

**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 12, 2009

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PROCEEDINGS AT  
HEARING (DAY 16)

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Commissioner:	T.R. Braidwood, Q.C.
Commission Counsel:	A. Vertlieb, Q.C.
Associate Commission Counsel:	P. McGowan
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Counsel for Vancouver Airport Authority:	D. Stewart, C. Friesen; B. Ergun
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Counsel for TASER International, Inc.	D. Neave, J. Spencer
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1  
Heather Staller  
In chief by Mr. Vertlieb (cont'd)\_

Vancouver, B.C.  
February 12, 2009

1  
2  
3  
4 THE REGISTRAR: The hearing is now resumed.  
5 THE COMMISSIONER: Good morning, all.  
6 MR. VERTLIEB: Can Ms. Staller please retake the  
7 witness stand.

8  
9 HEATHER STALLER, a witness,  
10 recalled, warned.

11  
12 THE REGISTRAR: Ms. Staller, may I remind you that  
13 you're still under oath.  
14 A Yes.  
15 THE REGISTRAR: Thank you.  
16 THE COMMISSIONER: Just a moment. I understand Mr.  
17 Hanvelt, is it?  
18 MR. HANVELT: Yes, it's Hanvelt.  
19 THE COMMISSIONER: I understand you're an articulated  
20 student, sir.  
21 MR. HANVELT: Yes, I am.  
22 THE COMMISSIONER: Well, you're most welcome. I'm glad  
23 to see that you're getting this kind of  
24 experience.  
25 MR. HANVELT: Thank you very much.  
26 THE COMMISSIONER: Thank you, Mr. Vertlieb.

27  
28 EXAMINATION IN CHIEF BY MR. VERTLIEB, continuing:

29  
30 Q Now, Mr. Staller, I want to go to the e-mails we  
31 discussed yesterday and I am going to give a copy  
32 to you to follow along.

33 A Okay. Thank you.

34 Q I understand the sequence of these is from the  
35 bottom of the page up, so 1 is at the very  
36 beginning of the first page is the first e-mail  
37 that we're going to deal with, and then 4 would be  
38 the fourth on that page and et cetera, right?

39 A Yes.

40 Q Okay. And these are a series of e-mails between  
41 you and Andrew Caldwell?

42 A Yes.

43 Q And yesterday we talked about Andrew Caldwell.  
44 He's a friend of yours who works at the airport?

45 A Yes, he is.

46 Q And Mr. Caldwell works in the fire hall?

47 A Yes.

2  
Heather Staller  
In chief by Mr. Vertlieb (cont'd)\_

1 Q And how long has he been your friend?  
2 A Ever since he started working there, I'd say a  
3 good two, two-and-a-half years prior to this.  
4 Q So two to two-and-a-half years prior to October  
5 '07?  
6 A Yes.  
7 Q And he still works at the airport?  
8 A Yes, he does.  
9 Q So he's been your friend now for almost three-and-  
10 a-half to four years?  
11 A Yes.  
12 Q And I gather it would be you and he would  
13 regularly exchange e-mails in the course of your  
14 work, just as part of being friends?  
15 A Yes.  
16 Q It's certainly not part of your job duties,  
17 obviously, but --  
18 A No.  
19 Q Okay, that's fine. Let's go through these e-mails  
20 one by one, and just tell us about the e-mails.  
21 Where were you sending these from?  
22 A From my workstation in the Baggage and Gate  
23 Scheduler position.  
24 Q Okay. And that's the station that's on Exhibit  
25 20, the map that we looked at yesterday?  
26 A Yes.  
27 Q Now, the very first one is from him to you at 1:17  
28 a.m.:  
29  
30 Any word from the front?  
31  
32 Now what was it -- do you know why that was  
33 initiated?  
34 A I don't remember exactly what that refers to.  
35 Q Okay. And you answered him within a minute or so:  
36  
37 Typing as we speak...  
38  
39 A Yes.  
40 Q What does that mean?  
41 A I don't recall the context of when those were  
42 written, so I can't speak to that.  
43 Q Well, we know at some time around the time Mr.  
44 Dziekanski is in the airport, right?  
45 A I don't know. I wasn't aware of Mr. Dziekanski at  
46 that point in time.  
47 Q Okay. So your recollection is that those two e-

3  
Heather Staller  
In chief by Mr. Vertlieb (cont'd)\_

1 mails had no relationship to Mr. Dziekanski's  
2 event?  
3 A No.  
4 Q Would you and he regularly at work exchange e-  
5 mails on a regular basis?  
6 A With coworkers?  
7 Q Yes.  
8 A Yes.  
9 Q And you and Mr. Caldwell do that regularly?  
10 A Yes.  
11 Q Okay. Now, he then says to you in the next e-  
12 mail:  
13  
14 Standing by...  
15  
16 What does that mean? What did you take that to  
17 mean?  
18 A Just waiting until I can respond to him.  
19 Q Respond to him about what? If it's unrelated to  
20 Dziekanski, that's fine, but if it is related to  
21 Mr. Dziekanski...  
22 A No, it would be unrelated to that.  
23 Q Okay. All right. So then the fourth e-mail, this  
24 is you to Mr. Caldwell, and this now is at 1:26  
25 a.m.  
26  
27 There is a report of a guy in the IRL right  
28 now going crazy, throwing chairs and  
29 suitcases... your not in the IRL right now  
30 are you?  
31  
32 Now, let's just talk about that for a moment. At  
33 this point in time you've now learned from hearing  
34 what was going on from Carla Hanson and also Doug  
35 Byl about an event in the reception lounge.  
36 A From Carla Hanson, yes, that there was something  
37 going on down there.  
38 Q Okay. Now, if Mr. Caldwell is normally with the  
39 fire hall, why did you wonder if he might be in  
40 the IRL?  
41 A It was more of along the lines of a joke. Not  
42 actually him being down there.  
43 Q Okay. So is this the first e-mail that you have  
44 sent concerning something to do with Mr.  
45 Dziekanski?  
46 A Yes, it is.  
47 Q Okay. That's 1:26 a.m. Let's go to the next.

4  
Heather Staller  
In chief by Mr. Vertlieb (cont'd)\_

1 This is from him to you, 1:28 a.m., two minutes  
2 later, and he says:

3  
4 I don't think so. Let me check... Nope, I'm  
5 just sitting here.

6  
7 And then he says:

8  
9 Thanks for the info, --

10  
11 - and then he says -

12  
13 -- thank god I don't expect anything positive  
14 out of Bob or Greg. Keep me posted.

15  
16 Bob or Greg, would that be Bob Ginter and Greg  
17 Sambrook?

18 A Yes.

19 Q Okay. Do you know why he -- did you discuss with  
20 him at any point why he made that comment that's  
21 in that e-mail?

22 A With Andrew Caldwell?

23 Q Yes.

24 A No.

25 Q All right. So that's Caldwell to you, 1:28 a.m.  
26 Let's go to the reply, this is a minute later  
27 you're answering him, correct?

28 A Yes.

29 Q Just read that out, please.

30 A Number 26, or number 6?

31 Q Please.

32 A

33 Sounds like we have a good one on our hands  
34 now... passengers are hiding from this guy he  
35 is breaking glass and throwing chairs at  
36 people and breaking computer screens! Greg  
37 and Bob are down there... hmmmmmm

38

39 Q So when you say "Greg and Bob", that's Sambrook  
40 and Ginter?

41 A Yes.

42 Q So you had seen them in the Operations room and  
43 you knew they had left?

44 A Yes, I did.

45 Q So that's 1:29. All right. He then answers you a  
46 minute later. He says:

47 Let us know if anyone gets hurt.

5  
Heather Staller  
In chief by Mr. Vertlieb (cont'd)\_

1 Why do you think that message was sent to you?

2 A I don't know for sure what Andrew meant by that.  
3 I could -- I did just tell him that people,  
4 passengers were down there and someone was  
5 throwing things, so in retrospect to other  
6 passengers getting hurt.

7 Q Okay. A minute later you e-mailed Andrew and you  
8 said:

9

10 Calling BCAS right now... they guy was just  
11 tasered by the RCMP.

12

13 That's your e-mail to him?

14 A Yes.

15 Q BCAS is the ambulance service?

16 A Yes, it is.

17 Q Why did you send that e-mail to Mr. Caldwell who  
18 is at the fire hall?

19 A I was already in e-mailing with him and just  
20 updating him, somewhat as a courtesy.

21 Q In what --

22 A Just letting him know still what's going on down  
23 there.

24 Q Courtesy in what way?

25 A I had already been e-mailing him throughout the  
26 night, giving him updates. So it was just another  
27 update along the same e-mail path.

28 Q But what do you mean "courtesy"?

29 A He asked to keep him posted. I was just keeping  
30 him posted what was going on down there.

31 Q Maybe I --

32 A What is --

33 Q -- missed it.

34 A He said:

35

36 Standing by.

37

38 Q I asked you about "Standing by", but you said that  
39 was before you knew about Dziekanski, remember.

40 A No.

41

42 Let us know if anyone gets hurt.

43

44 In number 7. Just letting him know still what was  
45 happening.

46 Q Okay. And is that because part of the fire hall  
47 and ERS duties would be to attend at the airport

6

Heather Staller

In chief by Mr. Vertlieb (cont'd)\_

1 if somebody was hurt?

2 A To a Code 3 medical, yes.

3 Q Okay. So you wanted him to know that "this guy",  
4 as you put it, of course you now know is Mr.  
5 Dziekanski?

6 A I'm sorry?

7 Q "This guy" you referred to is Mr. Dziekanski?

8 A I didn't know his name at that time.

9 Q No.

10 A But, yes, that's who it would have been.

11 Q Okay. So that's 1:31. He answers you within the  
12 same minute and he asks you:

13

14 Is that code 3?

15

16 Right?

17 A Yes.

18 Q Code 3 to you meant what?

19 A A Code 3 call with sirens, not a routine call.

20 Q Some kind of serious medical problem?

21 A Yes.

22 Q So he's asking you if it's Code 3. Did you take  
23 to mean he would be interested if it's Code 3  
24 because he as part of ERS would then be attending?

25 A Yes.

26 Q So part of your reason to keep him informed is to  
27 let him stay tuned to developments in the event he  
28 and his colleagues at the Emergency Response had  
29 to get over to the International Reception Lounge?

30 A Yes.

31 Q As has happened many times in the past?

32 A Yes.

33 Q So you then answered him when he's asking you is  
34 it Code 3, you answer a minute later:

35

36 Bob just asked Carla to call BCAS, she is on  
37 the phone right now.

38

39 And then there's a pause.

40

41 so no not Code 3 it's routine right now.

42

43 "Bob" meaning?

44 A Bob Ginter.

45 Q So you're telling Mr. Caldwell that it's just  
46 going to be a routine call, not Code 3 on the  
47 instructions from Ginter to Carla?

7  
Heather Staller  
In chief by Mr. Vertlieb (cont'd)\_

1 A No.  
2 Q Okay. Tell us what that means.  
3 A Bob had asked Carla to call the British Columbia  
4 Ambulance Service, and then she was on the phone  
5 talking to BC Ambulance at that moment. Bob  
6 doesn't say if it's routine or Code 3. It's for  
7 ambulance, BCAS, to define if it's Code 3 or  
8 routine how their response will be.  
9 Q So how did you know it's routine? You wrote that  
10 to Mr. Caldwell.  
11 A I can hear Carla on the other end of the line  
12 talking to ambulance.  
13 Q Okay.  
14 A And I believe she said routine in her dialect,  
15 from what I can hear in the room.  
16 Q And so almost immediately within that same minute  
17 literally Mr. Caldwell e-mails you back saying:  
18  
19 Thanks for the heads up.  
20  
21 A Yes.  
22 Q Okay. Just keep going, please. A minute later  
23 you just e-mail to say:  
24  
25 No problem!  
26  
27 In response to him thanking you, right?  
28 A Yes.  
29 Q Now, he -- he would get that and then the next e-  
30 mail we've got from you to him in the same minute,  
31 and you say:  
32  
33 You feeling any better?  
34  
35 A Yes.  
36 Q So the question I have is what's that about and  
37 why are you writing that? What's the -- what's  
38 the context of that and why?  
39 THE COMMISSIONER: I'd like to make it clear now that  
40 we're not interested in any personal matters.  
41 A Yes. Earlier in the night there was two other  
42 issues, an issue with a cold patch, and then a  
43 crash alarm test in the night that Andrew was  
44 upset about. And so earlier in the e-mails it was  
45 just two friends letting each other vent.  
46 MR. VERTLIEB:  
47 Q Okay.

1 A So it was in context to that, was he feeling any  
2 better about the earlier cold patch issues.

3 Q We've heard a bit about cold patch, that's fixing  
4 a hole in a runway or something?

5 A On a surface somewhere, yes, a pothole.

6 Q But that has nothing -- the cold patch has nothing  
7 to do with Mr. Dziekanski?

8 A No.

9 Q Okay. Then we'll leave -- we'll leave that alone.  
10 The reply from him saying:

11  
12 No, not yet. Soon I think

13  
14 That's just in response to you asking him if he's  
15 feeling any better, right?

16 A I would imagine so.

17 Q So you didn't take -- you didn't take that as  
18 anything to do with Mr. Dziekanski?

19 A No.

20 Q All right. Now, then let's go to 15. This is you  
21 to Mr. Caldwell. It's now 1:37 a.m., so it's a  
22 few minutes later, four minutes, according to the  
23 computer, right?

24 A Yes.

25 Q And you tell Caldwell:

26  
27 Here it comes Code 3.

28  
29 A Yes.

30 Q Okay. Now why did you do that?

31 A We were still in e-mail correspondence and as a  
32 heads-up courtesy that "Here it comes Code 3", at  
33 that point they would have been dispatched. So he  
34 hadn't been dispatched at that point so I was just  
35 letting him know while Carla was still on the  
36 phone, get their equipment and get ready to go as  
37 a courtesy as a coworker.

38 Q Right. Because you fully expected that ERS would  
39 be sent to the scene?

40 A Yes.

41 Q And then a minute later you send another e-mail to  
42 Mr. Caldwell and you say:

43  
44 Stand by... There isn't going to be a code 3  
45 call....sorry.

46  
47 Now, why did you do this?

- 1 A Because there was -- I believe in the -- all the  
2 calls and radios, at that point there was a call  
3 from Bob to Carla on the radio, and Carla had  
4 mentioned, "Turn down your radios for the Code 3  
5 call". And -- and Bob had said, "Don't make the  
6 call," or "Don't do the tone-out," or something  
7 along that line. So I just wanted to let Andrew  
8 know that, because I had earlier let him know it  
9 was coming Code 3, now letting him know hold off  
10 on that.
- 11 Q So just to give the Commissioner the context, once  
12 you learned, just being part of the loop, that  
13 there was going to be a Code 3 call and you  
14 expected ERS to be dispatched?
- 15 A Yes.
- 16 Q That would be the normal protocol, from your  
17 experience?
- 18 A Yes.
- 19 Q And then you hear from Carla that Ginter has said  
20 "Don't Code 3 ERS" and "Don't bring in ERS"?  
21 A I don't believe it was those words exactly. If  
22 you guys have a copy of what's actually said on  
23 the radio. He didn't say, "Don't bring ERS". I  
24 forget exactly what he said.
- 25 Q But Carla told you there was not going to be a  
26 Code 3 call to ERS?
- 27 A She never told me directly. It was me overhearing  
28 the transmission between Bob and Carla.
- 29 Q Okay. Did you overhear any other discussion about  
30 that?
- 31 A About there being a Code 3?
- 32 Q About that discussion with Carla and Ginter.
- 33 A No.
- 34 Q Were you surprised?
- 35 A Yes.
- 36 Q Did you ever ask Carla that evening about that  
37 decision not to get ERS involved?
- 38 A Right at that moment we talked.
- 39 Q What did you talk about?
- 40 A That's when she had confirmation from the S-1 to  
41 make sure that Greg Sambrook had also heard no  
42 tone-out, and it was because both of us stopped  
43 and just thought maybe Greg should confirm that  
44 that's what he wants, and that was the only other  
45 discussion we had about it.
- 46 Q At the time.
- 47 A At the time.

