

**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 10, 2009

PROCEEDINGS AT
HEARING (DAY 14)

COPY

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

(ii)

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

1
Robert Jorssen
In chief by Mr. McGowan (cont'd)

Vancouver, B.C.
February 10, 2009

ROBERT JORSSEN, a witness,
recalled, warned.

EXAMINATION IN CHIEF BY MR. MCGOWAN, continuing:

Q Yes, Mr. Jorssen, I just have one additional brief matter to cover with you. You recall yesterday telling us about an item that you saw that Mr. Dziekanski picked up. Do you recall that?

A That's right.

Q And you told us that you saw the item -- was it sitting on the desk?

A That's right.

Q And you actually saw Mr. Dziekanski's hand come in contact with the item and pick it up?

A That's what I can recall, yes.

Q Now, the desk we're talking about is the one which we've all seen in the Pritchard video; is that --

A That's correct.

Q It's a counter or a desk of some sort. That's what you're talking about?

A That's correct.

Q I'm going to put a photograph of this desk in front of you. It's right here.

MR. HIRA: If counsel could tell us where we could find that, I'd be obliged.

MR. MCGOWAN: The photos were provided by the RCMP, photos of the IRL. I do have a couple of additional copies. We've just had them printed up this morning. Perhaps my friends can share until we have a chance to run off some more (not at microphone - indiscernible) a chance to look at the disclosure.

Q Now, sir, you're looking at a photograph. There's a pink piece of paper, and I'm holding it so on the left-hand side is a small placard with the number 8 on it. Are you --

A That's right.

Q -- oriented the same way I am?

A Yes, that's right.

Q Okay. Now, just so you understand, sir, this I understand to be a photograph of the same desk but taken some time later so I'm not suggesting that the item you saw is going to be visible. All

2
Robert Jorssen
In chief by Mr. McGowan (cont'd)

1 right?
2 A Okay.
3 Q This was taken some time later and from a slightly
4 different vantage point from where you were
5 standing. It was taken from the other side of the
6 glass. So you would have been standing towards
7 the back left of this photograph. Do I have that
8 right, the way we're looking at it?
9 A If the shot was taken from the inside, that's
10 correct.
11 Q Okay. So does this, now that you've had a chance
12 to look at it and orient yourself, does this
13 appear to be the same desk that you were speaking
14 of?
15 A If that's the desk, that's right.
16 Q Okay. Now, I wonder if the Registrar might
17 provide you with a marker, perhaps a black marker.
18 Now, sir, by looking at this photograph and using
19 your recollection, are you able to tell us
20 approximately where on this desk you recall seeing
21 the item that you believe you observed Mr.
22 Dziekanski pick up? And if you can, I wonder if
23 you might put perhaps a small X there and draw a
24 circle around it.
25 A Okay. It's more or less to the right of the pink
26 piece of paper.
27 Q Okay. Well, sir, wherever you say the item was,
28 draw a small X and put a circle around it.
29 THE COMMISSIONER: Either that or a big circle.
30 Whatever suits you.
31 MR. MCGOWAN:
32 Q Have you made the indication, sir?
33 A Yes, I have.
34 MR. MCGOWAN: If that might be the next exhibit, Mr.
35 Commissioner.
36 THE COMMISSIONER: Yes.
37 MR. MCGOWAN: And perhaps we'll just allow my friends
38 to come and have a look at the exhibit before it's
39 given back to the registrar.
40 THE REGISTRAR: That will be marked as Exhibit Number
41 35.
42
43 EXHIBIT 35: Copy -- Photocopy of desk in IRL
44 area, marked by witness
45
46 MR. MCGOWAN: Mr. Commissioner, those are the questions
47 I have for this witness. Sir, please answer any

1 of the questions Ms. Roberts or any of the other
2 counsel may have for you.

3 MR. KOSTECKYJ: Sir, my name is Walter Kosteckyj and
4 I'm the counsel for Zofia Cisowski.
5

6 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA
7 CISOWSKI:
8

9 Q Sir, I just wanted to get a sense, again, of how
10 far away you were standing from -- and I'm sorry,
11 that last exhibit number -- from the desk where
12 this stapler was found.

13 THE COMMISSIONER: Thirty-four.

14 MR. KOSTECKYJ: Thirty-four. Sorry, Exhibit 34.

15 A I would say -- I would say roughly about -- you
16 know, more or less where the person was taking the
17 photographs, the movie type of thing. I would say
18 that's roughly about ten, fifteen meters away, I
19 would say --

20 Q Okay.

21 A -- paces away from the glass.

22 Q I wasn't sure because yesterday at one point I
23 thought I heard you say that you were
24 approximately 20 meters away.

25 A That's right. I said so.

26 Q So yesterday you thought you were about 20 meters
27 away.

28 A Yes.

29 Q Is that a fair assessment, that you were somewhere
30 between 15 and 20 meters away, in your view?

31 A Yeah. I mean, I was walking around, all around
32 the whole time, so I would say approximately that.

33 Q Now, you were standing to the right of the
34 gentleman taking the video, correct?

35 A That's right.

36 Q So when we're looking at this latest exhibit,
37 32 --

38 THE COMMISSIONER: Four.

39 MR. KOSTECKYJ: Sorry, 34.

40 THE REGISTRAR: It should be 35.

41 THE COMMISSIONER: All right, 35.

42 MR. KOSTECKYJ: Thank you, Mr. Registrar.

43 Q So Exhibit 35 -- you would have been standing to
44 the -- looking out at it, to the left of this
45 photograph?

46 A To the left of the photograph, that's correct.

47 Q The gentleman with the camera, he was in front of

- 1 you?
2 A Just to the side of me.
3 Q You never saw yourself in the camera shot that the
4 man took?
5 A I haven't seen the full shot. No, I haven't seen
6 it from start to finish. I have not seen that.
7 Q The Pritchard video?
8 A No, I haven't seen it from start to finish. No.
9 I've seen snippets of it but not the whole thing,
10 so I can't tell you whether I was in the whole
11 shot or not.
12 Q Well, in any of the parts that you've seen, have
13 you ever seen yourself in it?
14 A No, I have not seen it.
15 Q Do you remember hearing your voice in it at all?
16 A No, I don't recall saying anything.
17 MR. KOSTECKYJ: I'm just going to ask Dr. Perra to play
18 the third Pritchard video at about 30 seconds.
19 Q There's a voice that comes on and I just want you
20 to tell us whether you can identify that as being
21 your voice. I'm just going to ask you to listen
22 for your voice, sir.
23
24 (VIDEO BEING PLAYED)
25 (VIDEO STOPPED)
26
27 MR. KOSTECKYJ:
28 Q Do you know who it was who said, "He's
29 unconscious"?
30 A No, I don't know.
31 Q That wasn't your voice?
32 A No.
33 Q Do you recollect, after hearing that video, that
34 you were standing beside somebody that said that
35 on that particular night?
36 A There was quite a few people around so I can't
37 recall, no.
38 Q Now, I just want to understand. You do work with
39 the RCMP?
40 A That's right.
41 Q And you were described as being sort of the
42 equivalent of the chief financial officer for
43 British Columbia and the Yukon; is that correct?
44 A That's right.
45 Q So what is your actual status with the RCMP?
46 You're not a civilian employee?
47 A I'm a public service employee.

- 1 Q Public service employee. I noticed -- you gave a
2 statement to the RCMP?
- 3 A That's right.
- 4 Q And you did that in December, December 6th, 2007?
- 5 A That's right.
- 6 Q And when you gave that statement, you were
7 referring to these fellows, the RCMP gentlemen
8 that were involved in this, the officers, as "our
9 members." Do you remember doing that?
- 10 A Our members, that's right.
- 11 Q And when you're referring to them as "our
12 members," that's a term that's often used by RCMP
13 officers to identify each other, members, our
14 members.
- 15 A That's the term we use as all employees, our
16 members, you know, because we call them members or
17 CMs, or civilian members, or PSEs for short, the
18 public service employees. That's how we
19 distinguish the categories of employees.
- 20 Q But from the point of view of terminology, people
21 on the street don't generally refer to an RCMP
22 officer as a member. That's a term of art, if you
23 like, that's used within the force, correct?
- 24 A I would say so, yes.
- 25 Q Yeah. Now, you didn't give your statement until
26 December the 6th, 2007, correct?
- 27 A That's correct.
- 28 Q And you had an opportunity to come forward on the
29 night of these events, correct?
- 30 A The morning of that event.
- 31 Q Yeah. Well, just after it happened.
- 32 A After it happened, I had to run to meet -- as
33 you'll notice from the clip yesterday, I had to go
34 and meet my cousin at the gate on his arrival.
- 35 Q But you had the opportunity to make your report to
36 the police officer that you spoke to briefly
37 there, correct?
- 38 A I don't think so.
- 39 Q Well, you did speak to a police officer?
- 40 A Yes, because at the time I was just saying to him,
41 you know, inquiring about the condition of Mr.
42 Dziekanski, but I wasn't aware after I left that
43 scene of the condition of Mr. Dziekanski.
- 44 Q Let's talk about that for a second.
- 45 A Mm-hmm.
- 46 Q You did sort of have a sense of what his condition
47 was, didn't you?

- 1 A Sure, in a sense. I saw him lying on the floor,
2 very quiet, still, and I was just, you know,
3 curious as to his condition.
- 4 Q You thought he was unconscious when you were
5 there?
- 6 A No, I didn't think so.
- 7 Q Well, we're --
- 8 A I didn't know that.
- 9 Q That's what you thought.
- 10 A I can't say. I didn't think that way.
- 11 Q Okay. We're going to get back to that in a
12 second. But the point is this. You're at the
13 scene; you see this horrific thing occur, correct?
- 14 A Mm-hmm.
- 15 Q Yes?
- 16 A That's right.
- 17 Q And then in the immediate aftermath, you walk over
18 and talk to one of the police officers that's
19 involved, correct?
- 20 A After he came out, that's correct.
- 21 Q And you don't say to him, "By the way, I'm an RCMP
22 guy. I've seen this. If you have to get a hold
23 of me, this is my name." You don't do any of
24 that?
- 25 A No, I did not.
- 26 Q Now, let's talk a little bit about your statement.
27 I'm just going to pass up a copy of this to you.
28 By the way, I notice a couple of times that you
29 take your glasses on and off.
- 30 A To read, that's right.
- 31 Q Your eyes are corrected for vision?
- 32 A No. I also wear reading glasses but I didn't
33 bring it with me now.
- 34 Q No, that's fine. But the point is, your eyes are
35 corrected for vision?
- 36 A This is more for distance, that's right.
- 37 Q All right. So was your ability to see the scene
38 from this 20 meters in any way affected that
39 particular evening?
- 40 A I don't think so. It's -- I don't think so.
- 41 Q Well, there were other people in front of you as
42 well, correct?
- 43 A I had a clear view.
- 44 Q No, but that's not my question. I asked you
45 whether there were other people in front of you.
- 46 A Yes.
- 47 Q And there were other people milling around in the

1 area in front of you, correct?
2 A That's correct.
3 Q And there were security personnel at some point in
4 front of you?
5 A I don't recall that.
6 Q Okay. There was Mr. Pritchard with the video
7 camera. You never walked in front of the video
8 camera.
9 A I don't know. I can't tell you because I didn't
10 see the full video.
11 Q You don't ever remember walking in front of his
12 video camera, do you?
13 A I don't recall, no.
14 Q Now, let's talk a little bit about the statement.
15 How this all came about was, you didn't think it
16 was important to speak to the police officer on
17 the night that this occurred, but the following
18 day you were having coffee at work, correct?
19 A The morning, early morning. Yes, I did.
20 Q And it became clear from the conversation as to
21 what had occurred at the airport, and you said,
22 "Gee, I was at the airport," correct -- or words
23 to that effect -- to your fellow coffee mates.
24 A Well, I heard the news on the radio the Sunday,
25 and the morning I had coffee, and I said, you
26 know, I was present during this incident.
27 Q Here's the point once again, then. So you heard
28 this on the radio on your way in to work.
29 A That's right.
30 Q So you knew that the man had died, correct? Mr.
31 Dziekanski.
32 A I -- I think you're right.
33 Q But you didn't call any of your superiors or the
34 IHIT team or any of the investigating officers to
35 say, "I was there last night," correct?
36 A I notified -- first thing. It must have been
37 about, I would say, seven o'clock in the morning,
38 Monday morning -- I arrive early -- I told them
39 about it.
40 Q But here's the point. You told other people --
41 A I told senior management about it, and I said to
42 them, "I was there," and they said to me, the
43 senior CROPS said they will contact IHIT to inform
44 them that I was present.
45 Q Okay. But here's the part. That came up after
46 you had a conversation with your friends at
47 coffee, correct?

- 1 A In what context do you mean a conversation?
- 2 Q Well, you had a conversation telling some friends
3 that you were having coffee with that morning at
4 work --
- 5 A Mm-hmm.
- 6 Q -- "I was there."
- 7 A That's right.
- 8 Q And then after that, somebody said to you, "You
9 should report that," correct?
- 10 A Well, they didn't say, "You should report it."
11 All they said to me was they will inform IHIT that
12 you were present.
- 13 Q Yeah. So somebody else thought it was important
14 to inform the IHIT team. It wasn't something you
15 did independently of your own, correct?
- 16 A That's correct.
- 17 Q All right. Now, the statement. The statement
18 wasn't taken until December the 6th, 2007.
19 Accurate?
- 20 A That's correct.
- 21 Q And that was taken by this Constable Hodge,
22 correct?
- 23 A That's the name, yes. That's right.
- 24 Q All right. And where was the statement taken?
- 25 A In my office.
- 26 Q Do you know why the statement wasn't taken until
27 December the 8th when this was supposedly reported
28 on November the 15th?
- 29 A Yes. I was out of town on four occasions between
30 that time. I can give you the dates where I was
31 on the four times. I --
- 32 Q But -- sorry.
- 33 A I was out of town four times during this period.
34 November the 13th and 14th, I was in Whitehorse --
35 sorry. October 21st to the 26th inclusive, I was
36 in Ottawa for meetings. I was November the 13th
37 to the 14th in Whitehorse, Yukon. November the
38 19th and 20th in Victoria, and again November the
39 25th to December inclusive -- 1st -- I was back in
40 Ottawa in meetings.
- 41 Q Now, when you gave the statement, you had already
42 had an opportunity to see the videotape, correct?
- 43 A Not complete, no.
- 44 Q Well, you had seen parts of it because you refer
45 to it in your statement.
- 46 A Parts of it.
- 47 Q Which part? What had you seen?

- 1 A I seen where the officers walked in.
2 Q Where did you see the videotape?
3 A Where?
4 Q Yeah.
5 A At home.
6 Q Did you get it off of the Internet? Is that where
7 you saw it?
8 A No, it was on the news.
9 Q You saw it on the news. Did you also have a look
10 on the Internet and see it?
11 A No, I did not.
12 Q So you watched it on the news. Do you know how
13 many times you watched it?
14 A My goodness. A number of times, sure.
15 Q All right. Now, I'm going to suggest to you, sir,
16 that you never saw any of the police officers
17 checking this man's pulse.
18 A All I know, I seen somebody touch this man's wrist
19 and towards his neck to feel a pulse. Whether it
20 was the hand of the officer or somebody else, like
21 the clipping we saw yesterday, that possibly could
22 be the case. I can't tell. But I know I seen
23 that happening.
24 Q I'm just going to take you -- it's interesting,
25 because your statement is like some of the others
26 we've seen. There was a narrative part to your
27 statement, correct? That's where they said to
28 you, "Tell us what you saw."
29 A That's right.
30 Q And then there was a part where they did some
31 questioning of you.
32 A That's right.
33 Q And you responded to the questions.
34 A Quite right.
35 Q Well, let's take a look at your statement, page 13
36 of 18, at the bottom of the page.
37 THE COMMISSIONER: I'm sorry, what page?
38 MR. KOSTECKYJ: I'm sorry, page 14.
39 Q You see at the very last on page 14?
40 A Yes, I do.
41 Q You say:
42
43 Okay um --
44
45 This is Constable Hodge who's asking you a
46 question.
47 A Mm-hmm.

1 Q Okay um, you noted that, that you saw one of
2 the members or, or maybe more I don't know,
3 ah, trying to feel for Mr. Dziekanski's
4 pulse?

5
6 Do you see that?

7 A Yes.

8 Q And then your answer was:

9

10 Yes I did see that. Ah, quite
11 (INDECIPHERABLE) ah on his arm and on his
12 neck. Trying to take his pulse.
13 (INDECIPHERABLE) wrist type of thing, his
14 wrist and hand and then ah..

15

16 Do you see that?

17 A Yes, I do.

18 Q That was in direct response to a question you were
19 asked.

20 A That's right.

21 Q Now, let's take a look at the narrative part of
22 your statement, the part where you told them what
23 you saw or what you thought you saw, correct?

24 A That's right.

25 Q Let me take you to -- your narrative is actually
26 the first three pages of the report. Do you see
27 that? Or of the statement.

28 A That's right.

29 Q And I'm taking you down from the very top of the
30 page. I'll just read this part to you. Page 3,
31 top of the page, third line down:

32

33 And he was saying to me that ah, uh, the
34 gentleman would be ok, there's nothing wrong
35 it'll be ok. Um, so I knew when they were
36 trying to I think they were trying to feel
37 his pulse. I assume they were trying to feel
38 his pulse to see if he was still alive you
39 know ah, there was some vital signs.

40

41 Do you remember saying that?

42 A Yes, I do.

43 Q So what you're saying there is, you assume that
44 they were taking his pulse. Is that accurate?

45 A Well, I just saw that their hands on his body, in
46 those particular locations on his body.

47 Q You didn't see them take his pulse, did you, sir?

- 1 A I thought I did.
- 2 Q You're saying here that you assume they were
3 taking his pulse, in your narrative. Isn't that
4 accurate?
- 5 A That's right.
- 6 Q All right. Now, after Mr. Dziekanski was down,
7 after he'd been Tasered, and he was handcuffed --
- 8 A Yes.
- 9 Q -- he never moved again, did he?
- 10 A After he was handcuffed, I think you're correct,
11 if my memory serves me right.
- 12 Q You saw his hands turning white?
- 13 A That's right.
- 14 Q And you thought it was not a good sign?
- 15 A I thought that, or I thought maybe it was too
16 tight around his wrists.
- 17 Q You never saw the police officers move his body in
18 any way after he was handcuffed, did you?
- 19 A To be honest, I don't recall that, no.
- 20 Q Let me take you to page 14 of your statement.
21 You're asked a question by Constable Hodge about a
22 third from the bottom up:
- 23
- 24 Um, was ah, was there anything else you
25 noticed about Mr. Dziekanski?
- 26
- 27 That's Constable Hodge. Do you see that?
- 28 A Yes.
- 29 Q And your answer was:
- 30
- 31 I don't, at the time he as very very quiet.
32 You know and um, I just thought he, at this
33 point, at first I thought that he sort of
34 just gave up you know, sort of said okay fine
35 you know he's handcuffed now so he's just
36 waiting what they're gonna do, you know to
37 move him. Um, but when the members didn't
38 actually move him I knew there was something
39 wrong. Because ah, (INDECIPHERABLE) members,
40 he was just using his ah, his radio.
- 41
- 42 Correct?
- 43 A That's right.
- 44 Q That was the recollection that you had in the
45 moments after Mr. Dziekanski was handcuffed,
46 correct?
- 47 A That's right.

Robert Jorssen

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

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

2 THE COMMISSIONER: Thank you.

3 MR. HIRA: Mr. Jorssen, my name is Ravi Hira. I'm
4 counsel for Constable Kwesi Millington. You said
5 you didn't bring your glasses. I've got some
6 reading glasses which vanity still prevents me
7 from using, so if you need to use them, please do
8 because I'll be referring you to your statement.

9 A Thank you.

10 MR. HIRA: May I give them to you just in case?

11 A Thank you. Is that from London Drugs?

12 MR. HIRA: Well, no. They're a little bit more
13 expensive.

14

15 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE
16 KWESI MILLINGTON:

17

18 Q I'm going to be asking a number of questions
19 arising from your statement, so let's put the
20 process in context chronologically. You're there
21 just before the police officers arrive, correct?

22 A That's correct.

23 Q You witness the events from the right side -- to
24 the right of Mr. Pritchard?

25 A Right.

26 Q And you're moving around from time to time; is
27 that correct?

28 A That's right.

29 Q Your cousin arrives and you leave, correct?

30 A Quite right.

31 Q The next day, on Sunday, you hear that -- I
32 shouldn't say the next day. Later on that day,
33 Sunday, you hear that tragically Mr. Dziekanski
34 has passed away, correct?

