I think I understand what the
22 witness is saying.

23

THE COMMISSIONER: No, no, but I don't. So you can go
24 ahead.

25

A And then I say, "Yes. No." Which one is correct?
26 What statement of mine is correct? I say yes, no,
27 back to back. You will see lots of those comments
28 in all of the 65 pages.

29

Now we go to the line that you are asking me
30 to read it again. I say -- and Constable Teboul
31 says:

32

33

...the ultimate goal is not to have this
34 (INDECIPHERABLE) person dead.

35

36

37

I respond:

38

39

No, not uh, dead. I mean he deserved the
40 taser.

41

42

Constable Teboul says, "Yes." Then I realize I
43 have to repeat it again in order to make clearer
44 statement. I repeat the same sentence.

45

46

He deserved the taser.

47

1
2 Did he deserve the taser? Because what I'm saying
3 right after that:

4
5 My question is maybe the taser gun is not
6 one-size-fits-all.

7
8 So I am questioning.

9 MR. BUTCHER:

10 Q So let's take this one step at a time. Have you
11 now read what you told the police officers?

12 A Yes.

13 Q And that is what you told Corporal Teboul.

14 A Yeah.

15 Q There's not a mistake in the transcript.

16 A No, questioning. I'm questioning.

17 Q And at this point, several days later, you're
18 starting to wonder whether the Taser's the best
19 tool for something -- a situation like this; is
20 that what's happening?

21 A A few days later?

22 Q Yes.

23 A I had this thought from the moment I left the
24 airport. Because first of all I was introduced to
25 a tool that I'd never seen before. I've seen it
26 in movies, but in real life I'd never seen Taser.
27 Like in my country they shoot people with RPG-25.
28 That is anti-tank missile. Taser? I never seen
29 it before. And I questioned, what is that? Then
30 I saw the result of it.

31 Q That's what I was going to come to. At the time
32 you made the comment to the Horizon Air staff
33 member, you didn't know about --

34 A Taser.

35 Q -- the end of this incident. You didn't know
36 about the tragedy of Mr. Dziekanski dying.

37 A At that moment, no, I didn't know.

38 Q But several days later, and now many months later,
39 you're obviously very aware of it.

40 A Yes.

41 Q Very aware of the result, and you've seen lots of
42 video; is that correct?

43 A Yes. I was aware of the result of Taser October
44 15, 19 -- 2007.

45 Q The following day.

46 A Yeah, following day when they removed Mr.
47 Dziekanski's body early Sunday morning.

- 1 Q Would it actually be fair -- it's later the same
2 day.
3 A That is --
4 Q October 14th.
5 A -- correct, yes, yeah.
6 Q And I get from seeing you for the last day that
7 you're a very sympathetic and empathetic sort of
8 person.
9 A Yes, I am.
10 Q And that, as a result of learning about the
11 tragedy, about the consequence in this particular
12 case, your perception of the events has changed a
13 bit; is that fair?
14 A Just a little bit, yes.
15 Q I've got one other area to ask you about, and it's
16 this: I think you told us yesterday that your
17 husband was one of the first people to come off
18 the Cathay-Pacific flight.
19 A That is correct, yeah.
20 Q Do you have any recollection of the time that you
21 met him?
22 A No.
23 Q You were able to tell us that you made some
24 further observations of Mr. Dziekanski with a face
25 mask on. Do you remember that? An oxygen mask.
26 Have I got that correct?
27 A It's -- it's very blurry. Did I see the mask?
28 Q You saw some ambulance attendants or some
29 paramedics.
30 A Outside even I was leaving the --
31 Q (Indiscernible - overtalking).
32 A -- airport, yes, yeah.
33 Q Was that as you were leaving or before you left?
34 A When I was leaving, when I went outside of the
35 building, I saw fire truck and then ambulance.
36 Q Are you able to give us any assistance at all with
37 when you left the airport?
38 A That should be guesstimate because one --
39 Q Can you give us your best guess?
40 A 1:35.
41 Q Sorry?
42 A 1:35 a.m., twenty --
43 Q How --
44 A -- minutes to 2:00, so --
45 Q How long after your husband came through did you
46 -- was it before you left the airport?
47 A How long before my husband...?

1 Q How -- sorry, I'll ask that question again. How
2 long after your husband arrived --

3 A After my husband.

4 Q -- did you leave the airport?

5 A Maybe maximum ten minutes, maximum.

6 Q And you've told us about attempting to speak to
7 somebody who you thought was a police officer
8 before you left.

9 A Yes.

10 Q It wasn't one of the four uniformed officers that
11 you've --

12 A No, it wasn't.

13 Q -- seen in the video, was it?

14 A No, no, no, it wasn't one of those four officers.

15 MR. BUTCHER: Thank you. Those are my questions.

16 A Thank you.

17 THE COMMISSIONER: Any further questions? Madam,
18 you've been exceptionally helpful.

19 A Thank you very much.

20 THE COMMISSIONER: And I must say you've been very
21 articulate. Thank you very much.

22 A Thank you very much. Thank you. May I go?

23

24 (WITNESS EXCUSED)

25

26 MR. VERTLIEB: The next witness is Marija Bosnjak, and
27 she is one of the Horizon Air employees that
28 you've heard about. While the witness is being
29 brought in, what I'd like to do is take her
30 through some of her -- some of the evidence, and
31 then break, and then after the break, deal perhaps
32 with some of the video in a limited way.

33 THE REGISTRAR: Good morning.

34 THE WITNESS: Good morning.

35 THE REGISTRAR: Just before you're seated -- do you
36 wish to put your coat on the chair there, or --

37 THE WITNESS: Sure.

38 THE REGISTRAR: Do you wish to be sworn or affirmed?

39 Sworn is on the Bible and affirmed is not.

40 THE WITNESS: Either way is fine.

41 THE REGISTRAR: It's your choice.

42 THE WITNESS: Sworn.

43 THE REGISTRAR: Sworn? Would you place your right hand
44 on the Bible, please?

45

46 MARIJA BOSNJAK, a witness,
47 sworn.

Marija Bosnjak
In chief by Mr. Vertlieb

1 THE REGISTRAR: Would you spell your surname?

2 A Last name or first name?

3 THE REGISTRAR: Surname, last name.

4 THE COMMISSIONER: Last name.

5 A B-o-s-n-j-a-k.

6 THE REGISTRAR: Thank you. You may be seated.

7 Counsel?

8 A Thank you.

9 MR. VERTLIEB: Thank you, Mr. Giles.

10

11 EXAMINATION IN CHIEF BY MR. VERTLIEB:

12

13 Q Your last name is pronounced as though it was
14 spelled B-o-s-h-n-j-a-k; is that correct?

15 A It's B-o-s-n-j-a-k.

16 Q Yes. But it's pronounced Boshniak (phonetic).

17 A Correct.

18 Q Thank you. I'd like to spend just a few minutes
19 having you tell the Commissioner about your
20 background and what you now do for work.

21 THE REGISTRAR: Sorry, that was...

22 A Thank you.

23 MR. VERTLIEB:

24 Q You are born in Croatia?

25 A Correct.

26 Q And you came to our -- to Canada in 1987?

27 A Correct.

28 Q Before coming to Canada, you had studied post-
29 secondary. You spent two years studying economics
30 in a --

31 A Correct.

32 Q -- college environment?

33 A Correct.

34 Q You had different jobs when you first arrived, but
35 in the year 1999, you became employed at the
36 airport?

37 A '99, correct, yeah.

38 Q Your first job was with Hudson General, which is a
39 contractor for airlines?

40 A Correct.

41 Q How long were you with that company?

42 A I work for them for one year, and then before that
43 year came out, like I apply for another job with
44 Alaska/Horizon and that's where I'm working
45 presently. So it was one year with them and then
46 I moved to another company.

47 Q Okay. So you started with Alaska/Horizon

1 approximately the year 2000?
2 A No, it's '99.
3 Q '99. And that's the company you worked for up
4 until the present time?
5 A Correct.
6 Q Tell us what type of work you do for
7 Alaska/Horizon?
8 A I do -- mostly it's customer service. It's
9 checking arrivals, departure gates. It just comes
10 to working with people, helping people whenever
11 they need help.
12 Q So you are, in effect, a customer service agent
13 for the airline?
14 A Correct.
15 Q So if somebody was coming to the airport to take a
16 Horizon flight, you might check them in?
17 A Correct.
18 Q And when someone was coming off a plane from
19 Horizon, you might be there to help with baggage?
20 A That's correct.
21 Q You were working on the evening of October 13, and
22 into the early morning of October 14, of 2007.
23 A Correct.
24 Q What shift were you working?
25 A I was working from -- it's afternoon shift from
26 three o'clock in afternoon till one o'clock in
27 morning.
28 Q So 3:00 p.m. to 1:00 --
29 A 1:00 a.m., correct.
30 Q Yes. And where were you working in the airport
31 that shift?
32 A I was working arrival area, so it would be baggage
33 arrival area.
34 Q And this would be arrivals for flights coming from
35 the United States?
36 A United States and international flights.
37 Q So this was nothing to do with domestic travel?
38 A No.
39 Q And your work that shift would then have you in
40 the area where the International Reception Lounge
41 would be and the baggage area for the Customs
42 Hall?
43 A Correct.
44 Q Okay. The shift that evening and early morning
45 was uneventful, nothing unusual happened on that
46 work shift?
47 A No. It was just ordinary night.

Marija Bosnjak
In chief by Mr. Vertlieb

- 1 Q Now, approximately what time did you finish your
2 work that early morning?
- 3 A It was -- usually I finish at one o'clock, but
4 usually if there's something to do, we stay a
5 little bit longer, so maybe it was like ten
6 minutes after 1:00.
- 7 Q Okay.
- 8 A Approximately that time.
- 9 Q Now, how did you leave the Customs area when you
10 finished your work?
- 11 A Usually we go -- there is two ways to go out,
12 because there was some constructions going on, so
13 we went a different way that usually we don't take
14 when we are leaving the Custom Hall. So it's -- I
15 don't know how to explain to you guys if you don't
16 know the airport. It's -- but it's next to Burger
17 King. There is exit that you can just come out of
18 the airport.
- 19 Q And that was because there was construction?
- 20 A Yeah, something was going on so we had to take
21 that -- that way out.
- 22 Q Okay. Now, Ms. Bosnjak, look over your right
23 shoulder. You'll see a big diagram which we've
24 heard much about from other witnesses, and that's
25 a portion of the airport. I'm sure that will look
26 familiar to you once you have a look at the
27 diagram. Can you see that from you witness chair?
- 28 A Yeah, Immigration, Canada Border, Customs,
29 Secondary Leaving area (sic) so that's -- that's
30 the area where people, they come out for -- that's
31 -- that's meeting area.
- 32 Q Let's -- okay. I'm hoping we have the laser
33 pointer handy. It should be up there.
- 34 MR. VERTLIEB: Thank you, Mr. Giles.
- 35 Q Just point that at the board, not any anybody's
36 eyes, please.
- 37 A Okay. Where am I doing this? Oh, okay.
- 38 Q Thank you. Show us where you -- just very
39 quickly, just -- and then we'll move on -- show us
40 where you were working in the Customs Hall.
- 41 A Okay. So this would be carousels, correct?
- 42 Q Okay. Yes.
- 43 A And this is the airlines counters.
- 44 Q Okay. That's fine, thank you. Now, show the
45 Commissioner, please, which door, if you can find
46 it on that diagram, you came out. Take a moment
47 to have a look.

Marija Bosnjak
In chief by Mr. Vertlieb

1 A So it wouldn't be -- like this is regularly where
2 we go out, this way out.
3 Q Okay. Show us where you regularly go out.
4 A Canada Border, Customs, Immigration, Passenger
5 Service Area. It's -- it's confusing for me,
6 like, when I see the map. Like I'm so good at the
7 area but the map is a little bit confusing for me.
8 Q Do you know an area that's called the Point where
9 the main exit is for people when they give the
10 Customs cards in?
11 A So that would be this area, right? Meeting area
12 here? Would that be the exit?
13 Q Well, okay. Let me -- let me help you.
14 THE COMMISSIONER: Well, why don't you go through it a
15 step at a time there.
16 A Yeah, yeah.
17 MR. VERTLIEB:
18 Q You see the -- you see the red --
19 THE COMMISSIONER: You see where the baggage areas go
20 round and round?
21 A Yes, this is the baggage area so --
22 THE COMMISSIONER: All right. In the bottom left
23 there, in the --
24 MR. VERTLIEB: Right there.
25 THE COMMISSIONER: -- still in the light blue.
26 MR. VERTLIEB:
27 Q Yeah. You see that red mark?
28 A Mm-hmm.
29 Q We've had people who work there tell us that's
30 called the Point, where the main -- where most of
31 the passengers leave when they give their Customs
32 card in.
33 A Oh, okay. Okay.
34 Q Does that help -- does that refresh your memory
35 now?
36 A Yeah, yeah, definitely.
37 Q Okay. All right. Now, is that a way you often
38 would leave if things were normal?
39 A Yes, that's the normal exit usually.
40 Q Fine. Now, can you find, though, where you left
41 this morning after work? Do you know if you came
42 out the normal way or some other way?
43 A It was the other way, but -- okay, so the --
44 Q Look up at the top. Does that help you find --
45 A Immigration? No.
46 Q You see where Immigration is, and you see where
47 the -- yes.