10  
Heather Staller  
In chief by Mr. Vertlieb (cont'd)\_

1 Q So you thought it was an odd instruction, just  
2 from your observation?  
3 A I wasn't down there, but just based on it being  
4 Code 3, the normal procedure is to as follow with  
5 the tone-out.  
6 Q And so you -- did you agree with the idea of  
7 having Mr. Sambrook, who was the head person at  
8 the airport that morning, approve that decision?  
9 A Yes.  
10 Q And you and Carla discussed that?  
11 A Yes.  
12 Q It may be a --  
13 THE COMMISSIONER: Just to be --  
14 MR. VERTLIEB: I'm sorry.  
15 THE COMMISSIONER: Just to be clear on this. I  
16 understood that having regard to audio 24, that  
17 both of these people were together and that there  
18 was the pause where Sambrook wasn't -- was spoken  
19 to. So now it's being suggested there be a  
20 separate communication with Sambrook?  
21 MR. VERTLIEB: I don't think, no, not that. We know  
22 there was a pause, Mr. Commissioner, and  
23 presumably that's when Ginter goes and talks to  
24 Sambrook and comes back and says, yeah. I'm just  
25 discussing with this witness what she and Carla  
26 did when the two of them were together, just the  
27 two of them.  
28 THE COMMISSIONER: Yes. This seems to deny that the  
29 pause related to Sambrook, is all I'm saying.  
30 We're just making an inference here, so...  
31 MR. VERTLIEB: Right.  
32 THE COMMISSIONER: All right.  
33 MR. VERTLIEB:  
34 Q So you and Carla both thought the idea of getting  
35 Sambrook to confirm this decision was a wise one?  
36 A Yes.  
37 Q Because of the unusual nature of what was  
38 happening?  
39 A Yes.  
40 Q And did Carla then, from your observation, make an  
41 attempt to make sure that Sambrook approved?  
42 A Yes, she -- she went on the radio and I don't know  
43 the exact wording, but she just said "Does S-1  
44 copy, no tone-out," or something along those  
45 lines.  
46 Q Now, it may be just an innocent in every respect  
47 use of the word "Sorry", but why do you have

11  
Heather Staller  
In chief by Mr. Vertlieb (cont'd)\_

1 "Sorry" in there?  
2 A Because I had earlier told him in e-mail 15:  
3  
4 Here it comes Code 3.  
5  
6 And just the physicality of then now you're  
7 getting up, getting your gear together and getting  
8 to a car.  
9 Q Okay.  
10 A And then later standing him down, sorry for making  
11 him get up and do something if it didn't matter.  
12 Q So then the next e-mail, number 17, is from you.  
13 It's in the same minute, 1:38 a.m. That's from  
14 you to Mr. Caldwell?  
15 A Yes.  
16 Q  
17 Maybe I will call you after the shift and  
18 tell you some stuff.  
19  
20 That's your e-mail.  
21 A Yes.  
22 Q So what's the "stuff" you wanted to tell him?  
23 A I don't remember the context of that anymore.  
24 Q Well, this is just after there's been an unusual  
25 decision, according to your understanding --  
26 A Yes.  
27 Q -- of the protocol, to not get the ERS involved.  
28 And you've told us about wanting to confirm it,  
29 you and Carla having the -- the discussion about  
30 confirming it with Mr. Sambrook.  
31 A Mm-hmm.  
32 Q Just reading this one might think that the  
33 "stuff", "some stuff" that you're discussing there  
34 would relate to those events.  
35 A It would be a fair to say that, but I don't 100  
36 percent remember what exactly it was that I would  
37 have discussed with him in retrospect to all of  
38 the e-mails already going on. It would -- I would  
39 guess that it would correlate to that, that there  
40 was a call to make it Code 3 and then it wasn't  
41 going to be dispatched as a Code 3, but I don't  
42 remember exactly what that is in reference to.  
43 Q But this would suggest that there's things that  
44 you knew you wanted to tell Mr. Caldwell, correct?  
45 A Yes.  
46 Q Just reading it. And you have no idea what it  
47 would be?

- 1 A I don't -- I don't remember exactly what it would  
2 have been.
- 3 Q Are you thinking that it would relate to Mr.  
4 Dziekanski, or not, or do --
- 5 A Yes, that it would relate to this call.
- 6 Q Did you ever speak to Mr. Caldwell about these  
7 events in the day or so after all this developed?
- 8 A Not one-on-one, no. There was a debrief that we  
9 had with a counsellor, but he was not there for  
10 that.
- 11 Q So in the day or two or three days after, you  
12 never spoke to Mr. Caldwell about the decision not  
13 to call ERS?
- 14 A Not specifics, no. We were on days off after  
15 this. This was our last night shift. Go home and  
16 sleep. And I don't recall having conversations  
17 with him. It's not -- I'm sure that people were  
18 checking in with each other, just making sure  
19 people were okay, but as far as details, no.
- 20 Q Did you ever make any personal notes of what  
21 happened that early morning?
- 22 A No, I didn't.
- 23 Q Okay. So let's go to the next e-mail, which is  
24 1:46, eight minutes or so later, and this is from  
25 Mr. Caldwell to you -- or, pardon me, yes, this is  
26 from you to Mr. Caldwell. Sorry. It's number 18,  
27 do you see that?
- 28 A Yes.
- 29 Q Just read that.
- 30 A
- 31 Don't say I said anything.... I will get in  
32 so much trouble please just say you were  
33 monitoring OPS...
- 34
- 35 Q "Ops" meaning?
- 36 A The Ops A channel.
- 37 Q Can you just tell the Commissioner what you meant  
38 by that e-mail?
- 39 A I simply just didn't want Bob to be angry, like I  
40 was going behind his back on anything that he was  
41 doing. But yet I had -- I was already in e-mail  
42 correspondence with Andrew and that's how he had  
43 found about the calls in the IRL, and there was  
44 nothing more than I didn't want Bob to get angry  
45 with me.
- 46 Q Why did you think Bob might get angry with you?
- 47 A Because it's his call and I didn't want him

1 thinking that I was trying to cause extra turmoil  
2 amongst a group while he's down there dealing with  
3 a call.  
4 Q But how could turmoil be caused by somebody  
5 phoning an Emergency Response Service if there's a  
6 medical problem. How would that cause turmoil?  
7 A Because it wasn't -- he hadn't asked for them.  
8 And I didn't initiate a call to ERS. Once this  
9 was all happening, I was already in correspondence  
10 with ERS, so I didn't want Bob to feel I was going  
11 deliberately behind his back.  
12 Q Okay. And Andrew e-mails back and says don't  
13 worry, or I guess he says:  
14  
15 That's all I'm going to say, don't worry.  
16  
17 A Yes.  
18 Q Okay. Was Mr. Ginter a boss in any way of Mr.  
19 Caldwell, to your understanding of the system?  
20 A Not a direct boss, no, but someone that can ask  
21 for things to be done, but not in their direct  
22 chain of command.  
23 Q Now we've covered up through e-mail number 19.  
24 Let's go to 20. This is from you to Caldwell,  
25 answering his e-mail. This is a minute later and  
26 you say:  
27  
28 Ginter is already suspicious of me...  
29  
30 What do you mean by that?  
31 THE COMMISSIONER: Well, now, how far do we want to get  
32 into this?  
33 MR. VERTLIEB: Well, only if it relates to the -- the  
34 decision and discussions relating to Mr.  
35 Dziekanski, and I just don't know.  
36 THE COMMISSIONER: I'm beginning to feel uneasy.  
37 MR. VERTLIEB: Okay.  
38 Q Let's go to -- you and Mr. Caldwell have a  
39 discussion about -- an e-mail discussion about  
40 your communications together. Let's -- let's go  
41 to 27, which is 1:57 in the morning, and this is  
42 you to Mr. Caldwell. Do you have that?  
43 A Yes.  
44 Q  
45 Thanks, Andrew. The only reason is because  
46 when bob called up for BCAS --  
47

14  
Heather Staller  
In chief by Mr. Vertlieb (cont'd)\_

1           That's the ambulance service, right, Ms. Staller?  
2       A       Yes.  
3       Q  
4           -- to be called when it was only routine at  
5           that point, I said on the radio to bob did  
6           you want me to call ERS in the meantime? He  
7           said no. SO he probably thinks I was  
8           updating you when I shouldn't be...  
9  
10          Did I mention I hate this stuff... office  
11          politics. You can't get in trouble for not  
12          responding though, it would be on Bob's  
13          shoulders wouldn't it?  
14  
15          Now, were office politics any factor in the  
16          decision to bring in ERS or not?  
17       A       That's not for me to say. That was just a comment  
18               I was making at 1:57 in the morning, just I didn't  
19               -- for me it was in relationship I just didn't  
20               want Bob to be angry with me.  
21       Q       But it's your use of the term "office politics".  
22       A       Yes.  
23       Q       So --  
24       A       I hadn't talked to Bob, I don't know what his  
25               rationale for any decision-making he was making.  
26               So that term is not in reference to Bob Ginter.  
27               It's just in reference to my relationship with  
28               Bob.  
29       Q       Okay. Did you ever speak with Mr. Ginter about  
30               the decision he made not to bring in ERS?  
31       A       Not that night, no.  
32       Q       No, ever.  
33       A       Later in one of our debriefs.  
34       Q       And did you ask Mr. Ginter why he didn't bring in  
35               ERS?  
36       A       I didn't personally ask him, no.  
37       Q       Who did?  
38       A       I can't remember.  
39       Q       Might it have been Ms. Hanson?  
40       A       I don't remember who asked him.  
41       Q       Okay. Can you tell us from your memory what the  
42               answer was?  
43       A       He had reasons for his decisions and that we  
44               weren't down there. And he explained the  
45               situation that was going on down there, and that's  
46               -- that's it.  
47       Q       What were -- you said he had reasons, did he give

1 you the reasons?

2 A He did at the time -- well, he gave some, it's --  
3 I don't remember, it was so long ago.

4 Q Just take moment, see if you can remember.

5 A I don't remember exactly what he was saying, but  
6 he -- he was confident that he had his reasons for  
7 it. It wasn't just an off-the-cuff decision and  
8 he had thought it through.

9 Q You said he gave some reasons.

10 A Yes.

11 Q So he had more than one reason?

12 A Yeah. I -- I truly don't remember the  
13 conversation exactly. It was in a group debrief.

14 Q How many days after the incident?

15 A How many days after the incident was the debrief?

16 Q Yes.

17 A I don't remember exactly, but we went on our four-  
18 days off and it wasn't until we returned to work  
19 the following rotation, so at least four days.

20 Q So sometime in the month of October 2007?

21 A Yes.

22 Q Now, since October 2007 have you ever asked Mr.  
23 Ginter about this decision?

24 A No.

25 Q Have you wondered about it?

26 A Not any more, no.

27 Q You never went down to the IRL that morning?

28 A No, I did not.

29 Q So all of your work was in the Operations room?

30 A Yes.

31 Q Now, we heard from Ms. Hanson that this decision  
32 about not bringing in ERS was a sensitive topic.  
33 Do you agree with that?

34 A Yes.

35 Q Did you personally think it was a sensitive topic?

36 A Sensitive in what way?

37 Q People not wanting to discuss it?

38 A No. I think there was questions around it.

39 Q Was there any one individual who was primarily  
40 questioning the decision, to your knowledge?

41 A Not to my knowledge.

42 Q Later on that morning at 3:11, it's e-mail 38, you  
43 sent an e-mail to Andrew Caldwell and you say:

44

45 I am worried about how Bob is doing. He  
46 doesn't sound that good.

47

1 Do you see that?  
2 A Yes.  
3 Q That's your e-mail.  
4 A Yes.  
5 Q What did you mean?  
6 A I was worried about Bob. He didn't sound -- the  
7 tone of his voice didn't sound like Bob.  
8 Q Had you seen him or just heard him?  
9 A Just heard him.  
10 Q And you heard him on the telephone system that you  
11 -- that you and he would be in contact with and  
12 you could overhear?  
13 A I could overhear him on the radios.  
14 Q So when you say he doesn't sound that good, what  
15 do you mean?  
16 A He just doesn't sound like himself.  
17 Q In what way?  
18 A More quieter, just not himself.  
19 Q Did anyone ask him about -- about that?  
20 A I didn't.  
21 Q No, did anyone?  
22 A I wouldn't know.  
23 Q So 39, Andrew e-mails back after you tell Andrew  
24 you're worried about how Bob's doing, he doesn't  
25 sound that good. He says -- Andrew Caldwell says:  
26  
27 I'm okay, I'm more worried about Bob, too. I  
28 would not want to be in his shoes tonight.  
29  
30 You then e-mail back number 40, saying:  
31  
32 No I'm guessing he won't be for a while...  
33  
34 That's about Ops. And then you say:  
35  
36 Greg shoes too.  
37  
38 Do you see that?  
39 A Yes.  
40 Q Greg meaning Sambrook?  
41 A Yes.  
42 Q Why did you e-mail that?  
43 A Just being in the situation down there, and seeing  
44 it all unwind.  
45 Q Now, the next e-mail that we have is 41. Can you  
46 see that at the top?  
47 A Yes.

1 Q That appears to be from Mr. Caldwell, is that your  
2 memory?

3 A Yes.

4 Q And he e-mails you, would that be in response to  
5 your e-mail of 3:14 saying "Greg shoes too"?

6 A Yes.

7 Q And he says:

8

9 You're right. Greg's the one who will wear  
10 this. He knew what Bob was doing and did  
11 nothing to stop it.

12

13 Do you see that?

14 A Yes.

15 Q Did you ever speak to Mr. Caldwell about that e-  
16 mail?

17 A No.

18 Q Never?

19 A No.

20 Q Your e-mail back to Mr. Caldwell says:

21

22 Yeah.

23

24 Does that mean you agreed with his comment?

25 A Yes.

26 Q The comment that Greg's the one who will wear this  
27 because he knew what Bob was doing and did nothing  
28 to stop it.

29 A Yes.

30 Q Did you ever ask Mr. Sambrook about this?

31 A No.

32 Q It would be hard for you to do that, though. He  
33 was the -- he was a major boss there. You  
34 wouldn't normally be able to go up to him and ask  
35 him questions about things, could you?

36 A No, we -- we had access to our S-1s, but that  
37 night we didn't see them again until the end of  
38 the shift.

39 Q Okay. I want to ask you about the next series of  
40 e-mails because it's a reference to the RCMP  
41 officer involved, and e-mail 44 then says -- this  
42 is you, you say:

43

44 I don't know I see Monty on camera... the one  
45 who was here at the meeting...

46

47 Do you see that?

1 A Yes.

2 Q Now, Monty, does that refer to Corporal Monty  
3 Robinson?

4 A I'm not aware of his last name, so I'm not sure.

5 Q Okay. All right. Was that the Corporal who was  
6 involved? When you say "Monty", who do you mean?

7 A Yes, I -- I know who Monty is just on a first-name  
8 basis. He comes up to the Ops meetings for our  
9 rotation.

10 Q Okay. And Monty, is he an RCMP officer?

11 A Yes, he is.

12 Q Okay. So is -- the Corporal involved was someone  
13 named Corporal Monty Robinson. Is that who you're  
14 talking about?

15 A Yes.

16 Q Okay. So when you said "I see Monty on camera",  
17 what does that mean?

18 A The camera that we had talked about yesterday, we  
19 had the camera up in the corner of the Scheduling  
20 position, and I could see Monty just -- you can  
21 see people cutting the corner of the camera angle  
22 and I could see him on camera.

23 Q Okay. So you -- you concluded from watching him  
24 on camera that in some way that was one of the  
25 RCMP involved?

26 A Yes.

27 Q The meeting reference is nothing to do with  
28 Dziekanski, this would be an earlier meeting?

29 A An 0700 -- or a five o'clock briefing -- seven  
30 o'clock briefing that evening, every night in Ops.

31 Q And what happens at these briefings?

32 A Just what's going on for the night, any lockouts,  
33 any work going on that might impact others.

34 Q You and Mr. Caldwell exchange more e-mails, but  
35 more in a social way, just trying to sort of help  
36 one another through this.

37 A Yes.

38 Q It was obviously a difficult situation for you,  
39 you felt terrible.

40 A Yes.

41 Q Now, 4:41 that morning, so it's e-mail 58. This  
42 is your e-mail to Mr. Caldwell. I just want to  
43 ask you a couple more things, then we're finished  
44 with this. Now, you say:

45

46

Understandable.

47

1 It doesn't matter what's that about.

2

3 What's the mood like down there? I heard  
4 John is in already?

5

6 Who's John?

7 A I believe it was John Bulic (phonetic), who is  
8 another supervisor or another ERS member, but I  
9 can't remember exactly who John is that night.

10 Q He had no involvement in any of the events related  
11 to Mr. Dziekanski?

12 A No.

13 Q Okay.

14 A It would have been Andrew's relief.

15 Q Okay.

16 A To go home.

17 Q Was it your understanding that Andrew was more or  
18 less a key person at ERS on that shit?

19 A I'm sorry?

20 Q Was Andrew a key person at ERS in that morning?

21 Like, would he have been the man to lead the ERS  
22 Team to the airport?

23 A He was the acting supervisor that night, yes.

24 Q He sent you a last e-mail, and he just says -- Mr.  
25 Caldwell says:

26

27 Lots of unhappy people. I'm sure you could  
28 imagine what it would feel like to be in our  
29 shoes.

30

31 Did you ever discuss that with him?

32 A No.

33 Q Then the last about this subject, your e-mail to  
34 Mr. Caldwell, 4:48, so it's almost 5:00 in the  
35 morning:

36

37 I can't imagine what it would feel like to be  
38 in your shoes. I can imagine it to be very  
39 frustrating.

40

41 What did you mean by using the word "frustrating",  
42 what did you feel would be very frustrating?

43 A Because they're trained people for emergencies and  
44 for them to be there and not be able to use their  
45 qualifications and to help.

46 Q Did you have a sense and others sharing it with  
47 you that things might have been different?

Heather Staller

In chief by Mr. Vertlieb (cont'd)\_

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

1 MR. STEWART: Well --

2 THE COMMISSIONER: No, I think --

3 MR. VERTLIEB: Okay.

4 MR. STEWART: It doesn't assist anything.

5 MR. VERTLIEB:

6 Q The last that relates to this is yours to Mr.

7 Caldwell, 5:28:

8

9 I'm going home now. Bob just walked in... he  
10 looks bad.

11

12 Now, this is the first time you talk about him  
13 actually looking bad.

14 A Yes.

15 Q And that's Bob Ginter?

16 A Yes.

17 Q Can you give us any more information about that?

18 A He just looked like he'd worked an entire night  
19 shift and he just didn't look that good.

20 Q Did you speak with him at all?

21 A No.

22 Q And basically that's the end of your shift?

23 A Yes.

24 Q Now, having gone through these e-mails, does this  
25 refresh your memory on any other events relating  
26 to Mr. Dziekanski that you now recall having  
27 reviewed these e-mails?