35 A To be honest with you, you know, I'm still
36 thinking about that, whether it was that day or
37 the next morning, but within 24 hours, I would
38 say, yes.

39 Q Fair enough. Seven o'clock in the morning, you're
40 having coffee at the RCMP headquarters on Heather
41 Street, correct?

42 A That's right.

43 Q And you're a very senior member of the RCMP in
44 Western Canada, correct?

45 A That's what they say, yes.

46 Q When I say member, I mean a member of the
47 organization as opposed to an officer.

- 1 A Yes, the division senior management team, that's
2 right.
- 3 Q Yes. And you mention to another senior officer
4 that you were there, correct?
- 5 A That's correct.
- 6 Q And you're told that somebody from IHIT will in
7 due course contact you?
- 8 A Quite right.
- 9 Q And you provide this statement on December the 6th
10 to a member of the IHIT team, Constable Thana
11 Hodge, correct?
- 12 A Quite right.
- 13 Q And after providing the statement, you didn't have
14 an opportunity to review it, did you?
- 15 A No.
- 16 Q No. The first opportunity that you had to review
17 the statement was when you met with counsel to
18 prepare for your evidence here; is that correct?
- 19 A That's correct.
- 20 Q So the first opportunity that you had to look at
21 this statement was sometime in January 2009?
- 22 A I would say that's the most accurate timeline,
23 yes.
- 24 Q And just so that we're clear, this statement, you
25 reviewed it with Commission counsel, correct?
- 26 A The first time I read it myself, and then I think
27 a day or two days later, she visited me and I went
28 over it again with her, yes.
- 29 Q And did you review it with Commission counsel at
30 all, Mr. McGowan?
- 31 A Only when he -- when he interviewed me. I'm not
32 sure whether I actually pulled the document out or
33 not. I doubt it very much. I know I -- we were
34 interviewed by him, but I don't recall going
35 through the statements.
- 36 Q Okay. Let's just deal with the statement, and I'm
37 going to go through this. The statement is your
38 best recollection of what happened?
- 39 A Quite right.
- 40 Q And you reviewed it and you're satisfied it's
41 accurate?
- 42 A That's right, at the time. That's right.
- 43 Q Okay. Let's just go through it. You start off
44 between pages and 1 and 3 providing a lengthy
45 narrative; is that correct?
- 46 A That's right.
- 47 Q Let's go to page 2, and I'm going to read to you a

1 part of the statement from the top, about six
2 lines down.

3 MR. HIRA: Mr. Commissioner, would you like a copy,
4 because I'm going to be referring to it
5 extensively?

6 THE COMMISSIONER: Well, all right. Yes, if there's
7 another copy about.

8 MR. HIRA: Mr. Commissioner, I'm at page 2, line 6.

9 Q Let's start at line 4. I'm going to read this to
10 you:

11
12 And um and as they were moving into the, the
13 area --

14
15 And you're referring to the RCMP, correct?

16 A That's right.

17 Q

18
19 -- to, to where to speak to this gentleman,
20 ah I obviously could not hear what was said
21 because it was behind the glass, glass doors.
22 So, no way anybody could hear ah what was
23 said, so for I know --

24
25 Sorry, "as for I know."

26
27 A As far as I know.

28 THE COMMISSIONER: As far as I know.

29 MR. HIRA: I would assume it's "as far." I've just
30 read it literally, Mr. Commissioner.

31 Q

32 -- because it's ah, the members were not
33 shouting...

34
35 Now, you'll agree with me that the members were
36 not shouting, correct?

37 A That's correct.

38 Q It was your opinion they acted properly and
39 professionally?

40 A That was my observation.

41 Q Thank you.

42
43 I think they were addressing him in a, in a,
44 in a normal, normal manner. Ah, they were
45 not ah I don't find them to be ah anyway sort
46 of rude to the gentleman.

47

1 You said that to the police and that is your
2 recollection today?

3 A That's right.

4 Q
5 They were trying to get some information from
6 him.

7
8 Sorry.

9
10 They were trying to get some information from
11 him. And uh it sounds like ah they couldn't
12 understand him too by the, the reaction. Ah
13 just as it happened, the um, the gentleman
14 moved to his right uh, as he was trying to
15 get away from the officers. I seem him grab
16 something on top of the desk. Uh it was
17 something black...

18
19 You said that, correct?

20 A That's right.

21 Q And that was your recollection?

22 A That's right.

23 Q Then, and it's your recollection today?

24 A That's right.

25 MR. HIRA: I wonder whether we could go the Pritchard
26 video for a moment, video number 2, if we could go
27 to 3:38 at video number 2 -- 3:37, and play it to
28 3:48.

29 Q And while the video is being cued up, I would like
30 you to look at the right-hand side of the screen
31 where the desk appears.

32 MR. HIRA: From time to time, doctor, I may ask you to
33 stop the video, if you don't mind. That's video
34 number 3. We need video number 2. Fast forward
35 that to 3:37. And once we get to 3:37, just stop
36 it. Okay, can we just go forward from there.

37
38 (VIDEO BEING PLAYED)

39
40 Let's stop right there for a moment.

41 Q Do you recognize that area, sir?

42 A Yes.

43 Q Do you see the desk?

44 A Yes.

45 Q Do you see an object on top of the desk, sir?

46 A I see two there.

47 Q Yes? Do you see a black object there?

1 A It looks black, yeah.

2 Q Do you recognize that black object at all from the
3 night in question?

4 A No.

5 MR. HIRA: All right. Could you proceed with the
6 video. Stop there.

7 Q I'm going to suggest to you that that was the
8 black object that you saw and were referring to in
9 your statement. Would you agree with me?

10 A Looking at this, I don't see anything on the side.
11 So that could be. I can't tell.

12 MR. HIRA: Could I ask you to go back to 3:38, and if
13 we could do it on the other video player, that is
14 the Windows Media Player as opposed to the VLM or
15 VLC player. Go to 3:38, please and stop it at
16 3:38.

17 Q There. Do you see that black object on the right-
18 hand side on the desk?

19 A Yes.

20 Q Does that help your recollection at all with
21 respect to --

22 A No.

23 Q -- the object?

24 A No.

25 Q All right. If we could go back to your statement.

26 MR. HIRA: If we could turn up the lights, please, Mr.
27 Registrar.

28 Q Going down a couple of lines -- we're at page
29 2 -- you said:

30

31 And so I, so he was again getting really
32 really agitated um, branding, you know,
33 banishing this ah this object in his hand.
34 So I couldn't tell whether it was a sharp
35 object or what. So I, I couldn't comment on
36 that.

37

38 You said that to the police officers, correct?

39 A That's right.

40 Q And it remains your recollection today?

41 A That's right.

42 Q Going down four lines, you then heard a couple of
43 shots, and now we're dealing with the point where
44 the members are trying to pin him down and
45 handcuff him. You said:

46

47 ...at this point it was still really hard for

- 1 the four members to, to pin him down, to hold
2 him down to handcuff him. Uh, they managed
3 to at one point ah, have his hands behind his
4 back and handcuffed him that point in time.
5
- 6 That was your recollection then and now, correct?
- 7 A That's right.
- 8 Q It was a struggle.
- 9 A That's right.
- 10 Q You were surprised that this man was able to
11 resist the four members?
- 12 A Well, just looking at his reaction on the floor
13 and -- I would say he was -- like he was really in
14 pain type of thing.
- 15 Q I'm sorry?
- 16 A Like he was in pain, you know, really in pain and
17 he was like shaking type of thing. And I felt
18 that they couldn't control him, to hold him back
19 to tie down the handcuffs.
- 20 Q But you were surprised that despite the pain he
21 was still able to resist them. Is that a fair
22 comment by me?
- 23 A That's right.
- 24 Q Thank you. Now, you then notice after the
25 handcuffs are applied that one of the officers is
26 talking on his radio asking for help. Is that
27 fair?
- 28 A I assumed that was the case. I didn't hear him
29 talk. I just assumed by him calling on the radio,
30 his portable, that he was asking for assistance.
- 31 Q Yes, thank you. You were behind the glass --
- 32 A That's right.
- 33 Q -- and it is an assumption on your part. And
34 eventually the paramedics arrived; is that
35 correct?
- 36 A Yes, I saw the paramedics. That's right.
- 37 Q Well, you couldn't tell whether it was the
38 firefighters or the ambulance. It was people that
39 arrived to provide him with some assistance,
40 correct?
- 41 A That's right.
- 42 Q Let's deal with the first group that arrived to
43 provide him with some assistance. I'm asking you
44 to focus on the first group that arrived. It was
45 your view that they walked in rather casually
46 without any urgency; isn't that correct?
- 47 A That's correct.

- 1 Q And those are all matters that you set out in the
2 first three pages of the statement in your
3 narrative, as I've examined you on them, correct?
- 4 A That's right.
- 5 Q Now, let's deal with some more details. You
6 didn't think the RCMP acted roughly, did you, sir?
- 7 A During which time?
- 8 Q At any point in time.
- 9 A From the time they walked in to the take-down, I
10 didn't think so, no.
- 11 Q Thank you. You observed them trying to calm him
12 down, correct?
- 13 A In the manner of trying to -- you mean at the
14 start or at the end?
- 15 Q At the start. I'm sorry, I should be more
16 precise.
- 17 A At the start, yes, they were pointing -- directing
18 him just to move back as they walked in, and he
19 walked back towards the desk and that's when he
20 stood behind the desk, or in front of the desk on
21 the other side.
- 22 Q Now, at one point in time you said that Mr.
23 Dziekanski felt, in your view, uncomfortable in
24 his space, so to speak, that his arms were
25 flailing. What were you referring to? Perhaps I
26 should direct you to that point in your
27 statement --
- 28 A Yes.
- 29 Q -- where you say that. Page 6, three-quarters of
30 the way down, when you were asked about, "What do
31 you mean by agitated?" Do you recall saying that
32 he felt "uncomfortable in his space so to speak"?
- 33 A Well, that's at the very start.
- 34 Q Yes?
- 35 A At the beginning when I arrived.
- 36 Q Go on.
- 37 A That's what I'm saying. That's right. He
38 appeared very agitated at the time and I just felt
39 that obviously he was looking for assistance, and
40 nobody could understand him. I was told that he
41 was speaking English -- sorry, Russian. Sorry.
42 And there was nobody there to -- no translator
43 around.
- 44 Q And you said it looked like he felt uncomfortable
45 in his space, his arms were flailing, correct?
- 46 A When they spoke to him, yes, I would say that.
- 47 Q Thank you. That is, the "they" you're referring

- 1 to is the RCMP?
2 A The officers.
3 Q Now, at page 7 of your statement, exactly halfway
4 down, just by the second hole punch, you say:
5
6 ...I felt, just looking at him, he was just
7 he was, you know, pretty, pretty upset, mad
8 really.
9
10 Do you see that?
11 A Yes.
12 Q At what point are you making that observation of
13 Mr. Dziekanski?
14 A That was before the police arrived, you know. I
15 felt that he was not getting attention. And he
16 just looked like he was angry.
17 Q Now, if you go to the next page, page 18 (*sic*),
18 you note that -- and this is before the members
19 arrived -- at the top, the third line, that he
20 wasn't getting any assistance or help, correct?
21 A That's right.
22 Q And then you go on in the next answer. You say:
23
24 And before the members arrived. So there's
25 nothing to do with anything to say you could
26 see the members arriving and he was reacting
27 to that at all. It was not at all. So um,
28 but that's how I felt by look, just seeing
29 them on the other side.
30
31 I don't understand what you're trying to tell us
32 there. Could you help me?
33 A I'm just trying to tell myself. It's mumble-
34 jumble by looking at that really.
35 Q That's okay. It happens when I ask questions too.
36 Fair enough. Now, at the bottom of that page,
37 you're asked --
38 THE COMMISSIONER: Now, what page are you on?
39 MR. HIRA: Page 8, Mr. Commissioner. I keep having
40 this urge to say "My Lord," so forgive me.
41 THE COMMISSIONER: That's all right. I can't get my
42 wife to say that either.
43 MR. HIRA:
44 Q In any event, right at the very bottom, you are
45 asked to describe the four members and the two
46 security persons. Do you see that, sir?
47 A Yes.

- 1 Q And you note at the top of page 9 that they were
2 addressing him in a normal manner?
- 3 A Yes.
- 4 Q And that is both the security people and the RCMP,
5 from your perspective.
- 6 A That's right.
- 7 Q And again, at the bottom of page 8, you felt --
- 8 A Page 8?
- 9 Q Sorry, page 9. I beg your pardon. I should be
10 using those reading glasses perhaps. You felt
11 that the members acted in a professional manner?
- 12 A That's correct.
- 13 Q And I've gone on to page 10. You felt that the
14 members were -- and I'm at the top of it -- were
15 trying to find out what was happening and they
16 were trying to do it in a short time, correct?
- 17 A Mm-hmm. "In that short time," that's right.
- 18 Q In other words, they were trying to deal with him,
19 trying to find out what his problem was and trying
20 to do it in as quick a period as possible. Is
21 that a fair statement by me?
- 22 A That's my observation.
- 23 Q And they didn't try to take him down right away,
24 did they?
- 25 A No.
- 26 Q It was only when he moved to the right and grabbed
27 something black from the desk, correct?
- 28 A That was -- was I thought, that's right.
- 29 Q And he was brandishing that object before they
30 tried to take him down, based on your
31 observations?
- 32 A That's right.
- 33 Q And in fact, to demonstrate that to the officer,
34 that is the officer questioning you, you held your
35 right hand above your head, correct?
- 36 A That's right.
- 37 Q Could you do that for us now?
- 38 A All right (gesturing).
- 39 Q That's your recollection?
- 40 A (No audible response)
- 41 Q Now, the Taser is deployed, correct?
- 42 A That's right.
- 43 Q And he doesn't fall to the ground immediately?
- 44 A No, he sort of stumbled to the right.
- 45 Q And it seemed to you that the Taser was then
46 deployed a second time?
- 47 A I say I only heard two shots.

- 1 Q And it was after the second shot that he finally
2 fell to the ground?
- 3 A I said that's what I heard. That's what happened;
4 that's right.
- 5 Q And I've moved on to page 13 of your statement and
6 I'm looking at the long answer right in the middle
7 of the page. You felt that the members were
8 having a difficult time trying to handcuff him.
- 9 A That's right.
- 10 Q You described it as a "really tough job."
- 11 A That's right.
- 12 Q Moving on to page 14 at the top. They were trying
13 to hold his hands and bring them down behind his
14 back, correct?
- 15 A That's right.
- 16 Q And they were having great difficulty doing that?
- 17 A That's right.
- 18 Q Now, my friend, Mr. Kosteckyj, cross-examined you
19 on page 14 of your statement where you said,
20 three-quarters of the way down, that the members
21 didn't move him. Do you see that?
- 22 A That's my statement, the second-last statement of
23 mine?
- 24 Q If you --
- 25 A "I don't, at the time he was very...quiet"? That
26 one?
- 27 Q At page 14, Mr. Kosteckyj read this part to you,
28 or referred you to this part:
29
30 ...he's handcuffed now so he's just waiting
31 what they're gonna do, you know to move him.
32 Um, but when the members didn't actually move
33 him I knew there was something wrong.
34
- 35 Do you recall Mr. Kosteckyj asking you
36 questions --
- 37 A That's right.
- 38 Q -- regarding that?
- 39 A That's right.
- 40 Q Now, what you perceived at that time, what you
41 thought at that time, was there something wrong
42 here; they're not taking him away to the
43 detachment, correct?
- 44 A I didn't even think about that at that point.
45 I was just thinking about the condition of the
46 person.
- 47 Q When you're referring to moving there, you're

- 1 referring to moving him away from the scene.
2 A I'm talking about moving his body in any direction
3 at the time. I didn't talk about them picking him
4 up and moving him elsewhere.
5 Q Okay. Now, just dealing with the first fire or
6 medical response, at page 15 of your statement at
7 the bottom, two-thirds of the way down, going to
8 the bottom, the last two long answers, you thought
9 that the first responders walked in very casually
10 as if it wasn't a real emergency, correct?
11 A That's what I thought, yes.
12 Q You said:
13
14 I didn't get the --
15
16 Let me reword that. You felt that they didn't
17 think it was an urgent situation from their
18 reaction.
19 A That's right.
20 Q And one of the people that was dealing with him
21 immediately was a woman; is that correct?
22 A Yes. Of the medical team? Yes.
23 Q And you note that at page 6 of your statement in
24 the very middle, or just before the middle; is
25 that correct?
26 A That's right. Because the constable asked me
27 whether the fire department had arrived. I said I
28 wasn't sure whether it was the fire department or
29 the paramedics arrived.
30 Q You couldn't tell whether it was fire or
31 ambulance?
32 A That's --
33 Q All you know is that the first people that arrived
34 appeared to be quite casual.
35 A That was my statement; that's right.
36 Q And that one of the first people to arrive was a
37 woman who was kneeling and attending to him?
38 A She kept -- she was not alone.
39 Q Yes.
40 A She was part of the team of probably two or three
41 people.
42 Q Thank you. And you just wished that there had
43 been some translation services available that
44 could have assisted this man.
45 A If you're asking my opinion, yes.
46 Q Thank you.
47 A Being an international airport.

Robert Jorssen

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

1 MR. HIRA: Now, I have examined extensively on this
2 statement. It may be of some assistance to have
3 it marked as the next exhibit, certainly for
4 identification.

5 THE COMMISSIONER: Does anybody have a comment to make
6 on that? Yes, it'll be marked for identification.

7 THE REGISTRAR: It'll be marked as J for
8 identification.
9

10 EXHIBIT J FOR IDENTIFICATION: Copy --
11 Statement of Robert Jorssen dated Dec. 6,
12 2007
13

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

15 THE COMMISSIONER: Before we move along, I have looked
16 at the video a few times, and I am having trouble
17 seeing whether or not Mr. Dziekanski held that
18 object in his hand high the way you described
19 before he was Tasered as opposed to a reaction to
20 the Tasering. Dr. Perra, is it possible to run
21 this video in slow motion?

22 I wonder if you'd just help me with that and
23 have a look. Give me any reaction you can.

24 THE COMMISSIONER: Okay, let's start here.
25

26 (VIDEO BEING PLAYED)
27

28 THE COMMISSIONER: See, now the arm's up.

29 A That's right.

30 THE COMMISSIONER: All right, thank you, Dr. Perra.
31 That's enough.
32

33 (VIDEO STOPPED)
34

35 THE COMMISSIONER: Does that help at all?

36 A Yes. That brings back memories, sure. It
37 appeared that he reacted after he was shot.

38 THE COMMISSIONER: Yeah. All right, thank you. All
39 right, go ahead.

40 MR. HARRIS: Mr. Jorssen, my name is Reg Harris. I'm
41 counsel for one of the RCMP officers that were
42 present there that evening.
43

44 CROSS-EXAMINATION BY MR. HARRIS ON BEHALF OF CONSTABLE
45 BENJAMIN ROBINSON:
46

47 Q Firstly, sir, I wish to confirm. You and I have

1 never spoken?

2 A That's correct.

3 Q You have not spoken with any of the RCMP officers
4 that were present on scene that night?

5 A That's correct.

6 Q You have not spoken with anyone that was in charge
7 of this investigation?

8 A That's correct.

9 Q And in fact, you have not received any
10 correspondence or communication whatsoever from
11 myself or the officers present on that night; is
12 that correct?

13 A That's correct.

14 Q All right. Sir, what I'd like to do at this stage
15 is, I was confused as to your precise movements on
16 that particular night, and I'd like to go back
17 because I think it will help clarify your
18 positions of observation. All right? Before we
19 do that, I've heard you give distance estimates.
20 It would be fair to say those are only estimates,
21 correct?

22 A That's right.

23 Q You had no reason that night as you stood there to
24 note how far you were from the glass

25 A That's right.

26 Q And you had no reason when you left that night
27 that you would have to recount how far you were
28 from the glass?

29 A That's right.

30 Q And in fact, now with Commission counsel's
31 questions, that's your best estimate reflecting
32 back to October 2007?

33 A Quite right.

34 Q And I think you're prepared to accept that you may
35 be mistaken about those distances; would that be
36 fair?

37 A That could be right.

38 MR. HARRIS: All right. If we could go to YVR video
39 number 1 at approximately 1:27:08. Sorry, not
40 number 1. The one showing the curbside. Pardon
41 me. 1:27:08, please, Dr. Perra.

42 DR. PERRA: 1:26:53.

43

44 (VIDEO BEING PLAYED)

45

46 MR. HARRIS: And if you could stop it right there,
47 please.

1 Q Now, sir, you previously identified that
2 individual coming through the door and angling to
3 the right as being yourself, correct?