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- 1 A Yeah, Immigration is different. Now, they -- they
2 did big changes in like Immigration/Customs area.
3 But Secondary Section, this is where people --
4 they go to --
- 5 Q That's Customs.
- 6 A -- inspect their bags, Customs, right, okay. So
7 that's where I went. I went out there, was like
8 -- they had usually here the screening machine and
9 you went out this way. So I don't know if that
10 helps you.
- 11 Q That's fine. No, no, we've heard all about the
12 Immigration area and the Customs area from other
13 witnesses.
- 14 A Mm-hmm.
- 15 Q So we know generally what you're talking about.
16 So you came out towards the top part of the
17 Customs area if you're looking at that diagram.
18 Somewhere in there?
- 19 A Yeah.
- 20 Q You mentioned a Burger King.
- 21 A Okay, so what's -- this area here, what is it
22 here? Like I'm a little bit -- like I said, I'm
23 confused with the map.
- 24 Q Okay. Many people have spoken about a walkway to
25 the Immigration office and a Burger King and a Tim
26 Horton's.
- 27 A Mm-hmm. That's the area, that's where I came out.
- 28 Q Okay. That's fine. So you came out. Now, what's
29 the first thing that you remember once you got out
30 the door. I'm not talking about your dealings and
31 observations with Mr. Dziekanski, but prior to
32 that.
- 33 A There was a lady waiting outside, and she was
34 trying to get into that area. And she advised us
35 that she was waiting for her son and she was at
36 the airport for three hours, and she just wanted
37 to go into that area. We advised her that that's
38 not possible because that's the Customs. She's
39 not allowed to go there.
- 40 And then she told us that there is --
41 something's happening over there. There was a
42 gentleman who is throwing stuff and he's very loud
43 and -- so that's why we decide to go over there
44 and see what's -- what's happening over there.
- 45 Q Okay. So when you say "we decided to go over
46 there and see what's happening", tell the
47 Commissioner where you went, what part of the

1 airport did you go? You don't have to point it on
2 the map just yet. Do you know -- what's it
3 called, the area that you went to?
4 A The meeting area where people, they come out.
5 Q Okay.
6 A When they arrive, they come out, and people are
7 waiting there for them.
8 Q So some people have called that the meet-and-greet
9 area.
10 A There you go, yeah.
11 Q And so that's where you went after this woman has
12 -- was telling you what you just have told us.
13 A Correct.
14 Q Now, who's the "we"?
15 A It was me and two of my colleagues.
16 Q And those two colleagues?
17 A It's Alison and Gen.
18 Q Okay. And that's Alison Kula --
19 A Correct.
20 Q That's K-u-l-a. And Genevieve Deziel?
21 A Correct.
22 Q And they worked with you at Horizon?
23 A Correct.
24 Q Okay. So tell us then what you did as you walked
25 over. Tell us what you -- where you went and what
26 you saw when you first went to the meet-and-greet
27 area?
28 A So we went close to the -- where Mr. Dziekanski
29 was, and there was a limousine driver, and so we
30 were talking to him. We were talking to him, and
31 -- and then my -- well, there was -- pretty much
32 Mr. Dziekanski was still behind the glass window
33 and there was people around just watching and
34 nobody was doing nothing about it.
35 So one of my colleagues, she decide to --
36 because she had a cell phone from the company, so
37 she decide that it's good idea to call police. So
38 she was the one who was dialling 9-1-1.
39 Q Where were you when your colleague phoned 9-1-1?
40 A We were together. Most of the time we were
41 together.
42 Q And what part of the airport? Still the meet-and-
43 greet --
44 A It's -- we were all just in that area.
45 Q Okay. Now, you've told us you saw the limo driver
46 talking to him.
47 A Correct.

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- 1 Q And the "him" you mean --
2 A Mr. Dziekanski.
3 Q Okay. Could you hear what was being said between
4 the limo driver and Mr. Dziekanski.
5 A Not really, but I know that he was trying to go in
6 because he was -- he was picking up somebody that
7 night, so he was trying to get into that area, and
8 Mr. Dziekanski wouldn't allow him to get into that
9 area. He put the blockade --
10 Q Okay.
11 A -- so he couldn't go inside.
12 Q Now, how -- approximately how far were you from
13 the limo driver when you first saw the limo driver
14 speaking with Mr. Dziekanski?
15 A It's -- it's just like three, four metres, maybe
16 not even that far.
17 Q Okay. What did you do next after this -- you've
18 just told us about the limo driver trying to get
19 in and he couldn't get in. What did you do next?
20 A Well, we were pretty much staying in that area and
21 then we spoke -- there was that Iranian lady that
22 you spoke previously. We talked to her and she --
23 she told us that she was trying to help Mr.
24 Dziekanski. She was trying to like speak
25 different languages with him, and she could not
26 figure out what language that he speaks.
27 And at one point, 'cause I'm from Europe and,
28 like, seeing Mr. Dziekanski, I could tell that
29 he's somewhere from Europe (sic), but I didn't
30 know exactly from where.
31 At one point, he came outside -- outside of
32 the glass door. He came out and I think he was
33 holding the wooden table. And at one point I ask
34 him, in my language, if he speaks Russian, because
35 I just thought like start with one of the other
36 languages. And one -- at one point he was looking
37 at me, it was like he was looking for somebody to
38 help him. And, after that, I guess -- I don't
39 know if it was one of my colleagues or somebody
40 advising, she said, "Marijanna, you shouldn't get
41 involved. Just pull back, you know, because
42 police is on the way and you shouldn't, like, you
43 know, you shouldn't get involved." So -- so I
44 just pulled back.
45 Q Okay. You said to him in your language that -- in
46 words to find out if he's --
47 A Yeah, in Croatian.

- 1 Q Right.
- 2 A That's my second language.
- 3 Q And did he appear to understand what you said to
4 him in your language?
- 5 A Well, at that point when I was talking to him, he
6 was very calm and he look at me, and it's like he
7 was -- that's what he was looking for. He was
8 looking for somebody to understand him, to help
9 him out.
- 10 Q Did he answer you in any language you understood
11 when you spoke to him?
- 12 A No. He wasn't -- all I heard through all that --
13 even like he was saying the words, "Tu, tu, tu,
14 tu," and at first moment I thought -- well,
15 because we didn't know what language was he
16 speaking, so I thought -- I didn't know the real
17 meaning. But then afterwards I found out, but
18 because I thought it was Ukranian or Russian, but
19 then going back to words, "Tu, tu," in my own
20 language -- or it looks like in Polish same it
21 mean -- it means the same, means like "tu" is
22 "here", like "here, here".
- 23 Q Okay.
- 24 A So that's what he was saying all this time, like
25 "Here, here, here."
- 26 Q Okay. Did you ever try to speak with him directly
27 again?
- 28 A No.
- 29 Q Did you stay in that area, that general area?
- 30 A Yes.
- 31 Q Were you present when the RCMP and security people
32 arrived?
- 33 A Yes.
- 34 Q We've seen -- and I think there's no doubt about
35 this -- that security people from Securiguard came
36 into that area.
- 37 A Correct.
- 38 Q And standing in the walkway leading to the IRL
39 doors?
- 40 A Correct.
- 41 Q I'm not going to ask you about the Security Guard
42 people. They'll be here later.
- 43 Let's now move to the arrival of the police
44 and what happened after they arrived. Where were
45 you standing, more or less, when the police
46 approached?
- 47 A Again was the arrival area, the same area like

1 where you come out of the -- you come out and I
2 was right there.

3 Q Okay. Tell us what you saw once the police came
4 to your area where you were standing?

5 A I remember they came in, rushing, and then I -- I
6 think one of them jumped over the railing and they
7 went straight in, like, to Mr. Dziekanski.

8 Q Okay. Did you see Mr. Dziekanski's face at any
9 time before the police arrived and after they
10 arrived? Did you see him -- did you see his
11 facial --

12 A Yes, yes, like he was like turning around and
13 walking around, but yeah, I -- I did.

14 Q In the few minutes before the police arrived, tell
15 the Commissioner how he appeared to you? What can
16 you tell us about the way he looked?

17 A Was that when police arrived or before?

18 Q Before the police arrived.

19 A Before police arrived, he was -- he was
20 frustrating -- frustrated. He was -- like he --
21 you probably seen how he was throwing stuff and --
22 he was upset with something or someone.

23 Q Did you look at his face as the police arrived or
24 shortly --

25 A Yes, yes.

26 Q -- after the police arrived?

27 A Yes.

28 Q Can you tell us how he appeared then?

29 A I think when he saw police coming, he was kind of
30 relieve (sic). It's like because -- I guess so
31 nobody could help him in his language, but there
32 is the police, and police is always stands there
33 for like they will help you, or they will -- you
34 know. So he was kind of relieved. And all I
35 remember that he put like his hands up, like this,
36 and he was kind of moving away from them.

37 Q Okay. And where did that happen? What part of
38 the airport?

39 A That's before the glass doors, so it's inside.
40 There is a big glass door so it's right inside
41 there and there is a big counter right there.

42 Q And that's, we've heard, is called the IRL?

43 A Correct. Yeah, I'm not good with the names of
44 areas, but I know the airport very well, so...

45 Q As we understand it, you never went into the IRL
46 that morning during this incident.

47 A No, no.

1 Q Once the police were in the IRL with Mr.
2 Dziekanski, can you tell us everything that you --
3 anything that you heard said by the police. Do
4 you remember anything being said?

5 A I don't recall hearing anything. Like I haven't
6 heard anything that -- it was more visual, seeing
7 things. But, no, I couldn't hear because it's a
8 big glass door so you can't actually -- you can't
9 hear much on other side.

10 Q Okay.

11 A But you can see it all, so...

12 Q You have not seen the full Pritchard -- the full
13 video that was taken by Mr. Pritchard, have you?

14 A No. All I seen was on TV, what they had on TV,
15 but it was very short video, so...

16 Q I'm going to -- during the break, we'll ask you to
17 look at that. I won't do it right now.

18 A Sure.

19 Q But I want to ask you a couple of things before we
20 do that. After Mr. Dziekanski was tasered by the
21 police, did you see him after the tasing?

22 A Yes, I did.

23 Q Okay. Did you see -- did you see him on the
24 ground?

25 A Yes, I did.

26 Q Tell us from the time he was on the ground what
27 you remember seeing?

28 A Well, pretty much I saw police officers around
29 him, and like he was kind of fighting it, so like
30 I couldn't see exactly. Like tasing, that was
31 first my (sic) encounter with Taser, Taser guns.
32 So I couldn't -- but I could see that he was like
33 -- he was in pain and he was like just kind of
34 fighting it.

35 And -- and he was kind of moving away towards
36 the right and that's like they were following him,
37 and then somehow he end up on the floor. And then
38 I remember them putting the handcuffs on his
39 wrists. Yeah, that's...

40 Q Okay. Do you have memory after the -- after that?

41 A I do.

42 Q Would you tell the Commissioner, please?

43 A Well, I remember they were all around him, and you
44 could see -- like because it was right open, right
45 in front of us, right? And he stop, like he -- I
46 felt like he stopped breathing, because he wasn't
47 moving anymore.

1 And then after a while, the paramedics, they
2 arrived and they were trying to bring him back,
3 and...
4 Q From the time he was on the ground until he
5 stopped -- as you just said, stopped breathing,
6 can you tell us how long you think that might have
7 been?
8 A Sorry, can you repeat that?
9 Q From the time he was on the ground until he
10 stopped breathing, as you've told the
11 Commissioner, how long do you think that was?
12 A Didn't -- didn't go for a long time. It was very
13 short time I think.
14 Q Would you --
15 A It's hard, you know. It's hard when you're
16 watching all this, so you -- you don't pay
17 attention to time. You don't --
18 Q Right. We under --
19 A -- you don't, like --
20 Q We understand.
21 A -- it's hard for me to say exactly, but I know
22 it's very -- like short -- didn't take long time.
23 Q Now, you were present when the Richmond Fire
24 Department and ambulance people arrived?
25 A Correct.
26 Q Did you speak to any police at the time?
27 A When they arrived?
28 Q Yes.
29 A No, there was just -- I think the fourth police
30 officer, that he was taking like statement, we
31 gave him statement like what happened. But that
32 was earlier.
33 Q Okay. I'm going to have you look at some airport
34 video and you may see that in the video.
35 MR. VERTLIEB: This might, then, be a good time to
36 break, Mr. Commissioner, and we'll come back at
37 2:00, please.
38 THE COMMISSIONER: All right. Two o'clock.
39 MR. VERTLIEB: Thank you.
40 THE REGISTRAR: The hearing is now adjourned until 2:00
41 p.m.
42
43 (PROCEEDINGS ADJOURNED FOR NOON RECESS)
44 (PROCEEDINGS RECONVENED)
45
46 MR. VERTLIEB: Mr. Commissioner, thank you for the
47 opportunity to give us some time. One of the

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1 witnesses, a Mrs. Steckley, was under subpoena and
2 some of our friends have requested she be made
3 available for cross-examination, but I'm pleased
4 to tell you that my friends who wanted her no
5 longer require her attendance. And they're happy
6 if the portions of the audio tapes that have her
7 phone calls on be played, and we can do that at an
8 appropriate time in the proceeding.