28 A No.

29 MR. VERTLIEB: Thank you.

30 MR. STEWART: Dwight Stewart, counsel for the airport.

31 THE COMMISSIONER: Just a moment. Is this going to be  
32 marked?

33 MR. VERTLIEB: (Indiscernible - away from microphone).

34 THE COMMISSIONER: All right. This will be the next  
35 exhibit.

36 THE REGISTRAR: They will be marked as Exhibit number  
37 38.

38 THE COMMISSIONER: Thank you.

39

40 EXHIBIT 38: Copy - Group of 61 E-mails

41

42 CROSS-EXAMINATION BY MR. STEWART ON BEHALF OF VANCOUVER  
43 AIRPORT AUTHORITY:

44

45 Q Ms. Staller, do I understand correctly that when  
46 you were on shift it was the same sort of central  
47 four people from the airport that would work each

Heather Staller

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

- 1 shift together.
- 2 A Yes. We were all one team, the four of us.
- 3 Q So your team sort of shift after shift, two days
- 4 and then two nights, was always -- was usually S-
- 5 1, Greg Sambrook.
- 6 A Mm-hmm.
- 7 Q Correct?
- 8 A Yes.
- 9 Q And the Airport Response Coordinator, Bob Ginter.
- 10 A Yes.
- 11 Q And yourself as Baggage and Gate Scheduling?
- 12 A Yes.
- 13 Q And then Ms. Hanson as the Airport Operations
- 14 Officer?
- 15 A Yes.
- 16 Q With respect to the other positions in the Airport
- 17 Operations Centre, did they usually rotate with
- 18 you as well?
- 19 A Yeah, we worked all our same shifts together. Our
- 20 day one is the same day one, our last day is the
- 21 last day, all together.
- 22 Q Okay.
- 23 A Same four on, same four off.
- 24 Q Okay. And that's fairly characteristic throughout
- 25 the airport?
- 26 A Yes, there's teams and you'll follow a team.
- 27 Q Okay. You had -- you had come to know people who
- 28 worked in other parts of the airport because
- 29 you're on shift together typically day after day?
- 30 A Yes.
- 31 Q Okay. Obviously you've been taken through the e-
- 32 mails and it's a very, very difficult evening on
- 33 October 14th, correct?
- 34 A Yes.
- 35 Q I just want though to sort of roll things back for
- 36 you. I've looked back and checked that in that
- 37 year October 8th was Thanksgiving Monday.
- 38 A Yes.
- 39 Q And so roll things back and if you can, just for
- 40 the Commissioner, just try and give some picture
- 41 of what your team was like outside of the context
- 42 of obviously a very stressful and difficult
- 43 evening, if you can.
- 44 A The four of us worked together on a team four
- 45 days, four off, and we -- and when you're working
- 46 together you miss holidays with your family and
- 47 stuff like that. And we really became a close-

Heather Staller

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

- 1 knit team, the four of us. And the earlier block  
2 for Thanksgiving, Carla and I had gotten -- we had  
3 a makeshift Thanksgiving dinner the block before  
4 and all of us got along really well. We brought  
5 in some Safeway chickens and some other stuff in.  
6 But we were a tight-knit group and we worked well  
7 together and enjoyed working with each other.
- 8 Q You would have disagreements from time to time?  
9 A Yeah.
- 10 Q But you liked each other?  
11 A Yes, we did.
- 12 Q And you respected each other?  
13 A Yes, we did.
- 14 MR. STEWART: Okay. If I can, I'm going to take you  
15 back to Exhibit 38, which is the e-mails that have  
16 just been marked. And if I could, Mr. Registrar,  
17 also then have, and I apologize, I know that  
18 transcribed YVR audio files has been marked, I  
19 believe as an exhibit for identification, and I  
20 can't remember what letter it is.
- 21 THE REGISTRAR: There's "H" and "I".
- 22 MR. STEWART: I think "H" is the transcription that the  
23 Commission prepared and "I" might be mine.
- 24 THE REGISTRAR: Yes, that's correct.
- 25 MR. STEWART: Thank you.
- 26 THE COMMISSIONER: Is there any reason why these things  
27 can't be marked as exhibits. Does anybody  
28 comments on this?
- 29 MR. HIRA: I would suggest that they be -- "H" could  
30 definitely be marked as an exhibit. And "I", of  
31 course, are Mr. Stewart's notes. I have no  
32 difficulty them being marked, too. I believe  
33 (indiscernible - away from microphone)
- 34 THE COMMISSIONER: Mr. Vertlieb, do you have any  
35 comment (indiscernible - away from microphone).
- 36 MR. VERTLIEB: Well, I think the concern is that we're  
37 not sure of the accuracy of the transcriptions  
38 because some of it is not -- we're just not  
39 confident it's absolutely correct, and that  
40 becomes the issue and we don't want it to become,  
41 as it were, evidence when we do have the actual  
42 disks. That's the concerns about it, Mr.  
43 Commissioner.
- 44 MR. STEWART: And I agree with Mr. Vertlieb in terms of  
45 his concerns and it was actually just yesterday as  
46 he was -- I think he was reading along with the  
47 transcript that I prepared and it was an example

Heather Staller

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

1 of the types of sort of errors that might occur.  
2 You'll recall that there was one audio file and  
3 Mr. Vertlieb made reference to the fact that the  
4 BGS appears to have cut off the ARC, and you know,  
5 we were all moving very quickly, but I think that  
6 Mr. Vertlieb for a moment thought that that was  
7 something in the transcript. That's my notes in  
8 italics just to explain to people it looks like  
9 the conversation got cut off. So subject to those  
10 concerns, I am very much in the Commissioner's  
11 hands.  
12 THE COMMISSIONER: Yes, Mr. Hira.  
13 MR. HIRA: You know the law. The audio is the best  
14 evidence. These are aids and they go to weight.  
15 These issues go to weight. We know what the best  
16 evidence is. I suggest that they be marked as  
17 exhibits "A" and "B", numbered exhibits "A" and  
18 "B" to the audio.  
19 THE COMMISSIONER: Any comments?  
20 MR. KOSTECKYJ: No. I actually agree that they should  
21 go in on the same basis that my friend, Mr.  
22 Hira...  
23 THE COMMISSIONER: All right. What is the exhibit  
24 number of the audio?  
25 THE REGISTRAR: This is the one you're referring to,  
26 for identification I?  
27 THE COMMISSIONER: No, is not the actual audio disk  
28 marked?  
29 MS. SPENCER: Exhibit 26.  
30 THE COMMISSIONER: Sorry?  
31 MS. SPENCER: Exhibit 26.  
32 THE COMMISSIONER: Exhibit 26. Well, all right. This  
33 will be 26A and B.  
34 THE REGISTRAR: That's already been entered, Mr.  
35 Commissioner.  
36 THE COMMISSIONER: Yes, but these will be numbered 26A  
37 and 26B.  
38 THE REGISTRAR: I see. So that will be for  
39 identification H and identification I.  
40 THE COMMISSIONER: Yes.  
41 THE REGISTRAR: Exhibit 26A and B.  
42 THE COMMISSIONER: Yes.  
43 THE REGISTRAR: So the for identification caveats will  
44 be removed and they will have exhibit numbers  
45 added.  
46 THE COMMISSIONER: Thank you. All right. Thank you,  
47 counsel.

Heather Staller

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

1 EXHIBIT 26A: Copy - YVR Voice Records - Oct.  
2 14, 2007 transcript (formerly marked as H for  
3 identification)

4  
5 EXHIBIT 26B: Copy - Transcribed YVR Audio  
6 Files (formerly marked as I for  
7 identification)

8  
9 MR. STEWART: And just so I can -- is the Commission  
10 version of the transcript "A", and then my notes  
11 "B"?

12 THE COMMISSIONER: Yes, yours is "B".

13 MR. STEWART: Okay.

14 THE COMMISSIONER: We'll keep yours inferior, you see.

15 MR. STEWART: I'm comfortable with that.

16 Q So you made mention of just very briefly you had  
17 some knowledge that night about an issue involving  
18 cold patch?

19 A Yes.

20 Q And to your understanding and without getting into  
21 the specifics of it, but did that involve some  
22 disagreement between -- or disagreement or  
23 difference of opinion between Bob Ginter and  
24 Andrew Caldwell?

25 A Yes.

26 Q And that had occurred earlier on this shift?

27 A Yes, it did.

28 Q Okay. You also made mention of there being a  
29 crash test alarm?

30 A Yes.

31 Q And I know it's a long time ago, but could you  
32 describe for the Commissioner just your -- your  
33 basic recollection of what it was that had  
34 occurred?

35 A They test the crash alarm and I don't know how  
36 frequently they do it, annually or monthly, I'm  
37 not sure, and it involves a test where it alerts  
38 the Richmond Fire Station, the tower control and  
39 then the fire hall at the Airport, and it's a loud  
40 audible alarm. And earlier in the evening the  
41 test was initiated, but -- and when the test  
42 happens a heads-up is given to everyone to prepare  
43 that it's a test so that they won't respond and  
44 won't be alerted to anything else other than it  
45 being a test, and they weren't -- the Airport Fire  
46 Department was not advised that it was a test that  
47 was happening. They weren't given the heads-up.

Heather Staller

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

1 It was just the audible down in the hall that they  
2 received.

3 Q All right. And obviously that was realized and  
4 people realized it was just a test, but it was  
5 just something that happened that night that --

6 A Yes.

7 Q -- was -- okay. And I just want to confirm, I  
8 believe in your direct you indicated that you  
9 don't have a recollection of whether or not you  
10 heard any of the discussion that the SOC had with  
11 the elevator 40 guard. Am I correct that the  
12 first you recall knowing that there was an  
13 incident in the IRL was when Carla was on the  
14 courtesy phone?

15 A Yes. When she got the emergency call on the  
16 phone.

17 Q Okay. And that's 'cause that light lights up on  
18 your phone?

19 A Yes.

20 Q So you're then aware that Carla's on the phone  
21 with someone in the context of an emergency?

22 A Yes.

23 Q Okay. Now, if I can, if you have now 26B, which  
24 is the YVR notes, my notes, if I could have you  
25 turn to what is YVR audio 8.

26 A I only have the e-mails.

27 MR. STEWART: Oh, okay. Could I have that exhibit put  
28 before --

29 THE REGISTRAR: That's "H" for --

30 MR. STEWART: It's "B", the one that -- the YVR notes  
31 that accompany the audio.

32 THE REGISTRAR: That's 26B.

33 MR. STEWART: 26B.

34 A I'm sorry, turn to which portion?

35 Q So it's at page 9, Ms. Staller. So you may  
36 recall, this was one of the audios that was played  
37 for you because this is one of the audios that you  
38 were involved with. You in this context are the  
39 BGS, Baggage and Gate Scheduler:

40  
41 Whiskey 1, Operations

42  
43 Bob says:

44  
45 Go.

46  
47 You say:

Heather Staller

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

1                   Just an update from the patrollers down there  
2                   - apparently he is now breaking computers in  
3                   the area down there too.

4

5                   Now, if I can just have you look at YVR audio 7, I  
6                   know that you aren't speaking on that audio file.  
7                   But YVR audio 7 at 1:26:16 is dispatch on the  
8                   Security channel:

9

10                   SOC from Three he is now breaking computers.

11

12                   Now, are you -- do you recall that when you're  
13                   giving the update to Bob that you're passing on  
14                   what you've just learned on the security channel?

15

A                   I don't know where I got the update from. I did  
16                   update Bob, but I can't remember where I got that  
17                   update from.

18

Q                   Okay, fair enough. But then taking you then to  
19                   the e-mail 4.

20

A                   Yes.

21

Q                   Again is it safe to assume that this is all  
22                   happening at about the same time, that you're  
23                   sending an e-mail to him:

24

25                   There is a report of a guy in the IRL right  
26                   now going crazy throwing chairs and  
27                   suitcases...

28

29                   A                   Yes. It was all within the same timeframe.

30

Q                   Okay. Now, again, I'll take you to e-mail 5, I'm  
31                   -- e-mail number 5, which is the e-mail from  
32                   Andrew to yourself. Okay? And Mr. Vertlieb took  
33                   you to this. You wrote -- he wrote:

34

35                   Thanks for the info, thank god I don't expect  
36                   anything positive out of Bob or Greg. Keep  
37                   me posted.

38

39                   Now, as you know, Mr. Caldwell is going to be a  
40                   witness and he's going to come and, if he can  
41                   recall, explain what it was that he was thinking  
42                   about.

43

A                   Yes.

44

Q                   And I only want your recollection. But can you  
45                   recall -- do you have a recollection of what was  
46                   in your mind when he wrote that to you?

47

A                   From the night it --

Heather Staller

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

1 THE COMMISSIONER: Just a minute. This is Mr. Caldwell  
2 that's saying this?  
3 MR. STEWART: Sorry?  
4 THE COMMISSIONER: This is Mr. Caldwell saying this.  
5 MR. STEWART: This is Mr. Caldwell saying this. So I'm  
6 very much wanting this witness not to try and  
7 speak for Mr. Caldwell, but just if she has a  
8 recollection as to what she was thinking when he  
9 wrote that to her.  
10 THE COMMISSIONER: Is this all going to go somewhere?  
11 As you know, I'm very uneasy about this type of  
12 thing. If it bears on an issue, then that's fine.  
13 MR. HARRIS: I'm sorry, Mr. Commissioner, it's very  
14 difficult to hear you.  
15 THE COMMISSIONER: Sorry, I forgot to put it on. I  
16 say, as you know, I am somewhat uneasy in this  
17 area but I don't want to particularly stop you if  
18 it goes to some issue.  
19 MR. STEWART: I'm in your hands. I'm --  
20 THE COMMISSIONER: Well, you go ahead.  
21 MR. STEWART: -- wanting this witness to have --  
22 THE COMMISSIONER: Really I'm in your hands --  
23 MR. STEWART: Okay.  
24 THE COMMISSIONER: -- because I don't know what you're  
25 about.  
26 MR. STEWART: I'm wanting this witness to have an  
27 opportunity to explain this, certainly in this  
28 context that these comments have nothing to do  
29 with medical response, with ERS, that at 1:28 in  
30 the evening that this isn't a medical issue. I  
31 sense from --  
32 THE COMMISSIONER: Well, all right, go ahead. We've  
33 gone this far.  
34 MR. STEWART: Okay.  
35 Q Am I correct there was no contemplation of the  
36 medical issue at this point?  
37 A No, this was about someone, an RCMP call down in  
38 the IRL.  
39 Q Okay. And at that point all that you're aware of  
40 in terms of the shift was that there had been this  
41 disagreement over the cold patch?  
42 A And the fire -- the earlier crash alarm, yes.  
43 Q And the mix-up with the crash alarm. Okay. And  
44 that's all that would have been in your mind?  
45 A Yes.  
46 Q Okay. Okay. If I can have you go to e-mail 10,  
47 and this is the point where you're explaining to

Heather Staller

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

1 Mr. Caldwell that:

2

3

Bob just asked Carla to call BCAS, she is on the phone right now.

4

5

6

so no not Code 3 it's routine right now.

7

8

And just to assist with your recollection, if I can have you go to page 15 of Exhibit 26B. So, yeah, on page 14 there's YVR audio 12. You've just spoken with Bob. He said:

9

10

11

12

13

Can you call ambulance they might need that, the gentleman has been tasered by the RCMP.

14

15

16

And what is on page 15 is the transcript of Ms. Hanson speaking with BC Ambulance Service. And if you want to just read through that transcript to see if it triggers a recollection of the fact that you could hear Ms. Hanson on the phone with BC Ambulance.

17

18

19

20

21

And Ms. Staller, and again this is -- these are my notes.

22

23

24

A Okay.

25

Q

But you'll see that what I've done there is I have audio 12, but I've also shown audio 13. Does it accord with your recollection that while Ms. Hanson is on the phone with BCAS that in response to the BCAS inquiry as to medical condition:

26

27

28

29

30

Is he conscious and breathing?

31

32

That Ms. Hanson then radios to Bob Ginter and confirms that the person in the IRL is conscious and breathing, and that in response to that it is BCAS that communicates:

33

34

35

36

37

It is routine and we will see you curbside.

38

39

40

A Yes.

41

Q

Okay. And that accords with your understanding of how this works, that it is BCAS that determines the nature of the response?

42

43

A Yes.

44

Q

It's BCAS that determines it's routine?

45

A

Yes.

46

Q

And it would be a BCAS decision to determine that

47

Heather Staller

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

1 the response should be Code 3?

2 A Yes.

3 Q That's not something that you do?

4 A No.

5 Q And that's not something that Ms. Hanson does?

6 A No.

7 MR. STEWART: Okay.

8 THE COMMISSIONER: Are you suggesting, I'm just trying  
9 to get this clear, that BCAS determines whether  
10 they're present or not at the incident?

11 MR. STEWART: Sorry, whether BCAS is present?

12 THE COMMISSIONER: You said it was up to BCAS to  
13 determine whether or not it was Code 3. And my  
14 question to you is are you suggesting that BCAS  
15 determines whether or not it's Code 3, whether or  
16 not they're present at the incident?

17 MR. STEWART: No, I'm merely --

18 THE COMMISSIONER: All right, thank you.

19 MR. STEWART:

20 Q It's your understanding that BCAS seeks  
21 information --

22 A Yes.

23 Q -- about the scene?

24 A Yes, they do.

25 Q And that in having received that information,  
26 though, it is BCAS that makes the determination of  
27 what type of a dispatch to make?

28 A Yes.

29 Q Okay. And that's what occurred here, BCAS sought  
30 the information about whether or not Mr.  
31 Dziekanski was conscious and breathing?

32 A Yes.

33 Q And then it's only after they get that information  
34 that BCAS confirms, yes, routine.

35 A Yes.

36 Q Okay. When -- when you were asked questions about  
37 e-mail 16, and just to place this in context, this  
38 is you updating Mr. Caldwell to say that there  
39 isn't going to be a Code 3. And Mr. Vertlieb had  
40 also just taken you to the airport audio file  
41 which is the one where Mr. Ginter advises Ms.  
42 Hanson not to do an announcement, just to have the  
43 ambulance come. But one of the things you said is  
44 -- I think you said that you were surprised, but  
45 you said:

46

47 I wasn't down there.

Heather Staller

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

1 A Yes.

2 Q And what do you mean by that?

3 A I wasn't down there. I don't know what's going  
4 on. I'm just hearing what's happening on the  
5 radio and in conversations, but I'm not seeing  
6 things firsthand.