4 A That's right.

5 Q Now, I want to see if you'll agree with my
6 description of the clothing that you're wearing
7 that night. You're wearing light-coloured pants?

8 A Right.

9 Q Dark shoes?

10 A Yes.

11 Q A light-coloured shirt?

12 A Right.

13 Q And you're wearing some sort of dark coat or
14 sweater that's open at about waist length,
15 correct?

16 A That's right.

17 Q I also notice, sir, that when you're walking there
18 it appears that your left hand is in the pocket.
19 Would you agree with that?

20 A It looks like it, yes.

21 MR. HARRIS: If you could play it just a bit further,
22 Dr. Perrra. All right.

23 Q So you agree the left hand is in the pocket?

24 A I don't think so on that shot, no.

25 Q Okay, you can't tell.

26

27 (VIDEO STOPPED)

28

29 MR. HARRIS: All right. I'm going to ask that now you
30 go to the more broad view from the escalator area,
31 Dr. Perrra. And if you would go, please, to
32 1:28:05.

33

34 (VIDEO BEING PLAYED)

35

36 MR. HARRIS: Stop it there, please.

37 Q Now, that gentleman there is you? And I'll just
38 put the pointer on there. Right there, that's
39 you?

40 A It looks like it, yes.

41 Q And you said it looks like it because it's similar
42 in build, correct?

43 A That's right.

44 Q Similar pants?

45 A That's right.

46 Q Similar jacket?

47 A That's right.

- 1 Q Similar shoes?
- 2 A That's right.
- 3 Q And in the vicinity where you recall being that
- 4 night, correct?
- 5 A That's right.
- 6 MR. HARRIS: All right. Continue playing, please, Dr.
- 7 Perra. If you could speed up to 1:28:05. Stop it
- 8 there, please.
- 9 Q When you turned around, did you notice your hands
- 10 in your pockets, sir?
- 11 A Yes, I did.
- 12 Q Is that something that you do on occasion, walk
- 13 around with your hands in your pocket when you're
- 14 casually dressed, or do you know?
- 15 A I suppose so.
- 16 MR. HARRIS: Okay. Please play on, Dr. Perra. Now,
- 17 we'll stop there.
- 18 Q Firstly, we see some members of the Royal Canadian
- 19 Mounted Police enter, some constables, correct?
- 20 A Yes.
- 21 Q And you didn't know any of these officers that
- 22 arrived?
- 23 A No.
- 24 Q All right. And because this was raised by one of
- 25 the lawyers questioning you, sir, it was commented
- 26 that you had referred to them as "my members" or
- 27 "members." Do you recall that line of
- 28 questioning?
- 29 A Yeah, members. That's right.
- 30 Q That's right. Now, members is a term that you use
- 31 frequently to categorize things such as pay,
- 32 classification, the whole nine yards, correct?
- 33 A That's quite correct.
- 34 Q And in fact, sir, as part of your function, you
- 35 have to have a little bit of familiarity with the
- 36 *Royal Canadian Mounted Police Act*, the legislation
- 37 that governs the RCMP?
- 38 A To some degree, yes.
- 39 Q And in there, a member is defined as a constable
- 40 of the Royal Canadian Mounted Police; isn't that
- 41 right, sir?
- 42 A That's correct.
- 43 MR. HARRIS: Now, if you'd just play on, please, Dr.
- 44 Perra. And stop there.
- 45 Q Now, you see where you've moved to, sir?
- 46 A Yes.
- 47 Q And you're on the other side of that big white

1 whatever it might be, correct?
2 A That's right.
3 Q Now, I want you to watch on this side where I've
4 got the pointer set and see if you can see someone
5 emerge from there in a few seconds that looks very
6 similar to what you were wearing that night.
7 MR. HARRIS: Please play. Stop it there.
8 Q Now, you see that individual right there?
9 A That's right.
10 Q That individual has the same style of jacket that
11 you had on that night?
12 A Looks like it from here. It looks fuzzy, yes.
13 Q If you're having difficulty, the screen is not the
14 best. I encourage you to come down and look at
15 Dr. Perra's screen on his laptop here, sir. It's
16 greater clarity.
17 MR. HARRIS: Dr. Perra, I don't know if you can move it
18 while he's looking.
19 A It's about the same.
20 Q The clarity is better on the laptop?
21 A About the same.
22 MR. HARRIS: If you could just play it for about two
23 seconds.
24 Q And watch on the laptop the person move, please,
25 sir.
26 MR. HARRIS: Stop it there. A bit more, please, Dr.
27 Perra, just two seconds. And stop there.
28 Q If you'll just return back to your seat, sir. You
29 agree that the individual that I've drawn your
30 attention to has the same style of jacket as you
31 had that night?
32 A That's right.
33 Q Had the same colour pants as you had that night?
34 A That's right.
35 Q Had the same build that you were presenting as
36 that night?
37 A That's right.
38 Q Had the same -- similar dark shoes that you had
39 that night?
40 A That's right.
41 Q And there weren't very many people in the area
42 that night, were there, sir?
43 A Not really, no.
44 Q And I take it the events that were unfolding,
45 seeing the arrival of the RCMP, I think fair to
46 say that your curiosity was piqued to some degree?
47 A That's true.

- 1 Q Would it be unreasonable for you to manoeuvre
2 yourself in a position to watch what the RCMP
3 officers were doing?
- 4 A Sure.
- 5 Q That would be something you'd naturally do --
- 6 A That's right.
- 7 Q -- would that be fair?
- 8 A That's right.
- 9 MR. HARRIS: All right. Now, I'm going to just -- if
10 we could play on, Dr. Perra, and I'm going to
11 follow where this individual moves to. Stop it
12 there.
- 13 Q Do you recall standing near the railing that way
14 where you were looking up towards the IRL that
15 night, the doorway?
- 16 A See, I don't recall that, you see, because I was
17 mentioning -- if you look at this photograph here,
18 I'm not sure whether that is completely black or
19 whether there's a marking on the back of that
20 jacket or not.
- 21 Q Okay. Let's put it this way. Certainly, setting
22 aside whether or not there's a marking on there,
23 you can't rule out -- you can't say one way or
24 another if you were over there having a look, can
25 you?
- 26 A No, that's right.
- 27 Q But you can tell us it would be something that you
28 would be naturally doing is going to see what the
29 officers were doing?
- 30 A That's right.
- 31 MR. HARRIS: All right. If you could play a little
32 further, Dr. Perra. Stop there.
- 33 Q Can you tell if that individual there has one of
34 his hands in his pockets when he's walking? Were
35 you able to tell?
- 36 A Looks like it.
- 37 MR. HARRIS: All right. Continue playing, please.
- 38 Q I just want to see if you can tell us where that
39 person goes to, sir. He goes towards the glass
40 window.
- 41 A That's right.
- 42 Q And he gets lost in around very close to the
43 glass. Do you agree with that?
- 44 A That's right.
- 45 Q And you recall being able to see what was
46 transpiring that particular night, correct?
- 47 A That's quite correct.

1 Q Now, you cannot rule out if that person was you
2 that night, can you?

3 A No.

4 Q Now, sir, earlier Mr. Hira was asking you
5 questions about --

6 MR. HARRIS: You can stop that, Dr. Perra. Thank you.

7

8 (VIDEO STOPPED)

9

10 Q Mr. Hira was asking you questions about the black
11 object on the counter, correct?

12 A That's right.

13 Q Now, firstly, the location where the black object
14 was depicted in the video tape, I think you would
15 agree was in a very general location or close
16 proximity to where you had marked on the exhibit,
17 the photograph, correct?

18 A No.

19 Q No? Let's just have a look at the --

20 MR. HARRIS: Can I have the second last exhibit.

21 A The black object on the video was at the entrance
22 as you came in, to the right.

23 Q All right. So you're marking this photograph with
24 the number 8 showing this side of the counter
25 close to the glass, or away from the glass?

26 A The glass is this side (indicating).

27 Q Okay.

28 A So this is the front of the desk.

29 Q Okay.

30 A Okay? Inside. And the entrance is on the far
31 right.

32 Q Okay. And to the best of your ability, that's
33 where you think the black object was, correct?

34 A I would say I just assumed because as I saw his
35 hand go to the right, I thought that's where he
36 picked up the object. I didn't see the object
37 before he picked it up --

38 Q Okay.

39 A -- on there. But I'd assume that as he put his
40 hand to the right -- I just got the impression
41 that that's where he obtained the object from.
42 But he could have had it beforehand. I can't
43 tell.

44 Q All right. Certainly the object in the video, you
45 agree, is the same colour as the object that you
46 saw Mr. Dziekanski with?

47 A In his hand? Yes.

- 1 Q Generally the same size as the object that he had
2 that particular night?
- 3 A The object in his hand? Yes.
- 4 Q Yes. The one on the video was approximately the
5 same size as the one that he had in the hand?
- 6 A Well, the one -- there were two objects there,
7 right, on the video. One was a smaller one, one
8 is the wider one. I presume the smaller one was
9 the black object in question.
- 10 Q Okay. So on the video you saw an object on the
11 counter that was similar in colour and size to
12 what you saw Mr. Dziekanski ultimately with,
13 correct?
- 14 A That's right.
- 15 Q All right. Now, prior to giving your statement on
16 December 6th, you had been following some of this
17 case in the media, correct?
- 18 A I wouldn't say follow. When I was watching the
19 news I would see it; that's right.
- 20 Q Perhaps a poor term. You were aware that it was
21 significantly newsworthy?
- 22 A Quite right.
- 23 Q And for that you would see it quite frequently on
24 the news when you're watching the news?
- 25 A That's correct.
- 26 Q And at some point you became aware that it was
27 being suggested that Mr. Dziekanski was possessing
28 a stapler?
- 29 A On the news, that's right.
- 30 Q And you learned that before you gave your
31 statement, correct, from the news?
- 32 A I don't think so. Because you remember, this is
33 December the 6th.
- 34 Q Yes.
- 35 A And a lot has transpired from the incident to
36 December the 6th. And it could very well have
37 been told to me or on the news media that there
38 was a stapler. I don't know.
- 39 Q You don't know.
- 40 A I don't recall, but it could have been mentioned
41 in the news clippings that it was a stapler. But
42 I -- I was just giving my impression at the time
43 that I didn't think it was a sharp object. I
44 didn't know what it was.
- 45 Q My --
- 46 A That was my initial observation at the time. I
47 couldn't -- if somebody asked me what it was, I

- 1 would say, well, I didn't know what it was.
2 Q My point exactly, sir. You didn't allow what you
3 heard in the media to influence your opinions or
4 beliefs as to what you saw that night.
5 A That's right.
6 Q And that's why you just called it a black object.
7 A That's right.
8 Q Now, while we're touching a bit on your statement,
9 one of the lawyers asked you with regards to part
10 of your statement on page 2, I believe it was,
11 where -- or page 3.
12
13 I assume they were trying to feel his pulse
14 to see if he was still alive...
15
16 Do you remember those lines -- questioning about
17 that, sir?
18 A That's right.
19 Q And of course you can't tell us exactly what the
20 officers were doing because you're not in their
21 brain. Would that be fair? You couldn't tell us
22 what they were doing.
23 A Well, that's a question. Well, I just assume when
24 I see them touching some parts of his body that --
25 on a certain location which I think normally you
26 would take a pulse from.
27 Q Exactly. That's what I'm getting at, sir. You
28 saw the officers reach down and touch those areas
29 of Mr. Dziekanski's body that you know from life
30 experience are where people go to check for pulse.
31 A That's correct.
32 Q And though you can't say for certain from all your
33 life experience, it appeared that they or someone
34 was checking Mr. Dziekanski for a pulse. Would
35 that be accurate?
36 A That's correct.
37 Q Now, we've gone to the part about where the item
38 -- where Mr. Dziekanski raises his hands above his
39 head, and that's after the Taser's deployed,
40 correct?
41 A That's right.
42 Q Before the Taser is deployed, he has the object in
43 his hand?
44 A I cannot tell.
45 Q Okay.
46 A Or couldn't tell at the time, no.
47 Q You couldn't tell at the time?

Robert Jorssen

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

1 A No.

2 Q All right.

3 THE COMMISSIONER: Will you be a bit? I'm looking for
4 the right spot to break.

5 MR. HARRIS: Now might be a good time, Mr.
6 Commissioner. Thank you.

7 THE COMMISSIONER: We'll take a break.

8

9 (WITNESS STOOD DOWN)

10

11 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

12 (PROCEEDINGS RECONVENED)

13

14 ROBERT JORSSEN, recalled.

15

16 CROSS-EXAMINATION BY MR. HARRIS ON BEHALF OF CORPORAL
17 BENJAMIN ROBINSON, continuing:

18

19 Q Sir, I recall your evidence yesterday where you
20 were talking about the time after Mr. Dziekanski
21 had been handcuffed on the ground and seeing one
22 of the officers go to his radio. Do you recall
23 that?

24 A That's right.

25 Q And I may be mistaken but I thought you testified
26 that Mr. Dziekanski was not moving at that time.

27 A That's right.

28 MR. HARRIS: All right. Dr. Perra, could you please go
29 to the Pritchard video. I think it's the second
30 video, 1624. We don't need sound for this portion
31 of it. Approximately 5:05, please.

32

33 (VIDEO BEING PLAYED)

34

35 Q If you look at Mr. Dziekanski on the ground once
36 the video starts playing, I think you'll agree
37 there are times where you still see his legs
38 moving right there? Do --

39 A That's right.

40 Q -- you agree with that?

41 MR. HARRIS: Now, if you stop there, please, Dr. Perra.

42 Q I'm going to ask you to watch this office right
43 here (indicating) and see if that's the officer
44 that you referred to going for his microphone and
45 radioing for assistance.

46 MR. HARRIS: Please play it, Dr. Perra. Stop it there.

47 Q See him up in the right-hand corner?

1 MR. HARRIS: If you could just back it up, please,
2 about a second or two, Dr. Perra. You may have to
3 back it up a bit more. I apologize. Thank you.
4 Right up there.

5 Q Is that the officer that you saw go on his radio?

6 A No. The person I seen -- the officer I seen, he
7 was kneeling down at the time.

8 Q Okay. And do you know which one of those three
9 or --

10 A I don't know. It's soon after that, if you can
11 move forward.

12 Q Okay. Unfortunately the video stops, so --

13 A I just thought it was after that time he was
14 kneeling down. That's the time he called.

15 Q Okay. So the first officer that went on the
16 radio, do you recall seeing that, or you have no
17 memory of that now?

18 A I don't recall that incident, no.

19 Q All right.

20 A But it looks like the officer that did the call
21 while he was kneeling over -- over Mr. Dziekanski.

22 Q All right. And when the officers, after the video
23 has stopped, were kneeling over Mr. Dziekanski, it
24 appeared from your perspective they were paying
25 close attention to him, correct?

26 A Yes, that's my observation. Yes.

27

28 (END OF VIDEO)

29

30 Q All right. Now, lastly, sir, though you work for
31 the Royal Canadian Mounted Police, you've never
32 received their training in handcuffing techniques?

33 A No.

34 Q You've never received their training on how to
35 deal with resistant subjects?

36 A No.

37 Q You've never received their training on how
38 multiple officers may restrain a person on the
39 ground?

40 A No.

41 MR. HARRIS: Thank you for answering my questions.

42 MR. STEWART: Mr. Jorssen, my name is Dwight Stewart
43 and I am counsel for the Vancouver Airport.

44

45

46

47

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

4 Q I'm just going to ask you some questions about
5 your recollection of the brief interaction you
6 described with the RCMP member who left the IRL,
7 and I believe you described having a brief
8 conversation with that RCMP officer.

9 A A couple of minutes -- a couple of seconds.
10 That's right.

11 Q If I can just place it back in terms of how you
12 described it, December 6th, 2007. This is at the
13 top of page 3 of 18, sir. And I suppose -- I
14 apologize. We should start at the bottom of page
15 2 of 18, to put it in context. You indicate:
16

17 Uh, they, I saw one was talking to his ah his
18 radio obvious getting for some help.
19

20 And then you say:
21

22 I also noticed one of the members was going
23 to his car, and I went over to the member and
24 asked him how (INDECIPHERABLE) going. I
25 didn't identify myself to him, I didn't think
26 it was necessary, I just asked him how things
27 were going. And he was saying to me that ah,
28 uh, the gentleman would be ok, there's
29 nothing wrong it'll be ok.
30

31 Okay?

32 A That's right.

33 Q Do you recall that?

34 A That's right.

35 Q And that accurately reflects your recollection?

36 A That's right.

37 MR. STEWART: Now, if I could have YVR video 22244,
38 which is the view that's been described as the
39 view from the escalators at 1:32. If we could
40 just run it from there.

41 MR. PERRA: This is 1:31:54.
42

43 (VIDEO BEING PLAYED)
44

45 MR. STEWART:

46 Q I'm going to ask you, sir to keep your eyes
47 focused on the area where we saw you earlier

Robert Jorssen

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

1 between the white cart -- right up in that area,
2 yes, sir.

3 MR. STEWART: Now, if we could just pause it, doctor.

4 Q So you saw from the right-hand side, sir, an RCMP
5 member walking back in, appearing to return from
6 the area that we've been describing --

7 A Right.

8 Q -- as curbside, the outside doors?

9 A Right.

10 MR. STEWART: And if you could let it run again,
11 doctor. Stop right there, doctor.

12 Q Now, I've just noticed that there's a person on
13 the video that appears to be dressed in the same
14 fashion as you described with my friend, Mr.
15 Harris.

16 A Right.

17 Q Does that appear to be you?

18 A It appears to be me, that's right.

19 MR. STEWART: And if we could just let it run for a few
20 more seconds, Dr. Perra. And if we can stop it
21 right there.

22

23 (VIDEO STOPPED)

24

25 Q Does that accord with your recollection of --

26 A That's right.

27 Q -- where it was that you had that conversation
28 with the officer?

29 A That's right.

30 Q To the best of your recollection, it's at that
31 moment that you just --

32 A That's right.

33 Q -- asked him how things are going and he says --

34 A Yeah. I thought -- I thought it was when he was
35 coming out but obviously it was when he was going
36 in I asked the question; that's right.

37 MR. BUTCHER: What's the time on that?

38 DR. PERRA: That's at 1:32:36.

39 MR. STEWART: And I had marked down that it was
40 1:32:24, right about the moment where you can see
41 them side by side at the little glass wall.

42 That's all I wanted to clarify, Mr. Jorssen.

43 Thank you.

44 MR. KOSTECKYJ: I had a question I had forgotten to
45 ask.

46 THE COMMISSIONER: Yes, go ahead.

47

1 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA
2 CISOWSKI, continuing:
3

4 Q Mr. Jorssen, after this episode was over, the one
5 thing that you said that you were really angry
6 about was the lack of translation available; is
7 that correct?

8 A That's right.

9 Q In fact, on page 16 of your statement, 16 and the
10 top of 17, that's discussed. You make a point of
11 that with the RCMP officer.

12 A That's right.

13 Q You say:

14
15 ...the only thing I was really mad about when
16 I left there was nobody there to assist him
17 in the translation.
18

19 Correct?

20 A At that time, based on my observations, that's
21 right.

22 Q And:

23
24 That's, that's still bothers me. Um, you
25 know, 'cause think about it, because I think
26 all of this could have been prevented if
27 there were ah, assistance by the airport...
28

29 Is that correct?

30 A That's right.

31 Q And you went on at the top of the page:

32
33 To provide that, you know that ah, ah
34 translation services and that's, I think, I
35 couldn't understand being a international
36 airport and that's, still today it still
37 bothers me.
38

39 A That's right.

40 Q The other thing that you noticed, and in your
41 statement you told the police, was that the
42 security from the airport had little to no
43 interaction with Mr. Dziekanski.

44 A At the time I was there, that's right. I can't
45 say prior to my arrival, their interaction with
46 him. I cannot say.

47 MR. KOSTECKYJ: Thank you.

Robert Jorssen

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

Re-exam by Mr. McGowan

1 MS. ROBERTS: Mr. Commissioner, I have one question in
2 re-examination.

3 THE COMMISSIONER: Yes, go ahead.

4

5 CROSS-EXAMINATION BY MS. ROBERTS ON BEHALF OF THE
6 GOVERNMENT OF CANADA, continuing:

7

8 Q Mr. Jorssen, you testified that you told one of
9 the senior managers at coffee that you witnessed
10 the incident, and I think you referred to that
11 person as the CROPS officer.