9 So given the fact that she was under
10 subpoena, the only thing I would ask you to do is
11 just dismiss her from the subpoena so Mrs.
12 Steckley is then free to leave.

13 THE COMMISSIONER: Yes, take that order.

14 MR. VERTLIEB: Thank you. So then we can continue on,
15 and we'll have Mrs. Bosnjak recalled. We'd had
16 her out of the courtroom but Mr. McGowan has just
17 gone to get her, please.

18
19 MARIJA BOSNJAK, a witness,
20 recalled.
21

22 EXAMINATION IN CHIEF BY MR. VERTLIEB, continuing:
23

24 Q Now, Mrs. Bosnjak, let's have you watch some of
25 the video that we have here. The first that we're
26 going to ask to be played is from the YVR video,
27 and this is provided by the Airport Authority.

28 MR. VERTLIEB: This will be camera, for you, Dr. Perra,
29 22244 and it will be part 2.

30 Just so you know, this is provided by the
31 airport, and this is the airport camera that was
32 on showing the entire wide-angle view of the meet-
33 and-greet area.

34 If we can get that to 1:18 a.m. So this is
35 according to the airport time, 1:18 in the
36 morning. And I just want you to watch that once
37 it comes up and perhaps you can then confirm with
38 the red pointer -- and I'm hoping there's a laser
39 pointer there. Yes, thank you.
40

41 (VIDEO BEING PLAYED)
42

43 DR. PERRA: 1:18:09.

44 MR. VERTLIEB: Thank you.

45 Q Just keep watching for a few more seconds, please.

46 MR. VERTLIEB: Stop there a second.

47 Q Do you see yourself in that?

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1 A Right there (indicating).
2 Q Thank you. Now, you're pushing a wheelchair?
3 A Yes.
4 Q And there's nobody in that wheelchair.
5 A No.
6 Q Why would you be doing that?
7 A Just sometimes we have to take that wheelchair
8 back to back office because --
9 Q So now, just before we watch some more, this is
10 now you and others leaving your work?
11 A Correct.
12 Q Can you tell us who's with you?
13 A This is Alison (indicating).
14 Q Alison, yes.
15 A And this is Gen (indicating).
16 Q And that's Genevieve. So we have the three
17 Horizon Air employees shown in that footage?
18 A Correct.
19 Q Thank you.
20 MR. VERTLIEB: Okay, keep playing, please.
21 Q As we're watching, just tell us where you are
22 walking at this time.
23 A There is elevators right here (indicating) and
24 that's how we go back to international departure,
25 and then we go back to our back office. So we
26 were kind of heading -- we were trying to leave
27 the work, like going to back office, punch out and
28 go home, but then we knew that -- what was
29 happening here, so slowly we are kind of deciding,
30 should we go there or should we not.
31 Q And should you go there, meaning where you heard
32 something?
33 A Yes. Yes.
34 Q Okay. You already told us that a woman had told
35 you about something that she was hearing in that
36 area?
37 A That's correct.
38 Q So now you see that shot right now. Can you see
39 yourself in there?
40 A It's right here somewhere (indicating).
41 Q Now, when you were standing there, could you see
42 the limo driver, Mr. Meltzer, and Mr. Dziekanski?
43 A From this area?
44 Q Yes.
45 A Yes, you can, because there is a stand here but
46 this area is pretty open. So you can see it and
47 it's right here (indicating). He was right here

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1 and Mr. Dziekanski was inside.

2 Q Okay. Let's just watch that for another couple of
3 minutes and see if you can track your movements at
4 all. And if you see yourself moving close, just
5 tell us to stop and tell us that that's you.

6 Do you remember what you're doing just
7 standing there at this time?

8 A What I was doing?

9 Q Yes. You're standing there.

10 A Oh, we were just like looking over, like looking
11 over this area. We were trying to find out what's
12 happening, like in real -- like what was going on.

13 MR. VERTLIEB: Okay. I think that's enough for our
14 purposes now.

15

16 (VIDEO STOPPED)

17

18 Q So we establish you being in that meet-and-greet
19 area -- the YVR clock says around 1:18 in the
20 morning. Are you comfortable with that as --

21 A Yes. Yes.

22 Q -- as a time? Okay. Now, did you end up getting
23 closer to the area where Mr. Dziekanski was?

24 A Yes, later.

25 Q Did you end up trying to speak with Mr.
26 Dziekanski?

27 A Yes, I did.

28 Q And do you remember a woman who was here this
29 morning named Sima Ashrafinia?

30 A I do.

31 Q She's not someone you had ever known prior to this
32 event?

33 A I didn't know her before.

34 Q What I'd like to do is find the portion of the
35 Pritchard video where we think you are trying to
36 speak to Mr. Dziekanski.

37 MR. VERTLIEB: If we can start it at a minute and 30
38 seconds. This is the 4896.

39

40 (VIDEO BEING PLAYED)

41

42 Q We had you look at this over the lunch break.

43 A Right.

44 Q What I want you to do is listen for your voice and
45 tell us to stop.

46 MR. VERTLIEB: Dr. Perra, it's not up on the screen.
47 So can you back it up, please.

Marija Bosnjak
In chief by Mr. Vertlieb

- 1 A That was me.
- 2 Q What were you saying? Do you want to play it back
3 again?
- 4 A I said, "I think he speaks Russian," and then I
5 asked him in English, "Are you Russian?"
- 6 Q And what answer did you get when you asked him in
7 English, "Are you Russian"?
- 8 A He just stopped for the moment. Like I said, he
9 was holding something in his hands, and he looked
10 at me. He was looking at me, and there was no --
11 he wasn't saying anything. He was just like -- I
12 guess waiting for my response or to continue or
13 say more.
- 14 Q Did you say more to Mr. Dziekanski at that time?
- 15 A No, I didn't, because like I said before, somebody
16 told me to pull away because police is on the way
17 and I shouldn't get involved. So I pulled myself
18 away.
- 19 Q Did you ever say anything else to Mr. Dziekanski,
20 ever?
- 21 A After that, no.
- 22 Q So that's the only attempt you made at trying to
23 speak with him or communicate with him?
- 24 A The only one time.
- 25 Q Now, tell us, because you were there, how he
26 appeared to you. By that I mean his facial
27 appearance. What impression did you have?
- 28 A I think he was very confused.
- 29 Q And why do you say that?
- 30 A Why am I saying that? Just by the way he was
31 reacting, the way he was moving and throwing stuff
32 and -- and he was looking like outside, like he
33 was looking for some help or something, something
34 to happen.
- 35 Q Approximately what was the distance you were from
36 Mr. Dziekanski when you attempted to speak with
37 him?
- 38 A I was very close to him at that time.
- 39 Q So can you give us your best estimate of the
40 distance.
- 41 A I would think so. Probably two meters, two --
42 three meters at most, but I think more like two
43 meters. Very close. It's just the -- like there
44 was a railing and I was on the other side. He was
45 on -- across from me.
- 46 Q Would you just pull that microphone a bit closer
47 to you so we can hear.

Marija Bosnjak
In chief by Mr. Vertlieb

1 A All right.

2 Q Thank you. So you were a couple of meters or so?

3 A Correct.

4 Q When you were attempting to speak with him, do you
5 remember if Mrs. Ashrafinia was in your area?

6 A Yeah, she was very close to me and we talked about
7 it. She was telling me how she was trying to help
8 him in different languages. She tried to speak
9 different languages with him. And I guess that's
10 why I tried. I said, because, you know, I'm from
11 Europe, so the European -- Slavic languages are
12 very similar so maybe I can be able to, you know,
13 communicate with him. That's why I attempted to
14 talk to him.

15 MR. VERTLIEB: Now, let's keep that going to the time
16 of the arrival of the police. If you can fast
17 forward that. We may need to go to
18 another -- just stop a second.

19
20 (VIDEO STOPPED)

21
22 MR. VERTLIEB: I think we need the next Pritchard
23 video, 4897.

24
25 (VIDE BEING PLAYED)

26
27 MR. VERTLIEB: And on that video the police are
28 arriving about three minutes 30 seconds or so --
29 3:20 or so, please, of the second Pritchard video.
30 Stop, please.

31 Q Now, looking at that footage right there, we don't
32 see you in there?

33 A That's correct.

34 Q So do you know where you were when the police
35 arrived?

36 A I was probably in this area somewhere here, like
37 behind these chairs, like here somewhere
38 (indicating). Around that area.

39 Q So further back from the glass?

40 A Correct.

41 Q Can you tell us approximately how many feet
42 standing away from the glass you were when the
43 police arrived?

44 A I -- I can't recall exactly like how far, but it
45 was pretty close. Because the area was very open.
46 There was not many people around so...

47 Q Did you stay in the area of the meet-and-greet

Marija Bosnjak
In chief by Mr. Vertlieb

1 lounge after the police arrived?

2 A Yes, I did.

3 Q Had you ever seen a Taser operated before?

4 A No.

5 Q You saw that event happen?

6 A That night, yes.

7 Q I'm not going to take you through it. Others may
8 wish to. After Mr. Dziekanski was on the ground,
9 could you see him, as you discussed earlier,
10 clearly?

11 A Yes.

12 MR. VERTLIEB: Let me see if we can advance that video,
13 please, to four minutes. Four minutes 10 seconds
14 or so. Stop there, please.

15 Q Do you remember where you were standing relative
16 to that scene right there?

17 A Like right this area. We were right there
18 (indicating).

19 Q So you'd be, again, back from the glass?

20 A Yes.

21 Q And that's a glass wall that we're looking at
22 right now?

23 A That's correct.

24 Q So approximately how far were you from the glass
25 wall when you were standing there in that scene
26 right now?

27 A Like we were right there, so it's probably two
28 meters. I don't know.

29 Q Were you able to see inside --

30 A Yes. Yes.

31 Q -- with no difficulty?

32 A Yes. Like we were right -- looking right over
33 there.

34 Q You told us about seeing people from the fire
35 department and ambulance service arrive.

36 A Later, yes.

37 Q About what time did you leave the airport?

38 A Hmm. Not so sure but probably like 2:45 (sic)
39 maybe, maybe later than that.

40

41 (VIDEO STOPPED)

42

43 Q Now, the last part I want to do is, I believe
44 there is a sequence showing you with one of the
45 police officers at about 1:58 on the YVR video.

46 A Okay. So I was longer there.

47 MR. VERTLIEB: Just bear with us one second. That will

60
Marija Bosnjak
In chief by Mr. Vertlieb

1 be camera 22244, part 2. We want 1:57. What time
2 do you have there?
3 DR. PERRA: 1:11.
4 MR. VERTLIEB: What's your time now?
5 DR. PERRA: 1:55:17.
6 MR. VERTLIEB: Somewhere around 1:57, just to get it
7 into context, and then we're going to see if the
8 witness can assist us. Let's stop it there and
9 just go regular time. What's our time now?
10 DR. PERRA: 1:56:25. 1:56:50.
11 MR. VERTLIEB: Thank you.
12 DR. PERRA: 1:57.
13
14 (VIDEO BEING PLAYED)
15
16 MR. VERTLIEB:
17 Q Do you see yourself coming into view?
18 A Yeah.
19 MR. VERTLIEB: Stop, please.
20 A Right there (indicating).
21 Q And to your left on that screen, do you see --
22 A Alison.
23 Q So the two people there are yourself and --
24 A Alison.
25 MR. BUTCHER: What's the time, please?
26 DR. PERRA: 1:58:28.
27 MR. VERTLIEB: Keep running this, please.
28 A Oh, sorry. Sorry.
29 Q Yes, go ahead.
30 A It was not me there. It was Gen and Alison
31 walking, so it wasn't me. Sorry.
32 Q No, that's fine.
33 A Sorry, it's not me.
34 Q That's fine. And so you never were interviewed by
35 an RCMP at that time?
36 A I was.
37 Q Later on?
38 A Later on.
39 Q Yes, okay. So the two people walking out that you
40 just identified are your coworkers that you
41 mentioned who were with you --
42 A Right.
43 Q -- Ms. Deziel and --
44 A Correct, and --
45 Q Ms. Kula?
46 A -- that's the police officer behind them.
47 Q Do you remember where you were at the time that

1 the police officer was behind your two coworkers?
2 A I was probably still there. I was probably still
3 there.

4 Q Now, I just want to be clear before we leave. We
5 know that you were interviewed by the RCMP some
6 days later.

7 A That's correct.

8 Q Were you ever interviewed the morning of October
9 14th by any police officer?

10 A Yes, we were all -- I think all three of us.

11 Q And can you remember what the police officer who
12 interviewed you looked like?

13 A Yes. He was shorter guy, red hair. I remember
14 red hair.

15 Q And do you remember anything about age, rough age?

16 A Thirty-five maybe.

17 Q And where were you when you were interviewed by
18 that police officer?

19 A See how two of them, they are walking this way, so
20 there is a Starbucks this way (indicating). There
21 is Starbucks and Burger King. So that's where we
22 went there and that's where we talked to him.