7 Q You're only receiving information?

8 A Yes.

9 Q And you have no visual?

10 A No.

11 Q Okay. If I can take you ahead then to e-mail 27.  
12 And I just want to have you again read that. And  
13 I apologize for jumping around a bit, but then I  
14 want you then to turn forward to assist in your  
15 recollection of time, to e-mail 29. And e-mail 29  
16 is Mr. Caldwell saying to you:

17

18 I just spoke with Bob, he doesn't sound good.  
19 Have you heard?

20

21 And at 2:12 a.m. you write back, you say:

22

23 What do you mean?!

24

25 And he writes back, 2:12 a.m.:

26

27 They are doing CPR on the guy in IRL I think.

28

29 And to your recollection is this the first that  
30 you know anything about what's happening in the  
31 IRL since -- since you were advised that it was  
32 upgraded to a Code 3?

33 A Yes, this is the first update of any sort on  
34 what's going on down there.

35 Q So until this time you have no idea that they're  
36 performing CPR on someone down in the IRL?

37 A No.

38 Q So your earlier e-mail, the comment that you're  
39 making, it is not in the context of having any  
40 awareness that the person down -- down in the IRL  
41 is having to have lifesaving medical procedures  
42 done to him?

43 A No.

44 Q Okay. Now, if I can have you then go to audio 38,  
45 which is at page 28 of Exhibit 26B. And if you'll  
46 -- I'll let you read it for a second.

47 A Okay.

Heather Staller

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

- 1 Q Okay. This was played yesterday and I'll suggest,  
2 and I think that actually Mr. Vertlieb pointed  
3 this out, that there was an obvious shift in tone  
4 when Mr. Ginter indicated he needed the privacy  
5 screens "to block off the body here for a while".  
6 A Yes.  
7 THE COMMISSIONER: You're going to have to speak up.  
8 MR. STEWART: Sorry.  
9 Q There was an obvious shift in tone when there was  
10 the request for privacy screens in relation to the  
11 body?  
12 A Yes.  
13 Q Do I take it that for you at that point is that  
14 the first that you learn that perhaps the person  
15 down there has deceased?  
16 A Yes.  
17 Q Okay. Now, Mr. Vertlieb also took you through  
18 then some of the e-mails that follow this in terms  
19 of, you know, Bob doesn't sound too good. Is it  
20 fair to say that your -- that comment in terms of  
21 sounding too good, that's a reference to this  
22 audio file?  
23 A Yes.  
24 Q You've just spoken to Bob.  
25 A Yes.  
26 Q He sounds obviously upset over what's just  
27 happened.  
28 A Yes, this is when I talked to him on the phone.  
29 Q Okay.  
30 A Yes.  
31 Q You're at this point aware then that Bob has been  
32 a witness to a tasing that has resulted in a  
33 death?  
34 A Yes.  
35 Q Okay. But you don't realize that at any point  
36 prior to this?  
37 A No.  
38 Q Mr. Vertlieb took you to the reference to seeing  
39 Monty on camera.  
40 A Yes.  
41 Q And I just wanted to confirm, though, in terms of  
42 any observations on the video this is much later  
43 in the evening. You never saw anything in the  
44 currency of things unfolding.  
45 A No.  
46 Q Okay. At the time these things were unfolding you  
47 were blind?

Heather Staller

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

- 1 A Yes.
- 2 Q Okay. I don't think that -- I can't now remember  
3 that Mr. Vertlieb took you to this, but there's an  
4 e-mail at e-mail 47. And I'm only taking you  
5 there with respect to this reference to "runway  
6 checks". Am I correct in understanding that  
7 certain periods of time throughout the day there's  
8 a requirement to do runway checks, to confirm the  
9 condition of the runways and make sure that  
10 everything is safe?
- 11 A Yes. Every six hours by YVR standard in order for  
12 the runway to stay open.
- 13 Q All right. And even though obviously it's very  
14 sad and everyone is very upset, all of the -- all  
15 of the usual tasks that you needed to do that  
16 night you need to continue to do no matter how  
17 upset you are?
- 18 A Yes.
- 19 Q Okay. I just want to just be clear, and I can't  
20 recall whether this was covered yesterday, so I  
21 suppose a sign of it being Thursday. You know  
22 that there's been some discussion about Mr. Vrba's  
23 attendance --
- 24 A Yes.
- 25 Q -- in the Operations room that night.
- 26 A Yes.
- 27 Q Am I correct that you do recall that at the time  
28 much later in the evening clearly well past the  
29 dispatching of medical services, et cetera, well  
30 past the Code 3, that you recall Mr. Vrba came  
31 into the Operations room?
- 32 A Yes.
- 33 Q Do you have any recollection as to exactly why it  
34 was that he was in the Operations room?
- 35 A Something to do with aircraft parking.
- 36 Q Okay. And you do recall that at that time, I'll  
37 say sometime at or about two o'clock in the  
38 morning, that you did have a discussion with Mr.  
39 Vrba about his language skills, and his wish that  
40 he might have been able to help?
- 41 A Yes.
- 42 Q Okay. But I'm going to take --
- 43 THE COMMISSIONER: Just to be clear, is this when he's  
44 returning with the document that he's filled out?
- 45 A I don't -- I can't remember if he had already  
46 filled it out or if he was picking it up at that  
47 point.

Heather Staller

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

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

1 THE COMMISSIONER: All right.

2 A But it was later on in the evening when all the  
3 radios were quiet and there was some downtime.

4 THE COMMISSIONER: All right.

5 MR. STEWART:

6 Q Now, so the Commissioner is making reference,  
7 then, to the earlier period. Am I correct that  
8 you have no recollection of Mr. Vrba being there  
9 earlier in the evening?

10 A No.

11 Q You're not suggesting that he wasn't there, you  
12 just have no recollection of it?

13 A I don't remember him being there earlier than the  
14 point that he was with me and Carla later in the  
15 evening. That's the only time I recall him being  
16 in there.

17 Q Okay. But in that earlier part of the evening did  
18 you have any discussion with Mr. Vrba about  
19 language whatsoever?

20 A No.

21 Q Did you at any point raise the language Russian in  
22 any capacity?

23 A No.

24 Q Am I correct that the first that you had any idea  
25 of what language this man might speak was the  
26 period where Mr. Ginter called in and said "Does  
27 anyone in Maintenance speak Polish"?

28 A Yes.

29 Q And even at that time Mr. Vrba never crossed your  
30 mind?

31 A No, he did not.

32 MR. STEWART: Okay. Those are my questions, Ms. Hanson  
33 (sic), thank you.

34 THE COMMISSIONER: Yes, Mr. Kosteckyj.

35

36 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA  
37 CISOWSKI:

38

39 Q Walter Kosteckyj, counsel for Zofia Cisowski.  
40 Now, I understand that these e-mails were written  
41 by you as private communications.

42 A Yes.

43 Q And that it's a bit uncomfortable having private  
44 communications talked about in a courtroom with ten  
45 or 12 other lawyers asking you questions about  
46 them. And I don't intend to ask you anything  
47 about the personal nature or anything else about

- 1           these e-mails, but I do need you to be candid  
2           about certain things.  It's -- you told Mr.  
3           Stewart that you had a very congenial, happy  
4           relationship and a very team-oriented environment,  
5           correct?
- 6           A     Yes.
- 7           Q     Well, it wasn't exactly a totally team-oriented  
8           environment, was it?  There were some conflicts?
- 9           A     In general, or that night?
- 10          Q     In general.
- 11          A     No.
- 12          Q     Well, the e-mails, number 5, which was written at  
13          1:28 a.m. from Mr. Caldwell to you.
- 14          A     Yes.
- 15          Q     Do you see that?
- 16          A     Yes.
- 17          Q
- 18                    Thanks for the info, thank god I don't expect  
19                    anything positive out of Bob or Greg.  Keep  
20                    me posted.
- 21
- 22          Did you consider that to be a ringing endorsement  
23          of a relationship between working individuals who  
24          had mutual respect and got along great?
- 25          A     Andrew wasn't part of our original team.  The four  
26          that I'm talking about are Bob Ginter, Greg  
27          Sambrook, Carla Hanson and myself as the core  
28          four.
- 29          Q     Okay.
- 30          A     And Andrew was an acting supervisor that night.
- 31          Q     But ERS is a very important function of what goes  
32          on at the airport and things that go on in  
33          emergency situations?
- 34          A     Yes.
- 35          Q     You'll agree with me that there was conflict  
36          between Mr. Caldwell and Mr. Ginter and Mr.  
37          Sambrook?
- 38          A     Yes.
- 39          Q     All right.  Now, it also wasn't a completely full  
40          and frank and open environment because you did not  
41          want your superiors, Mr. Ginter and Mr. Sambrook,  
42          knowing that you were communicating with ERS,  
43          correct?
- 44          A     It was Mr. Ginter I didn't want knowing because I  
45          didn't want him to feel that I was going behind  
46          his back.
- 47          Q     Yeah, but if you have an open environment, why

1           wouldn't -- why wouldn't you feel comfortable  
2           letting the Emergency Response people, and keep --  
3           letting them know that there's a situation and  
4           keeping them up to date. What would be wrong with  
5           that?  
6           A     Because it wasn't my position as a Baggage and  
7           Gate Scheduler to be updating them.  
8           Q     Isn't it everybody's position to pitch in and do  
9           what you can in an emergency?  
10          A     When you can help, yes.  
11          Q     Yeah. And so isn't it important that everybody  
12          that might be involved in that emergency have full  
13          knowledge and communication about what's  
14          happening?  
15          A     Yes.  
16          Q     And in spite of that you felt uncomfortable  
17          keeping ERS advised of what was going on.  
18          A     Yes.  
19          Q     And feared that it might impact your employment or  
20          how Mr. Ginter saw you, correct?  
21          A     I never feared for my employment.  
22          Q     Well, I'm not -- if I said that, I didn't mean it  
23          in that way. But it certainly affected your fear  
24          that you were going to rub your superior the wrong  
25          way?  
26          A     Bob Ginter wasn't my superior. He was just  
27          another position. He was my coworker who I didn't  
28          want simply angry with me.  
29          Q     And you felt that he would be angry with you if he  
30          knew that you were keeping ERS in the loop on an  
31          emergency?  
32          A     Yes.  
33          Q     All right. Now, let's talk about ERS and when  
34          they can be called, and so forth. I gather that  
35          besides working in the position you were working  
36          at, I understood you yesterday to say you also had  
37          worked in the position that Carla Hanson had  
38          worked in?  
39          A     Yes.  
40          Q     So you're familiar with that position, as well?  
41          A     Yes, I am.  
42          Q     There's nothing that prevents you or Carla Hanson  
43          from calling on ERS if you think that they can  
44          help in an emergency situation, is there?  
45          A     I'm sorry, for us to just call them --  
46          Q     Yes.  
47          A     -- in an emergency?

Heather Staller

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

- 1 Q So if somebody's having a -- you get a call that  
2 someone's having a heart attack or that someone  
3 has passed out somewhere in the airport, you don't  
4 have to call BC Ambulance first. If you feel that  
5 it's appropriate you could just call ERS, can't  
6 you?
- 7 A No.
- 8 Q Oh, you can't. So there's a protocol that says  
9 that you must call BC Ambulance?
- 10 A Yes.
- 11 Q Okay. And who -- who establishes that protocol,  
12 is that the airport?
- 13 A I'm not sure where it was established. That's the  
14 protocol we've been trained to.
- 15 Q So even if you know that ERS is available and  
16 nearby, you must call the BC Ambulance first; is  
17 that correct?
- 18 A Yes.
- 19 Q Can Mr. Ginter or Mr. Sambrook decide when  
20 something's a Code 3?
- 21 A No, it's a -- that's a medical term that BC  
22 Ambulance deems for us, if it's routine or Code 3.
- 23 Q So if you have an emergency and someone's having a  
24 heart attack down in the airport, you call BC  
25 Ambulance, you have to wait until they determine  
26 whether it's a Code 3 before you can call ERS?
- 27 A Yes.
- 28 Q Okay. Let's talk about Mr. Vrba for a second.  
29 You're not saying that he wasn't in the Operations  
30 room about 1:18 or 1:20 on the night of -- or  
31 early morning hours of October the 14th, are you?
- 32 A No. I just don't remember him being there.
- 33 Q You just don't have a memory of it?
- 34 A No.
- 35 Q But there was a lot of stuff going on about that  
36 period of time, wasn't there?
- 37 A Yes.
- 38 Q There was information coming in. You were  
39 listening to what Carla was talking about,  
40 correct?
- 41 A Yes.
- 42 Q You were hearing radio communication, correct?
- 43 A I was hearing Carla. There was no radio  
44 communication at that point.
- 45 Q Okay. And were you -- and at some point you also  
46 got involved in radio communication, perhaps then  
47 or later?

Heather Staller

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

- 1 A With Bob Ginter.  
2 Q Yes.  
3 A Yes.  
4 Q Because didn't you also confirm with Mr. Ginter in  
5 some way that it was not a Code 3, or that ERS  
6 need not be called.  
7 A Yes.  
8 Q You did that yourself, as well, correct?  
9 A Yes. When Carla was on the phone to ambulance.  
10 Q Now, you talked about Mr. -- or Monty, the police  
11 officer --  
12 A Yes.  
13 Q -- that was involved. You told us that you saw  
14 him on camera and that's what you were referring  
15 to in your e-mail notes, correct?  
16 A Yes.  
17 Q Do you recollect when you saw him on camera and  
18 what angle it was?  
19 A I don't remember. The angle was the bottom right  
20 corner, I believe. It was just a corner of the  
21 camera at some point, but we couldn't get it to  
22 where it needed to be to see what was happening.  
23 I don't recall when I would have seen that.  
24 Q Well, just to refresh your memory, it's in item 44  
25 in the e-mails.  
26 A Mm-hmm.  
27 Q And that's an e-mail that's done at 3:24 in the  
28 morning. So seeing that, does that refresh your  
29 memory as to whether it was much earlier, or  
30 around this period of time, or when?  
31 A When I saw Monty?  
32 Q Yes.  
33 A I don't remember. Possibly when I wrote the e-  
34 mail then, but I don't...  
35 Q The reason I'm asking you is I've only ever seen  
36 the police officers on two videos. One is the  
37 Pritchard video and the other is the airport video  
38 when they are entering into the building.  
39 MR. STEWART: I'm sorry, that's a -- we've -- we've  
40 watched videos where you can see witnesses well  
41 after the incident walking away from the scene to  
42 be interviewed in the cafeteria.  
43 MR. KOSTECKYJ: But I'm talking --  
44 MR. STEWART: That's a --  
45 MR. KOSTECKYJ: I'm talking about Monty now.  
46 MR. HIRA: That wasn't the question. The question was  
47 (indiscernible - away from microphone).

Heather Staller

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

1 MR. KOSTECKYJ: Oh, I'm sorry. Yes.  
2 MR. STEWART: You seemed to suggest that the only video  
3 of police officers is they're --  
4 MR. KOSTECKYJ: I'm sorry.  
5 MR. STEWART: -- going into the area. We've got video  
6 of police officers late into the evening.  
7 MR. KOSTECKYJ:  
8 Q I'm talking about this police officer Monty. But  
9 you have an independent recollection of seeing him  
10 on some video and you think around 3:24, is that  
11 accurate, or could it have been much earlier in  
12 the evening?  
13 A No, it wouldn't have been much earlier.  
14 MR. KOSTECKYJ: All right.  
15 THE COMMISSIONER: Maybe I was trying to see whether we  
16 could be done, but we'll take a break now.  
17 MR. KOSTECKYJ: Okay.  
18 THE REGISTRAR: The hearing is now recessed for ten  
19 minutes.

20  
21 (WITNESS STOOD DOWN)

22  
23 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

24 (PROCEEDINGS RECONVENED)

25  
26 THE REGISTRAR: The hearing is now resumed.

27  
28 HEATHER STALLER, a witness,  
29 recalled.