12 A That's right.

13 Q And who is the CROPS officer? What does CROPS
14 stand for?

15 A Okay. He's the assistant commissioner, Al
16 McIntyre.

17 Q And does CROPS stand for Criminal Operations?

18 A That's right.

19 Q And the Integrated Homicide Investigation Team,
20 are they part of Criminal Operations?

21 A Yes.

22 Q So that in some routing or another, the head of
23 IHIT would report to the CROPS officer?

24 A Through -- that's right, the deputy CROPS for
25 contract policing. That's right.

26 Q So essentially you told the IHIT chief's boss that
27 you had witnessed the incident?

28 A Quite right.

29 MS. ROBERTS: Thank you.

30 MR. MCGOWAN: Just a couple of matters, Mr.
31 Commissioner. For the record, it's Patrick
32 McGowan, Commission counsel.

33

34 RE-EXAMINATION BY MR. MCGOWAN:

35

36 Q Mr. Jorssen, as you know, I'm Commission counsel,
37 and I don't have a particular interest in your
38 answers going one way or another. But I do want
39 to make sure that we have a clear understanding of
40 what your evidence is and that it's come out in a
41 way that you're comfortable with.

42 You've been asked a number of questions today
43 by a number of different lawyers.

44 A Right.

45 Q There's a couple of areas where I'm still not
46 entirely clear on what your evidence is. I'm
47 going to ask you a few questions about that. All

1 right, sir?

2 Now, when I asked you questions about -- I'm
3 going to ask you first of all about the item that
4 was on the desk.

5 A Right.

6 Q And your observations of that and what your
7 recollection is today and what your evidence is
8 today about that. All right, sir?

9 I asked you questions when I asked initially
10 in examination in chief about that. I might be
11 wrong, but my recollection is that your evidence
12 was to the effect that prior to Mr. Dziekanski
13 proceeding to the desk, you saw this item that you
14 were speaking of, the dark item, on the desk.

15 A No, I --

16 Q That you saw him reach out and saw him pick it up.

17 A No, I didn't say that. All I said, I -- when he
18 moved away, I saw him move to his right and like
19 putting his hand on the desk. And that's when
20 I -- to be honest with you, I can't recall seeing
21 that object prior to.

22 Q Okay. So this morning when I asked you if you'd
23 seen the object before it was picked up and you
24 drew the X, and then Mr. Hira asked you some
25 questions about seeing the item be picked up and
26 then having it brandished. And then you watched
27 some video and then you watched some more video
28 with the Commissioner. And then I noticed when
29 Mr. Harris was asking you questions, your response
30 was that you assumed he picked it up. And I just
31 want to give you the opportunity now, sir, to tell
32 us what your recollection is now after having a
33 chance to reflect on it. So maybe I'll just ask
34 you a few questions.

35 Did you, prior to Mr. Dziekanski -- in your
36 best recollection now, see an item sitting on the
37 desk before Mr. Dziekanski's hand went in the
38 vicinity of the desk?

39 A No.

40 Q Did you see Mr. Dziekanski's hand contact any item
41 on the desk?

42 A No. Only touching the top of the desk.

43 Q Okay. Does your evidence about the item on the
44 desk and him picking it up stem from something you
45 saw later on in his hand?

46 A When I was present, yes. I just assume when his
47 hand -- when his arm went up, that he obtained

1 So that was what you said to the police officer on
2 December 6th about the taking of the pulse
3 initially; is that right?
4 A That's right.
5 Q Okay. And then Mr. Harris, when he was asking you
6 some questions about this, also addressed the
7 matter, and you initially agreed with him that you
8 saw officers touch those parts of Mr. Dziekanski
9 that you would generally -- I don't have his
10 precise words, but you would generally assume
11 would relate to taking the pulse, and I assume
12 you're talking about the wrist or the neck there?
13 A That's right.
14 Q And then later Mr. Harris asked you, it appeared
15 they or someone was checking the pulse, and you
16 answered yes to that question. So do I understand
17 correctly that you saw somebody at some point
18 touching Mr. Dziekanski in a manner you assumed
19 was taking the pulse?
20 A That's right.
21 Q We have that clearly?
22 A That's right.
23 Q What I want to ask you, sir, is whether today you
24 have a clear recollection or you're certain as to
25 whether it was an officer or somebody else that
26 you saw.
27 A If I look at the video this morning where it
28 stopped -- unfortunately it didn't carry on --
29 I thought towards the latter part of that clip
30 somebody took his pulse at that point in time.
31 Q Without looking at the video -- because of course
32 we can look at the video --
33 A That's right.
34 Q -- when you were giving your evidence about --
35 well, let me ask you first of all. You've made
36 reference to "them" and "they," sometimes plural
37 and sometimes singular. Do you recall a single
38 person taking the pulse or --
39 A Yes --
40 Q -- more than one?
41 A -- just one.
42 Q One person, okay. Do you recall it happening, now
43 after hearing the questions and looking at the
44 video --
45 A Yes, I --
46 Q -- do you recall it on one occasion or more than
47 one occasion?

41
Nick Le
In chief by Mr. McGowan

1 A I seen on two occasions, one on his wrist and one
2 on his neck.

3 Q Okay, fair enough. Are you able to tell us today
4 whether your recollection is clear that it was an
5 officer or whether it was somebody else, or are
6 you not certain?

7 A I'm still of the opinion it was an officer.

8 MR. MCGOWAN: Thank you, sir. Those are my questions.

9 THE COMMISSIONER: Thank you very much for your time.

10 You've been very helpful to us.

11 A Thank you.

12 THE COMMISSIONER: Thank you.

13 A You're welcome.

14 MR. MCGOWAN: Mr. Commissioner, the next witness is a
15 Mr. Nick Le.

16

17

NICK LE, a witness, affirmed.

18

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

20 A My name is Nick, N-I-C-K, last name L-E.

21

22 EXAMINATION IN CHIEF BY MR. MCGOWAN:

23

24 Q Mr. Le, you're a limousine driver?

25 A Yes, sir.

26 Q How long have you been engaged in that profession?

27 A About more than two year.

28 Q Sorry, did you say more than two years?

29 A Yes.

30 Q You haven't met me before?

31 A I met no -- no one here.

32 Q No. You haven't met with any of the Commission
33 staff or anybody from the Commission at all, have
34 you, sir?

35 A No, sir.

36 Q You haven't met with the police about this matter?

37 A No, sir.

38 Q You did on one occasion send an e-mail to Mr.
39 Kosteckyj?

40 A Yes, sir.

41 Q And that was a short time after the incident at
42 the International Airport?

43 A No. It's after the video coming out --

44 Q Yes.

45 A -- because -- the reason why is I don't want to
46 get involved to anything but I feel very bad to
47 the matter, so that's why I send the video to --

42
Nick Le
In chief by Mr. McGowan

1 the message.
2 Q Okay, sir.
3 A Yeah.
4 Q You were at the Vancouver Airport on the early
5 morning of October 14th, 2007?
6 A Yes, sir.
7 Q When you were there, you made some observations of
8 Mr. Dziekanski, the person we've come to know as
9 Mr. Dziekanski, and ultimately the police officers
10 attending and their interactions?
11 A That one I like to make it straight clear now. I
12 walk in behind those officer. So the rest in the
13 beginning is, well, I'm not involve into that.
14 Q Yes, sir. You're present at the same time the
15 officers and Mr. Dziekanski were there, correct?
16 A I walk into the terminal behind the officers.
17 That's all I can tell.
18 MR. MCGOWAN: Could we have YVR video 22244, please.
19 If we could cue it up to 1:28:45, please.
20 Q Sir, I believe we're going to see the police
21 officers enter and you enter shortly after them.
22 A That's right.
23 Q Essentially almost right on their heels.
24 A That's right.
25 DR. PERRA: 1:28:41.
26
27 (VIDEO BEING PLAYED)
28
29 MR. MCGOWAN:
30 Q Sir, this is a surveillance video from the
31 Vancouver International Airport. Very shortly
32 we're going to see the RCMP officers. They may
33 already be in actually. Yes, I think they've just
34 gone over the railing. If you can watch the
35 right-hand side and tell us if you see yourself
36 entering.
37 MR. MCGOWAN: Can we have a time, please.
38 DR. PERRA: 1:29:19.
39 MR. MCGOWAN:
40 Q It should just be a few more seconds, sir.
41 MR. MCGOWAN: Time, please.
42 DR. PERRA: 1:29:30.
43 MR. MCGOWAN: I'm sorry, I didn't hear that.
44 DR. PERRA: 1:29:30.
45 MR. MCGOWAN: My note is that Mr. Le should be seen
46 entering at 1:29:36, so if we could just carry it
47 forward, please.

43

Nick Le

In chief by Mr. McGowan

1 DR. PERRA: That was 1:29:38. It's now 1:29:40.

2 MR. MCGOWAN: Back up then, please, to 1:29:30.

3 DR. PERRA: That's 1:29:30.

4 MR. MCGOWAN:

5 Q Okay. Watch the right-hand side, sir. I
6 understand we're going to see you enter from the
7 curbside doors. Do you see yourself right there?

8 MR. MCGOWAN: Stop, please. Back up just a bare
9 fraction.

10 Q Right by the yellow cart there, sir, does that
11 appear to be the way you were dressed that
12 evening?

13 A I'm not quite sure but it may be me.

14 Q Okay. Were you carrying something in your hand,
15 something white, perhaps?

16 A Yeah, the paper.

17 Q Okay, tell us about the paper.

18 A That paper have a name of the passengers I'm going
19 to pick up and other information.

20 Q Okay. So your plan was to attend and pick up a
21 passenger that evening; is that right?

22 A Yes, sir.

23 Q And you had with you a sign with the passenger's
24 name on it which you were planning to hold up so
25 the passenger could find you?

26 A Yes, sir.

27 Q And where were you planning on meeting the
28 passenger?

29 A Inside the security --

30 Q So in the area we know as the IRL?

31 A Yes, sir.

32 Q And did you have a prox card to get in there?

33 A I have everything.

34 Q Did you have a card that would allow you to open
35 those doors?

36 A Yes, sir.

37 Q We'll keep watching forward, please, sir. If you
38 could just watch yourself on the video, assuming
39 that's you, and maybe we'll get a closer look at
40 you later on and you can confirm that. You've
41 just walked behind that white kiosk. Do you see
42 that?

43 A (No response).

44 MR. MCGOWAN: If we could have a time count.

45 DR. PERRA: 1:30:20 or :28. I'll tell you in a second.

46 That was 1:30:22.

47

44
Nick Le
In chief by Mr. McGowan

1 MR. MCGOWAN:
2 Q Sir, if you could watch, do you see somebody
3 walking up in dark clothing carrying a white sign
4 of some sort?
5 A Yeah.
6 Q Does that appear to be you?
7 A Yeah. And then I try to walk in because I thought
8 everything will be done, so I --
9 MR. MCGOWAN: Okay, if we could just pause it there for
10 a second.
11 Q Now, you've been in the meet-and-greet area for a
12 little over a minute perhaps by this point. Did
13 you have any inkling that there was an incident
14 going on at this point?
15 A Yes, I know.
16 Q Okay. How did you know?
17 A Because I stop for the police car to walk in and
18 then I -- that's why when I walk in behind them.
19 Okay. And then when I walk in it's very noisy,
20 very noisy at the back there, and then I know what
21 is going on too.
22 Q Okay. You then proceed up to the doors. Did you
23 attempt to get in them?
24 A Yes, sir.
25 Q Okay.
26 A Because at that time -- it happen on this side so
27 I thought the doors will be okay for me to walk
28 in.
29 MR. MCGOWAN: Okay. Keep rolling the video, please.
30 Q You proceed up to the doors and obviously you
31 don't go through them; is that right?
32 A No. They don't let me in.
33 MR. MCGOWAN: Perhaps we'll fast forward it now right
34 up to 1:36. We'll just watch it on fast forward
35 and maybe slow it down when he comes around the
36 corner here.
37 Q There's an officer that walked past you. Now, are
38 you standing up by the IRL doors this whole time,
39 sir?
40 A I'm not recall but I stand there for -- for a
41 little bit time so I walk -- I watch inside.
42 Q You went inside the IRL?
43 A No, no, no. I stand there so I saw some happening
44 there.
45 Q Okay, that's fine.
46 MR. MCGOWAN: Keep rolling the movie. Are we at 1:36?
47 DR. PERRA: No, 1:33. 1:34. 1:35. 1:36.

45
Nick Le
In chief by Mr. McGowan

1 MR. MCGOWAN:
2 Q Sir, just keep watching and tell us if you see
3 yourself again, and I'll ask you about where
4 you're going.
5 MR. MCGOWAN: And if we could just pause there.
6 Q We see a gentleman having just left the laneway to
7 the IRL. He appears to be carrying some sort of a
8 white paper. Does that appear to be you, sir?
9 A Yes, sir.
10 Q Okay. So we know then from shortly after 1:30
11 till a little after 1:36 --
12 A Yes.
13 Q -- you're up near the IRL doors?
14 A Yes.
15 Q Correct?
16 A Yes.
17 Q And during that time, what are you doing?
18 A Okay. I remember before I walk in, then the
19 police officer (indiscernible) with the -- with
20 the -- what's that -- that man there, okay. So I
21 walk in and now I walk out and then I try to call
22 my company.
23 Q Let me ask you this. Before you went over to the
24 doors, do you recall when you first walked in, did
25 you look through the glass?
26 A Yes, I did.
27 Q And did you see the police officers and Mr.
28 Dziekanski?
29 A Yes.
30 Q Okay. You then walked up this area inside the
31 railing --
32 A Yes.
33 Q -- to the doors?
34 A Yes.
35 Q And you stayed there about six minute?
36 A Yes.
37 Q And while you were there, were you watching the
38 police officers?
39 A Yeah, I watch the whole --
40 Q And could you see Mr. Dziekanski as well?
41 A Not really because the police is surround him.
42 MR. MCGOWAN: Okay. Now, if we could just fast forward
43 up to 1:38, to 1:38:20, please.
44 Q We see you leaving.
45 A I just go to this side (indicating) and then I
46 come back.
47 Q Okay. We're going to see you come back in just a

46
Nick Le
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1 minute, sir.
2 A Yeah.
3 Q You haven't seen this video before, I take it?
4 A No, I don't. I don't even know it have one.
5 Q Okay.
6 A Yeah.
7 DR. PERRA: 1:38:20.
8 MR. MCGOWAN:
9 Q We see you coming back there again, sir, with the
10 paper in your left hand?
11 A Yes, sir.
12 MR. MCGOWAN: Keep rolling the video, please.
13 DR. PERRA: 1:38:34.
14 MR. MCGOWAN:
15 Q You appear to go inside the railing again? Is
16 that right, sir?
17 A Yes, sir.
18 Q And you're proceeding up towards the IRL doors
19 again?
20 A That's right.
21 MR. MCGOWAN: If we could have a time count, please.
22 DR. PERRA: 1:39:09.
23 MR. MCGOWAN:
24 Q So at 1:39:09, it appears you get back to the
25 doors again; is that right?
26 A Yes, sir.
27 Q And do you remain there and continue watching for
28 a period of time?
29 A That's right, sir.
30 Q Okay. Do you ultimately meet up with your
31 passenger that night?
32 A I do.
33 Q Okay.
34 A But not on that door. It's on the other side.
35 It's from the -- what's that -- from the US --
36 Canadian Customs side. They open the other side.
37 Q Okay, fair enough.
38 MR. MCGOWAN: We can turn the video down for a second
39 now.
40
41 (VIDEO STOPPED)
42
43 MR. MCGOWAN:
44 Q And I'm going to ask you some questions, sir,
45 about what you saw that night, all right?
46 A Yes, sir.
47 Q Did you speak to any police officers that night,

47
Nick Le
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1 sir?
2 A Pardon me?
3 Q Did you speak to any police officers that night?
4 A After the video -- after this --
5 Q Yes?
6 A -- one of the police officer come to -- actually
7 he's the first person talk to me. He talk -- he
8 ask me and I told him, I said, "You better ask the
9 other driver, limousine driver. He saw the whole
10 thing. Plus one of the lady there."
11 Q Okay.
12 A Yeah.
13 Q When the police officer spoke to you, did he write
14 anything down?
15 A No. I just -- I just told him actually I'm not
16 interest in anything of that sort. That's why I
17 don't -- don't give anything, and he didn't even
18 write anything down.
19 Q Did you speak to anybody else that night aside
20 from the one police officer, the brief
21 conversation?
22 A I talk with -- with the other driver, the
23 limousine driver, because we -- all the limousine
24 drivers, they know each other, so I talk with him.
25 Q That's a Lorne Meltzer?
26 A Actually I'm not -- I know him.
27 Q Have you seen him on the news since, talking about
28 this?
29 A I see him a lot.
30 Q Okay.
31 A Actually I saw him after that and -- yeah.
32 Q Okay, fair enough. So you spoke to him about it.
33 Did you speak to anybody else?
34 A Well, I -- I call my office right at that time. I
35 call my office a few time at that -- at the spot
36 there and I tell them it will be a problem here.
37 And the next day is -- I told somebody -- actually
38 not the next day. Until Monday.
39 Q Okay. So sir, what I'd like you to do is tell the
40 Commissioner what it is you observed that night
41 from the time you entered, everything that you saw
42 involving Mr. Dziekanski and the police officers
43 that were there, and anybody else who was involved
44 in anything that you saw that related to Mr.
45 Dziekanski or the police officers. All right,
46 sir?
47 A Okay. I make it very clear. What I saw is like

- 1 that. When I walk in and then I saw exactly,
2 well, one officer do the knees, do his knees with
3 the whole body.
- 4 MR. HARRIS: Sorry, sir, I'm having difficulty
5 understanding. If you could repeat that, please.
- 6 MR. MCGOWAN:
- 7 Q Perhaps if you just keep your mouth close to the
8 microphone and speak loudly and slowly, we'll be
9 able to understand you.
- 10 A Okay. I make it very clear what I saw, okay? I
11 walk in and then I saw one police officer with his
12 knees right here (gesturing), and --
- 13 Q I'm sorry, sir. Do that -- his knee -- you're
14 pointing to your knee, yes.
- 15 A Yeah, knees. On top --
- 16 Q When you say "right here," describe it.
- 17 A Yeah. On top of the back, the centre left at the
18 back of the man lie down there, okay, and his --
19 his -- what's that -- his hand go chop like that
20 and the other two officer go like that
21 (gesturing). Okay? And that's what I saw.
22 And --
- 23 Q Let me just stop you there. You said his hand was
24 going "chop like that." What does that mean?
- 25 A The other two officer hold the other two hands of
26 him, like this (gesturing).
- 27 Q Two other officers were holding two of Mr.
28 Dziekanski's hands?
- 29 A Yeah. But what I saw as well, one of the officer
30 use his knee right on top of the centre back --
- 31 Q Okay.
- 32 A -- of the man that lie down there, and that, it's
33 very dangerous because the way I look at that,
34 that it --
- 35 MR. BUTCHER: (Not at microphone) I'm going to object
36 (indiscernible).
- 37 THE COMMISSIONER: No, I'm sorry. I'm going to wait
38 until the witness finishes. Go ahead, sir.
- 39 A That's what I saw, okay. And then I walk, okay?
40 And then I walk. And then when I come back after
41 this -- after this video I come back only one time
42 and I look through the window when I saw
43 the -- what is that -- either the firemen -- I
44 believe the firemen pounding on the man's chest
45 (gesturing).
- 46 Q Yes.
- 47 A Okay? And then I talk to one of the ladies stand

1 behind me -- beside me. I believe that lady is
2 work for Horizon Air or something like that. I
3 told her, I said, "This man is dying." So the
4 lady said, "No way." I said, "He's not
5 breathing." Okay. That's all I saw. And then I
6 walk away. The next day, 7:00 p.m. in the
7 evening, I got home. I saw the TV. I saw the
8 body, and I was cry. I cry and I swear, and I
9 didn't say anything. I didn't eat that night.
10 I was so upset. Okay. And that's all. Okay.
11 And that's what I saw and that's what I can say.
12 Q Okay, sir. Have you --
13 THE COMMISSIONER: Just a moment now. Mr. Butcher,
14 what have you got to say?
15 MR. BUTCHER: We've passed the point. My point was
16 that it was perfectly appropriate for the witness
17 to be describing what he'd seen, but he was
18 starting to express opinions.
19 THE COMMISSIONER: Oh, we all got that. We understand
20 those things.
21 MR. BUTCHER: And I thought it was inappropriate.
22 THE COMMISSIONER: Yes, go ahead, Mr. McGowan.
23 MR. MCGOWAN:
24 Q Sir, you know there was somebody there who had a
25 video camera that night and took a video?
26 A I know.
27 Q Okay.
28 A And basically I --
29 Q Have you watched the news about this after -- did
30 you watch the news after it happened?
31 A I watch the news after that.
32 Q And there was a gentleman by the name of Mr.
33 Pritchard who took a video that night. Did you
34 know that?
35 A I don't -- after, later --
36 Q Yes, later. Did you learn that later?
37 A Yes.
38 Q And have you watched that video?
39 A I do.
40 Q How many times?
41 A Every time they -- they on the TV and even at home
42 we -- I watch that.
43 Q All right, sir. I want you to make sure when
44 you're giving your evidence today you tell us what
45 you actually saw and not things you saw in the
46 video. Do you think you're able to do that?
47 A Yes.