23 Q So you talked to the officer with your two other
24 coworkers?

25 A Correct.

26 Q And how long did you speak with the RCMP officer?

27 A It was very short time. It was mostly like if he
28 needs our address, phone numbers for, you know,
29 later did he need us for anything. So it was very
30 short.

31

32 (VIDEO STOPPED)

33

34 MR. VERTLIEB: Thank you very much.

35 A You're welcome.

36 MR. KOSTECKYJ: Ms. Bosnjak, my name is Walter
37 Kosteckyj. I'm counsel for Zofia Cisowski. I
38 have a few questions for you.

39

40 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA
41 CISOWSKI:

42

43 Q Before you came out, you were working in the
44 Customs Hall, I take it?

45 A Correct.

46 Q Now, we were told earlier that the Lufthansa
47 counter was down in this area here (indicating).

1 A Actually the Lufthansa counter, it's right next to
2 me.
3 Q All right.
4 A So if they are here (indicating), I was right next
5 to them.
6 Q All right. So what hours were you inside the
7 Customs Hall?
8 A I was working from 3:00 p.m. till 1:00 a.m. That
9 was my scheduled shift.
10 Q And you were in the Customs Hall that whole time?
11 A Except when we have a break or we go for coffee
12 break, then we exit the area. But we were mostly
13 there.
14 Q And you see that number 23 on --
15 A Counter -- the carousel? Yes.
16 Q Carousel 23.
17 A Mm-hmm.
18 Q Are you quite close to carousel 23 where your
19 station is?
20 A I can see carousel 23.
21 Q My question is, prior to this, so prior to seeing
22 Mr. Dziekanski outside, during the course of your
23 shift did you ever remember seeing Mr. Dziekanski?
24 A No.
25 Q So you saw him -- you weren't reminded, oh, I saw
26 that guy earlier, or I saw him causing --
27 A No --
28 Q -- a problem --
29 A -- definitely not.
30 Q -- or anything like that?
31 A Definitely not.
32 Q All right. Now, when you came out of the Customs
33 Hall and you came out by the Burger King?
34 A Mm-hmm.
35 Q We saw you. There was a lady that came up to you.
36 A Correct.
37 Q And she seemed to be fairly animated when we were
38 watching on the video.
39 A Mm-hmm.
40 Q And she seemed to be fairly excited about what was
41 going on.
42 A Yeah.
43 Q Is that a fair assessment?
44 A Correct, yes.
45 Q And what, if any, opinion did you form about this
46 lady? Did you come to any conclusions about what
47 she was saying or her demeanour and so forth?

1 A Well, I don't know exactly why she was reacting
2 the way she was reacting. Was she -- was
3 something to do because she was waiting for her
4 son, who wouldn't show up for three hours and she
5 was like -- or she was -- what's happening around,
6 but she was very like -- upset or, you know...
7 Q Emotional?
8 A Emotional, there you go. That's the word.
9 Q And that was about her son not showing up for so
10 many hours --
11 A Correct.
12 Q -- and she was worried about that?
13 A Correct.
14 Q Okay. Now, when you got out and you could see the
15 area where Mr. Dziekanski was, he was already
16 inside, on the secure side of the doors --
17 A Correct.
18 Q -- opening doors, correct?
19 A Correct.
20 Q So you didn't see anything about before he got
21 into that secure side?
22 A No.
23 Q So he was already in there?
24 A Correct.
25 Q Now, when you went up to the area and started to
26 watch, you saw Mr. Dziekanski and the limo driver
27 exchanging words, did you not?
28 A Yes.
29 Q You gave a statement to the RCMP on October the
30 18th, 2007?
31 A Correct.
32 Q Have you had a chance to read that statement
33 before you came today?
34 A Yeah, I did a little bit. Yeah.
35 Q And does it refresh your memory a bit about the
36 events, help you to remember?
37 A It does, yeah.
38 Q Well, one of the things that you mentioned in that
39 statement was that you thought that the limo
40 driver was provoking Mr. Dziekanski in his
41 behaviour. Do you recollect that?
42 A I do, because I remember the limousine driver
43 telling us that he was trying to get into the area
44 and because he was expecting to pick up somebody,
45 and he couldn't do that because the area was
46 blockade. So Mr. Dziekanski put the chairs so no
47 one could get into that area. But I didn't hear

- 1 anything going between two of them, no
2 conversation, just he was outside trying to get
3 in.
- 4 Q Well, one of the things you said in your statement
5 was he was provoking him.
6
- 7 But I guess the guy wouldn't let him in so I
8 think he was provoking him.
9
- 10 That's what you said in your statement. Do you
11 recollect that?
- 12 A It was long time ago but...
- 13 Q Well, I'll give you copy of your statement.
- 14 A Mm-hmm.
- 15 Q It's on the first page right towards the last
16 third of the page. And it says:
17
- 18 But I guess this guy wouldn't let him in so I
19 think he was ... provoke, provoking him.
20
- 21 A Mm-hmm.
- 22 Q Do you see that there?
- 23 A Yeah.
- 24 Q So was the limo driver provoking Mr. Dziekanski?
25 Was he making it worse?
- 26 A Well, maybe that's what I was assuming by like his
27 reaction, how he was reacting, that something must
28 set him off to made him do what he was doing.
- 29 Q But that was your sense. When you gave the
30 statement on October the 18th and you were telling
31 your story for the first time really to the
32 police --
- 33 A Right.
- 34 Q -- that was your immediate memory was that Mr.
35 Dziekanski was being provoked by the limo driver,
36 correct?
- 37 A That's what I said.
- 38 Q Yes. And when you were asked in your first
39 narrative -- and what I mean by that is when the
40 constable just turned on the tape and he asked you
41 to tell your story your own way --
- 42 A Mm-hmm.
- 43 Q -- those are the words that you used without
44 anybody asking you any questions. That's how you
45 told your story, correct?
- 46 A Correct.
- 47 Q And then you also were asked about -- and it's

1 maybe five or six lines from the bottom on that
2 first page. Towards the bottom you said, in your
3 view, "...he was scared, like something happened
4 to him." That's the way that you saw Mr.
5 Dziekanski at that time.
6 A Yes.
7 Q That was your impression --
8 A Yes.
9 Q -- the first time you told your story to the
10 police?
11 A Correct.
12 Q All right. Now, when you spoke to Mr. Dziekanski
13 briefly --
14 A I try to, yeah.
15 Q You tried to.
16 A Mm-hmm.
17 Q You did get a reaction. He stopped and --
18 A Yes, he look at me. Yeah.
19 Q He was looking for you to say something more?
20 A Yes.
21 Q Is that fair?
22 A Correct.
23 Q And that's when your friends, your colleagues,
24 suggested to you, well, we got to back off.
25 A Yes.
26 Q So you didn't get a chance to do anything more?
27 A Yes. Yes.
28 Q But when you did speak to him initially, he
29 responded to you?
30 A Correct.
31 Q All right. When the police came, was it made
32 clear to them that Mr. Dziekanski didn't speak
33 English? Do you remember that without having to
34 watch --
35 A I remember saying, "I think he needs" -- "he
36 doesn't understand the language. He needs help
37 with the language." I remember saying something
38 like that.
39 Q And other people were saying the same thing?
40 A Yes.
41 Q So the police, it was made clear to them that he
42 needed an interpreter?
43 A Correct.
44 Q And you expected that somebody was going to get an
45 interpreter? Is that what your expectation was?
46 A Correct.
47 Q Okay. Now, in the time that you were waiting

1 there, did it take some time for the security
2 guards to arrive?
3 A It did.
4 Q And I think in your statement at the time, you
5 thought that it took ten to fifteen minutes. Is
6 that an accurate reflection of what your memory
7 is?
8 A It's possible. It was quite while. I was
9 surprised myself that it took while for anybody to
10 show up.
11 Q Now, after Mr. Dziekanski was Tasered and he fell
12 to the floor -- you saw him fall?
13 A Yes.
14 Q You could hear his moans of pain, correct?
15 A Yes.
16 Q It was clear to you that he was in a lot of pain?
17 A Yes.
18 Q And did you see him curl up in the fetal position
19 to protect himself?
20 A Yes.
21 Q Now, afterwards, after he was handcuffed, did you
22 see the police officers ever try to help Mr.
23 Dziekanski? Did you see them taking his pulse?
24 Did you see them trying to give him any kind of
25 first aid?
26 A No, I don't.
27 Q You don't recollect seeing that?
28 A I cannot -- I don't recall that.
29 Q I want to be clear about this. Between the time
30 that you saw Mr. Dziekanski go to the floor and
31 the time that the ambulance arrived, or the
32 firefighters, did that seem like some good amount
33 of time had passed?
34 A It did.
35 Q And you were still in the same area in that --
36 A Yeah.
37 Q -- meeting area?
38 A Yes.
39 Q Watching what was --
40 A Very close to, yeah. Very close.
41 Q Watching what was happening?
42 A Yes.
43 Q And I just want to be very clear. During that, do
44 you have any recollection today, between the time
45 that he went down to the time that the first aid
46 attendants, the first responders, the firemen
47 showed up, do you recollect at any time seeing any

1 police officer offer assistance to Mr. Dziekanski?
2 Any kind of first aid?
3 A I don't remember seeing anything, no. Like they
4 were -- they were around him but I didn't see any
5 like --
6 Q You didn't see any kind of first aid?
7 A No.
8 Q Do you remember anybody checking his pulse, seeing
9 if he was still breathing? Do you remember seeing
10 anything like that, or not?
11 A I can't remember.
12 Q You don't remember that?
13 A No.
14 Q All right. Do you recollect seeing Mr. Dziekanski
15 change colour? Were you close enough to be able
16 to see whether or not his colour was changing, in
17 his face for example?
18 A I think -- I think I do at one point, yeah.
19 Q I know it's very difficult now, but do you have
20 any sense whether that was before the firemen
21 arrived or after?
22 A Before.
23 Q Before. One of the things was that you felt very
24 uncomfortable at one point watching Mr. Dziekanski
25 on the floor, and you told your colleagues:
26
27 I said, "I don't feel good about it."
28 A Yes.
29 Q Do you remember that?
30 A I said that, yeah.
31 Q That's because you felt very uncomfortable at the
32 thought of being there while there was a man
33 dying. Is that an accurate assessment?
34 A I just didn't feel good about whole situation.
35 Like I just didn't feel -- I just felt that -- I
36 don't know how to explain it. Just --
37 Q Well, do your best. I know it's a very difficult
38 time.
39 A I felt like -- why I say that, because I thought
40 that's it, like this -- like he's -- they will not
41 bring him back. That's the feeling I had. That's
42 why I said that.
43 Q And was that before the firemen arrived?
44 A No, after, when they try to bring him back.
45 Q Now, I know this is very difficult, but at the
46 same time, do you recollect when, after the police
47 officers dealt with Mr. Dziekanski, whether he was

1 on his front or on his back? Just from your
2 memory, without looking at the tape. Do you
3 remember that?

4 A I think he was on stomach, laying on stomach, and
5 you could see the handcuffs on the back of his...

6 Q Did you ever see -- after the police officers
7 Tasered him and he was laying there, did you ever
8 see any of the police officers reach over and try
9 to turn him in any direction?

10 A I can't comment on that. Like I just -- I'm not
11 sure.

12 Q You don't have a memory of them doing that?

13 A Yes.

14 Q Okay. Now, you saw on the video just a few
15 minutes ago the video of the police officer
16 leaving with your two colleagues to take a
17 statement.

18 A Correct.

19 Q Was that the first time you remember that police
20 officer being outside of the IRL or --

21 A No.

22 Q Was he out a little bit earlier than that?

23 A Yes. Yes.

24 Q Do you know how long he was out for?

25 A I know he was talking to some people there,
26 probably trying to find out -- he was writing on
27 his notebook --

28 Q Yes.

29 A -- trying to find out what happened, or you know,
30 he was trying to get information from people.

31 Q Do you have any sense of how long that may have
32 been that he was out?

33 A How long time?

34 Q Yeah.

35 A Like --

36 Q Was it a few minutes before that or had it been
37 for some length of time, or if you can't tell
38 us --

39 A That was -- that was before -- like he was on side
40 from the rest of the officers, that gentleman.

41 Q Right. Inside the IRL?

42 A Yeah. Those -- three of them were inside but that
43 gentleman was outside --

44 Q Okay.

45 A -- taking information.

46 Q Do you know when he started to take information in
47 relation to these things? And if you don't --

Marija Bosnjak

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

1 A It's hard to like exact the time. I don't want to
2 say the wrong thing so...

3 Q You don't really have a recollection of that, of
4 when?

5 A About timing?

6 Q Yeah.

7 A No. No.

8 Q Now, based upon what you said in your statement at
9 the time, and your recollection today, did you
10 think Mr. Dziekanski was dangerous, or did you
11 think that he was somebody who seemed to need
12 help?