30  
31 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA  
32 CISOWSKI, continuing:

33  
34 Q Do you recollect that you were -- Mr. Stewart  
35 asked you about audio 38. That's where you were  
36 asked, as I believe it, to help with some  
37 screening. That was -- it's audio 38 in the  
38 material, and I think it was advice that they were  
39 going to have to block off the body, and that you  
40 were going to go look for some screening. Do you  
41 recollect that?  
42 A I wasn't going to go look for some screening, but  
43 we have a list of where we have privacy screens  
44 listed throughout the airport.  
45 Q Right. And my only point was this, that I think  
46 -- actually, I think it was in answer to  
47 Commission counsel's question yesterday, you said

- 1           you had to go look in a binder and find out the  
2           material. But I just don't see that you  
3           subsequently followed with -- was it Mr. Ginter  
4           that you were talking to there, was he the ARC?  
5        A     Yes, he was.  
6        Q     So was there a subsequent telephone call, or was  
7           there a radio communication back to him?  
8        A     I don't remember.  
9        Q     Do you recollect now communicating with him?  
10       A     No.  
11       Q     So you don't know whether that's a radio  
12           communication that occurred and we don't have, or  
13           if the information got to him in some other way?  
14       A     Yeah, I don't remember getting back to him with  
15           that.  
16       Q     You don't recollect what happened?  
17       A     No.  
18       Q     Now, you did tell me previously, as I understood  
19           it, that there were some issues between Mr.  
20           Caldwell and Mr. Ginter and Mr. Sambrook, correct?  
21       A     Yes, that night. Yes.  
22       Q     But generally there were some -- there were issues  
23           because clearly Mr. Caldwell placed into question  
24           how they were going to be handling this  
25           circumstance, correct?  
26       MR. STEWART: I don't think this witness can speak to  
27           that. She's given her answers to the thoughts  
28           that were in her mind, but I don't think that she  
29           can answer what it is that Mr. Caldwell intended  
30           in an e-mail exchange going back minute-to-minute.  
31       THE COMMISSIONER: Well, you might want to rephrase it.  
32       MR. KOSTECKYJ: Yes.  
33       Q     You'll recollect that I reviewed e-mail number 5  
34           with you, correct? That was the one:  
35  
36                    Thanks for the info, --  
37  
38           This is from Mr. Caldwell.  
39       A     Yes.  
40       Q  
41                    Thanks for the info, thank god I don't expect  
42           anything positive out of Bob or Greg. Keep  
43           me posted.  
44  
45           Right?  
46       A     Yes.  
47       Q     Not an endorsement of how you expected they were

- 1 going to handle this thing, correct?
- 2 A Correct.
- 3 Q And you and Mr. Caldwell were friends?
- 4 A Yes.
- 5 Q And there were conversations that had gone back  
6 between -- back and forth between you and Mr.  
7 Caldwell, not only on this night but on previous  
8 nights, correct?
- 9 A He didn't work on our team. We were friends. So  
10 as far as like e-mailing back and forth if he was  
11 working, yes.
- 12 Q But you knew, did you not, that Mr. -- from your  
13 conversations with Mr. Caldwell, that he had  
14 issues with Greg and Bob?
- 15 A In reference to this night, yes. Bob with the  
16 cold patch and Greg with the fire -- or the crash  
17 alarm test. But as far as other discussions about  
18 them as individuals, no.
- 19 Q Well, you indicated to him that in your e-mails  
20 that "Call me later, I've got some other  
21 information for you," did you not?
- 22 A Yes.
- 23 Q Did you recollect that happening?
- 24 A Calling him later?
- 25 Q Yeah, that there were calls exchanged later?
- 26 A I don't remember calls with him.
- 27 Q Are you saying that they didn't happen, or you  
28 just don't remember now?
- 29 A I don't remember them.
- 30 Q Were you aware that there was an issue that --  
31 between Mr. Caldwell for the ERS and when they  
32 might be called out into circumstances and when --  
33 issues between the handling of the ERS by Mr.  
34 Ginter?
- 35 A I'm sorry, I don't understand that.
- 36 Q Well, were you aware that previous to this that  
37 there were concerns expressed to you by Mr.  
38 Caldwell about how Mr. Ginter dealt with emergency  
39 situations?
- 40 A Am I aware of there being issues?
- 41 Q Yes.
- 42 A No.
- 43 Q You weren't?
- 44 A No, in relation to emergency situations. There  
45 was an issue with the cold patch earlier that  
46 night, and I was aware of the tiff between that.  
47 Q In one of the e-mails that you refer to Chane.

Heather Staller

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

Cross-exam by Mr. Buchanan (for PSAC)

1 Who is Chane?

2 A Chane is --

3 Q Chane.

4 A Is his supervisor.

5 Q And you talk about the fact that -- you ask him  
6 whether he's gotten ahold of Chane.

7 A Yes.

8 Q How did you know that he was trying to get ahold  
9 of Chane?

10 A Earlier in the night he was asking for the number  
11 from Carla.

12 Q So you overheard him asking for the number from  
13 Carla?

14 A No. I don't know exactly how that happened, but I  
15 know that he was asking for Chane's number earlier  
16 in the night.

17 Q Well, in the sequence of events you're the one  
18 that raises it. He doesn't raise it with you.

19 A Yes.

20 Q Correct?

21 A Correct.

22 Q So why were you curious as to whether he'd gotten  
23 ahold of Chane?

24 A I don't remember.

25 Q As I say, you were the one who raised it. You  
26 recollect that now from reading these e-mails?

27 A Yes, I sent that.

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

29 THE COMMISSIONER: Thank you. Anyone else?

30 MR. BUCHANAN: Chris Buchanan for the PSAC, I just have  
31 a few questions.

32

33 CROSS-EXAMINATION BY MR. BUCHANAN ON BEHALF OF THE  
34 PUBLIC SERVICE ALLIANCE OF CANADA:

35

36 Q Am I correct that at approximately 1:00 a.m. in  
37 the morning that Mr. Sambrook would be the top YVR  
38 manager at the airport?

39 A For me, yes.

40 Q So he would be the highest manager in Airport  
41 Operations, correct?

42 A Yes.

43 Q Okay. And you report directly to Mr. Sambrook,  
44 correct?

45 A Yes, I do.

46 Q So Mr. Ginter is in no way a supervisor, or in any  
47 way do you report to Mr. Ginter?

- 1 A No, I do not.
- 2 Q Okay. And I understand that the standard  
3 procedure is that the people in the Operations  
4 room would normally have their radios on  
5 Operations channel A; is that correct?
- 6 A Yes. Depending on what position you're in, yes.
- 7 Q For Mr. Sambrook and Mr. Ginter, would they -- the  
8 normal positions of the radio would be on Ops A  
9 channel?
- 10 A Yes.
- 11 Q Okay. And so when you're receiving communication  
12 from Mr. Ginter on the -- through the radio, it  
13 would be your understanding that Mr. Sambrook  
14 would be able to hear the exchange between you and  
15 Mr. Ginter, correct?
- 16 A Yes.
- 17 Q I'm not sure we need to turn to it, but at Exhibit  
18 26B, audio 12, that's the call in which Mr. Ginter  
19 says to just have the ambulance brought out and  
20 not the ERS, and that's the communication between  
21 you and Mr. Ginter. Was it your understanding at  
22 the time that Mr. Sambrook was either at the scene  
23 or at least hearing that communication between you  
24 and Mr. Ginter?
- 25 A I wouldn't know. I know they left the Ops Centre  
26 together, but I wouldn't know where they were at  
27 that point.
- 28 Q But if they weren't together, the expectation you  
29 had was that Mr. Sambrook would at least be  
30 hearing the communication between you and Mr.  
31 Ginter, correct?
- 32 A Yes.
- 33 Q Okay. Now, you discussed the protocol with  
34 respect to Code 3 emergencies. As I understand  
35 your evidence, that on a Code 3 the ERS is called  
36 out?
- 37 A Yes.
- 38 Q Okay. And I gather that somebody in your position  
39 doesn't have the ability to deviate from that  
40 protocol, correct?
- 41 A I wasn't the AOO that night, so it's not my  
42 protocol anyways for the tone-out.
- 43 Q Sure. You've done Ms. Hanson's position. Is it  
44 your understanding that she doesn't have the  
45 authority to not follow that protocol?
- 46 A I'm not sure.
- 47 Q Okay.

Heather Staller

Cross-exam by Mr. Buchanan (for PSAC)

Re-exam by Mr. Vertlieb

- 1 A The protocol has changed since I was an AOO. The  
2 tone-out was not the procedure for me when I was  
3 an AOO, either.
- 4 Q Is it fair to say that Mr. Sambrook, as the top  
5 manager, is the only one that could have provided  
6 the approval to deviate from the standard protocol  
7 that evening?
- 8 A Yes.
- 9 Q Okay. And so when the decision was made not to  
10 call the ERS after it had been escalated to a Code  
11 3, was it your understanding that that was Mr.  
12 Sambrook's ultimate decision?
- 13 A Sorry, can you say that again?
- 14 Q That ultimately it was Mr. Sambrook's decision?
- 15 A Decision for not having (indiscernible -  
16 overlapping speakers).
- 17 Q Not to call the ERS.
- 18 A It was Bob's decision but Greg had to approve it,  
19 so...
- 20 Q That's right. So Mr. Sambrook had an opportunity,  
21 as you understood it --
- 22 A Yes.
- 23 Q -- to counteract that -- that not calling the ERS  
24 and he confirmed in some manner to not call the  
25 ERS, correct?
- 26 A Correct.
- 27 MR. BUCHANAN: Okay. Thank you, those are our  
28 questions.
- 29
- 30 RE-EXAMINATION BY MR. VERTLIEB:
- 31
- 32 Q I just want to clear up one area that may be  
33 confusing here, and I don't know if we need to  
34 play the tape because we have Exhibit 26B. This  
35 is a discussion between Mr. Ginter and yourself,  
36 and this is the first time to reference to calling  
37 an ambulance. And you took that call because Ms.  
38 Hanson was busy. Do you remember that from  
39 yesterday?
- 40 A What audio?
- 41 Q Audio 12, YVR audio 12. Do you remember that from  
42 yesterday?
- 43 A Just one second.
- 44 THE COMMISSIONER: It's page 14.
- 45 A Thank you.
- 46 MR. VERTLIEB:
- 47 Q Do you --

1 A Yeah, I remember.  
2 Q Okay. So this -- you took the call from Mr.  
3 Ginter?  
4 A That's -- I don't know if that was me, the  
5 "inaudible". I know that it was me when I said  
6 "Copy".  
7 Q Right.  
8 A And then the follow-up.  
9 Q Right.  
10 A Yes.  
11 Q Now, so just this one comment you make to Mr.  
12 Ginter, you say:  
13  
14 Bob, do you want us to let ERS know or no  
15 just give ambulance a call?  
16  
17 Reading that one might think that you could call  
18 ERS right away, rather than having to call  
19 ambulance first. Do you see that?  
20 A Mm-hmm.  
21 Q So is there some --  
22 A It wouldn't -- sorry.  
23 Q Is there some confusion here?  
24 A It wouldn't have been first. Ambulance is always  
25 called first, period. But Carla was already on  
26 the phone to ambulance, so that was already been  
27 taken care of at that point.  
28 Q So you could then phone ERS if you had --  
29 A With, it would be like a nice thing, a heads-up,  
30 get ERS if they're going to be coming for a Code 3  
31 get them aware and ready and start coming.  
32 Q But I think this is the first time that an  
33 ambulance is called for because it was Mr. Ginter  
34 trying to be proactive.  
35 A Yes.  
36 Q So Carla wasn't yet dealing with an ambulance in  
37 the earlier tapes.  
38 A Carla was on the phone to an ambulance at that  
39 point.  
40 Q Oh, okay, at this point?  
41 A Yes.  
42 Q Okay. And that's why you took the call?  
43 A Yes, because she was already on the hot line with  
44 the ambulance dispatch.  
45 Q All right. Is there anything else you wish to say  
46 about that -- that comment you made to Bob:  
47

45  
Heather Staller  
Re-exam by Mr. Vertlieb  
Lance Rudek  
In chief by Mr. Vertlieb

1                   Do you want us to let ERS know or no just  
2                   give ambulance a call?  
3

4       A       Just if it was going to be Code 3, if it was going  
5               to be that type of level.  When you work in an  
6               environment like that you can kind of start to  
7               gauge when things are more serious than routine,  
8               not that it's our call.  And at that point, just  
9               as that's -- what time is it, 1:30 in the morning,  
10              as the heads-up, like, get them going at least.  
11              But it's still ambulance's decision if it's Code 3  
12              or routine.

13   MR. VERTLIEB:  Thank you.

14   A       You're welcome.

15   THE COMMISSIONER:  Ms. Staller, thank you very much for  
16               coming.  We very much appreciate your help.

17   A       Thanks.

18  
19                   (WITNESS EXCUSED)  
20

21   MR. VERTLIEB:  Now, Mr. Lance Rudek, Mr. Commissioner,  
22               is the next witness.

23               Now, Dr. Perra, while the witness is coming,  
24               just to establish this time, can you be ready to  
25               go with YVR 22244, and this will be the part 2,  
26               and this will be to 1:25 a.m.  That's just to  
27               establish his time of arrival.

28   THE REGISTRAR:  Good morning, sir.  Before you are  
29               seated do you wish to be sworn or affirmed?  Sworn  
30               is on the Bible and affirmed is not.

31   THE WITNESS:  Yeah, I'll just affirm.

32  
33                               LANCE RUDEK, a witness,  
34                               affirmed.  
35

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

37   A       Lance John Rudek.

38   THE REGISTRAR:  Would you spell your surname.

39   A       R-u-d-e-k.

40   THE REGISTRAR:  Thank you, you may be seated.  Counsel.

41   MR. VERTLIEB:  Thank you.

42  
43   EXAMINATION IN CHIEF BY MR. VERTLIEB:  
44

45   Q       Mr. Rudek, let's just deal briefly with your  
46               background.  You were born here.  You went to  
47               Burnaby High School and you went to Douglas

- 1 College and studied in criminal -- Criminology; is  
2 that correct?
- 3 A That is.
- 4 Q You took Justice Institute courses for  
5 Corrections?
- 6 A For Corrections?
- 7 Q You are presently -- well, tell the Commissioner  
8 what you're doing now.
- 9 A I'm -- I'm a Security Officer at Surrey Pre-Trial  
10 Correctional Services.
- 11 Q And how long have you been in the Corrections  
12 field?
- 13 A About six -- in between six and eight months.
- 14 Q You worked for Securiguard at the time of the  
15 Dziekanski incident?
- 16 A Yep.
- 17 Q Tell us how long you had worked for Securiguard as  
18 at October 2007.
- 19 A Up to that date?
- 20 Q Yes.
- 21 A Between two and three years, I don't know the  
22 exact time, say two-and-a-half, if I could give an  
23 estimate.
- 24 Q Okay. And you stayed on at the airport until you  
25 left for your career in Corrections?
- 26 A Yep.
- 27 Q Now, we want to deal with your involvement in the  
28 Dziekanski issues, and first I am going to, just  
29 to establish your time of arrival at the  
30 International Lounge, and we've heard your name  
31 mentioned before and we've seen video.
- 32 A Yes.
- 33 Q But just to do this for the record, we're going to  
34 put up from the YVR video 1:25 or so in the  
35 morning, and we believe it's -- that it will show  
36 you arriving with Mr. Arora. So that will be  
37 visible to you on the screen in just a moment.  
38 And all I'm going to want you to do is watch that  
39 and confirm that's your entry into the area where  
40 these events unfolded.
- 41 DR. PERRA: 1:25:05?
- 42 MR. VERTLIEB: That would be fine.
- 43
- 44 (VIDEO BEING PLAYED)
- 45
- 46 MR. VERTLIEB:
- 47 Q And just so you know, Mr. Rudek, this is video

Lance Rudek

In chief by Mr. Vertlieb

1 provided by the airport from their camera, which  
2 is a wide-angle shot of the meet-and-greet and  
3 then the reception lounge. You recognize that  
4 area, sir?  
5 A Yeah.  
6 Q We anticipate you'll recognize yourself arriving.  
7 You came down the escalator?  
8 A Yeah, which is --  
9 Q There we are.  
10 A Yeah.  
11 Q Do we see you?  
12 DR. PERRA: 1:25:50.  
13 A (Indicating).  
14 MR. VERTLIEB: Just stop a second.  
15 Q You're in the yellow jacket?  
16 A That's correct.  
17 Q And you came down with Mr. Arora?  
18 A I did, but I can't tell which one is him there,  
19 but, yes, I did.  
20 Q And just watch this next few moments of the film,  
21 please - start playing it - and you'll see  
22 yourself.  
23 That's a Mr. Meltzer in front of you, a  
24 limousine driver?  
25 A I had never seen him before, but -- but, yes, I  
26 believe that's to be him, yeah.  
27 Q And there's Mr. Arora behind you, or can you tell?  
28 A Yeah, yeah, that's -- now I can tell it's him.  
29 Yeah.  
30 MR. VERTLIEB: All right. So that fixes your arrival.  
31 That's enough, then, please, Dr. Perra.  
32  
33 (VIDEO STOPPED)  
34  
35 MR. VERTLIEB:  
36 Q And you -- you stayed on the scene until well  
37 after the tasing and the events following the  
38 tasing?  
39 A Yep.  
40 Q And just to give the Commissioner a time context,  
41 when did you leave the scene that took place in  
42 the International Reception Lounge? We know your  
43 time of arrival near the doors. What time did you  
44 leave?  
45 A Are we -- are we talking about the whole thing, or  
46 are we talking about -- because if it's the whole  
47 thing, then I -- after I completed my IHIT

1 statements, then that's when I departed. But if  
2 we're talking about from when I arrived there, and  
3 initially saw -- saw Mr. Dziekanski, if I had to  
4 give a timeframe on that, I'm unsure as to -- I  
5 wasn't exactly looking at my watch, so if I had to  
6 put a -- I'm unsure as the timeframe, I --

7 Q Okay.

8 A I could -- I could guess, but --

9 MR. VERTLIEB: No, no need to guess. All right. Let's  
10 go to the Pritchard video and let's watch the  
11 Pritchard video, which will also show you in  
12 there.

13 And if we start this around 1:30, if you can  
14 find that.

15

16 (VIDEO BEING PLAYED)

17

18 MR. VERTLIEB: Stop a second.

19 Q Do you recognize that voice, "He speaks Russian"?

20 A No, I -- I don't, actually.

21 Q Do we see you in the picture?

22 A Yeah.

23 Q You're closest to Mr. Dziekanski?

24 A I would say so, yeah.

25 Q Mr. Arora behind you?

26 A Yeah.

27 MR. VERTLIEB: Okay. Let's play this through, please.

28 Q Even though you're not on the screen, were you in  
29 the area?

30 A Yeah, I should still be right there (indicating).

31 Q Thank you. You stayed at those doors throughout  
32 until the arrival of the police?

33 A That's correct.

34 MR. VERTLIEB: Now, just stop there for a second,  
35 please.

36 Q We hear a voice during this sequence that says,  
37 "We need a Russian interpreter here to calm him  
38 down. We've got Cathay coming in five minutes."  
39 Did you hear that this morning, just watching and  
40 listening? Did you hear those words being said?

41 A I heard the word "Russian", I didn't hear anything  
42 else regarding what you just said.

43 Q Okay. Do you remember saying anything about such  
44 facts, that we need a Russian interpreter to calm  
45 him down?