- 1 Q Okay. Can you keep them separate in your mind?
2 A Sure.
3 Q Okay. You told us that you saw an officer with a
4 knee on the back.
5 A That's right.
6 Q That's something you saw?
7 A That's right.
8 Q Okay. Did you see that when in relation to the
9 time you entered the meet-and-greet area?
10 A When I walk in, I can see the whole thing, and
11 when I stand there, before I walked into IRL, I
12 saw the whole -- that is -- that part. Okay. And
13 I didn't see -- I didn't see the handcuff or
14 anything. That's only because, like I said, I'm
15 not interested in those. That's why I just look at
16 that and then I want to go in and do my job.
17 That's all.
18 Q Are you able to describe any of the RCMP officers
19 that were there that night, sir?
20 A No. The only -- the only thing is, though, is I
21 know is they were big size. The smallest officer
22 is the one who go and ask me after that. And
23 I -- what I think is, it's five officer, not four
24 officer, if I can recall back. But four involve
25 and one not involve. That's what I -- that's what
26 I thought.
27 Q So you think you saw five police that night?
28 A Yeah. And four -- they on four car, and no siren,
29 no -- no any light, emergency light. That's what
30 I saw.
31 Q Sir, the fifth officer you think you saw, was he
32 dressed the same or differently than the other
33 officers, as you recall it?
34 A To what I recall is five officer, and two --
35 what's that -- two security guy there. That's
36 what I saw.
37 Q Sorry, sir, I didn't understand. Did you say he
38 was dressed the same or different, the fifth
39 officer that wasn't involved with Mr. Dziekanski?
40 A I believe he's dressed as RCMP.
41 Q Okay.
42 A But I might be wrong on that, okay.
43 Q Okay, fair enough. Sir, you wrote an e-mail to
44 Mr. Kosteckyj, correct?
45 A Yes.
46 Q What prompted you to do that, sir?
47 A I just feel -- because I saw what happened, and

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In chief by Mr. McGowan

1 then I saw the police officer -- what's that -- in
2 the TV. He say something is totally different, so
3 that's why I send the e-mail to the lawyer.
4 That's all.
5 Q Did you send the e-mail after you'd seen the video
6 on TV --
7 A Yes, sir.
8 Q -- taken by Mr. Pritchard?
9 A Yes, sir.
10 Q When you sent the video to Mr. Kosteckyj, sir,
11 were you attempting to tell him things that you
12 believed you'd seen yourself or things that you'd
13 seen on the television?
14 A I seen myself. That's why I said in the
15 beginning, I said I make it very clear. I saw
16 only two thing, okay. I saw the police officer on
17 top, with knee on top of the man, and I saw the --
18 the second time I saw is -- I believe is the
19 fireman pounding on the man's chest (gesturing)
20 and he's not breathing at that time. That's two
21 time I saw, okay.
22 Q Sir, I'm going to give you a copy of what I
23 believe to be a copy of the e-mail you sent Mr.
24 Kosteckyj, all right?
25 A Well, I have it here. Don't worry.
26 Q You have a copy?
27 A Yeah, I do.
28 Q Do you have it in front of you?
29 A Yes.
30 Q I wonder if I might just have a look.
31 A That's okay. I know exactly what's that.
32 Q Sir, I wonder if I might see the copy that you
33 have.
34 THE REGISTRAR: Counsel, perhaps use your copy in the
35 event you want to mark it as an exhibit.
36 MR. MCGOWAN:
37 Q Sir, I've placed before you a copy that we have
38 and it's been the copy that's been disclosed to
39 the other counsel. What's happened is it's your
40 e-mail, I'm sure you'll see by looking at it, but
41 what we've done, when it was disclosed, is either
42 we or somebody else has removed your e-mail
43 address and some of the other information,
44 correct?
45 A I don't understand what you say, sir.
46 Q Okay. You have a copy of the e-mail that you sent
47 Mr. Kosteckyj, correct?

1 A Yes.

2 Q And the copy that you sent to Mr. Kosteckyj has at
3 the top your e-mail address; is that right?

4 A Yes.

5 Q And it has a date.

6 A Yes.

7 Q And the date it appears you sent the e-mail is
8 November 15th, 2007?

9 A It may be but I'm not recall because everything --
10 all the e-mail and everything is -- well, I ask my
11 son to do it for me, and even -- every e-mail
12 anyone send to me as well, my son taking care
13 because I absolutely don't know anything about the
14 e-mail stuff.

15 Q Did you type this e-mail, sir?

16 A No.

17 Q Your son typed it?

18 A Yes.

19 Q Did he read it to you when he typed it, or did you
20 read to him and he typed what you said?

21 A I told him what I saw and I told him what the
22 other guy told me, and that's why...

23 Q When your son typed the e-mail for you, did he
24 read it back to you, sir?

25 A No, not really. I just -- I just tell them what
26 it's about, that it, and he -- yeah, he did read
27 it back to me, and then I said, "Just send it."

28 Q He did or did not read it back to you?

29 A He did.

30 Q He did?

31 A Yeah.

32 Q Now, sir, I'm going to read you a portion of this
33 e-mail. Would you like to follow along or would
34 you prefer me to read it to you?

35 A Doesn't matter.

36 Q Do you want me to show you where I'm reading so
37 you can follow along, or would you prefer just to
38 listen to me.

39 A Yeah, I listen to you.

40 Q Okay, fair enough. I'm reading you from the
41 e-mail [as read]:

42

43 To my knowledge the RCMP officer shouted at
44 him twice in English. Then I witnessed an
45 RCMP officer stun him with a Taser and
46 collapsing to the ground. Then I saw three
47 large-size RCMP officers restrain him on the

1 ground.
2
3 That's the e-mail you sent to Mr. Kosteckyj,
4 correct, sir?
5 A That's right.
6 Q Did you witness an RCMP officer or observe an RCMP
7 officer shout at him?
8 A No. That is the other -- that's what I told my
9 son. I said the driver told -- that driver told
10 me and he didn't put it on there.
11 Q Sir, did you witness an RCMP officer stun him with
12 a Taser?
13 A No.
14 Q That happened before you got there?
15 A That's right.
16 Q Your e-mail --
17 A No, it's right at the time, I believe. Close to
18 the time there. But I didn't witness.
19 Q Okay. Your e-mail says you witnessed that. Did
20 you know that when it was sent?
21 A I know, but that's what I thought as well, that
22 guy told me that. But I -- that's why on the
23 record I told earlier, I saw two thing -- okay,
24 two thing. One is the officer on top of the man
25 with the knees and chop his neck. And the second
26 time I saw as well the -- I believe it's the
27 fireman pounding on his chest, okay. That's two
28 time I saw. The rest, I'm not interest, okay.
29 Q You didn't see the RCMP officers Taser Mr.
30 Dziekanski. Do we have that correct now?
31 A Yes.
32 Q Your e-mail is incorrect to the extent it says
33 that?
34 A The first half, yes.
35 MR. BRONGERS: Mr. Commissioner, Commission counsel has
36 been referring to this e-mail as being Mr. Le's
37 e-mail. I think it's very clear now that this is
38 not Mr. Le's e-mail at all. This is what his son
39 wrote. So just for clarity, I wonder if we could
40 refer to it as Mr. Le's son's e-mail.
41 THE COMMISSIONER: Well, we all know the facts, though,
42 do we not? I mean, he explained to us quite
43 carefully that he dictated it in effect to the son
44 and it got read back to him. And now he's telling
45 us that some of this is what he saw and some of it
46 is what he was told and some of it is what he
47 found out afterwards. I thought he was very clear

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In chief by Mr. McGowan

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

1 that he just saw two things. He's told us that
2 three times. Go ahead.

3 MR. MCGOWAN:

4 Q Sir, the e-mail starts off, "Dear Mr. Kosteckyj,"
5 correct?

6 A Pardon me?

7 Q The first thing that the e-mail says in the body
8 is, "Dear Mr. Kosteckyj" and that was because it
9 was addressed to him; is that right?

10 A Honestly it's -- whatever is there is there.

11 Q Okay. And at the end it says, "Sincerely, Nick
12 Le"?

13 A Yes, sir.

14 Q Okay. Your recollection now is the only two
15 things you saw are the officers with Mr.
16 Dziekanski when he was on the ground as you've
17 described and later some sort of emergency
18 personnel dealing with Mr. Dziekanski, correct?

19 A Yes, sir.

20 MR. MCGOWAN: Those are my questions.

21

22 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA
23 CISOWSKI:

24

25 Q Mr. Le, you sent me the e-mail because you thought
26 it was important for me to know something,
27 correct?

28 A Yes.

29 Q You thought it was important for me to know that
30 you saw the police officer put his knee in Mr.
31 Dziekanski's back?

32 A That part -- I tell you the truth. That part
33 is -- that's what I saw, and I think that is kill
34 that man.

35 Q And you thought it was important for me to know
36 that they were choking him when he was on the
37 ground?

38 A Yes, sir.

39 Q You saw that?

40 A I saw that. That's why I say that I saw only two
41 thing.

42 Q Okay.

43 A Okay. That is one, and the other one is he not
44 breathing when the fireman pound on his chest.

45 Q You thought it was important to tell me that you
46 had some experience in martial arts?

47 A I study kung fu. My dad taught me when I was

Nick Le

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

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

1 four. And when I was young, I -- I know how to
2 defend myself, and I always know as well that the
3 left chest and the left back, centre back, that is
4 the most important part. It can kill people.

5 Q That's why you thought it was important to send me
6 that note to tell me about those two things?

7 A That's right, sir. And I -- because what I see as
8 well, I didn't hear any -- any -- what's that --
9 professional in military or training. I mean,
10 martial arts training. And none of people asked
11 about that part.

12 MR. KOSTECKYJ: Those are my questions. Thank you,
13 sir.

14

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

17

18 Q Mr. Le, my name is Dwight Stewart and I'm counsel
19 for the Vancouver Airport. I just want to be
20 clear in terms of the e-mail that you sent to Mr.
21 Kosteckyj, that this was something that was read
22 back to you by your son and you agreed with how he
23 had characterized your description of what you'd
24 seen that night?

25 A I'm not quite clear what you want to ask me.

26 Q Before --

27 THE COMMISSIONER: You know, counsel, I don't want to
28 interrupt, but I find it strange so much emphasis
29 is being put on the e-mail. He's telling us what
30 he saw. Now, if you want to contradict him,
31 that's fine, but...

32 MR. STEWART: Okay.

33 Q You have your e-mail in front of you, Mr. Le?

34 A Yes.

35 Q And I'd ask if you follow along with me.

36 A Yes.

37 Q In the third sentence, you say [as read]:

38

39 I am not on the list of RCMP witnesses and
40 I believe that no more than ten people
41 witnessed other than the RCMP event.

42

43 What list of RCMP witnesses were you referring to?

44 A I don't understand what you try to ask me.

45 Q You referred to a list of witnesses.

46 A No. Actually I -- I never want to come to be a
47 witness. Like I said in the beginning, I'm not

Nick Le

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

1 interest in anything. That's why I -- my job. I
2 just done my job. But I saw the thing and I feel
3 very bad when -- when I saw one of the officer in
4 the TV say something is -- that's not the way I
5 see, okay. That's not the way I saw, so that's
6 why I send the e-mail. I told my son to send the
7 e-mail.

8 Q Sir, if I could continue on, then, with your
9 e-mail. I appreciate that when you wrote this,
10 that you were very upset. If I can remind you of
11 the date, your e-mail was written November 15th,
12 2007, and if this accords with your recollection,
13 it's November 14th, 2007, that the Pritchard video
14 became public. Do you recall that?

15 A Like I said, I don't know any -- I'm not recall
16 the timing or whatever.

17 Q Okay.

18 A The best way is you just go back to whatever I
19 told you I saw. That's all. The rest is forget
20 about it.

21 Q No, but sir, I'm trying to understand why it was
22 that you were describing things to Mr. Kosteckyj
23 that you could not have seen. At the sixth line
24 [as read]:

25
26 Initially I and other passengers thought Mr.
27 Dziekanski was drunk and that he was speaking
28 Russian.

29
30 A Like I said, I told my son that driver talk with
31 me, okay, and everything, and put it down and
32 that, okay, on the e-mail. But I don't know how
33 he come up with that. I don't know. That's
34 why -- that's why at the beginning I make it very
35 clear -- I make it very clear. I saw two thing.
36 And please, go back, and don't try anything else.
37 That's all I saw and that's exactly what I tell
38 you.

39 Q So if anything else was written by your son in the
40 e-mail other than what you've testified to here,
41 you're just saying that's something that your son
42 included?

43 THE COMMISSIONER: Counsel, isn't this clear? I don't
44 know why you're going on with this.

45 MR. STEWART: I'm just curious as to why this witness
46 would, after having had his son read back to him
47 what appears to me to be, and is clear from the

1 e-mail, his description of his own observations.
2 THE COMMISSIONER: And why are you curious about that?
3 MR. STEWART: What it was that led to that.
4 THE COMMISSIONER: But what's it got to do with
5 anything? In other words, so what?
6 MR. STEWART: I take your point, Mr. Commissioner.
7 THE COMMISSIONER: Yes, Mr. Harris.

8

9 CROSS-EXAMINATION BY MR. HARRIS ON BEHALF OF CORPORAL
10 BENJAMIN ROBINSON:

11

12 Q Sir, my name's Reg Harris. I'm the lawyer for one
13 of the RCMP officers there. And I understand that
14 there were two things you wanted to share with us
15 of your observations that night, correct?

16 A Yes.

17 Q Mr. Kosteckyj put to you that you thought it was
18 important that he knew that -- let me rephrase
19 that. Mr. Kosteckyj put it to you that it was
20 important for you to tell him that you saw the
21 officers put a choke hold on Mr. Dziekanski that
22 night. Do you remember Mr. Kosteckyj asking you
23 that question just a few minutes ago?

24 A Yes.

25 Q In fact, sir, you only saw two things that were of
26 concern. The knee and what the fire department
27 were doing, correct?

28 A That's right.

29 MR. HARRIS: Thank you.

30 THE COMMISSIONER: Sir, I want to thank you very much
31 for coming. This is not something, I know, you
32 would ordinarily do, and we're very appreciative
33 of your obvious concern for what happened. Thank
34 you very much.

35 A Thank you, sir.

36

37 (WITNESS EXCUSED)

38

39 THE COMMISSIONER: All right, we'll break for lunch.

40

41 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

42 (PROCEEDINGS RECONVENED)

43

44 MR. MCGOWAN: Mr. Commissioner, the next witness is
45 Doug Byl.

46

47

58
Douglas Byl
In chief by Mr. McGowan

1 DOUGLAS BYL, a witness,
2 affirmed.
3

4 THE REGISTRAR: Could you state your full name, please.
5 A Douglas Byl, B-Y-L.
6

7 EXAMINATION IN CHIEF BY MR. MCGOWAN:
8

9 Q Mr. Byl, I'm going to ask you questions from here.
10 I understand you have a little difficulty hearing
11 sometimes so I'm going to make sure I keep my
12 voice up when I do that, and I'll ask you to do
13 the same. All right, sir?

14 A Correct.

15 Q When I ask you questions, I'm going to ask that
16 you make sure you answer audibly so that the
17 transcript can pick it up. Fair enough?

18 A Right.

19 Q Now, you're employed by Securiguard?

20 A Yes.

21 Q Securiguard is a private company providing
22 contract security services at the Vancouver
23 International Airport?

24 A Yes.

25 Q You're not an employee of the Airport Authority?

26 A Correct.

27 Q And sir, you've been employed by Securiguard since
28 1996?

29 A Correct.

30 Q And that was initially at a location other than
31 the airport, correct?

32 A Correct.

33 Q But you moved to the airport shortly after going
34 on with them in approximately March of 1997?

35 A Correct.

36 Q And when you were hired, were you initially hired
37 to go to the Security Operations Centre or did you
38 do some other role first?

39 A I did two functions, Security Operations Centre
40 and patrol, Aviation Security Patrol.

41 Q All right. Are you still employed by Securiguard
42 today?

43 A I am.

44 Q And do you still fulfil both of those functions or
45 just one?

46 A I do both, not at the same time obviously. More
47 recently I'm doing patrol again, the last year and

- 1 a half or so.
- 2 Q Now, let's just see if we can get the various
3 positions with Securiguard straight. There is a
4 supervisor during each shift, correct?
- 5 A Correct.
- 6 Q And we'll come to October 13th and 14th. But
7 during the shift we're going to be speaking about,
8 that supervisor was Trevor Enchelmaier?
- 9 A Yes.
- 10 Q And there is the person referred to as the SOC; is
11 that correct?
- 12 A The position, yes.
- 13 Q The position.
- 14 A Security Operations Centre.
- 15 Q And the Security Operations Centre is manned by an
16 individual, correct?
- 17 A Two people.
- 18 Q Okay. And their job is to take in information and
19 dispatch security officers, correct?
- 20 A That's one of the many things we do.
- 21 Q We'll come back to the Security Operations Centre
22 in just a moment and I'll let you fill the
23 Commissioner in a little more fully about the
24 position. Before we do that, there's also
25 patrollers, correct?
- 26 A Yes.
- 27 Q And they're mobile security officers?
- 28 A Yes.
- 29 Q And there's also the stationary security guards
30 that maintain security access points, correct?
- 31 A Yes.
- 32 Q The night we're going to be speaking of, you were
33 at the Security Operations Centre, correct?
- 34 A Yes.
- 35 MR. MCGOWAN: Mr. Registrar, I wonder if Exhibit Number
36 20 might be placed in front of the witness,
37 please.
- 38 Q Are you able to hear me okay, sir, when I'm asking
39 my questions?
- 40 A Yes.
- 41 Q Now, I've placed a diagram in front of you, sir.
42 We understand that this is a diagram or depiction
43 of the Operations Centre at the Vancouver Airport?
44 Do you recognize that?
- 45 A Yes, and that's correct.
- 46 Q And if we're holding it so that the word
47 "Operations" is upright and read properly, you

1 would be sitting just underneath the word
2 "Operations," correct --
3 A Correct.
4 Q -- when you're at your post?
5 A Yes.
6 Q And that's at the desk labelled "Security
7 Operations Centre"?
8 A Yes.
9 Q We know that also in that room we have at times
10 Baggage and Gate Schedulers?
11 A Yes.
12 Q And an Airport Operations Officer?
13 A Yes.
14 Q And perhaps a shift supervisor?
15 A Usually the term shift supervisor, that refers to
16 the Security Supervisor who does not sit in there.
17 You may perhaps be referring to the Operations
18 Shift Manager for YVR.
19 Q That's fair enough, the Shift Manager.
20 A Right.
21 Q Now, the Security Shift Supervisor is not located
22 in there on a permanent basis, correct?
23 A He's not located there at all though he may come
24 and visit.
25 Q Okay. So he may come up there periodically
26 throughout the shift. But otherwise is the Shift
27 Supervisor for security a mobile position?
28 A Well, they have an office but it's not in this
29 area.
30 Q Okay, fair enough. And then there's the Airport
31 Response Coordinator, who's also located in this
32 room where you perform your job if you're at the
33 Security Operations Centre, correct?
34 A Correct. They have also a desk there.
35 Q And on the night of October 13th and the morning
36 of October 14th, you were stationed at the
37 Security Operations Centre, correct?
38 A Correct.
39 Q Now, I wonder if you'd just explain, please,
40 briefly to the Commissioner what your role is when
41 you're seated at that desk.
42 A We monitor for alarms, for the primary security
43 line, the line between the public and the non-
44 public or restricted and non-restricted area. Any
45 doors that are crashed will create an alarm and we
46 monitor that and then dispatch patrollers to look
47 after that, also look up on cameras if anyone may