13 A Definitely he was a person who needed help.

14 MR. KOSTECKYJ: Thank you. Those are my questions.

15 MS. ROBERTS: Ms. Bosnjak, my name is Helen Roberts.

16 I'm a lawyer for the Government of Canada.

17 A Hi.

18

19 CROSS-EXAMINATION BY MS. ROBERTS ON BEHALF OF THE
20 GOVERNMENT OF CANADA:

21

22 Q Do you still have in front of you the statement?
23 I think Mr. Kosteckyj gave it to you.

24 A Yes. Yes.

25 Q Thank you. I was just going to ask you about a
26 few things in your statement.

27 A Sure.

28 Q This was a statement you gave to one of the
29 investigators on October 18th, 2007?

30 A That's correct.

31 Q That's at the top of the page?

32 A Correct.

33 Q Same one? Great. At the bottom of page 4 of that
34 statement, if you'd like to look at it, Corporal
35 Brassington asked you a question. He said:

36

37 Um what, tell me again, what was he doing ...
38 when you saw the gentleman?

39

40 Do you see the question at the bottom of page 4?

41 A So page 4 of 10?

42 Q Yes.

43 A That's the one. Okay.

44 Q It's the very last question on the page.

45 A So what question is --

46 Q The very last line on the page.

47 A Okay, it says -- is it from the -- "tell me again,

- 1 what was he doing ... when you saw the gentleman?"
2 Is that the one?
3 Q Yes. That's what I wanted to draw your attention
4 to.
5 A Mm-hmm. Mm-hmm.
6 Q And then I'm just going to read your answer on the
7 next page and ask you if you remember saying this.
8 A Yes.
9 Q And you said:
10
11 Um ... he was saying, like he was screaming,
12 he was saying to-to-to, right.
13
14 A Yes.
15 Q And then of cour-, I found out that-that word
16 means crazy in ... Russian or Polish,
17 whatever. So he was just like kind of ...
18 moving around, grabbing things, you know and
19 ah at one point he did ah ...
20
21 And there was a word they couldn't make out.
22
23 ... to the computer he throw it through the
24 ... ah window, he did that but I think ... he
25 was ... I don't know if that guy was --
26
27 Again another problem word.
28
29 ... and he was trying to enter [...] easily,
30 I mean you don't have right to ... do stuff
31 like that, you know. But ah ... so pretty
32 much ... to me ... he was guy who ... he, he
33 needed talk, he's not for some reason,
34 something happened in the thing that, I don't
35 know, if you know what happened but ...
36 something make him ...
37
38 And the officer says, "Okay." And you say:
39
40 ... snap and to me he was a sick man ... who
41 needed help.
42
43 A Okay.
44 Q Do you remember saying that to the police officer?
45 A Well, that's my words. Probably -- yeah.
46 Q And is that how you saw things at the time?
47 A Well, now when I'm reading this, I was very -- you

- 1 have to understand I was shaken after what I seen.
2 So maybe it was like words weren't coming my way
3 out. You know, maybe that's why it's -- it's the
4 way it says there, right?
- 5 Q Oh, I'm not worried about the fact there aren't
6 full sentences.
- 7 A Yeah, yeah.
- 8 Q Often people talk that way.
- 9 A Okay. Okay. But that's what I said, yes.
- 10 Q And just to be clear, this was on October 18th.
11 This was four days later.
- 12 A Yes, yes.
- 13 Q This wasn't at the scene?
- 14 A Yes. But I was working that day and they kind of
15 pulled me away from my counter and passengers were
16 coming and it was very uncomfortable situation.
17 So, yeah.
- 18 Q But that's what you told the police officer?
- 19 A Yes. Yes.
- 20 Q That was your best recollection then?
- 21 A Yes.
- 22 Q And that's indeed what you remember happened?
23 That's what you saw?
- 24 A Yes.
- 25 Q Mr. Kosteckyj asked you how Mr. Dziekanski was on
26 the floor after he went to the ground.
- 27 A Mm-hmm.
- 28 Q You remember that?
- 29 A Mm-hmm.
- 30 Q Your colleague, Genevieve, Gen --
- 31 A Mm-hmm.
- 32 Q -- Deziel gave a statement to the police and I'm
33 just going to read you what she said and see if
34 you agree with that or if that helps you remember.
- 35 A Yes. Yes.
- 36 Q And you said -- it doesn't really matter but I'm
37 at the bottom of page 2 of her statement.
- 38 A Mm-hmm. Mm-hmm.
- 39 Q
- 40 And the four of them were on top of him.
41 Then finally they handcuffed him on his back.
42 And he was lying [out] on his side. His face
43 was towards, wasn't towards us.
- 44
- 45 Does that help you remember the position that Mr.
46 Dziekanski was in, that he was on his side facing
47 away from you? Or do you disagree and remember it

1 differently?

2 A I remember him being on his stomach and his hands
3 behind. That's how I remember.

4 Q Another question you were asked by Mr. Kosteckyj
5 was whether any of the police officers assisted
6 Mr. Dziekanski when he was on the ground.

7 A Yes.

8 Q And your colleague -- we have a statement from an
9 Alison Dyck.

10 A Mm-hmm.

11 Q Is that --

12 A Yeah, that's my --

13 Q -- the woman you were working with?

14 A Mm-hmm.

15 Q All right. And she was asked about what happened
16 after Mr. Dziekanski was on the ground. And I'll
17 just read you her statement and see if you agree
18 or if that helps your memory.

19 A Sure.

20 Q She said at -- I'd better start, to put it in
21 context:

22

23 And he fell to the ground and then they
24 cuffed him. [...] And [...] at that point
25 most of them were, were standing around, just
26 all ... around him. [...] And ... at that
27 point one of the officers went down to check
28 his pulse points. [...] I saw them on the
29 radio. And then [...] they ... the one just
30 kept by his side, checking his pulse. And
31 the others, one of the others had come out to
32 ask questions. [...] And basically that's
33 how it was until the, the fire department
34 showed up.

35

36 Does that help your memory or is that what you
37 saw?

38 A Well, like -- I said I saw them around, so -- but
39 I cannot recall -- like I don't remember that act,
40 like them checking for this, so I don't want to
41 say something. It could happen. It could be
42 correct, but it's not something that I seen
43 like -- or I cannot recall that.

44 Q When you were standing with your colleagues --

45 A Yes, we were like together.

46 Q And you would have been talking to them about what
47 was going on to some extent?

Marija Bosnjak

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

- 1 A About what happened that night, like later, or --
2 Q Well, at the time.
3 A That night?
4 Q At the time. You're watching something quite
5 unusual.
6 A Mm-hmm.
7 Q You would be sitting and --
8 A No, we were --
9 Q -- chatting to them?
10 A No, we were very much in shock, like all of us,
11 you know. We are all different -- we are
12 different personality people so we different
13 express ourselves. Some people didn't talk about
14 it. Some people did talk about it.
15 Q All right. But your attention wouldn't have been
16 wholly on Mr. Dziekanski the entire time?
17 A No.
18 MS. ROBERTS: Thank you. Those are my questions.
19 MR. HIRA: Ms. Bosnjak, my name is Ravi Hira. I
20 represent Constable Millington. I've just got a
21 couple of questions for you.
22
23 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE
24 KWESI MILLINGTON:
25
26 Q First dealing with the limousine driver, you saw
27 him interact with Mr. Dziekanski; isn't that
28 correct?
29 A Sorry?
30 Q You saw him interact with Mr. Dziekanski; isn't
31 that correct?
32 A Correct.
33 Q And it was about that time that Mr. Dziekanski
34 threw a chair?
35 A I cannot answer that because I'm not sure.
36 Q Fair enough. Would you agree with me that you
37 were of the view that the limo driver wanted to
38 get by Mr. Dziekanski?
39 A That's correct. And he told us previously, you
40 know, that that's what he was trying to do.
41 Q But he didn't -- you were also of the view that he
42 didn't go past Mr. Dziekanski because he was
43 scared of Mr. Dziekanski?
44 A Well, the area was blocked so pretty much he
45 couldn't go through the blocked area, right? And
46 Mr. Dziekanski was right there.
47 Q And you were also of the view that the limo driver

Marija Bosnjak

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

1 was scared of him?

2 A (No audible response)

3 Q Well, why don't we go to your statement for a
4 moment.

5 A Okay. Okay.

6 Q Do you have page 5 of your statement?

7 A Yeah.

8 Q At three-quarters of the way down your statement
9 -- two-thirds of the way down you say, "... showed
10 up." The police officer says, "Mm-hmm." And you
11 say:

12

13 So ... and he was trying to enter inside but
14 I guess that he couldn't because he's ...
15 this guy threw the chair. And he wouldn't
16 allow him in.

17

18 Now, you said that to the police officer, correct?

19 A I'm assuming that -- that's my words. Like I
20 said, it was a long time ago, but that's -- I
21 admit that has to be my words.

22 Q Yeah. And the person that was trying to enter
23 inside was the limo driver, correct?

24 A Correct.

25 Q And the guy who threw the chair was Mr.
26 Dziekanski, correct?

27 A Correct.

28 Q And the guy who wouldn't let him in was Mr.
29 Dziekanski, correct?

30 A Correct.

31 Q And then it continues. The police officer says,
32 "Okay." Do you see that on your statement?

33 A Mm-hmm.

34 Q And then you say:

35

36 And the guy was ... scared but at same time
37 he was trying to get in.

38

39 Did you say that to the police officer?

40 A Yeah. But I -- when I say scared, for some reason
41 I think I was thinking about Mr. Dziekanski, for
42 some reason. So maybe the way was put here or the
43 way I was talking, you know -- but I never -- I
44 don't think I saw limousine driver being scared.

45 Q Okay. So Mr. Dziekanski looked scared?

46 A I think this was about Mr. Dziekanski. That's how
47 I --

Marija Bosnjak

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

1 Q Fair enough. The only other area that I wanted to
2 just ask you about is, you told the police when
3 you provided the statement that the gentleman
4 didn't go down right away, that he continued
5 fighting. He continued fighting when he was on
6 the ground. Is that your recollection?

7 A Yes.

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

9 MR: HARRIS: Madam, my name is Reg Harris. I'm a
10 lawyer for one of the police officers that were
11 there on that unfortunate evening.
12

13 CROSS-EXAMINATION BY MR. HARRIS ON BEHALF OF CORPORAL
14 BENJAMIN ROBINSON:
15

16 Q If I understand what you've shared with us, at the
17 time you were working for Horizon Airlines,
18 correct?

19 A Correct.

20 Q And you were in the position of helping customers?
21 You were a service person; is that right?

22 A Correct.

23 Q And by that you were comfortable in going forward
24 and offering assistance to those customers that
25 came and sought assistance from you?

26 A Yes, sir.

27 Q And if you saw someone around looking in distress
28 or in need of assistance, you strike me as the
29 type of person that would go forth, take the
30 initiative and help them.

31 A Definitely.

32 Q Now, on this unfortunate night when you were in
33 the meet-and-greet area, you saw Mr. Dziekanski
34 and it was quite evident to you, I've heard you
35 say, that it looked like he needed help. Do you
36 agree with that?

37 A Correct.

38 Q And you weren't afraid of him. You've told us
39 that, correct?

40 A No.

41 Q Am I right about that?

42 A Correct.

43 Q And the reason why you weren't afraid of him is
44 because he never came towards you, he never did
45 anything directed at you personally. Would that
46 be a fair statement?

47 A Well, he came in front of me, very close with the

1 chair in his hands.
2 Q All right. How far away were you from him?
3 A Like I said, two meters maybe.
4 Q There was a barrier between --
5 A Yes, there is a --
6 Q -- between you and him?
7 A -- the glass barrier, yeah, between us.
8 Q All right. And nevertheless, you didn't walk up
9 the approach way to the doors into the IRL?
10 A No. No.
11 Q You didn't go to him and get within a personal
12 conversation space with him, to use a soft, gentle
13 voice and motion "calm down" with him? You didn't
14 do that, did you?
15 A No.
16 Q When you've dealt with people and customers,
17 you've come in close to help them?
18 A Yes.
19 Q And though he didn't do anything threatening to
20 you, you didn't want to take the chance of getting
21 in that close with him. Would that be fair?
22 A I -- I was not afraid.
23 Q Was there anything preventing you from walking up
24 that barrier right to him?
25 A It was -- like I said, my colleagues or whoever
26 told me to stay away, police is coming. That's
27 why I pulled away. Because -- just because of my
28 job and I didn't want to get involved too much,
29 so...
30 Q I don't understand. Because of your job you
31 didn't want to help this man?
32 A No, no, no. I wanted to help him, but like they
33 told me, "Marijanna, pull away," so that's why I
34 kind of pulled away because the police is coming
35 so I just -- like I said, they are coming.
36 They're on their way. They're going to --
37 Q I guess from your perception, it seemed to you
38 that your colleagues were a little bit worried and
39 they wanted you to back away. Would that be fair?
40 A That's something you have to ask them.
41 Q No, from your perception --
42 A Yeah.
43 Q -- of their comments to you. They usually don't
44 tell you to back away, do they?
45 A Well, there is people who -- they want to get
46 involved in certain situations. Some people, they
47 don't. So it would be like just the way they saw

Marija Bosnjak

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

1 this, like their personal opinion, right?