46 A Not -- I remember some -- I think somebody telling  
47 me that he may speak Russian, but they were --

1           they sounded very unsure, they sounded -- but  
2           that's -- that's about all I remember.  
3       Q     Do you think it would help if you -- if we play  
4           that again and you listen to the sound of your  
5           voice and see if you hear it?  
6       A     Sure.  
7       MR. VERTLIEB: Okay. Can you help us then, Dr. Perra.  
8           That is sometime after 1:30, we think it's about  
9           1:35 to 1:45.  
10       DR. PERRA: On this -- on this video or the --  
11       MR. VERTLIEB: Yes.  
12       DR. PERRA: I don't have time on this one, just  
13           distance.  
14       MR. VERTLIEB: It would be a minute and 30 seconds into  
15           it.  
16                    Stop.  
17       A     Yes, I hear that now, but I don't recall hearing  
18           that when I was on scene.  
19       Q     But was that your voice?  
20       A     No, that was not my voice.  
21       Q     Okay. Do you know who said those words?  
22       A     No, I do not.  
23       Q     Okay. Going back that evening, did you know that  
24           there would be a Cathay Pacific flight coming in  
25           around that time?  
26       A     I would -- I was aware that around two  
27           o'clock'ish, give or take a few minutes, there  
28           normally is a flight coming in around that time,  
29           yeah.  
30       Q     Just tell us about your instructions when you have  
31           somebody who is under your watch, as it were, and  
32           your instructions as a security guard for  
33           Securiguard, what is it you're instructed to do?  
34       A     Job function-wise?  
35       Q     Yes.  
36       A     Observe and report.  
37       Q     And that means that you are not then to physically  
38           handle the person in any way?  
39       A     That's correct.  
40       Q     So you can observe and report by use of your phone  
41           system?  
42       A     Yeah.  
43       Q     And that's what you did that evening?  
44       A     That's precisely what I did, yeah.  
45       Q     Now, we want to start playing it with the arrival  
46           of the police and the police coming into the IRL.  
47           You remember that happening?

1 A Yeah.

2 MR. VERTLIEB: Let's go to three minutes into the  
3 Pritchard video, please.

4 Stop a second, please.

5 Q Did you see the arrival of the police?

6 A Yeah.

7 Q Okay. How many police all together came?

8 A I believe four.

9 MR. VERTLIEB: Thank you. Keep going then, please,  
10 with the video.

11 Stop a second.

12 Q Did you recognize your voice in any of that?

13 A Nope, that was not me speaking. I was -- when you  
14 see me grabbing the radio, that was me radioing my  
15 dispatch letting them know RCMP's on scene, and  
16 just as I start to get out of camera view, that's  
17 when as officers and myself were -- were walking  
18 almost right next to each other, that's when I --  
19 I make a comment to him that -- that he -- that he  
20 doesn't -- he doesn't speak English.

21 Q You made that comment to the -- to one of the  
22 RCMP?

23 A Yeah.

24 Q Did you direct it to one in particular, or to the  
25 group?

26 A Just whoever was the closest to me.

27 Q Was that comment by yourself, to your knowledge  
28 did it appear to be acknowledged by the RCMP  
29 officer?

30 A It did.

31 Q And do you remember how?

32 A Just gave me a nod, and then he proceeded.

33 Q Do you remember which one?

34 A No, I don't.

35 MR. VERTLIEB: Okay. All right. Let's keep going with  
36 the Pritchard video, please.

37 Now, stop a second.

38 Q How close were you to the police when they entered  
39 the IRL?

40 A When they entered the IRL I must have been -- I'm  
41 unsure of the exact distance, but if I had to  
42 guess, maybe -- there's a Security stanchion, a  
43 small stanchion desk that sits right outside that  
44 -- that IRL door, and I -- my recollection I  
45 remember standing and putting my hand on it, and  
46 so that -- and that stanchion from where they are  
47 was anywhere between two and five feet away from

51  
Lance Rudek  
In chief by Mr. Vertlieb

1           them.  
2       MR. VERTLIEB: Back that up and just have us -- just  
3           back up a few seconds and show us the desk that  
4           you believe was there that you just mentioned.  
5           Stop, yes.  
6       Q     Do you see the desk?  
7       A     I do.  
8       Q     Point it out, please.  
9       A     (Indicating).  
10      Q     And you were by that desk when the police went  
11           into the IRL?  
12      A     Yeah.  
13      Q     Was anybody in front of you?  
14      A     Apart from the police officers?  
15      Q     Yes.  
16      A     Not to my recollection, no, not in front of me.  
17      MR. VERTLIEB: Okay. So continue with that video,  
18           please.  
19           Stop.  
20      Q     Now, did you move -- did you in any way move  
21           closer to the IRL once the Taser was out?  
22      A     I -- I believe I did. Not a substantial distance,  
23           but somewhat closer.  
24      Q     When the police entered the IRL did you hear any  
25           discussion between the police and Mr. Dziekanski?  
26      A     No, I -- if I did, it was all very muffled and  
27           very -- I can't remember hearing any -- hearing  
28           any -- they did speak to him. I remember hearing  
29           them speak to him, but I do not remember what they  
30           were saying.  
31      Q     Okay.  
32      A     It was all very...  
33      Q     Prior to the firing of the Taser do you have any  
34           recollection of words being said either by the  
35           police or Mr. Dziekanski?  
36      A     I remember them -- I remember seeing them making  
37           hand gestures like, you know, calm down hand  
38           gestures, but -- but apart from that, I -- I can  
39           remember hearing them speak, but I do not remember  
40           what they said. I cannot remember what they said.  
41      Q     Prior to them entering the -- the RCMP entering  
42           the lounge, did you hear the use of the word  
43           "Taser" mentioned by anybody?  
44      A     No.  
45      Q     Now, in that video clip we saw some chairs, some  
46           black chairs, you saw those, as the police entered  
47           the lounge?

- 1 A Yeah.
- 2 Q And are those chairs normally inside the IRL or  
3 are they outside?
- 4 A Those chairs are normally inside the IRL off to --  
5 looking at the video from this direction, off to  
6 our right behind -- behind that -- behind that  
7 desk that is right to the left of Mr. Dziekanski  
8 right now, and the -- the one police constable.
- 9 Q The little stand you showed earlier that you  
10 marked with the laser pointer, would there be  
11 chairs with that normally?
- 12 A Yeah, actually, there would. There would be --  
13 there would be one, one chair.
- 14 Q Okay. Now, during the sequence of the police  
15 entering and -- and the tasing, and the events  
16 post-tasing, how long did you stay in that same  
17 viewpoint? Because we know you left at some  
18 point.
- 19 A Yeah.
- 20 Q So approximately how long were you there that --  
21 in that sequence?
- 22 A I am unsure of the exact time by -- by minute and  
23 by second. I wasn't -- wasn't staring at my watch  
24 kind of thing. But if I had to guess on it, we  
25 could see that this happened at -- happened at  
26 1:25, 1:26, 1:30'ish, maybe a total duration of  
27 ten to -- maybe 10 minutes? I don't know.
- 28 Q Just so the Commissioner knows, why did you leave?  
29 You were instructed to do something. Just tell us  
30 about that. Just so we know why you left and  
31 we'll come back and deal with some more  
32 information.
- 33 A Well, I left to go -- to go inform Customs that we  
34 had -- we had a situation in the IRL area and that  
35 when this -- when this flight came in at two  
36 o'clock -- two o'clock in the morning, again give  
37 or take a few minutes, that -- that they were  
38 either to hold the passengers or to reroute them  
39 -- reroute them elsewhere, because we have a  
40 situation in the IRL and -- and it's something  
41 passengers should -- shouldn't see as they're  
42 coming into an airport.
- 43 Q Whose idea was it to do that?
- 44 A I -- I do not recall if I was instructed or if I  
45 -- or if I asked -- or if I asked one of the  
46 Airport Authority employees to -- if it would be  
47 all right to go and do that. I cannot remember if

1 I was instructed or if I -- or if I willingly said  
2 "Would you like me to go this?" I cannot remember  
3 about it.

4 Q That's fine. And you went to tell Customs about  
5 what was going on?

6 A Yeah.

7 Q And then you returned to the area after that?

8 A Yeah.

9 Q Okay. Now, I want to ask you some questions while  
10 we're at this phase, then. When you saw Mr.  
11 Dziekanski, you realized from your attempts to  
12 communicate that you would not be able to  
13 communicate with him?

14 A Yeah. I realized right from -- right from the  
15 second I told him to put things down and he was --  
16 he was kind of -- kind of staring at me, giving me  
17 a dead stare. Yeah, I realized that communication  
18 would be, apart from body language, communicate --  
19 verbal communication would be -- would be a little  
20 hard to -- hard to communicate through.

21 Q How did he appear?

22 A Oh, when I first saw him?

23 Q Yes.

24 A He appeared very, very stressed, very eyes wide-  
25 open, very, very sweaty, skin very pale, very,  
26 very aggravated. I remember -- I remember seeing  
27 sweat marks on his -- on his clothing. I remember  
28 his -- his hair being saturated. And one of the  
29 -- when I first saw him, one of the main things  
30 that caught my attention was the -- was the amount  
31 of sweat and just the eyes, just as wide as a...

32 Q Okay. You made a decision then not to try to  
33 continue speaking with him?

34 A Well, I was aware that -- that RCMP are en route,  
35 and giving -- given his appearance and the way he  
36 was -- the way he was acting, I felt it  
37 appropriate to wait for the RCMP and then to -- as  
38 long as -- as long as he was in there and he  
39 wasn't -- wasn't hurting anybody, I didn't --  
40 didn't feel the need to go in.

41 Q And when he was in there, you mean the IRL?

42 A IRL, yes.

43 Q Was anybody else in the IRL when he was in thee,  
44 when you got there?

45 A Not that I'm aware of, or not that I can remember.

46 Q Now, when the police arrived, did you recognize  
47 any of the four of them?

1 A Any -- any of the constables?  
2 Q Yes.  
3 A I recognized maybe two of them, just having seen  
4 them walk around the airport.  
5 Q But you didn't know their names?  
6 A No.  
7 Q Let's talk about what you saw from the time the  
8 police first were in contact with Mr. Dziekanski  
9 in the IRL. You've told us that you don't know  
10 exactly what was being said. You couldn't make  
11 that out.  
12 A That's correct.  
13 Q But you could -- did you hear something being  
14 said?  
15 A I can recall hearing voices, yes, but I don't -- I  
16 don't remember what words they were.  
17 Q Did you see something come out of Mr. Dziekanski's  
18 hand, right hand, as you watch that video?  
19 A Yeah.  
20 Q At the time this happened did you know what was in  
21 his right hand?  
22 A At the time that he -- well, can you be more  
23 specific. At the time...?  
24 Q As these events were unfolding did you see  
25 something in Mr. Dziekanski's hand?  
26 A I did, as -- as the officers got closer and closer  
27 and closer to him, and as Mr. Dziekanski started  
28 -- started to walk away, and then stop, and turned  
29 around back towards the officers, it was then that  
30 I -- as the camera is facing his back, all you see  
31 is Mr. Dziekanski's back. I -- I remember seeing  
32 -- seeing an object being waved around and  
33 directed at the constables.  
34 Q Could you tell what the object was?  
35 A Not right at first, but within five or ten seconds  
36 after him waving it around, then I was able to  
37 distinguish what it was.  
38 Q And what was it?  
39 A It was a stapler.  
40 Q And how did you know it was a stapler?  
41 A My -- I knew it was a stapler because after he  
42 finished waving it around at the constables, I was  
43 -- he held it directly out in front of him  
44 (gesturing) and he started to press the -- the  
45 stapler was elongated, it was extended, and he  
46 started pressing it and then the staples started  
47 coming out.

1 Q This was before or after the tasing?

2 A Just before the tasing.

3 Q After Mr. Dziekanski was tasered were you still  
4 able to observe what happened to him?

5 A After he was tasered I -- because of where --  
6 because of where I was positioned, as soon as he  
7 started -- started to hop back, I was only able to  
8 see his upper -- upper body. I wasn't able to see  
9 where the taser hit, how the taser hit. I wasn't  
10 able to see that. And I was -- I was able to see  
11 him hop back. And then once he kind of actually  
12 got to the area he's at now in this picture behind  
13 me, I -- I basically wasn't -- wasn't able to see  
14 him at all and I was able to see the constables,  
15 the constables move in towards him.

16 Q Did you hear anything said just before the Taser  
17 was fired?

18 A I do not recall.

19 Q Did you see the Taser pulled out?

20 A Yeah, I saw the Taser pulled out.

21 Q Did you hear anything being said just before the  
22 Taser was pulled out?

23 A I do not recall.

24 Q When was the Taser pulled out?

25 A The exact time, I'm unaware of the exact time it  
26 was.

27 Q No, but when relative to the sequence of events as  
28 you saw them unfolding?

29 A After -- after he finished doing his thing with  
30 the stapler (gesturing), that -- my recollection,  
31 that was the first time I remember seeing the  
32 Taser being pulled out after he -- after he  
33 started doing that (gesturing). And then the  
34 Taser was pulled out, and then -- and then it was  
35 deployed, and then -- and then that's when you see  
36 his right hand go up (gesturing) and that's when  
37 you see him waving the stapler around.

38 Q So the right hand went up after the tasing?

39 A Yes.

40 Q That's what you're telling the Commissioner, okay.

41 A Yeah.

42 MR. VERTLIEB: Let's rewind that video for a few  
43 seconds, please, 15 seconds, and see if you can  
44 see Mr. Dziekanski doing what you have told us you  
45 saw him doing with the stapler.

46 THE COMMISSIONER: Is this able to go in slow motion?

47 MR. HIRA: Mr. Commissioner, while that is being done I

- 1           am told that those shadows can also be (inaudible  
2           - video sound).
- 3       MR. VERTLIEB: Stop there a second.
- 4       Q     We saw the arms of Mr. Dziekanski at one point  
5            seeming to be more in front and then the arms  
6            outside before the tasing. Did you see that?
- 7       A     Yeah.
- 8       Q     Did that help you with your ability to tell us  
9            where -- when it was you saw this stapler and him  
10          popping staples?
- 11      A     Yeah. My statement still stands unchanged.  
12          Whether his hand was slightly at his side and he  
13          was doing this (gesturing), and it was -- I still  
14          remember seeing the stapler being waved and made  
15          attempt to squeeze the staples out.
- 16      Q     Did you see Mr. Dziekanski pick up the stapler?
- 17      A     I do not recall, remember seeing him pick up the  
18          stapler, so I don't -- I don't know how he got it,  
19          I don't know how he came across it.
- 20      Q     You don't know where it came from?
- 21      A     I don't know where it came from, no.
- 22      Q     Okay. Now, did you ever see him on the ground  
23          while the police were trying to handcuff him?
- 24      A     Yeah, for a very -- very brief moment, and it was  
25          -- it was shortly after they had him on the ground  
26          that I was -- that I made -- started making my way  
27          into the Customs Hall and making sure Customs was  
28          aware of what was going on.
- 29      Q     Did you actually then enter the IRL where this had  
30          occurred?
- 31      A     I think once he was on the ground and once he was  
32          more so positioned on his -- on his front, that  
33          was probably an accurate time. Again I'm unsure,  
34          but that's probably an accurate time, to my  
35          recollection of when I -- of when I entered the  
36          IRL.
- 37      Q     Tell us about when you say he was on his front.  
38          Just explain that in a bit more detail.
- 39      A     On his stomach, head turned, I cannot remember to  
40          which side his head was turned, but his head was  
41          turned to the side, feet directly straight behind  
42          him, lying on his stomach, lying on his front.
- 43      Q     And when you saw him lying on his front, was he  
44          handcuffed?
- 45      A     They did get him handcuffed, yeah. Hands  
46          handcuffed behind his back.
- 47      Q     When he was lying on his front, as you've told the

1 Commissioner, with the handcuffs on, could you see  
2 any part of him moving?

3 A I -- I could see -- I could see legs and feet  
4 moving, yeah.

5 Q Did that change during the time you were there?

6 A Not that I can recall.

7 Q Did you notice the colour of his hands?

8 A Yeah. I don't know what it was from, if it was  
9 just from the handcuffs, but as far back away from  
10 it as I was, I could, once a few of the constables  
11 had -- had gotten up, I was -- I was able to see  
12 his hands and then they -- they looked a little  
13 discoloured.

14 Q Meaning what?

15 A Meaning -- meaning discoloured apart from the  
16 normal discolouration of your -- of your hands,  
17 meaning looked to be -- looked to be a little  
18 reddish, a little bluish.

19 Q You say once the police had gotten up. Tell us a  
20 bit more about that, please.

21 A I remember one or two of them once they had him  
22 handcuffed and his arms weren't -- weren't so much  
23 of a threat any more, then I remember seeing, once  
24 they had him handcuffed, then one or two, one or  
25 both of them who were -- who were holding his  
26 hands in order to handcuff him, I think both of  
27 those officers, they either stood up or they -- or  
28 they -- I think one of them -- I can't -- I can't  
29 recall exactly, but I think one of them maybe went  
30 towards his feet to make sure his feet weren't  
31 flailing about and either hurting another officer  
32 or hurting himself. I -- I don't -- I remember an  
33 officer going to his feet, and then another  
34 officer I think possibly going up to help the  
35 other officer who was up at his upper torso, upper  
36 part of the body.

37 Q We know at some point that RCMP asked for Code 3  
38 to occur. Were you present for that?

39 A No.

40 MR. VERTLIEB: I expect it would be a good time to take  
41 the break.

42 THE COMMISSIONER: Yes, we'll break for lunch, it's  
43 12:30.

44

45 (VIDEO STOPPED)

46

47 (WITNESS STOOD DOWN)

58

Lance Rudek

In chief by Mr. Vertlieb

1 THE REGISTRAR: The hearing will now adjourn until 2:00  
2 p.m.  
3

4 (PROCEEDINGS ADJOURNED FOR NOON RECESS)  
5 (PROCEEDINGS RECONVENED)  
6

7 THE REGISTRAR: The hearing is now resumed.  
8

9 LANCE RUDEK, a witness,  
10 recalled.  
11

12 IN CHIEF BY MR. VERTLIEB, continuing:  
13

14 Q Now, Mr. Rudek, I just want to finish off with  
15 your evidence while you were in the IRL the first  
16 time before you left to go tell the people inside  
17 the Customs Hall to redirect the passengers. Okay?