1 have gone through those doors. That will be our
2 main function. We do many other things as well.
3 Q Each of the security patrollers and stationary
4 security officers carry radios, correct?
5 A Yes.
6 Q And that's the manner in which they correspond
7 with the Security Operations Centre; is that
8 right?
9 A That's correct.
10 Q And do you understand that all of those radio
11 transmissions are recorded?
12 A Yes.
13 Q And your position that night at the Security
14 Operations Centre, the night we're talking about,
15 caused you to be involved in a number of radio
16 communications that dealt with the incident
17 involving Mr. Dziekanski and the airport's
18 response to that, correct?
19 A Correct.
20 Q I'm going to come to those in a minute, sir, and
21 I'm going to play them for you and allow you to
22 tell us what was happening. But before we do
23 that, I want to ask you a couple of questions
24 about your role and the role of the security
25 officers. I take it if there is a problem in the
26 airport relating to security, that gets
27 communicated to you at the Security Operations
28 Centre, correct?
29 A Correct.
30 Q And what were your instructions in October of 2007
31 in the event you received a report of a potential
32 security incident, and did it matter what type of
33 incident it was?
34 A It's a very broad question, depending what type of
35 incident we're talking about. If you're talking
36 about the incident we're dealing with here, I
37 would relay such information to the YVR Operations
38 Officers.
39 Q Perhaps my question was unfairly broad, sir. I
40 apologize. Let me see if I can be a little more
41 specific and allow you to tell us a little bit
42 about what happened generally. In the event you
43 had an incident involving violence that was
44 communicated to you --
45 A Okay.
46 Q -- did you have specific instructions on what
47 response should be given and what should happen in

- 1 the way of a dispatch?
- 2 A Any violence is the area that the RCMP would deal
3 with. I would immediately inform the YVR
4 Operations Centre personnel, and with the
5 information I might suggest RCMP be dispatched.
6 However, that is also the judgment that the
7 Operations Officer would be making in conjunction
8 with her Duty Manager or ARC.
- 9 Q If you had a report of violence occurring at the
10 airport, did you feel it was your job to call the
11 RCMP?
- 12 A That's a judgment of the Airport Operations
13 Officers and Duty Manager. It's not to say I
14 cannot or have not in the past, but generally
15 speaking that's how the process works: inform
16 Operations and they will then call the RCMP.
- 17 Q Now, the Securiguard patrollers, would they be
18 dispatched to an incident where there was violence
19 involved?
- 20 A They could and they often are.
- 21 Q Did they have restrictions or instructions with
22 respect to the manner in which they can deal with
23 a person at the airport who is either violent or
24 damaging property?
- 25 A Yes. The main role of the patroller would be to
26 observe and report and provide further information
27 to the process. Specifically we are instructed by
28 the airport we're not to engage in physical force.
- 29 Q When you're a patroller, do you carry any force
30 tools or defensive tools?
- 31 A Our security, under the provincial laws, we are
32 not permitted to have any kind of weapon or
33 restraining device.
- 34 Q Now, sir, let's go to the evening of October 13th.
35 We know you were sitting in the Security
36 Operations Centre, and we're going to hear from
37 some of the other individuals that were seated
38 there that night as well. Your role was that
39 night at the Security Operations Centre to take in
40 information and make decisions about dispatching
41 security officers, at least in part, correct?
- 42 A I apologize. You went a little bit fast for me.
43 I think you -- maybe you --
- 44 Q Maybe I'll just ask the question again. From the
45 Security Operations Centre, it was your role to
46 dispatch the security patrollers to various areas
47 of the airport, correct?

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- 1 A That is correct. And I should also mention that
2 the Supervisor when actively engaged can also do
3 that directly rather than me doing it. But
4 generally that's what my function would be.
- 5 Q Now, do you recall the night of October 13th or
6 perhaps the early morning hours of October 14th,
7 becoming aware of an incident in the international
8 terminal?
- 9 A Yes.
- 10 Q We're going to come ultimately to the radio
11 communications, but I wonder if you could just
12 tell the Commissioner what you recall of that
13 evening and the interactions and communications
14 you had, please, sir.
- 15 A Okay. I received a phone call from a guard
16 stationed at elevator 40, Servideo Agraviador. It
17 was over the radio. It was not a phone call; it
18 was over the radio. He had a report from someone
19 at the airport stating that someone was causing
20 trouble in the IRL, international reception
21 lounge. I asked him what kind of trouble. He
22 then stated, "He's throwing around chairs."
- 23 Q Was that the only source of your information about
24 the problem that was occurring in the
25 international arrivals area, or did you hear
26 something else because of the place you were
27 seated in the operations room?
- 28 A Shortly after that call, the Airport Operations
29 Officer, who had received a phone call, stated
30 sort of that same information to the S-1, and that
31 occurred in front of me and I heard that last part
32 when she conveyed that information.
- 33 Q And once you received that information both from
34 the guard at elevator 40 and the Operations
35 Officer, what did you do with that information?
- 36 A I don't recall precisely whether I informed
37 Operations or whether they overheard my
38 conversation. We're sitting at very close
39 proximity and often they overhear. In any case,
40 the information came to the Operations Centre that
41 I received from the guard.
- 42 Q Okay. Does the information come to you by way of
43 a radio that can be heard audibly throughout the
44 room?
- 45 A That's correct.
- 46 Q Do I understand this to be a fairly small room
47 where people communicate openly and that's part of

1 how the job is conducted? You speak back and
2 forth from your desks to --
3 A That is correct.
4 Q -- coordinate responses?
5 A Correct.
6 Q So ultimately, once you put this information
7 together from the telephone call and elevator 40,
8 did you make a decision to dispatch somebody to
9 the international reception area?
10 A The way it occurred was the S-1 asked me if I had
11 dispatched my supervisor. He then said he would
12 do it himself and he on the cell phone called the
13 Supervisor directly.
14 Q So just so we're clear, the S-1 is Mr. Sambrook;
15 is that correct?
16 A That is correct.
17 Q He was seated in the room at the time that you
18 were receiving the information?
19 A Correct.
20 Q Do you know a Mr. Ginter?
21 A I do.
22 Q Was he also in the room at the time?
23 A I do not specifically recall.
24 Q There's also -- we know Trevor Enchelmaier was the
25 Supervisor for Securiguard that night. Do you
26 recall whether he was in the room?
27 A He was not in the room.
28 Q You ultimately had some communication, sir, with
29 your security patrollers and Mr. Enchelmaier over
30 the radio?
31 A Yes.
32 Q And when you broadcast over the radio for the
33 purpose of dispatch or something else, all of your
34 security officers can hear that communication?
35 A Yes.
36 Q Would they all have heard the communication coming
37 in from elevator 40?
38 A Yes.
39 Q Ultimately, sir, did you also become involved in
40 having some communications with your security
41 officers to correspond and arrange for a reception
42 to be stationed for the fire and ambulance
43 personnel arriving?
44 A Yes to the ambulance. Generally speaking, not for
45 the fire department.
46 Q Just so we have it clear, sir, we know Mr.
47 Enchelmaier was the Shift Supervisor for security

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1 that night. There is a Sidarth Arora. He was one
2 of the security patrollers on shift that night?
3 A Correct.
4 Q And there was a Lance Rudek? He was one of the
5 security officers on shift?
6 A Correct.
7 Q And a Fabian D'Sa?
8 A Correct.
9 Q Mr. Byl, I'm going to now take you to the
10 recordings of the conversations you had that
11 night. Perhaps we'll just play them and it may
12 refresh your memory on some of the communications
13 you had. These are all contained on the single
14 exhibit introduced with the YVR audio.
15 MR. MCGOWAN: Perhaps Mr. Registrar can assist me with
16 the exhibit number. I believe it's 26.
17 Q It's an audio recorded CD of communications at
18 YVR. It's Exhibit 26, sir. And I'm not going to
19 play the entirety of it because you're not
20 involved in all of the communications, but I will
21 play nine or ten of them which you participated
22 in. And I'll ask you to listen, and if you can't
23 hear, you just let me know.
24 MR. HIRA: Mr. McGowan, Exhibit H has the transcripts.
25 If you could just tell us which transcript is
26 involved, we can --
27 MR. MCGOWAN: I will. Before I have them played I'll
28 give the number. I'm going to start with
29 number 1, and we're going to actually play 1, 2
30 and 3 with a short break between them.
31 Q And I understand these to be your communications
32 with Mr. Agraviador, who was stationed at elevator
33 40. We'll start with number 1, and my
34 understanding is that this is approximately
35 1:18 a.m.
36 MR. MCGOWAN: Are we ready, Dr. Perra? Please play
37 content 1, audio 1.
38
39 (AUDIO BEING PLAYED)
40 (END OF AUDIO)
41
42 MR. MCGOWAN: And then if we could play audio number 2.
43 My understanding is it starts at 1:18:42.
44
45 (AUDIO BEING PLAYED)
46 (END OF AUDIO)
47

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1 MR. MCGOWAN: And audio number 3, which I understand
2 starts at 1:19:04.

3
4 (AUDIO BEING PLAYED)
5 (END OF AUDIO)
6

7 MR. MCGOWAN:

8 Q Sir, those were your conversations with Mr.
9 Agraviador that evening?

10 A Yes, that's correct.

11 MR. MCGOWAN: Next I'm going to play for you audio
12 number 7, which I understand to be a communication
13 involving Mr. Rudek, Lance Rudek.

14
15 (AUDIO BEING PLAYED)
16 (END OF AUDIO)
17

18 MR. MCGOWAN:

19 Q Now, I understand that communication took place at
20 approximately 1:26 in the morning. That was a
21 communication you had with Mr. Rudek?

22 A That's correct. I recall that.

23 Q And he's providing you information about what's
24 happening in the reception lounge?

25 A Correct.

26 Q So by this point you understood Mr. Rudek to have
27 been down in the international arrivals area?

28 A Correct.

29 Q Did you give the communication which sent him down
30 there; do you recall?

31 A Say again, please.

32 Q Was it you that instructed Mr. Rudek to go to the
33 international arrivals area?

34 A I don't believe so. I do not recall it
35 specifically.

36 MR. MCGOWAN: I'm going to go to audio number 10,
37 please.

38
39 (AUDIO BEING PLAYED)
40 (END OF AUDIO)
41

42 MR. MCGOWAN:

43 Q Did you hear your voice on that one, sir?

44 A Can you play it back, please?

45 Q Sure. Perhaps we'll play it one more time.

46 Content number 10, I understand, is at
47 approximately 1:28 and it should be Mr. Rudek

1 speaking on this.

2

3

(AUDIO BEING PLAYED)

4

(END OF AUDIO)

5

6

MR. MCGOWAN:

7

Q So that's Mr. Rudek advising you that the RCMP is on scene, correct?

8

9

A I recognize Rudek's voice. My own response is so short I can't quite make it out.

10

11

Q That's fine. It looks like you said something "six," it sounds like, but I'm not sure your response is important. This is, I understand, at 1:28:22, and you heard Mr. Rudek telling you the RCMP was on scene?

12

13

14

15

A What I just heard? Yes.

16

17

Q Okay, fair enough.

18

MR. MCGOWAN: The next is going to be audio 14, please.

19

20

(AUDIO BEING PLAYED)

21

(END OF AUDIO)

22

23

MR. MCGOWAN:

24

Q Now, that's a conversation you're having with -- is it Mr. Arora?

25

26

A Sid Arora was involved. I didn't quite --

27

Q Do you recall if he was number 2, Bravo 2?

28

A I don't recall that.

29

Q He'll come and perhaps he can confirm that for us.

30

31

At this point you're, it appears, giving an instruction. You say "routine medical for your situation there curbside." Are you dispatching him to the curb to meet a routine medical response team?

32

33

34

A That's correct.

35

Q And did you understand that to be fire or ambulance he was going to meet?

36

37

A Ambulance.

38

Q And that conversation took place starting at approximately 1:31:40. Now, there was a voice at the end that said, "Yeah, bring him level." Do you know whose voice that was?

39

40

41

42

A Say again. "Yeah" --

43

Q There was a voice at the end that said, "Yeah, bring him level." Do you know whose voice that was?

44

45

46

A Play it again and maybe I will. I don't recall

47

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1 that.

2 MR. MCGOWAN: Perhaps we could just play the last
3 little bit of that please, Dr. Perra.

4
5 (AUDIO BEING PLAYED)

6
7 A That's Lance Rudek.

8
9 (END OF AUDIO)

10
11 A That voice is Lance Rudek.

12 MR. MCGOWAN: Okay. If we could play --

13
14 (AUDIO BEING PLAYED)

15 (END OF AUDIO)

16
17 MR. MCGOWAN: Go back just a bit. Sorry.

18 Q Listen for the very last thing said where somebody
19 says, "Yeah, bring him level."

20
21 (AUDIO BEING PLAYED)

22 (END OF AUDIO)

23
24 MR. MCGOWAN:

25 Q Do you know that voice?

26 A I don't think it's one of our patrollers.

27 MR. MCGOWAN: Fair enough. That was audio 14. I'm now
28 going to ask Dr. Perra to play audio 19, which I
29 understand to be at approximately 1:35 a.m.

30 MR. HIRA: (Indiscernible - not at microphone)

31 MR. MCGOWAN: I'm taking the times from the document
32 marked for identification prepared by Mr. Stewart,
33 and I'm happy to assist if I can. Audio 7, my
34 understanding, is 1:26:16, the time it commences.
35 And audio 14, I understand, commences at 1:31:40.
36 And I'm going to play audio 19, 1:35.

37
38 (AUDIO BEING PLAYED)

39 (END OF AUDIO)

40
41 MR. MCGOWAN:

42 Q That's Mr. Rudek communicating to you some
43 information about what's going to happen with
44 arriving passengers, correct?

45 A Correct.

46 MR. MCGOWAN: Audio 25, please, 1:38:03.

47

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1 (AUDIO BEING PLAYED)
2 (END OF AUDIO)
3

4 MR. MCGOWAN:

5 Q At least part of that communication involved you
6 and Mr. Arora; is that correct?

7 A I can't say.

8 Q One of those voices was you speaking to somebody
9 who had Bravo 2 as their designation?

10 A The reason I can't recall who Bravo 3 -- 2 and 4
11 were that night is because they were not the usual
12 patrollers. Bravo 3, Lance Rudek, is the usual
13 patroller on the team.

14 Q Fair enough. One of those voices was you,
15 correct?

16 A Yes.

17 Q Okay. And you're giving information about the
18 change in status of the ambulance?

19 A Right.

20 Q And making sure there's somebody there to meet the
21 ambulance?

22 A Right.

23 Q Okay. There was another voice who said something
24 like, "They should be arriving shortly. I can see
25 them." Do you know who that voice was?

26 A John McKillop (phonetic), apron 8 guard.

27 Q I'm sorry?

28 A John McKillop, who would have been working at
29 apron 8. That's his usual position although I do
30 not recall specifically he was there that night.

31 Q Where is apron 8?

32 A Apron 8 is an outside location. It's similar to
33 one of the gate houses. It's close to the south
34 gate.

35 Q And is he a stationary guard?

36 A Yes, he is.

37 Q Employed by Securiguard?

38 A Yes.

39 MR. MCGOWAN: I'm going to ask next that we play audio
40 30. It's at approximately 1:41:36.

41
42 (AUDIO BEING PLAYED)
43 (END OF AUDIO)
44

45 MR. MCGOWAN:

46 Q Now, that was somebody with the designation
47 Bravo 4, I understand to be Mr. D'Sa, telling you

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1 that Engine 4 was curbside and you just responded
2 with "Copy." Is that right?
3 A Correct. Yes, that's his voice.
4 Q So at 1:41:36, Mr. D'Sa is telling you that the
5 fire engine has arrived outside?
6 A I recognize his voice as he's telling me that,
7 yes.
8 Q And that's what you understood Engine 4 to be is a
9 fire truck?
10 A That's correct. yes.
11 MR. MCGOWAN: If we could play content 34, please, at
12 approximately 1:42 and 57 seconds.
13
14 (AUDIO BEING PLAYED)
15 (END OF AUDIO)
16
17 MR. MCGOWAN:
18 Q And that's again Mr. D'Sa at 1:42:57 telling you
19 that an ambulance with a specific number has
20 arrived at curbside, correct?
21 A Correct.
22 MR. MCGOWAN: If we could have audio 36, please.
23 Audio 36, I understand, is 1:47:18.
24
25 (AUDIO BEING PLAYED)
26 (END OF AUDIO)
27
28 MR. MCGOWAN:
29 Q And that's a Mr. Arora or somebody with the
30 designation 2 telling you that a second unit has
31 arrived with a number attached to it?
32 A Yes.
33 Q And that number designation, 62624, did you
34 understand that to relate to an ambulance?
35 A That's correct.
36 Q When you got the information from elevator 40 and
37 from downstairs, did you communicate that or
38 discuss it immediately with others in the Security
39 Operations Room or the Airport Operations Room?
40 A I do not recall specifically whether I reported to
41 them or whether they overheard me, which is often
42 the case. What I do recall is that the
43 communication from the guards came to the Airport
44 Operations almost immediately.
45 Q You don't recall having any involvement in
46 dispatching a patroller, a Securiguard patroller
47 to the scene; is that right?

- 1 A I don't recall.
- 2 Q Would that be your usual function in a
3 circumstance like this?
- 4 A It is. I mentioned earlier that sometimes if the
5 Supervisor's on scene or directly involved with
6 the patroller, they're together, the Supervisor
7 may do so directly --
- 8 Q Yes?
- 9 A -- and that would bypass me, and I'll hear that
10 possibly if it's on the radio.
- 11 Q And that would be recorded if it happened on the
12 radio?
- 13 A That's my understanding, yes.
- 14 Q Can the airport supervisor, the manager, Mr.
15 Sambrook or the Airport Response Coordinator, can
16 they dispatch Securiguard employees?
- 17 A They could get onto the same radio channel as our
18 security channel. It's not the normal procedure.
- 19 Q And would that be picked up by you as well, by
20 the --
- 21 A If it's on the security channel, yes.
- 22 Q You didn't personally call the RCMP that evening,
23 correct?
- 24 A I believe that to be correct.
- 25 Q Now, I just want to get a sense of who was around
26 in the Security Operations Room that night. We're
27 going to hear from some of them and you may or may
28 not recall who was there. We know Mr. Ginter was
29 the ARC or the Airport Response Coordinator. Do
30 you recall if he was there when the calls were
31 initially coming in?
- 32 A I don't have any recollection one way or another
33 way.
- 34 Q Okay. What about Mr. Sambrook? He was, as you
35 call him, the S-1?
- 36 A Yeah, that's his call sign, S-1. I do not recall
37 it a hundred percent. I believed him to be the
38 S-1 on duty tonight -- that night and it has been
39 since confirmed.
- 40 Q Okay. And you don't recall personally whether he
41 was there or not?
- 42 A It's very vague, put it that way.
- 43 Q Okay. Ms. Carla Hanson. Do I have that name
44 right?
- 45 A The answer is the same. I believe her to have
46 been the Airport Operations. It's quite vague.
47 It has been since confirmed that she in fact was

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

1 the Operations Officer.

2 Q And Heather Staller, Baggage and Gate Scheduler?

3 A No recollection whatsoever one way or another way.

4 Q Fair enough. Regardless of whether these people
5 were in or not -- and all of those people would
6 have been appropriately in the Operations room if
7 they were shift, correct?

8 A Yeah. Heather Staller, yes. Carla, yes. The
9 ARC, not necessarily. He could have been out in
10 the field.

11 Q But it wouldn't be unusual to find him in the
12 room?

13 A That's correct, yeah.

14 Q That would be normal?

15 A That's correct.

16 Q And same with Mr. Sambrook?

17 A Yes.

18 Q Okay. Do you recall anybody else entering or
19 leaving the room or being present in the room
20 during the time that this incident was taking
21 place and these communications were going back and
22 forth?

23 A I don't have a recollection one way or another
24 way. It's a blank.

25 MR. MCGOWAN: Fair enough, sir. Thank you for
26 answering my questions, sir. Please answer any of
27 the questions of the other lawyers.

28 MR. STEWART: Mr. Byl, I'm Dwight Stewart. I'm counsel
29 for the airport.

30

31 CROSS-EXAMINATION BY MR. STEWART ON BEHALF OF THE
32 VANCOUVER AIRPORT AUTHORITY:

33

34 Q Just one quick thing to clarify for myself and
35 others. I thought in direct that you indicated to
36 Mr. McGowan that you had some recollection of the
37 Operations Supervisor contacting the Shift
38 Supervisor by cell phone?

39 A Yeah. I do recall that. It happened in front of
40 me. The question was posed to me by S-1 if I'd
41 called my supervisor, the Shift Supervisor
42 Security, and he then immediately said, "I'll call
43 him myself," and he did so on his cell phone.