2 Q Did it seem to you that they were concerned for
3 you?

4 A I can't answer that, sir.

5 MR. HARRIS: All right. Thank you.

6 THE COMMISSIONER: Yes, Mr. Stewart.

7 MR. STEWART: Thank you, Mr. Commissioner. Help me if
8 I pronounce name incorrectly. Boshniak
9 (phonetic)?

10 A Boshniak, yes.

11 MR. STEWART: Ms. Bosnjak, I'm Dwight Stewart and I'm
12 the lawyer for the airport.

13 A Okay.

14

15 CROSS-EXAMINATION BY MR. STEWART ON BEHALF OF THE
16 VANCOUVER AIRPORT AUTHORITY:

17

18 Q Just a few questions in terms of your background.
19 You mentioned in response to the question from
20 Mr. Vertlieb, I think you said that Croatian was
21 your second language?

22 A Correct.

23 Q What was your first language?

24 A Oh, sorry. Croatian is my first language.
25 English is my second language. Sorry.

26 Q Oh, okay.

27 A There you go.

28 Q And do you speak any other languages?

29 A Just few words of other languages but nothing
30 like --

31 Q Okay. And I just wanted to clear this up, because
32 I thought that in direct you indicated -- and I
33 could be wrong -- that you tried to speak a couple
34 of words to Mr. Dziekanski --

35 A Correct.

36 Q -- in Croatian?

37 A Correct.

38 Q So when you looked at the video and then you
39 identified that you'd said the word "Russian" to
40 Mr. Dziekanski --

41 A Mm-hmm.

42 Q -- and that he paused but that you didn't get an
43 opportunity to continue because your friends
44 wanted you to retreat. That's not suggesting that
45 you hadn't -- those are two separate
46 recollections? You did say a few words to Mr.
47 Dziekanski in Croatian?

Marija Bosnjak

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

1 A Correct.

2 Q Okay. And what was his reaction? Did he react at
3 all to your words in Croatian?

4 A When I talked to him, like I said, at one point he
5 stopped and he look at me and it's like -- the way
6 I see it, he was hoping that I'll be able to help
7 him, right? Because I think that's what he was
8 looking for, for somebody to ask him, you know,
9 like --

10 Q Yes. But was that in response to you saying the
11 word "Russian"?

12 A Yes.

13 Q That night you weren't able to determine what
14 nationality Mr. Dziekanski was, were you?

15 A There was no way to -- like I -- just by looking
16 at him, I could see he's from Eastern Europe, but
17 I didn't know from where.

18 Q That was just a guess by manner of dress et
19 cetera, or --

20 A It's the look. It's the one thing, you're from
21 Europe, you know. We recognize each other, right?

22 Q Okay. But you did hear Mr. Dziekanski saying some
23 words, yes? He was shouting out at points?

24 A Yes.

25 Q But you weren't able to --

26 A There is no way to pick up -- like all Slavic
27 languages are very similar so it's very hard to
28 pick up what language is it if you don't speak the
29 language.

30 Q Okay. You mentioned that it felt like it was a
31 long time before security came, and we can figure
32 out how long it took for security to come through
33 some of the videos and the audio, et cetera. But
34 there's one thing that I read in your statement
35 that was interesting to me. Do you now have a
36 recollection that the limousine driver said to you
37 that he had gone to look for security but couldn't
38 find anyone?

39 A I don't recall that. Is that says in my
40 statement? I cannot remember that.

41 Q Yeah, it struck me as odd too because Mr. Meltzer
42 was here and he very clearly spoke with a security
43 officer and then had come back. He was actually
44 just coming back from there at the moment where we
45 see on the video that you almost crossed paths
46 with the limousine driver. When you saw that, did
47 you have any recollection of speaking with the

Marija Bosnjak
Cross-exam by Mr. Stewart (for Vancouver Airport
Authority)

- 1 limousine driver at that point?
2 A Yeah, we talked to him.
3 Q Oh, okay.
4 A We did.
5 Q Yeah.
6 A That was before -- before like when we came there
7 he spoke to us. And actually I know him. Like
8 from work we see each other, hi, you know. Like
9 I --
10 Q You've seen him around the airport before?
11 A Yes. Yes, we know each other, so...
12 Q Okay. Okay. I'll just, if I can refresh your
13 recollection -- and this is at page 5 of 10 of
14 your statement. Do you still have it there with
15 you?
16 A Yeah.
17 Q And it's right in the middle. Corporal
18 Brassington says:
19
20 Okay, okay. Um you mentioned something about
21 a limousine driver, tell me about that?
22
23 And then you say:
24
25 Ah that was the gentleman who like he told us
26 what was going on and he said he was trying
27 to call security and ah nobody ... nobody was
28 there.
29
30 Did that add to your frustration, just that you
31 didn't know whether someone was coming or not?
32 You didn't know what was happening?
33 A I guess this was something that I remember
34 calling -- him telling me, so that's...
35 Q Okay.
36 MR. KOSTECKYJ: With respect, the rest of the answer
37 was, "Like at least I think it was twenty minutes
38 nobody ..."
39 MR. STEWART: Thank you, Mr. Kosteckyj.
40 Q That actually assists because I'll say -- and we
41 could go back and look at the video. It's about
42 1:18 when you appear on the video, and I think
43 that Mr. Vertlieb established that when he was
44 showing you the video.
45 A Okay.
46 Q And it's about 1:25, 1:24 and some seconds --
47 A Mm-hmm. Mm-hmm.

- 1 Q -- that security actually is at the scene. So
2 it's about eight minutes. And it's fair -- there
3 you said twenty and today you were thinking ten to
4 fifteen.
- 5 A Yeah. It's hard, the time, a little bit, yeah.
- 6 Q And is it fair that in that situation where you're
7 sort of watching something unfold that sort of
8 things seem to slow down kind of?
- 9 A Oh yeah, definitely.
- 10 Q You're sort of waiting and waiting and --
- 11 A Sometimes goes too fast, sometimes goes --
- 12 Q Okay. And was it made worse in part because Mr.
13 Meltzer had just said nobody was there?
- 14 A Yeah.
- 15 Q Okay. And I just wanted to be clear. You
16 assisted my friends in terms of just establishing
17 that you didn't see RCMP officers taking the
18 pulse, just that wasn't your observation. And I
19 just wanted to confirm. Did you happen to see
20 that there was a security guard that knelt down
21 and took Mr. Dziekanski's pulse right at his neck?
- 22 A (No audible response).
- 23 Q It's on the video.
- 24 A Yeah. See, that's why -- like I -- with me, I
25 don't want to go by video. I want to --
- 26 Q Okay.
- 27 A I think that's fair enough to say what --
- 28 Q You just don't have --
- 29 A You're asking me to say what I seen so I'm telling
30 you what I know.
- 31 Q You don't have an independent recollection of
32 that?
- 33 A No. No.
- 34 Q Okay. And I take it in the time that you worked
35 at the airport that you've seen people that have
36 been sick at the airport before and have needed
37 medical assistance?
- 38 A Yes.
- 39 Q Do I take it that this night, just having observed
40 this situation with Mr. Dziekanski, that it felt
41 different than what you'd seen before?
- 42 A I think so.
- 43 Q And is it safe to say that sort of your -- that
44 even in those moments afterwards -- I'm not asking
45 this medically but just the way that you felt --
46 that you were just in shock?
- 47 A Like regarding what, in shock?

1 Q Just that you hadn't experienced anything like
2 that at the airport before.

3 A Before, correct.

4 Q Okay.

5 A Correct.

6 MR. STEWART: Those are all my questions. Thank you.

7 A Thank you.

8 THE COMMISSIONER: Yes, Mr. Neave.

9 MR. NEAVE: Thank you, Mr. Commissioner. For the
10 record, David Neave for TASER International.

11

12 CROSS-EXAMINATION BY MR. NEAVE ON BEHALF OF TASER
13 INTERNATIONAL:

14

15 Q Ms. Bosnjak, I'm counsel for TASER. I have
16 several questions for you.

17 A Go ahead.

18 Q I can appreciate that giving evidence in this
19 proceeding is difficult when you're being asked to
20 recall with precision events which occurred some
21 time ago. Is that fair?

22 A (No audible response)

23 Q And your ability to recall events precisely is, I
24 think, probably complicated by having seen various
25 pieces of news media coverage about the event. Is
26 that fair?

27 A I try to stick with what I seen, you know, so...

28 Q And I take it you've also read various articles in
29 the news media about this matter?

30 A Yes.

31 Q And I understand -- and you've been shown your
32 statement from the 18th of October 2007 that you
33 gave to Corporal Brassington.

34 A Mm-hmm.

35 Q At the time you gave the statement, you were
36 endeavouring to assist the police in their
37 investigation as much as possible. Is that fair?

38 A Correct.

39 Q And the information that you were giving to the
40 police at that time, several days after the event,
41 were your best recollection of the events as they
42 occurred in the previous days?

43 A Correct.

44 Q And the statements that you gave were true; is
45 that correct?

46 A That's correct.

47 Q Now, let me ask you, because in your statement --

1 do you have your statement with you?

2 A Yes, I do.

3 Q If you can turn to the second page, please.

4 A Okay.

5 Q And you will see, Ms. Bosnjak, about three-
6 quarters of the way down, the reference to a
7 laser, but I think that's a Taser. It's --

8 A Taser, yeah.

9 Q -- on the right-hand side, you see, above -- it
10 reads: "a laser" -- and then there's a
11 "(PHONETIC)" -- "gun." Are you with me?

12 A Yeah.

13 Q Okay. Let me read what you said to the constable.

14
15 ... a laser [...] gun ... but I try to read a
16 little bit about it and ah I guess so they
17 ah, when you use it eh ... it's supposed to
18 put you down right away ... but the gentleman
19 was kind of fighting-fighting so for some
20 reason maybe took um ... a little bit longer
21 for him ... and then at one point he went
22 down .. and um I remember they put the
23 handcuffs on his back and he was still moving
24 his hands a little bit

25

26 And then you go on and say:

27

28 and then [...] there was nothing.

29

30 Have I read that properly?

31 A No, it's just like it's different when you like --
32 you read after it, you know, what you said. But
33 that's -- like it says "laser" but I know
34 difference between laser and Taser, so --

35 Q Okay.

36 A -- I mean --

37 Q Was that statement true?

38 A Correct.

39 Q And you would agree with me that you -- do you
40 recall those events unfolding as you told the
41 corporal on the 18th of October?

42 A Correct.

43 Q This is accurate?

44 A Correct.

45 Q Now --

46 MR. KOSTECKYJ: With respect, once again, I think her
47 whole answer ought to be read in, and it was:

1 ... and then I ... told my colleagues, I
2 think, I said, "I don't feel good about it."
3

4 That was the whole answer.

5 MR. NEAVE: Well, with respect, it's my cross-
6 examination. And with respect, I can read the
7 whole entire statement. If that's the way my
8 colleague would like the statement put in, then it
9 should be tendered as an exhibit.

10 THE COMMISSIONER: All right. Go ahead, Mr. Neave.

11 MR. NEAVE: Thank you.

12 Q Now, your colleague that was with you at the time,
13 one of the two, was Ms. Deziel?

14 A Mm-hmm.

15 Q Is that correct? Am I pronouncing that correctly?

16 A The last name, yes.

17 Q Thank you. Now, her recollection -- and I want to
18 put this to you and see if this helps you --

19 A Sure.

20 Q -- with your recollection. And for my colleagues,
21 I'm on page 2 of her statement. And she says
22 this:

23
24 But, at that time, three cars showed up and
25 that's when I think four officers came out
26 and um, I guess they spoke with[in] each
27 other what to do. They went inside the doors
28 and I guess they tried to calm him down, he
29 didn't calm down. So I believe three of them
30 surrounded him and there was one officer
31 tazered him the first time. And then he
32 didn't go down, he could feel it because he
33 was yelling and screaming and they were
34 trying to get a hold of him and then he went
35 down to the floor and the three officers were
36 down on the floor with him trying to get his
37 hands, but he kept moving around, they
38 couldn't immobilize him.

39

40 Is that how you remember it unfolding at the time?

41 Is that consistent with your recollection?

42 A It's just -- it's hard to answer the question
43 because, like I said, people, they -- that's her
44 statement and this is me. So --

45 Q Yes. No. And I'm not asking you if those were
46 the words. But what I'm asking you, is that
47 description of the events that your colleague

1 described at the time consistent with what your
2 memory is now of those events?

3 A Yeah, I remember them coming together, talking
4 very quickly, and right after that -- it's the way
5 she said it, you know.

6 Q And then she goes on and says:

7
8 And I believe that's --

9
10 She says:

11
12 ...but he kept moving around, they couldn't
13 immobilize him.

14
15 And you've agreed with that. And then she says:

16
17 And I believe that's when I saw the second
18 one, the second tazer. And the four of them
19 were on top of him.