18 A Yeah.

19 Q At the time you were there during this first  
20 session of your attendance, can you tell us  
21 whether or not you saw any of Mr. Enchelmaier,  
22 Sambrook or Ginter?

23 A When I was inside the IRL, that's -- that's what  
24 you're asking?

25 Q Yes, sir.

26 A I -- I remember Mr. Sambrook. I don't -- I don't  
27 recall -- I don't recall if anybody else was in  
28 there with me apart from Greg, or, yeah, Greg  
29 Sambrook.

30 Q And we've been told that Mr. Sambrook was in  
31 charge of Operations that time of morning?

32 A Yeah.

33 Q And you knew him and knew his job?

34 A Yes.

35 Q Okay. So the only one you remember seeing in  
36 there was Mr. Greg Sambrook?

37 A Yes.

38 Q And I'm talking about that first session when you  
39 were there before you went to Customs Hall?

40 A Yes.

41 Q Okay, thank you. Now, when you left to go to the  
42 Customs Hall, as at your last viewing of Mr.  
43 Dziekanski, can you tell us whether or not he was  
44 moving?

45 A Yes.

46 Q And the answer is...?

47 A Yes.

Lance Rudek

In chief by Mr. Vertlieb

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

1 Q He was. Is that correct, yes?

2 A Yes.

3 Q When you returned after going to the Customs Hall  
4 and talking to people in there, and we don't  
5 really care who you talked to or what you  
6 discussed, you did return directly to the IRL?

7 A Yes.

8 Q Did you come in and out of the area known as the  
9 Point?

10 A From the Customs Hall?

11 Q Yes. When you left the IRL to go into the Customs  
12 Hall, did you go through the Point?

13 A Yeah, yes.

14 Q And you came back through the Point?

15 A Yes.

16 Q Okay. So when we look at the YVR film that shows  
17 the meet-and-greet area, and you saw that earlier  
18 on in your evidence, that's why we won't see you  
19 coming in and out of the IRL on that YVR film?

20 A Yes.

21 Q Okay. So we don't know exactly when you left and  
22 when you returned.

23 A No, I suppose not.

24 Q And you don't, either.

25 A I wasn't looking at my watch, so, no, I don't have  
26 an exact time.

27 Q When you returned the second time, can you tell us  
28 who was present in the IRL?

29 A RFR being -- being Richmond Fire, Mr. Sambrook, I  
30 remember -- RFR, Sambrook, I'm unsure as to who  
31 else was -- who else was in there. I could -- I  
32 could guess, but I -- but it's -- I don't think  
33 it's fair to guess if I don't know.

34 Q Yes. The point is when you left, the Richmond  
35 Fire Department had not arrived and when you  
36 returned they had arrived?

37 A Yes.

38 MR. VERTLIEB: Thank you.

39 A You're welcome.

40 MR. STEWART: Dwight Stewart, counsel for the Airport.

41

42 CROSS-EXAMINATION BY MR. STEWART ON BEHALF OF THE  
43 VANCOUVER AIRPORT AUTHORITY:

44

45 Q Mr. Rudek, you had -- you gave a statement to the  
46 RCMP that night before you went home, correct?

47 A Yes.

Lance Rudek

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

1 Q What time would your shift normally end?

2 A Between 5:30 and six o'clock, depends on what time  
3 our relief comes in. I cannot -- I cannot leave  
4 the airport until my relief is in the building and  
5 I've debriefed my relief, and then I can go home.

6 Q Okay. The statement that we've received, it  
7 indicates that it was taken at 0504 hours in the  
8 morning on October 14th. Does that accord roughly  
9 with your recollection?

10 A Roughly, yes.

11 Q You gave this statement pretty much and then did  
12 that exchange with the next patroller?

13 A And went home, oh, yeah.

14 Q Okay. I understand that in the days just very  
15 shortly after this, you had an appointment that  
16 was scheduled?

17 A Yeah. Yes.

18 Q And what was that appointment for?

19 A It was an interview for New Westminster Police  
20 Victim Services.

21 Q And did you end up working in Victim Services?

22 A Yeah. Yes.

23 Q For how long?

24 A Close -- close to a year.

25 Q Okay.

26 A I don't think I had reached the year benchmark,  
27 but close, close to a year.

28 Q I have some understanding that there is a process  
29 that Security follows after the last international  
30 departure has sort of gone through the -- the  
31 Customs and screening process. Is that something  
32 you recall having done on the 14th?

33 A Which are you referring to? Are you referring  
34 to...

35 Q Well, I guess I'll take it back. We've heard that  
36 at one -- at the time that the call came in from  
37 the elevator 40 guard to Mr. Byl, am I correct you  
38 were on break with Trevor Enchelmaier?

39 A Yeah. Yes.

40 Q And Sid Arora?

41 A Yes.

42 Q And Fabian D'Sa?

43 A Yes.

44 Q And am I correct that that's fairly typical that  
45 at sometime between 1:00 and two o'clock in the  
46 morning, depending on what you're doing, you try  
47 to meet up for a bit of a briefing?

Lance Rudek

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

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

1 A Yeah. Yes, one -- and anywhere, anywhere, really,  
2 between 1:00 and 2:00 a.m. is -- is a relatively  
3 excellent time to have a -- to have a little sit  
4 down and a debrief with -- with what's happened  
5 with -- with your shift so far, if there's been  
6 any extraordinary events, or if there's been  
7 anything you have to keep an eye out for, or  
8 anything like that.

9 Q Okay.

10 A And, yeah, it's just because -- because of certain  
11 functions at the airport closing down and no  
12 longer being -- being used and airport traffic  
13 being at its most minimal that it can be, it's --  
14 it's perfect, just almost perfect at that time.  
15 And there are times that we're called away to --  
16 to deal with -- to deal with problems, whether  
17 it's employees or passengers, but it's not every  
18 time do we get to take our break between 1:00 and  
19 2:00, but --

20 Q Okay.

21 A But most of the time it's an excellent time.

22 Q Okay. Am I correct that that night you were  
23 working outside?

24 A Yes, I was the -- I was what is referred to as the  
25 -- as the ramp patroller. I was working outside,  
26 where my -- the majority of my duties consist of  
27 outside on the -- on the airfield, not -- not  
28 inside any of the terminals.

29 MR. STEWART: Okay. Those are my questions, Mr. Rudek.  
30 Thank you. There may be questions from other  
31 lawyers for you.

32

33 CROSS-EXAMINATION BY MR. KOSTECKYJ ON BEHALF OF ZOFIA  
34 CISOWSKI:

35

36 Q Walter Kosteckyj, counsel for Zofia Cisowski.

37 A Yes.

38 Q Sir, you've just told us that you were posted  
39 outside on the airfield, correct?

40 A Yes, I did.

41 Q Well, was there somebody that was posted inside  
42 that whose job it was to rove around the airport  
43 and keep an eye on security?

44 A Yes, there was.

45 Q Who was that?

46 A I do not recall who it was. It would have been  
47 one of the other -- there's only -- on a regular

1 shift there's only three patrollers on, on duty:  
2 one for outside, one for the Domestic Terminal and  
3 one for the International Terminal.  
4 Q Who -- who was the rover for the International  
5 Terminal?  
6 A I cannot recall.  
7 Q Well, you've had the occasion to review your  
8 statements. You've had the occasion to be  
9 interviewed about this numerous times. Has that  
10 not come up?  
11 A I can't recall exactly if it was. I don't -- I  
12 don't want to guess. I don't feel comfortable  
13 guessing. So I could throw a name out, but I  
14 would be guessing, and --  
15 Q Well, who's your best guess as to who was supposed  
16 to be in there?  
17 A I'm --  
18 THE COMMISSIONER: I don't think it's going to do us  
19 much good.  
20 MR. STEWART: The next --  
21 MR. KOSTECKYJ: That's fine, I'll pass.  
22 MR. STEWART: Mr. Arora is the patroller in the list of  
23 witnesses. I don't see how this an issue of  
24 credibility. Mr. Kosteckyj will find out who it  
25 was that was doing -- he's going to speak to each  
26 of the patrollers that were on that night.  
27 They're all witnesses in the proceeding.  
28 MR. KOSTECKYJ: All right.  
29 MR. STEWART: I'm not sure why it means anything that  
30 Mr. Rudek remembers.  
31 MR. KOSTECKYJ: Well, that's fine.  
32 Q Now, have you ever done the job in the -- in the  
33 main -- in the Departure -- or, sorry, in the  
34 International Terminal?  
35 A Yeah.  
36 Q Worked as the roving security guard there?  
37 A Yes.  
38 Q And is there a pattern that you're supposed to go  
39 through? Are there checkpoints you're supposed to  
40 do?  
41 A There's certain functions you have to do  
42 throughout the night. You don't have to do them  
43 in any -- in any particular order. You -- your --  
44 you're free to carry out your duties as best you  
45 see fit.  
46 Q Okay. There's nobody -- I'm thinking back to my  
47 old days in working in the mills and there would

Lance Rudek

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

- 1 be a watchman that would go around and have to  
2 check in at various spots. That's not necessary?  
3 A There's -- yes, there's checks we have to do, but  
4 there's no given timeframe as to -- as to when  
5 they have to be completed. You have -- you have a  
6 12-hour shift. They could be completed any time  
7 in your 12-hour shift.  
8 Q All right. Now, you've -- as your counsel's  
9 alluded to, you've given a couple of statements in  
10 respect of this matter, correct?  
11 A Yes.  
12 Q You gave one statement to Constable Bentley on  
13 October the 14th, the same -- same night as the  
14 events occurred?  
15 A Yeah.  
16 Q At -- and it says at 2:20 -- 2:21 in the morning.  
17 Sorry?  
18 MR. BUTCHER: (Indiscernible - away from microphone).  
19 MR. STEWART: Sorry?  
20 MR. BUTCHER: There was two.  
21 MR. STEWART:  
22 Q My friend's right. You gave an original statement  
23 at 2:21 to Constable Bentley, correct?  
24 A Yes.  
25 Q On a tape recording. I gather it was a tape-  
26 recorded conversation?  
27 A Yes.  
28 Q And then you gave him a supplemental statement at  
29 2:27.  
30 A I recall giving one statement with a tape recorder  
31 and -- and I don't remember giving a second with  
32 the second tape recorder.  
33 Q I'll actually pass up two of the statements to  
34 you, but let's take a look first at the one with  
35 Constable Bentley. Do you see that?  
36 A It does not say Bentley on it, but -- yes. Yes,  
37 there it is. Yeah.  
38 Q Do you see it?  
39 A Yeah.  
40 Q And it's made of three pages, correct?  
41 A Yeah.  
42 Q And you see that on the bottom of the first -- of  
43 the second page, it looks like we're concluding  
44 the statement and it says 2:21 in the morning,  
45 02:21.  
46 A Yes.  
47 Q And then it says "Supplemental statement" on the

1 last page, do you see that?

2 A Yeah.

3 Q And it looks like you went back and you had some  
4 -- some supplemental, some extra things to tell  
5 Constable Bentley, and that was at 2:27 in the  
6 morning, 02:27.

7 A Yes.

8 Q Okay. Now, when you were giving these statements  
9 it was -- these are the first statements you gave  
10 to anybody in the immediate aftermath of what you  
11 had seen, correct?

12 A Yeah.

13 Q Nowhere in those statements do you talk about a  
14 stapler, did you? Have a moment to reflect and  
15 read through them.

16 A Yeah, I -- I haven't -- I haven't ever seen these  
17 statements before, so...

18 Q Well, take a moment to read them. I don't want to  
19 put words in your mouth that you're not happy  
20 with.

21 A Okay. Well, the reason -- the reason there's not  
22 a stapler mentioned in this -- in this -- in this  
23 statement is because if you notice where the  
24 statement first concludes the first time, I had  
25 only finished talking about -- I had only finished  
26 talking about when he was -- when he was throwing  
27 the chairs and the computer. That's when --  
28 that's what I finished talked about. And then --  
29 and then the officer asks me, did he appear to be  
30 alone. I say yes. And then basically the  
31 statement's concluding, the statement's ending.  
32 So I didn't -- I didn't -- I didn't get a chance  
33 when I was giving the statement, I didn't get a  
34 chance to -- to go that -- to go that deep into --  
35 into everything. It was -- it was the other  
36 statement with -- with Mangan that I was able to  
37 give a full -- a full statement. This one -- this  
38 one ended very shortly. He -- he talked to me for  
39 -- not for a long duration of time. I don't -- I  
40 can't put a time limit on it because I wasn't  
41 mesmerizing my watch, but it was not a very long  
42 statement. I was able to give a full statement --  
43 to the other one.

44 Q Okay. Do you see the statement, the beginning of  
45 it, where Constable Bentley says to you that he's  
46 speaking with Lance Rudek and he says to you, do  
47 you see that, Constable Bentley's, October 14th at

1 the beginning of it, he says:

2

3 This is Constable Bentley of the Richmond  
4 RCMP.

5

6 A Yeah.

7 Q Gives his regimental number.

8

9 I'm currently speaking with a witness, Lance  
10 Rudek. We're currently at the Vancouver  
11 International Airport, ITD Arrivals level.  
12 The date is Sunday, October the 14th, of 0219  
13 hours. Richmond Police file number...

14

15 And then he goes on:

16

17 The caption on the file right now is  
18 "Mischief".

19

20 Do you see that?

21

22 A Yeah.

23

24 Q And he says to you:

25

26 Please tell me what you observed tonight?

27

28 Then it's:

29

30 (Indiscernible), please, uh, tell me your  
31 observations and involvement in this  
32 investigation tonight.

33

34 Correct?

35

36 A Yeah.

37

38 Q And he -- so he's asking you to go forward and  
39 give your narrative about what you saw, correct?

40

41 A Yeah. Yes.

42

43 Q Nowhere in that narrative did you talk about a  
44 stapler, correct?

45

46 MR. HIRA: Mr. Commissioner, with respect, the  
47 statement makes it quite clear:

48

49 The caption on the file right now is  
50 "Mischief".

51

52 THE COMMISSIONER: We'll let the witness answer the  
53 question.

54

55

1 MR. STEWART:

2 Q In the narrative when you were asked to give your  
3 observations and involvement in the investigation  
4 tonight, did you talk about a stapler?

5 A No, I did not.

6 Q All right. And then you had the opportunity to go  
7 back and talk to the constable because you gave  
8 the supplemental statement about things you  
9 thought were important, correct?

10 A That's correct.

11 Q And nowhere there did you talk about a stapler?

12 A That's correct.

13 Q All right. Now, you gave a subsequent statement  
14 at five o'clock in the -- 5:04, and you've got  
15 that there, as well, correct?

16 A Yes, I do.

17 Q And that's when you did speak about the stapler?

18 A Yes, I did.

19 Q All right. Now, did you know that it was a  
20 stapler when you first saw it?

21 A Not -- not right at first.

22 Q Okay. When we saw the -- when the police officers  
23 were walking in, do you recollect seeing that a  
24 little earlier? It was played for you a little  
25 earlier, the Pritchard tape.

26 A Not -- not when they were walking -- no, when they  
27 were walking in and I was trying to talk to -- to  
28 Dziekanski?

29 Q No, before -- after that, when the police officers  
30 were coming in, do you recollect that you were  
31 walking towards them and away from Mr. Dziekanski?

32 A Yes.

33 Q Well, did you maintain that position, that you had  
34 stepped away and walked away from Mr. Dziekanski?

35 A To greet the officers, yes.

36 Q Did you -- did you stay there or did you turn  
37 around and go back towards the officers?

38 A I turned around and -- and went towards the  
39 officers and stayed at that -- stayed at that  
40 stanchion. I was explaining to you guys earlier.

41 Q Okay. Now, didn't the issue about the stapler  
42 really first come up when Mr. Enchelmaier came  
43 later and he found the stapler on the floor?

44 A That's the first time it was -- it was talked  
45 about, saying that somebody -- I don't recall who,  
46 but somebody had asked "What's the stapler doing  
47 on the floor?" And I don't remember if I answered

- 1 or if somebody else answered, but it was  
2 determined that Dziekanski had it and it was in  
3 his possession.
- 4 Q But isn't that the first time in all honesty that  
5 the stapler was discussed was after Mr.  
6 Enchelmaier found it on the floor?
- 7 A It was discussed, not seen.
- 8 Q Right. And he didn't -- you've told my learned  
9 friends when they were examining you in chief that  
10 you didn't remember seeing Mr. Enchelmaier in  
11 there when you were first in the IRL after the  
12 incident occurred, correct?
- 13 A That's correct.
- 14 Q Did you remember seeing Mr. Enchelmaier after you  
15 returned? I don't remember if you had mentioned  
16 his name as one of the people involved as being in  
17 there.
- 18 A I believe he was, but I'm not 100 percent sure, so  
19 like I said, if guessing is not accurate for me, I  
20 don't feel comfortable guessing.
- 21 Q So is it conceivable that Mr. Enchelmaier came in  
22 after the ambulance attendants arrived and found  
23 the stapler?
- 24 MR. STEWART: If this witness has no -- I think the  
25 witness is being very fair. He can't place where  
26 Mr. Enchelmaier is. Mr. Enchelmaier is coming and  
27 Mr. Kosteckyj can ask Mr. Enchelmaier that, rather  
28 than us trying to guess through this witness. He  
29 said he has no recollection of whether he saw him  
30 or not.
- 31 THE COMMISSIONER: Well, you can probe that, but not  
32 speculate.
- 33 A Yeah.
- 34 MR. KOSTECKYJ:
- 35 Q Well, you don't remember Mr. Enchelmaier being in  
36 the room -- you don't have a specific recollection  
37 of him being in the room when you came back from  
38 Customs?
- 39 A I would believe he was, but I'm not 100 percent.
- 40 Q Okay.
- 41 A So...
- 42 Q Well, in your statement, if you take a look at  
43 page 6.
- 44 A Yes.
- 45 Q You talk about the fact that the Richmond Fire  
46 Department and the BC Ambulance Service are --  
47 were getting there when you got back. This is

1 when you got back the second time, correct?