44 Q Now, if I can, you just in terms of responding to
45 Mr. McGowan's questions, am I correct that your
46 recollection is vague whether that supervisor
47 you're speaking to, Operations Supervisor, was

Douglas Byl

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

1 Greg Sambrook?

2 A That is correct that -- it's not a hundred
3 percent. I don't have the picture clear in my
4 head that it was at the time Greg Sambrook, the
5 Shift Manager Operations.

6 Q But you have a recollection, some recollection of
7 an S-1 calling the Securiguard Supervisor?

8 A That is correct.

9 Q And if I, just for everyone's assistance -- and I
10 may have confused things. I have typically
11 referred to in the transcripts Mr. Enchelmaier as
12 just a Securiguard. He is the Supervisor of
13 Securiguard. And I have referred to Mr. Sambrook
14 as the Shift Supervisor, but I understand from
15 Mr. Byl that's not at least how he would have
16 referred to him. He'd be referred to either as
17 the S-1 or -- is that the Operations Shift
18 Manager? Is that correct, sir?

19 A That's correct, yes.

20 Q Okay. Mr. Byl, you spent some time in Holland
21 growing up, correct?

22 A Yes.

23 Q You weren't born there but you grew up in the
24 Netherlands?

25 A Yes.

26 Q What languages do you speak, sir?

27 A Dutch, German, French, English, and a little bit
28 of some other languages, very little.

29 Q Okay. And you from time to time have experiences
30 at the airport where you assist people with
31 language difficulties?

32 A That's correct.

33 Q I take it, though, that those experiences aren't
34 confined to Dutch, German and French, correct?

35 You --

36 A I speak a very little of a couple of languages,
37 very little.

38 Q But you from time to time try to assist people who
39 speak a language that you don't understand?

40 A That occurs, yes.

41 Q And can you describe how it is that you try and
42 make your way through that?

43 A It doesn't happen often, but when it happens, if
44 I'm not able to assist them, I will take them to
45 an information counter. I will, through Security
46 Operations Centre, ask Ops if they can provide
47 assistance for that person. Or if we know someone

Douglas Byl

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

1 that will speak the language of the person.

2 Q Okay. There are video cameras that you described
3 and you spoke to their role with respect to the
4 primary security line. Do you have any
5 recollection that night, the early morning hours
6 of October 14th, utilizing the video cameras to
7 assist in terms of the incident in the IRL?

8 A It's a very vague recollection. The one item I do
9 remember clearly is thinking of bringing up a
10 camera. However, that camera had recently been
11 redirected to a different direction and it was no
12 longer available to me. Other than that, I do not
13 specifically recall what cameras I might have
14 tried or any problems that might have been related
15 to any cameras. What I do recall is that I did
16 not see the image of the incident occurring.

17 Q Okay. You did speak, though, about the
18 Securiguard response where there has been a breach
19 in the primary security line. Can you describe
20 for the Commissioner in further detail what would
21 be required if there was a door alarm that went
22 off or indeed if one of the fixed position guards
23 were not to remain where they were?

24 A Say the last part again. If a guard were not to
25 remain where they were?

26 Q Well, I suppose, in your experience has there ever
27 been a situation where one of the fixed position
28 guards have left their post?

29 A It is not permitted.

30 Q Okay.

31 A Since you asked the question, I'm going to
32 honestly answer. It has happened where a guard,
33 perhaps not being familiar enough with his duties,
34 had left, and the first time that happened I
35 recall that resulted in an evacuation of all of
36 the restricted area and everyone had to be
37 rescreened.

38 Q That's the whole of the airport?

39 A Not the whole of the airport. Just the area that
40 would have been affected. So that was the
41 domestic area. It was the alpha and bravo tier.

42 Q Okay.

43 A But very clearly the guards are not permitted to
44 leave their post because of such incidents, leave
45 the post unguarded, not have unauthorized
46 personnel being able to enter the restricted area.

47 Q You spoke about dispatching of the police. In

Douglas Byl

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

- 1 what circumstances will you as the SOC communicate
2 with Airport Operations to have the RCMP
3 dispatched? I think you mentioned that you did
4 that on this occasion. What are some of the other
5 situations where you would call for RCMP?
6 A Violent situations, situations where we may have
7 known as a vagrant person that has no real
8 business in the airport but wants to sleep
9 overnight. If the person's not cooperative,
10 willing to leave on their own initiative, upon
11 request, I might call the RCMP to attend.
12 Q And I think you mentioned earlier damage to
13 property in response to Mr. McGowan. Damage to
14 property, vandalism?
15 A Yes. Yeah. I'll say it again. Violence to
16 property, yes.
17 Q Now, you just mentioned vagrancy. In terms of
18 people sleeping over at the airport, you're not
19 speaking about passengers?
20 A That's correct. In other words, people who have
21 no business at the airport. They're not flying
22 out. They're just simply using it as a warm place
23 to sleep, shelter and so on.
24 Q And that does occur at the airport from time to
25 time where people are -- street people or people
26 without homes or what have you making their way to
27 the airport?
28 A That's correct. I can add to your question what
29 other incident police would be called. In case of
30 theft or suspicious activity, if someone might be
31 looking to steal luggage from passengers.
32 Q Okay, thank you. Now, Mr. Byl, do you have a
33 recollection of overhearing Ms. Hanson receive a
34 telephone call shortly after you received the
35 radio transmission from elevator 40?
36 A Yes, I do.
37 Q And do you also then recall Ms. Hanson then
38 calling the RCMP to report the incident?
39 A I do not recall that one way or another way. I do
40 recall it was done but I don't recall the specific
41 incident and when and by whom.
42 Q Okay.
43 A Other than to say, I believe it was Operations. I
44 believe it was not myself. It was Operations, and
45 I believe it to be Ms. Hanson.
46 MR. STEWART: Now, we heard YVR audio 5, and I wonder
47 if that could be replayed to Mr. Byl, to just

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

1 identify another voice.

2

3

(AUDIO BEING PLAYED)

4

(END OF AUDIO)

5

6

MR. STEWART:

7

Q Now, Mr. Byl, are you able to recognize the first
voice?

8

9

A The one that says, "Two patrollers and Lance is
down there," that would be Trevor Enchelmaier, my
supervisor.

10

11

12

Q Yes? But the voice that precedes that says,
"Trevor, just an FYI. We are heading down toward
the IRL."

13

14

15

A I did not. Perhaps you'd replay a mite. I'm
sorry.

16

17

Q Okay. Before I do, do you have a recollection of
the S-1, Greg Sambrook, and the ARC, Mr. Ginter,
leaving the Airport Operations office?

18

19

20

A As I stated, I do not really recall Bob Ginter
being there one way or another way. Throughout
this period of time, when these things are brought
up, maybe my -- an implant thought that I might
recognize, but I do not remember him at the time
being there. I do recall that almost immediately
after the conversation where the S-1 says to me he
was calling Trevor Enchelmaier directly on the
cell phone, he leaves within a very short time,
almost immediately. I remember that.

21

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Q Okay.

31

A And I know this is not part of what you're asking,
but I'd just like to maybe bring up as one more
point, that the other lawyers asked me if there
was a communication by the Supervisor directly to
the patroller, whether I would hear that. If it
were done over the radio, I would. However, if
they're sitting together, he would just tell him
verbally, and of course I would not hear that.
and I think this is what -- I remember is what did
happen at the time. They were sitting together
and he had sent him directly and that's what he's
confirming on the radio communication here, that
he already had sent him.

32

33

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Q If I can assist in what you're describing, do you
have some recollection that Trevor Enchelmaier and
the patrollers were all sitting together at the
time that the call came in from elevator 40?

45

46

47

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

1 A That's correct.

2 Q That at or about this time of night sometimes the
3 Supervisor and patrollers take a break together?

4 A That's correct.

5 MR. STEWART: If I could, though, doctor, have YVR
6 audio 5 just replayed quickly to see if Mr. Byl
7 can identify the voice.

8

9 (AUDIO BEING PLAYED)

10 (END OF AUDIO)

11

12 A That sounds like Greg Sambrook.

13 Q Okay. Now, do you have any recollection that
14 night that Mr. Sambrook switched his radio over to
15 the Security channel?

16 A This communication would have to be -- if I hear
17 that and Trevor is responding indicates that it
18 was done over the Security channel rather than the
19 Operations channel.

20 Q Okay. I can confirm that that was Security
21 channel A that transmission came in on. Now,
22 other than the audio files, do you have any
23 specific recollection of the first medical
24 dispatch which was routine? Mr. McGowan played
25 you the audio file where you're initially
26 dispatching one person curbside, routine.

27 A Before I even hear it, I would have to say,
28 without the assistance of all these recollections,
29 I would not remember that specifically, no. I
30 remember the ambulance but I do not remember in
31 detail any more that routine and then changed to
32 Code 3.

33 Q Do you have any recollection of a call that night
34 being upgraded to a Code 3?

35 A I do not recall that. You know, without the
36 assistance of all this information I would not
37 have recalled that.

38 Q Am I correct, though, that with respect to a
39 Code 3 dispatch, one of the things that the SOC
40 does is dispatch two patrollers curbside for the
41 two BC Ambulance units?

42 A When I'm working SOC and I'm requested to dispatch
43 for a Code 3, I will ask whether it's one or two
44 units. If there's two units involved, we will
45 dispatch two patrollers if available. And just
46 again, generally speaking.

47 Q Now, you indicated that you've been at the airport

Douglas Byl

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

- 1 since 1997. I don't think that Mr. McGowan asked
2 this. Before you came to work for Securiguard, am
3 I correct that you had to pass some provincial
4 exams to become a --
- 5 A Yes.
- 6 Q Can you describe that training for the
7 Commissioner?
- 8 A The training you refer to is as BST 1 and 2.
9 That's Basic Security Training that was instituted
10 at the end of '96 approximately. Before that was
11 not required. There's a first part to it which is
12 all theory. There was an exam by the -- it's done
13 at the Justice Institute of BC. And the second
14 part is part theory and part training in self-
15 defence. It's -- I believe it was two days, and
16 during the two days maybe one day roughly -- it's
17 a long time ago (indiscernible), but I think it's
18 one day or less of actual hands-on training for
19 the physical aspect and it relates to self-
20 defence, without any weapons of course. And
21 there's an exam of course for that second part of
22 the training as well.
- 23 Q And can you describe for the Commissioner the
24 training you received when you started work as a
25 Securiguard member at the airport?
- 26 A Initially I had a two-week course to familiarize
27 myself with all the aspects of the airport
28 operating in general and specific to our security
29 duty.
- 30 Q Now, in your experience at the airport, have you
31 attended prior situations that required an RCMP
32 response? Have you been present when the RCMP
33 dealt with --
- 34 A I have been present --
- 35 Q -- (indiscernible - overtalking) at the airport?
- 36 A -- where RCMP has attended as well.
- 37 Q Okay. To your knowledge, was the event of October
38 14th the first time that a Taser had been used by
39 the RCMP at the airport?
- 40 A Yes. I do not recall any other instances.
- 41 Q Do you recall any other instances where someone
42 was injured in the context of an RCMP arrest?
- 43 A I have not personally been involved in any of
44 those incidents. I am not aware of that.
- 45 Q And in your experience, if a Securiguard member is
46 the first to arrive at a scene, what will a
47 Securiguard member do once RCMP arrives at the

Douglas Byl

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

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

1 scene?

2 A The RCMP has jurisdiction. They take control of
3 the situation. We would stand down in most cases,
4 you know, remove ourselves from the incident.

5 Q Will you sometimes stay in the vicinity if there's
6 other functions to perform?

7 A First part of the question again, please?

8 Q Will you stay with the incident if there are other
9 functions to perform?

10 A That is correct. For example, if it's a crowded
11 area, we may do crowd control. We may redirect
12 passengers if necessary. So there's a number of
13 things that we can assist but not directly
14 involved with the incident so far as a physical
15 confrontation is concerned.

16 MR. STEWART: Those are my questions. Thank you, Mr.
17 Byl. Some of the other lawyers may have questions
18 for you.

19 MR. KOSTECKYJ: Walter Kosteckyj, counsel for Zofia
20 Cisowski.

21

22 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA
23 CISOWSKI:

24

25 Q Sir, do you have any translator facilities? So if
26 anybody contacts you with a problem which involves
27 someone that can't speak English, do you have the
28 ability to dispatch a translator or to obtain
29 translator services?

30 A Security does not deal with that directly. If we
31 had -- I indicated earlier, if we're not able to
32 directly assist someone that we're aware of that
33 has the language, then we would refer that to
34 Operations.

35 Q So the simple answer is that if one of your
36 security people runs across a problem with someone
37 who doesn't speak the language, they would inform
38 you; is that correct?

39 A Yes.

40 Q And then you would inform Airport Operations?

41 A Yes.

42 Q So that a translator or somebody could be found,
43 correct?

44 A Correct.

45 Q That never happened in this case?

46 A I was not aware. I was not informed of any
47 language situation. When the incident was relayed

1 to me by the guard, it was unknown to me that
2 there was a language involved.

3 Q No guard ever relayed to you the fact that Mr.
4 Dziekanski had a language issue?

5 A As far as my -- certainly not the very start when
6 I received that call. Further down the line, I do
7 not have a recollection -- a clear recollection
8 that there was a request for language services.

9 Q All right. So --

10 A I'm not saying it didn't happen. I simply don't
11 have a recollection of that.

12 Q Well, look. Before you came, you reviewed the
13 audio logs, correct?

14 A When I talk about my recollection, I'm talking
15 about recollection that I have of that time, not
16 something that might have been implanted by
17 reading newspaper articles or on the news or
18 anything like that. So I'm strictly dealing with
19 my recollection of that time.

20 Q Okay. Well, let's do it this way. In your
21 recollection, you never heard anybody tell you
22 that Mr. Dziekanski had a language issue?

23 A Going back to that time, no, I don't recall that.

24 Q Okay. Now, since that --

25 A I'm not saying it didn't happen. I just don't
26 recall.

27 Q Okay. Well, if it did happen, you were telling me
28 that a chain of events would be put in place. You
29 would have notified Operations, correct?

30 A That is correct.

31 Q And you don't have a recollection of doing that?

32 A I don't have a recollection one way or another
33 way.

34 Q Okay. Now, also there are radio logs that have
35 been produced here. You've had a chance to review
36 those before you came to give evidence today?

37 A I have not reviewed audio tapes before I came
38 here.

39 Q Okay. Well, I'm presuming that all the audio
40 tapes that are relevant have been provided to us.
41 Did you have a chance to see the material that the
42 airport provided, the communications between
43 Securiguard and yourself as the SOC?

44 A I did have a written document given to me at some
45 time in the past. I do not know. I don't
46 specifically think they were audio -- records of
47 audio conversations, but I don't recall that, no.

- 1 Q Now, you were the SOC; is that correct?
- 2 A I worked in SOC at that time.
- 3 Q And that's the hub of the security operation?
- 4 A That's correct.
- 5 Q So all the important information is supposed to be
- 6 relayed to you. You're the coordinator for the
- 7 night, are you not?
- 8 A That's correct.
- 9 Q So anything that's important should be relayed
- 10 back to you, correct?
- 11 A Generally speaking, yes. I'll give you the
- 12 exception. If the Supervisor is directly involved
- 13 on scene, some of his communications may not come
- 14 to the Security Operations Centre. They'll be
- 15 directly with the Supervisor on scene with the
- 16 patrollers.
- 17 Q But any time a radio is used, or if you're to be
- 18 kept in the loop as the SOC, the expectation is
- 19 that they're going to tell you what's going on,
- 20 correct?
- 21 A I will get an update, yes.
- 22 Q Now, you were talking about the fact that there
- 23 are two different radio frequencies that are used.
- 24 One is the Security channel, right?
- 25 A Yes.
- 26 Q And the other is an operational channel?
- 27 A Yes.
- 28 Q When there's a problem, do you all agree to switch
- 29 to the same tack or the same station so that you
- 30 can all be informed as to what's going on?
- 31 A That would be a negative.
- 32 Q Now, I just want to get a sense of in the
- 33 Operations room, on the night of -- early morning
- 34 hours of -- late October the 13th, morning of the
- 35 14th of 2007, how many people would populate that
- 36 Operations room that we saw in Exhibit 24? I'm
- 37 sorry, Exhibit 20. How many people would be in
- 38 there?
- 39 A The number varies. At that time of the night
- 40 there could be one scheduler, one Operations
- 41 Officer, there could be two people on Security
- 42 Operations Centre, and that would be the normal
- 43 numbers for that area. The other two people that
- 44 are not tied in to the office -- I mean to say
- 45 that they are not necessarily -- that's not their
- 46 station of work. They could be anywhere -- are
- 47 the Operations Shift Manager for YVR and the Duty

1 Manager or ARC for YVR. Again, they have an
2 office or a desk there but they could be on the
3 floor, they could be any number of things, or
4 outside the terminal. There could also be a
5 Marquise customer service person stationed on the
6 desk, but they may or may not be there.

7 Q So in that room you have people that are employees
8 of Marquise, or could be, employees of the airport
9 that directly work for the airport, and employees
10 of Securiguard?

11 A That's correct.

12 Q Now, I just want to make sure that I've got this
13 straight with who all these individuals are. You
14 work for Securiguard?

15 A Correct.

16 Q Mr. Ginter, who's been referred to, he works for
17 the airport?

18 A Correct.

19 Q Mr. Greg Sambrook, who we've heard is the ARC?

20 A No.

21 Q Am I wrong? Mr. Ginter is the ARC?

22 A Ginter is the ARC. Maybe I misunderstood your
23 question. Sambrook is the Shift Manager
24 Operations, also known as the S-1.

25 Q And is he an airport employee?

26 A That's correct.

27 Q And then the other person we've heard about is Mr.
28 Enchelmaier. Am I saying that right?

29 A He's Securiguard and he is not normally located in
30 this area.

31 Q Okay. Were you the only person from Securiguard
32 in that room during the relevant time period that
33 this matter with Mr. Dziekanski was going on?

34 A I believe that is correct.

35 Q All right. Now, you didn't have anything to do
36 with calling the police, correct?

37 A I believe that's correct, yes.

38 Q And you never had anything to do with calling the
39 ambulance?

40 A Correct.

41 Q And you never had anything to do with calling the
42 fire department?

43 A Correct.

44 Q Now, is it protocol to advise -- there's also a
45 fire department at the airport.

46 A Correct.

47 Q I can't remember what -- there's a term for it.

- 1 A ERS is --
- 2 Q ERS.
- 3 A -- one of the terms. I think there's another term
- 4 as well. ERS, Emergency Response Services.
- 5 Q All right. Is there a protocol in place where if
- 6 there's an emergency at the airport, you call ERS?
- 7 A If you're asking if I in the Security Operations
- 8 would do that, that is not correct. That would be
- 9 the Airport Operations Officer and/or ARC that
- 10 would do that, Duty Manager.
- 11 Q So you as the hub of the security, they guy that
- 12 everybody's supposed to report to, that's not part
- 13 of your protocol for you to advise ERS of what's
- 14 happening?
- 15 A That is correct.
- 16 Q Now, the video cameras that are located in the
- 17 airport and were located in the area, that's in
- 18 the IRL area and in the meeting area to the
- 19 public, do you have the ability to remotely move
- 20 those cameras around or to alter those cameras
- 21 directionally?
- 22 A Generally speaking not. They're -- almost all the
- 23 vast majority of cameras are fixed into a certain
- 24 direction. They remain that way.
- 25 Q Is there any audio in the area that you can turn
- 26 on or listen to audio in the area if there is an
- 27 emergency?
- 28 A Negative.
- 29 Q Okay. On this particular evening, you don't have
- 30 any recollection of trying to view what was going
- 31 on by virtue of tuning in to what the cameras were
- 32 showing?
- 33 A I responded to that earlier. I do have some vague
- 34 recollection. I specifically remember an attempt
- 35 and one camera that had recently been redirected
- 36 to a different -- into a different direction. I
- 37 also specifically recall not -- whatever I might
- 38 have done -- if it was other cameras, I don't
- 39 specifically recall, but I do recall specifically
- 40 not seeing any activity of the scene where the
- 41 incident occurred. So if I did look in any
- 42 camera, I did not see anything happening there.
- 43 Q At your desk, when you're the SOC and you're
- 44 sitting at this desk in Exhibit 20 that we were
- 45 talking about, the Operations desk, could you
- 46 actually physically see all the security cameras?
- 47 A Negative. There's too many.

Douglas Byl

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

1 MR. KOSTECKYJ: Those are my questions.

2 THE COMMISSIONER: Anybody else?

3 MR. HIRA: Very brief questions, Mr. Commissioner.

4 Before I start I just wish to speak to Mr. Stewart
5 and that may cut down my questioning even more.

6 Mr. Byl, my name is Ravi Hira. I represent
7 Officer Millington. I wonder, Mr. Registrar,
8 whether you could show Mr. Byl Exhibit 29, which,
9 Mr. Commissioner, is the Gate 53 door report.