20
21 And I think she's referring to the four police
22 officers.

23
24 Then finally they handcuffed him on his back.

25
26 Do you recall that as being the events that you
27 saw on that evening?

28 A Yeah. Yes.

29 Q And your recollection is they put the handcuffs on
30 on one occasion, correct?

31 A You mean once?

32 Q Yes.

33 A Yeah, that's --

34 Q Yes. And according to your statement, he was
35 still moving his hands a little bit after that.
36 If you go back to page 2, you'll see that. You
37 say:

38
39 I remember they put the handcuffs on his back
40 and he was still moving his hands a little
41 bit ...

42
43 A Right. After that.

44 MR. NEAVE: Yes. Thank you. Those are my questions.

45 THE COMMISSIONER: That seems like everyone. Thank you
46 very much for your time. You've been very helpful
47 for us.

85
Alison Kula
In chief by Mr. McGowan

1 A Thank you, sir.

2

3

(WITNESS EXCUSED)

4

5

THE COMMISSIONER: All right. We'll take a ten-minute
6 break.

7

8

(PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

9

(PROCEEDINGS RECONVENED)

10

11

MR. MCGOWAN: Mr. Commissioner, the next witness is a
12 Ms. Alison Kula. She's another, or was at the
13 time, employee of Horizon Airlines. We'll
14 commence her examination in chief but it may not
15 finish today, and she's content to return Monday
16 for the conclusion.

17

THE COMMISSIONER: All right.

18

19

ALISON KULA, a witness, sworn.

20

21

THE REGISTRAR: Could you state your full name, please.

22

A Alison Dawn Kula.

23

THE REGISTRAR: Your middle name is?

24

A Dawn, D-A-W-N.

25

THE REGISTRAR: Thank you. Could you spell your
26 surname.

27

A My surname is Kula, K-U-L -- sorry, my surname?

28

THE REGISTRAR: Yes.

29

A It's Alison, A-L-I-S-O-N, and Kula is spelled
30 K-U-L-A.

31

32

EXAMINATION IN CHIEF BY MR. MCGOWAN:

33

34

Q Ms. Kula, you were born and spent the early part
35 of your life in Saskatchewan?

36

A That's right.

37

Q And you moved to Vancouver at the age of 13?

38

A Yes.

39

Q Attending high school here?

40

A Yes.

41

Q And then after high school you attended Kwantlen
42 College and attained a diploma in travel and
43 tourism?

44

A That's right.

45

Q You held various jobs in the service industry but
46 ultimately became employed with Alaska and Horizon
47 Air in 2001?

Alison Kula

In chief by Mr. McGowan

- 1 A That's right.
- 2 Q And you were employed as a customer service agent?
- 3 A Yes.
- 4 Q And in 2005, you received something of a
5 promotion?
- 6 A Yes.
- 7 Q Tell the Commissioner about your role as of 2005
8 with Horizon Air.
- 9 A I began as a part-time lead, eventually working my
10 way up to a full-time lead. That's a lead CSA, so
11 lead customer service agent.
- 12 Q And what are your responsibilities as a lead
13 customer service agent?
- 14 A It was depending on what position you were in. I
15 was sometimes at the counter organizing staff and
16 taking care of any passenger problems that came up
17 as well as any delays or cancellations. I also
18 worked as a ramp lead monitoring the outside
19 contract workers to make sure that everything was
20 going smoothly outside without delays.
- 21 Q When you were employed by Horizon Air, you worked
22 at Vancouver International Airport?
- 23 A Yes.
- 24 Q And you continued working with them full time
25 until sometime in 2008, correct?
- 26 A August 2008.
- 27 Q Now, you were on shift on the 14th of October
28 2007?
- 29 A Yes.
- 30 Q You were working as a customer service agent that
31 day?
- 32 A Yes. I was actually working as the lead, yeah.
- 33 Q Where were you working in the airport?
- 34 A I started my shift off up at the counters and
35 eventually down -- nine or ten o'clock at night I
36 moved down to the Customs Hall.
- 37 Q When you say the counters, where are they?
- 38 A They're our check-in counters so they're on the
39 departure level. They're upstairs.
- 40 Q Departure level of the international terminal?
- 41 A Yes.
- 42 Q And they're in the public area, not the secure
43 area of the airport, correct?
- 44 A That's right.
- 45 Q And you said at approximately nine or ten o'clock
46 at night you moved into the Customs Hall, was it?
- 47 A Yes.

- 1 Q And what were you doing in the Customs Hall?
- 2 A I assist with meeting arrivals of incoming
3 aircrafts, assisting passengers, taking any claims
4 of any passengers with delayed luggage.
- 5 Q Are you able to tell us with any more precision
6 what time you went into the Customs Hall?
- 7 A At this time, no. I usually take my break around
8 9:00, 9:30, so I would assume by ten o'clock I was
9 down in the Customs Hall.
- 10 Q Okay. And once you were in the Customs Hall, were
11 you there continuously until you left?
- 12 A No. We move back and forth to meet arrivals. I
13 usually go up and meet at least a couple of
14 arrivals and also do checks in the bag room to see
15 if there's any bags without tags or anything like
16 that in there.
- 17 Q When you're in the Customs Hall, where are you
18 stationed?
- 19 A We're stationed at our work station. It's been
20 assigned to us. It's across from one of the
21 carousels.
- 22 Q Which carousel is it across from?
- 23 A It's in front of 20-21.
- 24 Q I wonder if you could just look over your right
25 shoulder. There's a large diagram. The lighter
26 blue area I understand to be the Customs Hall area
27 with the carousels. There should be a laser
28 pointer there. I wonder if you could indicate for
29 the Commissioner the location of the desk you're
30 talking about.
- 31 A Our desk is in this area here (indicating).
- 32 Q That's on the bottom side about two-thirds of the
33 way to the right of the room?
- 34 A Yes. Air Canada is at the end of the work station
35 and we were right next to them.
- 36 Q And you were working in there with other Horizon
37 Air employees that evening?
- 38 A Yes.
- 39 Q And who were they?
- 40 A Marijanna and Genevieve.
- 41 Q Now, you know you've ultimately come here today to
42 speak about an incident involving a gentleman
43 named Mr. Dziekanski, correct?
- 44 A Yes.
- 45 Q Have you seen his photograph?
- 46 A Yes.
- 47 Q You've seen it on the television or in the

1 newspaper?

2 A Yeah.

3 Q And did you ultimately recognize him as the person
4 you later saw interacting with the police?

5 A Yes.

6 Q Did you see that man earlier in the evening at any
7 time in the Customs Hall that you recall?

8 A No.

9 Q What time did your shift end on the night of
10 October 14th, 2007?

11 A Our shift ended at 1:00 but we were a little bit
12 delayed so we probably ended up leaving the work
13 station around 1:15.

14 Q When you say "we," who are you talking about?

15 A Myself, Marijanna and Gen.

16 Q Did you all leave together?

17 A Yes.

18 Q And how did you exit the Customs Hall, or do you
19 recall?

20 A We went through the Secondary Customs area as we
21 have to clear comail, and we came out near where
22 the food court is.

23 Q I wonder if you could just again look over your
24 right shoulder and indicate for the Commissioner
25 where you exited the secure area of the airport.

26 A That is secondary inspection. We were -- I
27 believe it's this doorway here (indicating). It's
28 near the food service areas.

29 Q And after you exited, how long was it before you
30 became aware of Mr. Dziekanski's presence?

31 A We were informed of his presence by a lady who had
32 approached us and initially she was speaking of
33 her son that she felt was stuck inside Customs and
34 was asking us questions about that. But then
35 eventually when we were trying to speak to her,
36 she told us that there was, as she put it, a drunk
37 passenger out causing havoc in the terminal.

38 MR. MCGOWAN: All right. I wonder if we could cue up
39 the video, please, Dr. Perra. I've asked Dr.
40 Perra to have it ready at approximately 1:17:40.

41 DR. PERRA: This is 1:17:30.

42 MR. MCGOWAN: I wonder if we could roll it from there,
43 please.

44

45 (VIDEO BEING PLAYED)

46

47 Q I wonder if you could just watch and tell us when

1 you see yourself come into the frame, Ms. Kula.
2 It should be shortly after 1:18:20, I believe.
3 MR. MCGOWAN: Pause it there, please.
4 A That's myself in the back.
5 Q You are the last person in that line of people
6 that's just entered?
7 A Yes.
8 Q And do you recognize the two other Horizon
9 employees who were with you?
10 A Yeah. The one with the wheelchair is Marijanna
11 and the one walking beside her with the dark hark
12 is Genevieve.
13 MR. MCGOWAN: Keep rolling the video, please.
14 Q Now, have you already spoken to the woman at this
15 point or are you about to speak with her?
16 A We had already -- she had already approached us
17 near where we exited the Customs Hall.
18 MR. MCGOWAN: I wonder if we could just pause it there
19 for a moment, please.
20 Q Now, the woman who spoke with you, what did she
21 tell you, if you recall?
22 A She just mentioned that there was a drunk
23 passenger out in the arrivals hall.
24 Q Was that the first thing she told you or had she
25 talked to you about another topic before?
26 A No, she was trying to talk to us about her son,
27 who she felt was being held in Customs, but we
28 hadn't seen anyone in the Customs Hall so we
29 couldn't help her.
30 Q Can you tell us anything about her manner as she
31 was speaking to you?
32 A She was extremely agitated. She was getting angry
33 as we couldn't give her any answers. She was
34 getting quite aggressive towards us.
35 Q And it was after she talked to you about her son
36 that she told you about the gentleman in the
37 international arrivals area?
38 A Yeah. She pretty much mentioned it in passing
39 after she got frustrated with us that we couldn't
40 give her an answer. She kind of said, "Oh, and
41 there's a drunk guy in the terminal causing havoc"
42 or something along those lines, and kind of walked
43 off at that point.
44 Q Did you pass that information on to anybody at
45 that time?
46 A At that time, no, because we couldn't affirm it
47 ourselves.

1 Q What did you do after you spoke with this woman?
2 A We walked towards the elevators where we would
3 normally go to go up to the back office, and we
4 looked towards -- looked over the terminal to see
5 what was going on.
6 Q Was it initially your intention to get on the
7 elevator?
8 A If there was nothing potentially wrong, yes, it
9 definitely was.
10 Q We know you didn't get on the elevator.
11 A No.
12 Q Where did you head from here? Maybe we can just
13 roll the video and you can tell us where you're
14 going.
15 A I think at this point I had noticed that
16 something -- some disturbance was happening.
17 Q Okay. We see you've gone behind the totem
18 poles --
19 A Yes.
20 Q -- and appear to have moved towards the left
21 portion of the screen?
22 A Yes.
23 Q Or at least in that direction.
24 A Yeah. We were just trying to see what was going
25 on. I don't think there was -- I think Mr.
26 Dziekanski was behind the doors at that point.
27 MR. MCGOWAN: While we've got the video up, Dr. Perra,
28 I wonder if we could just run it right forward to
29 just before 1:58, please.
30 Q Ms. Kula, I'm going to come back and ask you about
31 your time in the international arrivals area, but
32 while we've got the video up I'm going to bring up
33 a portion which I think is going to show you
34 exiting.
35 MR. MCGOWAN: So if we could go to 1:57:30, please.
36 Can I have the time, please.
37 DR. PERRA: 1:58:04.
38 MR. MCGOWAN:
39 Q I wonder if you could look to the left-hand side
40 of the screen, Ms. Kula, coming up beside the
41 railing from the IRL. You see some people walking
42 up there. Do you see them?
43 A The three people there?
44 Q Yes.
45 A Yeah.
46 Q Keep watching, and I wonder if you can tell us if
47 one of them is you.

91
Alison Kula
In chief by Mr. McGowan

1 A Yeah, the one in the jeans is me.
2 Q And who are you walking with?
3 A At that point I'm walking with Gen.
4 Q And there's a third person walking behind you. Do
5 you know who that is?
6 A That's the officer who took our statements.
7 Q Can you describe him at all from what you
8 remember?
9 A Younger male, maybe 25, 27. Reddish hair,
10 Caucasian, freckles.
11 Q Okay. I think that's probably sufficient. Where
12 did you go with the officer after you left?
13 A We went towards the food court area so that we
14 would have some room to talk.
15 Q How long did you speak with the officer for?
16 A Ten minutes.
17 Q Do you know whether he had a recording device?
18 A I don't remember him having a recording device.
19 Q Did you see whether he wrote anything down when he
20 was speaking with you?
21 A Yes, he did.
22 Q Did you return to the international meet-and-greet
23 area or the international reception lounge area
24 after you left with the officer?
25 A We walked through it to get to the elevators
26 again.
27 Q Did you just walk straight to the elevators and
28 leave?
29 A Yes.
30 Q So we see from the video that you entered the
31 international meet-and-greet area approximately
32 1:18 in the morning. Does that sound about right
33 to you?
34 A Yeah, that sounds right.
35 Q You left with the officer just before 2:00 in the
36 morning?
37 A That's right.
38 Q That sounds about right?
39 A Yeah.
40 Q So for 40 minutes approximately you're in the
41 meet-and-greet area?
42 A Yes.
43 Q And during that time, do you spend most of the
44 time observing matters and interactions centring
45 around Mr. Dziekanski?
46 A Most of the time was spent that, yeah.
47 Q I'm going to ask you about that now.