10

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

13

14 Q Sir, Gate 53, is that a gate that is monitored by
15 your cameras?

16 A I'm trying to remember the location of that gate
17 and what cameras may be available. I will firstly
18 state that the cameras that we monitor and that
19 record incidents are -- and this is our main
20 function -- have to do with primary security line.
21 Any other areas, it's not our primary function and
22 we may or may not have access or a camera in those
23 area.

24 Q So a gate leading into a plane or leading from a
25 plane into the terminal, in the international
26 terminal, would that be part of the primary
27 security line?

28 A Negative. That would already be inside the
29 restricted area so there's not a line between the
30 restricted and the non-restricted area.

31 Q So this type of document that you have before you,
32 Exhibit 29, are you familiar with that document?

33 A Yes.

34 Q And perhaps this question is a bit meaningless
35 given the answer to your second-last question.
36 But with respect to the fourth entry on that
37 document dealing with unauthorized exit, are you
38 familiar with that type of entry?

39 A I am.

40 Q And when there is that type of entry, are there
41 any special steps that you take to deal with it?

42 A I will clarify this particular one. This is not
43 PSL, primary security line door, and we generally
44 do not respond to those. We will only respond to
45 primary security line doors and certain sensitive
46 doors.

47 Q Fair enough. Those are my questions with respect

1 to that document. Two more areas. First -- you
2 can put that aside if you wish. Is this a fair
3 comment by me, that one of the most common
4 requests for the RCMP to attend the airport is to
5 deal with homeless people seeking shelter at the
6 airport?

7 A I don't think I'm qualified to answer that because
8 I do not know all the requests they get. On the
9 surface I would say not.

10 Q Okay. It is a reasonably frequent request of the
11 RCMP, correct?

12 A That is correct.

13 Q Now, based on your experience, some ten years
14 before October 2007, have you ever had a situation
15 where a man has been throwing luggage or chairs in
16 the IRL?

17 A No.

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

19 THE COMMISSIONER: All right, that seems to be
20 everyone. Thank you very much, sir, for your
21 time.

22 A You're welcome.

23

24 (WITNESS EXCUSED)

25

26 THE COMMISSIONER: How are we doing, counsel?

27 MR. VERTLIEB: What I'd like to do is take the
28 afternoon break, come back. And the next witness
29 we won't finish by 4:00, but we can at least do
30 some preliminaries and then have that person carry
31 over.

32 THE COMMISSIONER: Okay. We'll take the afternoon
33 break.

34

35 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)

36 (PROCEEDINGS RECONVENED)

37

38 MR. VERTLIEB: The next witness is Karol Vrba.

39

40 KAROL VRBA, a witness, sworn.

41

42 THE REGISTRAR: State your full name, please.

43 A Karol Vrba.

44 THE REGISTRAR: Spell your surname.

45 A V-R-B-A.

46

47

1 EXAMINATION IN CHIEF BY MR. VERTLIEB:

2

3 Q Mr. Vrba, I want to deal with your background up
4 to the time that you became a member of the
5 Richmond Fire Department, which is what you are
6 now doing here in our community. You are born in
7 Slovakia in 1972?

8 A Yes.

9 Q And at the time, it was Czechoslovakia?

10 A Yes.

11 Q Before coming to Canada, you lived in England for
12 two years?

13 A That's correct.

14 Q You came to Canada and directly to Vancouver and
15 have been here since 1999?

16 A Yes.

17 Q You're married with two children?

18 A Yes.

19 Q Tell us about your education in Slovakia.

20 A I have a master's degree at physical education.
21 So I'm a teacher for grade 8 till 12 in Slovakia
22 as a physical education teacher.

23 Q Even though you had a master's degree and were a
24 teacher, when you first came to Canada your job
25 was that of a caregiver for young children?

26 A That's correct.

27 Q And you did that for two years?

28 A Yes, I did.

29 Q And then you did construction work and masonry
30 until 2007?

31 A That's correct.

32 Q And about that time is when you put in place your
33 attempts to work at the Vancouver International
34 Airport?

35 A Yes.

36 Q To get that position, prior to the airport job you
37 had gone to the Justice Institute in 2004?

38 A Yes.

39 Q Tell the Commissioner what you studied.

40 A I studied Fire Fighter Pre-Employment program,
41 Level 1 and 2.

42 Q And why did you take the firefighting Level 1 and
43 2 program?

44 A I would love to become -- be a firefighter.

45 Q And you took that in 2004 even though you did not
46 have any prospect of a job in firefighting at that
47 time?

- 1 A Yes.
- 2 Q Tell us about the interview process to get the job
3 at YVR.
- 4 A I fill out the application form online and I send
5 it in, and after they review my application form,
6 I was invited for a writing test.
- 7 Q And after a written test, then?
- 8 A After written test, I was called in for a first
9 interview.
- 10 Q And after the first interview?
- 11 A After the first interview, I did a second
12 interview. And after the second interview, I
13 hasn't been called back. So I phone human
14 resources and ask him -- ask them how is my case,
15 and they told me they are not considering me to
16 hire me as a full-time -- in a full-time position.
17 So I offer myself for casual or part-time
18 position, and they called me back, I think -- I
19 think it was the next day and they told me to come
20 and do a writing test -- I mean do a physical
21 test.
- 22 Q And after the physical test, you ended up being
23 taken on as a probationary employee?
- 24 A No, I was asked to do another -- additional
25 English test because they weren't sure I am able
26 to communicate in English as an emergency respond
27 personnel.
- 28 Q Okay. And you took that second test for English?
- 29 A Yes, I did.
- 30 Q Now, you've mentioned emergency response. Tell
31 the Commissioner what education you took at the
32 Justice Institute concerning first response
33 training.
- 34 A I took First Responder, Level 3, and it was full
35 week, five days, eight hours a day, 40 hours
36 training.
- 37 Q Okay.
- 38 A Include CPR, AED, and spinal.
- 39 Q Now, in terms of languages, tell the Commissioner,
40 please, what languages you speak either well or in
41 part.
- 42 A I speak Slovak, Czech, Russian, and I
43 understand -- I can speak a little bit of Polish.
- 44 Q So let's talk about the job you were doing for the
45 Vancouver International Airport in October of
46 2007. What was your job title?
- 47 A Airfield operational specialist, backfield for the

1 fire hall.
2 Q I have the airfield operations specialist.
3 A Yes.
4 Q And what else did you say, sir?
5 A I was backfield for the fire hall.
6 Q And I want you just to explain what that means,
7 backfield for the fire hall.
8 A In case of emergency, I will drive a pickup truck
9 to the fire hall and hook up the hazmat trailer or
10 medical trailer and go to the emergency and
11 support the crew which is already there. I would
12 wear full turnout gear and assist the crew already
13 at the scene.
14 Q So you would help in the event there was some kind
15 of catastrophe, but that was not your primary job?
16 A Yes.
17 Q Now, what part of the airport did you work at?
18 What building were you in in the month of October
19 2007?
20 A Can you repeat the question, please?
21 Q What building did you work in in October 2007?
22 A I was working -- most of the time I was at the
23 fire hall, which is in the middle of the airfield.
24 Q We've seen a diagram showing that and it's clearly
25 marked. I don't need to have you pull that up
26 right now. It's a separate fire hall just off a
27 taxiway?
28 A Yes.
29 Q Now, do you know where the ERS people worked?
30 A Yes, I do.
31 Q And where was that?
32 A At the fire hall.
33 Q Tell us what you did the evening of October 13,
34 2007. What were your job duties?
35 A I was the only one who was scheduled to work as an
36 airfield operational specialist and my job was to
37 mow the grass section of the field at the airport,
38 on the airside.
39 Q And did you do that?
40 A Yes, I did it.
41 Q Approximately --
42 A I did my --
43 Q Go ahead, sir.
44 A I did my section and I finish a little bit after
45 midnight.
46 Q Do you remember approximately what time you
47 started work?

- 1 A Around nine o'clock.
- 2 Q P.M.?
- 3 A Yes, cutting the grass.
- 4 Q So you finished your duty cutting the grass
- 5 shortly after midnight. And what did you then do?
- 6 A I went to the fire hall, back to the fire hall,
- 7 talked to my supervisor, and I ask him if I can do
- 8 the aircraft parking.
- 9 Q Who was your supervisor?
- 10 A Was Andrew Caldwell.
- 11 Q And just so you know, Mr. Vrba, Mr. Caldwell is on
- 12 the witness list and we expect him to come here
- 13 sometime in the future. So tell us about this
- 14 discussion you had about wanting to do the
- 15 parking.
- 16 A I was -- I like doing the aircraft parking because
- 17 for me it was familiarization with the aircraft.
- 18 I was learning the aircraft. It's good as a
- 19 firefighter to know which kind of aircraft are
- 20 flying to Vancouver.
- 21 Q And why, to your understanding, was there a check
- 22 on the aircraft parking? Tell us what you
- 23 understood the reason for that job to be done.
- 24 A For the job to be done is so -- I was recording
- 25 the identification number, tailgate, of the
- 26 aircraft and company which flies and also the gate
- 27 number where it stays overnight, so the air
- 28 company is billed for overnight parking.
- 29 Q So you would drive around in a vehicle; is that
- 30 correct?
- 31 A Yes, that's correct
- 32 Q And you'd make a note of which airplanes were
- 33 there and their serial number?
- 34 A Yes.
- 35 Q And sometimes they would be at the gate and
- 36 sometimes just parked out on the tarmac?
- 37 A Yes, that's correct.
- 38 Q And --
- 39 A Every plane has a design spot where it can park,
- 40 even on apron.
- 41 Q So did you then speak with your supervisor, Mr.
- 42 Caldwell, about doing that job duty?
- 43 A Yes, I was.
- 44 Q And what was the result of your discussion with
- 45 Mr. Caldwell?
- 46 A He allowed me to do it.
- 47 Q Where was it that you spoke with him?

- 1 A It was at the fire hall.
- 2 Q We'll come to that.
- 3 MR. VERTLIEB: It's Exhibit 15, Mr. Registrar, but I'm
- 4 sure you're ahead of me anyway. Yes, you are.
- 5 Q Can you see the fire hall there?
- 6 A Yes, I do.
- 7 Q So now, we've gone through some detail about this
- 8 aircraft parking because I want you to now tell
- 9 our Commissioner what it is you did once Mr.
- 10 Caldwell and you had the discussion to allow you
- 11 to do this part of your work.
- 12 A I started at the South Terminal and I went from
- 13 apron to apron and I recorded all the numbers.
- 14 Q Okay, just one second now. So you spoke to
- 15 Caldwell. You were at the fire hall?
- 16 A Yes.
- 17 Q Now, where did you go to be able to do that work?
- 18 What's the next thing you had to do?
- 19 A I had -- my driving licence for the airport
- 20 allowed me only drive in a vehicles corridor.
- 21 Q In the what?
- 22 A In a vehicle corridor. Only where the cars can
- 23 travel, I mean vehicles.
- 24 Q And so you were allowed to drive in a vehicle
- 25 corridor?
- 26 A Yes, that's correct.
- 27 Q And did you get in a truck and go anywhere at the
- 28 very beginning of this work, before you started to
- 29 make notes?
- 30 A No. I was sit in the car, and first I went to the
- 31 Operations room to pick up my form.
- 32 Q Okay. So you had to go to the Operations room to
- 33 pick up the form?
- 34 A Yes, that's correct.
- 35 MR. VERTLIEB: I think that's going to be Exhibit 20,
- 36 which is the diagram, please. And while our
- 37 registrar is getting that for us -- thank you, Mr.
- 38 Giles.
- 39 Q We've been told that's a diagram of the Operations
- 40 room. I believe I've got the right exhibit. Does
- 41 that look correct to you?
- 42 A Yes.
- 43 Q Had you been in this room before the evening of
- 44 October 13 and the early morning of October 14?
- 45 A Yes, I was.
- 46 Q So you had to get a form. Tell us about the form
- 47 that you had to get.

- 1 A It's the form with all the gates number and help
2 me familiarize myself with my aircraft, so it's
3 like aircraft companies. They have a short name
4 for Air Canada and all the other companies so help
5 me to understand the airplanes better.
- 6 Q So the form was something that you had to go to
7 the Operations Centre to pick up?
- 8 A Yes.
- 9 Q And what size of form was this roughly?
- 10 A A-4.
- 11 Q I'm sorry?
- 12 A Format A-4, just like this (indicating).
- 13 Q So the same size as Exhibit 20?
- 14 A Yes.
- 15 Q And it was a pre-printed form that you would then
16 fill in?
- 17 A Yes, that's correct.
- 18 Q Were those forms kept in the fire hall?
- 19 A Not what I know.
- 20 Q So as far as you knew, you had to go to the
21 Airport Operations Centre?
- 22 A Yes, I always did.
- 23 Q You had done this before?
- 24 A Yes, I did.
- 25 Q So tell us how you'd get to the Airport Operations
26 Centre once you arrived at the airport, having
27 come from the fire hall.
- 28 A Sorry, can you repeat the question?
- 29 Q Tell the Commissioner how you would actually get
30 to the Operations Centre once you got to the
31 terminal building from the fire hall.
- 32 A I would take the elevator upstairs and then the
33 stairs to the operations room from the airside.
- 34 Q Now, this would be sometime after midnight now so
35 we're talking in the early morning of October 14,
36 2007.
- 37 A Yes.
- 38 Q What's your best memory of the approximate time
39 you were in the Operations Centre that morning?
- 40 A It was shortly one o'clock.
- 41 Q Around one o'clock in the morning?
- 42 A Yes.
- 43 Q Did you go in the room?
- 44 A Yes, I did.
- 45 Q Did you pick up the form?
- 46 A Yes, I did.
- 47 Q Did you leave and go do the work?

1 A Yes, I did.

2 Q We'll come back to that. I'd like you though now
3 to tell the Commissioner about what happened when
4 you were in that room to pick up the form.

5 A I saw Carla Hanson. She was on the phone. And I
6 talked to Heather and asked her what's going on,
7 and she told me there is a guy probably speaking
8 Russian in the international terminal and he's
9 making -- he's doing a disturbance.

10 Q We'll have you tell us a bit more about Carla and
11 Heather in a minute. I just want to get at what
12 happened. So Heather spoke to you and said
13 there's a guy in the international terminal.

14 A Yes, making a disturbance. So I told her, "You
15 know I speak Russian and I speak also Polish. So
16 if you need me, you can reach me on my radio."

17 Q Why did you say that?

18 A Because as I was saying, you know, there is a
19 disturbance, a guy doesn't understand English and
20 speaks only Russian or some other language. So I
21 thought I could help them to translate.

22 Q And you said this to whom?

23 A To Heather.

24 Q And what was said back?,

25 A "Don't worry about it. Just do the aircraft
26 parking."

27 Q Now, let's just have you tell the Commissioner
28 about these people that you're discussing. This
29 is around one o'clock in the morning?

30 A Yes.

31 Q In the operations room. And Exhibit 20 has been
32 shown to you and that looks like the room to you?

33 A Yes.

34 Q And who is Carla? What was her job?

35 A Carla is one of the Operations personnel. She is
36 receiving phone calls and she also dispatches the
37 fire hall or other unit.

38 Q Had you seen her before?

39 A Yes, I did.

40 Q So you knew who she was and what she did?

41 A Yes, I did. Yes, I know.

42 Q And what about Heather? What was her job as far
43 as you knew?

44 A She was doing the gates scheduling.

45 Q And you knew her from seeing her before?

46 A Yes.

47 Q And so when you walked in, where did you go to get

1 the form? Just give the Commissioner a sense of
2 what you had to do to get the form in that room.
3 A Heather had it. She had it ready for me already.
4 So they know I'm coming -- coming in.
5 Q Do you have any idea as to why somebody might have
6 known you were coming in?
7 A Because we do the usually -- not usually. Always
8 we do the aircraft parking between 1:00 and 2:00.
9 Q So somebody might not have known you were coming
10 but they would expect somebody to be doing that
11 job about that time?
12 A Yes.
13 Q Did you get the form then? You actually got it?
14 A Yes, I did.
15 Q And who gave it to you?
16 A Heather.
17 Q What was Carla doing during the time you were in
18 the room?
19 A She was on the phone.
20 Q And do you know who she was on with?
21 A All I overheard was the conversation made somebody
22 who was phoning from the international terminal.
23 Q Approximately how long all together were in the
24 room at this time, about 1:00 in the morning?
25 A Between two to three minutes.
26 Q Did you have discussion with anybody else other
27 than Heather about this incident, the disturbance
28 in the international area?
29 A Not what I can recall.
30 Q So you left?
31 A Yes, I did.
32 Q And you went back down, got in your truck and did
33 your job with the parking?
34 A Yes, I did.
35 Q How long did that take?
36 A Approximately 40 minutes.
37 Q And then what did you do?
38 A I came back to the operations room.
39 Q Now, tell us what happened the second time you're
40 back in the operations room.
41 A When I enter the room, I saw people were
42 overwhelmed and shocked, so I asked, "What's going
43 on?" and they told me what happened. Mr.
44 Dziekanski was Tasered and he died.
45 Q Continue.
46 A So I told them, "Why didn't you call me on my
47 radio? I told you I can help."

- 1 Q How long were you in the room the second time?
2 A At least an hour.
3 Q Do you remember who else was in the room that
4 second time?
5 A There was also Carla and there are always some
6 people from the security, watching security
7 cameras. And that's all I can recall.
8 Q So Carla -- that's Carla Hanson?
9 A Yes, that's correct.
10 Q She's an airport employee like you were?
11 A Yes.
12 Q And there was Heather; you've mentioned that.
13 A Yes.
14 Q She would be an airport employee like you were?
15 A Yes.
16 Q Then security people. They would be working for
17 Securiguard?
18 A Yes.
19 Q We heard from Mr. Byl before. You know him?
20 A Yes.
21 Q And you recognized him when he was here earlier?
22 A Yes, I did.
23 Q Anybody else in the room that you can remember at
24 that time when you were there for about an hour?
25 A No.
26 Q Had you ever spent an hour in that room in one
27 sitting, as it were?
28 A No.
29 Q So why were you there that long?
30 A We were just talking about the incident. I was
31 shocked I wasn't called.
32 Q Who were you mainly speaking with?
33 A Heather and Carla.
34 Q And how did they appear in terms of their
35 appearance to you?
36 A They were overwhelmed and they were really shocked
37 what happened.
38 Q The first time you were in the room, do you
39 remember who else was in there? You've mentioned
40 of course Heather and Carla.
41 A Yes. There was still people from the security
42 watching the monitors and also there was both
43 supervisors, Greg Sambrook and Bob -- Bob is the
44 other one, another supervisor.
45 Q You didn't speak to any of the supervisors the
46 first time?
47 A No, I didn't.

1 Q Do you remember if the supervisors, Mr. Sambrook
2 in particular, was back there the second time?

3 A No. They weren't there.

4 Q Why did you come back the second time?

5 A To drop off the form so Heather, she can put all
6 the numbers into the computer, all the data what I
7 recorded on the paper. Later on she will put it
8 in the computer.

9 Q Prior to arriving back at the operations room, did
10 you have any idea that something had happened to a
11 passenger who ended up dying that morning?

12 A No.

13 Q Tell us a bit about your ability to speak Polish.
14 Are you perfectly fluent? Can you speak perfect
15 Polish?

16 A No.

17 Q How would you describe to the Commissioner your
18 ability to communicate with somebody who perhaps
19 only spoke Polish?

20 A If he speaks slowly, I would understand him. Also
21 he would understand me. Because Slovak and Polish
22 languages are very similar.

23 Q Now, I don't want to go through in detail
24 everything you said at that meeting or that time
25 you were in the Operations room the second time.
26 Is there anything else that you recall about your
27 discussion the second time with these two people?

28 A No. They were just surprised how it was handled.
29 Like the fire hall wasn't dispatched. They told
30 me that. And also like nobody called me.

31 Q Where did you go from the Operations room? When
32 you left there, where did you go?

33 A I went straight to the fire hall.

34 MR. VERTLIEB: I'm just thinking this may be a
35 convenient time to break, Mr. Commissioner, and we
36 can get back in and finish this tomorrow morning.

37

38 (WITNESS STOOD DOWN)

39

40 THE COMMISSIONER: All right, if that's convenient.
41 Tomorrow morning.

42

43 (PROCEEDINGS ADJOURNED TO FEBRUARY 11, 2009,
44 AT 10:00 A.M.)

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