- 1 A Okay.
- 2 Q You came in shortly after 1:18 in the morning.
- 3 What's the first thing you saw involving Mr.
- 4 Dziekanski?
- 5 A The first action that we saw him taking was there
- 6 was a corporate valet or a limo driver trying to
- 7 get into the semi-sterile area, and Mr. Dziekanski
- 8 was on the other side of the doors. And he came
- 9 out with two of the work chairs that rolled, and
- 10 he was blocking the limo driver's way as he tried
- 11 to enter into that area.
- 12 Q So Mr. Dziekanski is inside the railing?
- 13 A He was inside the doors, the glass doors.
- 14 Q Okay.
- 15 A But he is in -- when he comes out, he is inside
- 16 the railing then.
- 17 Q Okay. And the glass doors are closed behind him?
- 18 A No.
- 19 Q They're not, okay.
- 20 A No. He's kind of standing in the threshold so
- 21 that they won't completely close.
- 22 Q Okay. And this is the first thing that you
- 23 remember seeing?
- 24 A Yes.
- 25 Q Do you see an interaction between the limousine
- 26 driver and Mr. Dziekanski?
- 27 A Yeah. The limo driver was agitated. He was upset
- 28 that he couldn't get into the sterile area so that
- 29 he could meet whoever he was meeting. So he
- 30 was -- he was very agitated. He was yelling.
- 31 Q Tell us what you heard him yell, if you remember.
- 32 A He was just yelling in general, "Let me through,"
- 33 and then he was yelling towards the group of
- 34 people, "He won't let me through."
- 35 Q How close did you see him get to Mr. Dziekanski?
- 36 A Quite close. He was right in front of him.
- 37 Except for the chairs being in front of Mr.
- 38 Dziekanski, he was right there.
- 39 Q Did you see Mr. Dziekanski move towards the
- 40 limousine driver at all?
- 41 A No. He was just blocking with the chairs.
- 42 Q Did you see either of them make any physical
- 43 gestures?
- 44 A No.
- 45 Q Can you describe what Mr. Dziekanski's appearance
- 46 was at this point. And I don't mean his physical
- 47 appearance, his hair colour and such, but anything

1 else you can tell us about how he appeared to you.
2 A He seemed frustrated, upset, agitated. He kept
3 saying stuff but nobody could understand him.
4 Q How long did the interaction go on between the
5 limousine driver and Mr. Dziekanski?
6 A It was for a few minutes, and then the limo driver
7 came back to talk to us. And I believe he
8 approached him one more time but I can't be sure.
9 Q Okay. How many other people were in the meet-and-
10 greet area at this time?
11 A I'd say there were four or five.
12 Q Aside from the limousine driver, did you see
13 anybody else interact with Mr. Dziekanski prior to
14 security or police arriving?
15 A Yes. I saw a woman approach him quite a number of
16 times.
17 Q Do you know who that woman is?
18 A I don't know her name. I recognize her that --
19 she was on the news.
20 Q Okay.
21 A And she was approaching him and she sat -- she
22 ended up spending quite a bit of time quite close
23 to him, trying to gesture to him and -- and that
24 sort of thing.
25 Q How close did she get to him, if you recall?
26 A I saw her -- he was in the doorway, in the
27 threshold of the doorway, and she was right in the
28 seats that were kitty-corner to that doorway. So
29 she was probably a meter away from him.
30 Q And how long did you see her interacting with Mr.
31 Dziekanski for?
32 A She went back and forth a fair bit. She would --
33 when he was throwing a computer, she went up to
34 him and was trying to, I guess, shake her hand or
35 something and saying "no" to him.
36 Q Aside from this woman and the limousine driver,
37 did anybody else interact with Mr. Dziekanski?
38 A When the security guards came, they did try to
39 communicate with him as well.
40 Q What about Ms. Bosnjak, who you had been working
41 with?
42 A Yes.
43 Q Did she have any interaction?
44 A She -- at a certain point when he was saying a
45 certain word, she thought that she recognized it
46 as Russian.
47 Q Yes?

1 A So she told us that she thought that he was
2 speaking Russian and she approached him and asked
3 first if he was speaking Russian and then asked
4 if -- in Russian -- like said "Russia" in Russian,
5 to see if that would get any response from him.
6 Q And did you see any response on his part when she
7 tried to speak with him?
8 A He calmed down. He had the stool or whatever the
9 wooden thing was that he had in his hands. He had
10 that in his hands at that time, but he just
11 stopped and looked at her and tried to see if he
12 was -- if she was going to say anything else that
13 he recognized.
14 Q Okay.
15 A He seemed calm at that point.
16 Q Okay. Prior to this point, prior to her speaking
17 with him, had Mr. Dziekanski appeared calm to you?
18 A He seemed agitated. He seemed -- I wouldn't say
19 calm. He was walking back and forth. He was
20 pacing, obviously upset over something.
21 Q Can you tell us anything else that he was doing?
22 A At a certain point he did go to one of the work
23 stations and pick up items off the desk and throw
24 them. He threw a computer after Marijanna had
25 talked to him. There was a time where he took the
26 stool and threw it against the window.
27 Q Where were you when this was taking place?
28 A I had moved quite a bit. Most of the time I was
29 spent near the second-to-last row of the chairs in
30 the arrival hall closest to the door.
31 Q Prior to security arriving, did you see Mr.
32 Dziekanski make physical contact with anybody?
33 A No.
34 Q Did you see him make a physical gesture towards
35 anybody?
36 A No.
37 Q At some point did you attempt to contact either
38 security or the police?
39 A I was told that security had already been called.
40 Q Who told you that?
41 A The limo driver.
42 Q Okay. Go on.
43 A And also the lady who first approached us had said
44 that she had been on the courtesy phone that
45 connects to the airport, that she had been on
46 there and she had reported it as well. So I
47 assumed that security was already on their way.

- 1 Q Okay.
- 2 A When it didn't seem like they were going to show
3 up, I did attempt to call 911.
- 4 Q Which phone did you use to try to call 911?
- 5 A I at first tried my lead cell phone, my duty cell
6 phone.
- 7 Q Is that a Horizon Airline issue cell phone?
- 8 A Yes. And it didn't go through. It cut off. So
9 then I attempted again with my own cell phone.
- 10 Q And did you get through with that call?
- 11 A Yes, I did. I was cut off and then they called me
12 right back.
- 13 Q When you made the first call, had security or
14 police arrived yet?
- 15 A The first call, no.
- 16 Q When you made the second call, had they arrived?
- 17 A Yes. Security had.
- 18 Q Okay. But the police had not arrived?
- 19 A The police arrived when they had called me back
20 and I was on the phone with one of the police
21 dispatchers.
- 22 Q And did you relay any information about what had
23 been happening, that you recall, on the 911 call?
- 24 A I told them that there was a gentleman in the
25 sterile area who was throwing furniture and seemed
26 to be in distress.
- 27 Q And how long after you passed this information on
28 to the 911 operator or the police dispatcher,
29 whoever you were speaking with, did the police
30 arrive?
- 31 A They arrived when I was on the phone with the
32 lady.
- 33 Q So at about the same time?
- 34 A Yeah.
- 35 Q Have you watched the video that's become commonly
36 referred to as the Pritchard video?
- 37 A Yes.
- 38 Q Have you seen it in its entirety?
- 39 A I believe so.
- 40 Q Was that on TV?
- 41 A On TV.
- 42 Q You told us about the security guards arriving.
43 Did you see them interact with Mr. Dziekanski?
- 44 A Yeah, they approached him, obviously trying to
45 speak to him, but their hands were pretty much
46 tied as they had no idea how to speak his
47 language.

- 1 Q How close did the security guards get to Mr.
2 Dziekanski?
- 3 A They were inside the railing. They were maybe a
4 couple of feet away from him.
- 5 Q Was Mr. Dziekanski inside or outside the doors
6 when they were trying to speak with him, that you
7 recall?
- 8 A Both. He kind of came in and out of the doorway.
- 9 Q How did he appear to respond to their attempts to
10 speak with him?
- 11 A He just seemed the same, frustrated. More people
12 came and didn't know how to speak to him.
- 13 Q You ultimately saw the RCMP arrive?
- 14 A Yes.
- 15 Q What door did you see them enter?
- 16 A The main arrivals door.
- 17 Q How many officers did you see enter, or do you
18 remember?
- 19 A I remember seeing four arrive.
- 20 Q We've seen the video. They walked across the
21 room, ultimately went over the railing and entered
22 through the IRL doors. You've seen that video as
23 well?
- 24 A Yes.
- 25 Q Is that how you recall it happening?
- 26 A Yes.
- 27 Q As the police were entering, did you hear them
28 have any conversation amongst themselves?
- 29 A I -- I was going closer to the doors just to check
30 on -- to report to the dispatcher how many cars
31 had arrived, because she had asked me that, and I
32 heard one officer turn to the other and say, "Do
33 you have your Taser out?" or "Do you have your
34 Taser ready?" Something like that.
- 35 Q Do you know which officer spoke those words?
- 36 A I can't say. They were rushing past me.
- 37 Q Did you hear any response?
- 38 A No. They were past me by that point.
- 39 Q Did you hear anybody who was present convey any
40 information to the police prior to them going in
41 with Mr. Dziekanski?
- 42 A Yeah. Quite a few people were saying that he
43 spoke Russian. The security guards gave him a
44 brief description. "He speaks Russian. He
45 doesn't speak any English."
- 46 Q Did you hear these words spoken?
- 47 A Yes.

- 1 Q Where were you when you heard them spoken?
2 A I was closer towards the totem poles.
3 Q Where were the police?
4 A They were -- two of them, I think, had run around
5 the barrier, the glass barrier, and I think a
6 couple of them jumped over the barrier.
7 Q The people who were speaking the words you've just
8 told us, where were they standing, if you know?
9 A The security guards were inside the railing.
10 Q Were the police closer to the security guards than
11 you or further away?
12 A Closer.
13 Q Did you have any trouble hearing these words
14 spoken about the language?
15 A No.
16 Q Did you say anything to the police?
17 A I don't recall saying anything to the police.
18 Q You ultimately saw the police enter and interact
19 with Mr. Dziekanski?
20 A Yes.
21 Q Tell the Commissioner about that, please.
22 A They approached him at the threshold of the door
23 where he was standing and started demanding his
24 passport. Mr. Dziekanski then went back behind
25 the work desk and was -- paced there once, and
26 then I saw three officers rush in and he -- Mr.
27 Dziekanski had turned around to the front of the
28 desk. And then there was three or four cops
29 around him at that time, at which -- then I saw
30 him get Tasered.
31 Q Where were you standing when you were observing
32 this?
33 A I was standing on the other side of the glass
34 wall.
35 Q How far from the glass wall?
36 A I would say five, six meters. I'm not sure.
37 Q In relation --
38 A I'm sorry. Five, six feet.
39 Q Five, six -- back from?
40 A Back from the wall.
41 Q And so you're facing the glass wall obviously?
42 A I'm facing the glass wall behind the desk. So the
43 desk is blocking my view of what's going on.
44 Q So you can see the upper portion of Mr. Dziekanski
45 and the upper portion of the officers?
46 A That's right.
47 Q Did you see whether Mr. Dziekanski had anything in

1 his hand at any point, that you observed?

2 A I didn't see anything.

3 Q Did you see Mr. Dziekanski make any physical
4 movements towards the police, that you observed?

5 A No.

6 Q Did you see the police make any physical gestures
7 or movements?

8 A No.

9 Q Did you hear the police say anything to Mr.
10 Dziekanski?

11 A I could hear voices but I couldn't make out what
12 they were saying.

13 Q You said something about a passport a moment ago.

14 A That was when they first approached him, when he
15 was just at the threshold of the IRL doors.

16 Q Do you know who spoke those words?

17 A No, I don't.

18 Q Do I understand from the way you told us that it
19 was one of the police officers?

20 A Yes.

21 Q Did you hear any of the police officers say
22 anything to Mr. Dziekanski other than that at any
23 point, that you heard?

24 A No.

25 THE COMMISSIONER: Counsel, this might be a good spot
26 in the narrative to break.

27 MR. MCGOWAN: Yes, it would be.

28 THE COMMISSIONER: Thank you very much. We'll adjourn
29 now until ten o'clock on Monday. I might say to
30 everyone that I'm very pleased with the fact that
31 we're being able to move along fairly rapidly.
32 We've gone through 26 witnesses and this is the
33 27th. So I thank everybody for that. Ten
34 o'clock.

35

36 (PROCEEDINGS ADJOURNED TO FEBRUARY 9, 2009,
37 AT 10:00 A.M.)

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I HEREBY CERTIFY the foregoing to be a true and accurate transcript of the evidence recorded on a sound recording apparatus, transcribed to the best of my skill and ability, and in accordance with applicable standards.

Patricia Kealy, C.V.R., C.M.