2 A Yeah.

3 Q And you said: "And, as they were doing CPR".

4 A Yes.

5 Q In the second answer. And then you talked about

6 "after that I was just" -- do you see that?

7 Constable Mangan asked you to go on, and you say

8 -- "Okay."

9

10 Uhm, (sighs), and then after uh, after that I  
11 was just, uhm, ever since then I've just been  
12 making sure, uhm, employee's are stay well  
13 away and passengers don't come in this way.

14

15 And Constable Mangan answers "Okay." And then he  
16 says "Uhm..." and you go on:

17

18 Uhm, and stuff like when uh, when Trevor  
19 found the, found the stapler, I saw him, I  
20 saw him find that and pick that up. Uhm,  
21 (sighs), I don't know if there's anything  
22 else I have to add.

23

24 So is it fair to assume from that that Mr. Edelman  
25 (sic) didn't -- or Edelman didn't find the stapler  
26 till --

27 A Enchelmaier.

28 Q Enchelmaier, sorry, until after the BC Ambulance  
29 and after the Richmond Fire Department had  
30 arrived?

31 A In all fairness, I think they were more focused on  
32 Dziekanski than the stapler. So it's quite  
33 possible that that happened, but...

34 Q Well, that's the sequence you're giving there,  
35 isn't it, in your statement?

36 A I -- I remember seeing Trevor pick it up. I don't  
37 know what time he picked it up.

38 Q Well, look, you gave this statement at 5:05, I  
39 think it was. Let me just check that. It says  
40 you gave it at 5:04 on October the 14th, correct?

41 A Yes.

42 Q And at the time that you gave that statement is a  
43 few hours after the events, correct?

44 A Yes.

45 Q And when you were asked about the sequence of what  
46 you were seeing, that was the sequence that you  
47 gave to the police officer, correct?

- 1 A Yes.
- 2 Q You were remembering things in the sequence -- you  
3 were telling him about the sequence of what you  
4 remembered seeing. Am I being fair?
- 5 A Yeah.
- 6 Q All right. Are you certain that you ever saw the  
7 stapler before Mr. Enchelmaier picked it up and  
8 pointed --
- 9 A I am 100 percent certain.
- 10 Q Okay. Now, prior to the tasering.
- 11 A Yes.
- 12 Q You saw a stapler.
- 13 A Yes.
- 14 Q You were very specific with us. You said that you  
15 saw the man wave it around.
- 16 A Yes.
- 17 Q Can you stand and show us what you recollect of  
18 him waving it around?
- 19 A Yes, I can. He stood there and he was (gesturing)  
20 with his right hand and he was waving it like this  
21 (gesturing). And then after a few swings of that,  
22 he was holding it like this (gesturing) and he was  
23 -- and he was pushing, the stapler was -- was  
24 lengthwise, and he was squeezing the top of it  
25 having the staples fall out -- fall out of the, I  
26 don't know what you call the top of the stapler,  
27 but the top of the stapler.
- 28 Q Okay. So you're indicating, your arm is in front  
29 of your -- is it towards your chest or your  
30 stomach?
- 31 A It's in front of me.
- 32 Q Okay. And you can have a seat, sir. And did he  
33 wave it for the length of time that you've showed,  
34 that you've demonstrated there, that four or five  
35 seconds or ten seconds?
- 36 A And anywhere between one and four seconds.
- 37 Q Okay. Did you ever see anybody, any police  
38 officers say to him "Put it down"?
- 39 A I -- I remember seeing them make gestures with  
40 their hands saying -- saying, you know, down. I  
41 don't know if they were saying "put things down"  
42 or if they were saying "relax", but it was calm.  
43 It was a motion downward and ensuing one of the  
44 two, either put things down or calm down. And I  
45 do not -- there were so many voices, so many  
46 sounds, radio communication, I -- I couldn't -- I  
47 couldn't tell you what was said. I couldn't -- I

1           couldn't distinguish what was being said from the  
2           officers to -- to Dziekanski. There was too many  
3           sounds in the area, I couldn't tell you.  
4        Q     Are you sure that you saw anybody gesture to him  
5           to put it down?  
6        A     I am 100 percent certain.  
7        Q     Let's play the Pritchard video number 2 from the  
8           beginning, and I want you to show us or tell us  
9           when it is that you see these motions for the  
10          police officers telling Mr. Dziekanski to put the  
11          stapler down.

12  
13                           (VIDEO BEING PLAYED)

14  
15       MR. KOSTECKYJ:

16       Q     You wanted to say something, sir?  
17       A     Well, the camera goes away from them, so you're --  
18           there was a couple of seconds where you're out of  
19           sight of them. But -- but a couple of the  
20           officers standing closer to the wall, you could  
21           see -- you could see their hands out in front of  
22           them and you could see they're -- they're like  
23           this, meaning either put it down, or calm down,  
24           and...  
25       Q     Let's go back for a second. He didn't have the  
26           stapler at this point, did he? Let's go back.  
27       A     The first time I recall seeing it was when he was  
28           swinging it. Before that I did not -- I did not  
29           see the stapler.  
30       Q     Do you see him -- did you see his hands, Mr.  
31           Dziekanski's hands?  
32       A     Yes, I do.  
33       Q     Do you see a stapler in his hands?  
34       A     Not that I could recognize, no.  
35       Q     All right. And you'll agree with me that up until  
36           now he hasn't swung any stapler?  
37       A     I will agree, yeah.  
38       MR. KOSTECKYJ: All right.  
39       MR. BUTCHER: Can we have a time for when that is?  
40       DR. PERRA: 3:38.  
41       MR. BUTCHER: Thank you.  
42       MR. KOSTECKYJ: Okay. Just move it forward.  
43                           Stop there.  
44       Q     Did you see the police officer motioning for him  
45           to go towards the desk?  
46       A     I see the one on the second to the right?  
47       Q     Right.

1 A Or second to the left, sorry.

2 MR. KOSTECKYJ: Right. So you see that. Okay.

3 Play it forward.

4 Stop.

5 Q Prior to that did you see any police officers  
6 motioning for him to put down the stapler?

7 A No, I didn't. I think -- my -- my recollection is  
8 I think they were in about as much shock as -- as  
9 I was, watching him do that. I think they were  
10 just kind of -- just kind of...

11 Q Well, reflecting back on it, sir, can you honestly  
12 say that you saw anybody motioning for him to put  
13 the stapler down?

14 MR. STEWART: I don't -- I don't think that that's ever  
15 been --

16 THE COMMISSIONER: No, let the witness answer.

17 MR. STEWART: -- this witness's evidence. He's  
18 described a physical gesture down. He can't  
19 associate words with it, just that he saw --

20 THE COMMISSIONER: We'll sort it out.

21 MR. STEWART: Okay.

22 MR. KOSTECKYJ:

23 Q Sir, did you observe at any time the police  
24 officers gesturing to Mr. Dziekanski to put the  
25 stapler down, on that -- anywhere on that tape?

26 A No, I did not.

27 MR. KOSTECKYJ: Okay. You can shut the tape off.

28

29 (VIDEO STOPPED)

30

31 MR. KOSTECKYJ:

32 Q After the incident you walked into the IRL,  
33 correct?

34 A Yes.

35 Q You had discussions with Mr. Enchelmaier, correct,  
36 at some point?

37 A I -- sure, I cannot recall, but --

38 Q Well, you remember discussions about the stapler  
39 when he found that?

40 A Yes. I'm sure at some point in the IRL I talked  
41 with Trevor, yes.

42 Q And that was before you gave your statement to the  
43 police, correct?

44 A Correct.

45 Q And so there were discussions about this stapler  
46 that Mr. Enchelmaier found on the floor before you  
47 talked to the police?

- 1 A Yeah, I can't remember what they were or how we  
2 discussed it, but, yes, I'm sure there was.
- 3 Q Well, if I --
- 4 A I don't remember the exact words said, but, yes,  
5 I --
- 6 Q Well, let's talk about this. Did you talk to  
7 Constable Bentley first at 2:24 and 2:27?
- 8 A Well, you know I didn't. Oh, Bentley, yes. Yes,  
9 I did.
- 10 Q Yes.
- 11 A Sorry. I'm getting them mixed up.
- 12 Q You spoke to him at about -- we have no reason to  
13 believe that you didn't speak to him at about 2:24  
14 or 2:27, correct?
- 15 A That's correct.
- 16 Q And it was after that that the ambulance people  
17 arrived, correct, or, sorry, the firefighters?
- 18 MR. STEWART: Is Mr. Kosteckyj saying that it was after  
19 2:24 that the firefighters arrived?
- 20 MR. KOSTECKYJ: Oh, sorry. Okay.
- 21 MR. STEWART: I don't think that's correct, and I don't  
22 think he means that, but that's the way it...
- 23 MR. KOSTECKYJ:
- 24 Q Do you recollect when in the sequence when you  
25 spoke to Constable Bentley. Was it before or  
26 after the firefighters arrived?
- 27 A There was -- it was of course after.
- 28 Q Okay. Now, do you think you spoke with Constable  
29 Bentley and then had discussions about the stapler  
30 before you gave your second statement, discussions  
31 with Mr. Enchelmaier?
- 32 A No, I cannot recall any.
- 33 Q Now, when you arrived at the scene shortly  
34 thereafter, you knew that Mr. Dziekanski didn't  
35 speak English?
- 36 A Sorry, can you say that again?
- 37 Q Well, shortly upon arriving or pretty much  
38 immediately upon arriving at the scene you knew  
39 that Mr. Dziekanski didn't speak English?
- 40 A I -- I can tell there was a language barrier. To  
41 what depth it was, I -- I had no idea at that  
42 point.
- 43 Q Well, here's what you were told. You showed up.  
44 We saw on the video that you talked to four  
45 people, including the limo driver, correct?
- 46 A Yeah.
- 47 Q So wasn't it relayed to you immediately that he

1 doesn't speak English?

2 A They said to me that he didn't speak English, but  
3 I -- I was taking that information for what it was  
4 worth from a bystander, and then I was going to  
5 assess it myself.

6 Q Okay. So within a few seconds, or 10 or 15  
7 seconds, you got up there and you in fact did come  
8 to the conclusion that he didn't speak English,  
9 correct?

10 A Yes. He either -- he either didn't speak English  
11 or he spoke very little, yes.

12 Q Well, I'm taking you to page 2 of your statement  
13 to Constable Mangan. And you say at the top of  
14 the page:

15  
16 And, I, he was, when I arrived here he was,  
17 he was on this, this side, this side being  
18 the, the Airline side of this area, which is  
19 called the (INDECIPHERABLE), uh, more  
20 specifically he was right on the other side  
21 of the door of a twenty three twenty one.

22  
23 And then he says: "Okay".

24  
25 Which leads right into the aisle, --

26  
27 - is your answer -

28  
29 -- I walked up to about ten feet to the door  
30 twenty three twenty one, --

31  
32 I'm assuming that refers to the door number?

33 A That's correct.

34 Q  
35 -- and I was trying to speak to him. The  
36 door has an automatic sensor on it and as he  
37 was moving about, uhm, grabbing the computer  
38 system...

39  
40 Correct?

41 A That's correct.

42 Q  
43 ...he was, he was setting off the door to go,  
44 to open and close, open and close, so I was  
45 able to, to talk with him through there and I  
46 was trying to tell him to calm down, put the  
47 computer down and, as I was doing that he

Lance Rudek

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

1                   stopped for a brief second, looked at me and  
2                   then spoke something in Russian, Polish, and  
3                   I, I couldn't tell what language it was but I  
4                   could tell it was, it was uh, Eastern  
5                   European of, of some sort.  
6

7                   Right?

8           A        Correct.

9           Q        So within a very short period of time, possibly  
10                   seconds of meeting Mr. Dziekanski, you came to the  
11                   conclusion that he spoke Russian or some other  
12                   Slavic language, correct?

13          A        Correct.

14          Q        Now, you were in radio communication, I take it.

15          A        Correct.

16          Q        And you carry a radio with you.

17          A        Correct.

18          Q        And who were you in radio communication with?

19          A        Security Operations Centre, SOC.

20          Q        And were you also in communication with -- with  
21                   anybody from the airport?

22          A        Not radio communication, no.

23          Q        Were you in radio communication with other members  
24                   of the security team, like Mr. Enchelmaier?

25          A        Yes.

26          Q        Well, did you relay to them that you've got a non-  
27                   English speaking person?

28          A        I was more concerned with the security of the  
29                   matter. I was more concerned with the public  
30                   safety than once the public safety is dealt with,  
31                   then I can focus on helping an individual out and  
32                   helping decide, you know, if he needs a translator  
33                   or -- or what an individual needs, but when I was  
34                   assessing the scene I was more concerned about the  
35                   security of the -- of the building and the public.

36          Q        Well, let's talk about that for a second. He was  
37                   in the IRL, correct?

38          A        That's correct.

39          Q        He was behind glass doors, correct?

40          A        That's correct.

41          Q        There was no one else in behind the glass doors,  
42                   correct?

43          A        That's correct.

44          Q        And you told us that in your examination in chief.  
45                   You knew all those three factors.

46          A        That's correct. That's why I was standing where I  
47                   was standing.

- 1 Q Right. So that he wouldn't come out and pose what  
2 you thought was a security risk?
- 3 A That's right.
- 4 Q So now you know he doesn't speak English, didn't  
5 you communicate that to somebody?
- 6 A To an RCMP member when they were getting on scene.
- 7 Q No, before that. Did you not communicate that  
8 through your radio contact to the SOC or to Mr.  
9 Enchelmaier?
- 10 A No, I did not.
- 11 Q You're sure of that?
- 12 A Pretty sure. I don't believe I communicated that  
13 to my dispatch or to Trevor.
- 14 Q Well, the thing is that everyone around you, we  
15 can hear the voices on the tape saying, "He  
16 doesn't speak English. He speaks Russian." You  
17 remember hearing that.
- 18 A Yes, I do.
- 19 Q Don't you think you communicated that?
- 20 A Like I said, it was not my main focus at the time.  
21 My main focus was the security of the people and  
22 the facility.
- 23 Q Well, you know, pardon me for saying this, but it  
24 -- it seemed like you approached this fairly  
25 casually. You walked up, you saw --
- 26 A That was the approach I was going for. I didn't  
27 see the need to go in all gung ho and...
- 28 Q Well, I'm -- I'm not criticizing you for not going  
29 in gung ho, I'm just saying that you --
- 30 A Okay.
- 31 Q -- came upon the scene. You had a brief  
32 conversation with the guy, determined that he  
33 couldn't speak the language, and from what I could  
34 see on the tape you essentially turned your back  
35 on him. You looked -- you turned around and  
36 turned away from him and --
- 37 A I turned my back to talk to a coworker. I didn't  
38 turn my back on him. I knew where he was. I  
39 didn't -- I didn't turn my back on him. I turned  
40 my head to talk to a coworker.
- 41 Q Well, you actually --
- 42 A If I was turning my back on him, I would have  
43 turned all the way around.
- 44 MR. KOSTECKYJ: Okay. Well, let's cue up the tape  
45 again to the point where this gentleman first  
46 comes in. I think it's one minute and 30 seconds.
- 47 DR. PERRA: Yes.

1 (VIDEO BEING PLAYED)

2  
3 A I'm watching the (indiscernible - overlapping  
4 video) but I'm keeping my focus on him at the same  
5 time.

6 MR. KOSTECKYJ:

7 Q You weren't afraid of him.

8 A Not from that distance, but I was hesitant to go  
9 into the IRL with him the way -- with his -- with  
10 the description I gave of him. I -- it's been my  
11 experience that when people have a description  
12 like that they're -- they're not the most  
13 friendly.

14  
15 (VIDEO STOPPED)

16  
17 MR. KOSTECKYJ:

18 Q Well, now, you didn't have any concern that he was  
19 coming out of the IRL, did you?

20 A I was concerned if -- I was concerned if he did.  
21 I wasn't -- I wouldn't feel comfortable if he came  
22 out of the IRL.

23 Q Yeah, but you -- sorry, but my question was you  
24 weren't thinking he's coming out of the IRL.

25 A That was one of my thoughts.

26 Q Well, he had chairs surrounding himself, right?

27 A Then it's not a brick wall, they're easily moved.

28 Q Yeah, but he looked like somebody that was  
29 standing there protecting himself, correct?

30 A With those chairs, I honestly don't know what -- I  
31 honestly wouldn't presume to know what he was  
32 doing with -- with the chairs. I don't -- don't  
33 know where his train of thought was going.

34 Q Okay. Well, the man looked fatigued to you,  
35 didn't he?

36 A He did.

37 Q Now, let's talk about afterwards when Mr.  
38 Dziekanski was down on the ground.

39 A Okay.

40 Q From the time he was down on the ground to the  
41 time that he stopped moving, physically stopped  
42 moving, do you have any notion of how long that  
43 was?

44 MR. STEWART: To be fair, I think that this witness's  
45 evidence was that he left before he'd stopped  
46 moving. He was clearly asked that by Mr.  
47 Vertlieb, that when he went to the -- so he

Lance Rudek

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

1           wouldn't be able to answer that.

2       MR. KOSTECKYJ:

3       Q     Do you adopt your --

4       MR. STEWART: He can speak to what happened earlier.

5       MR. KOSTECKYJ:

6       Q     Do you adopt what your counsel is telling us here?

7       A     Yep.

8       Q     All right. And the reason I asked you that is  
9           because other witnesses who have testified before  
10          you have indicated that there seemed to be a  
11          relatively quick period of time between the time  
12          he changed colour and the time that he was down on  
13          the ground. Do you have a recollection of that?

14      A     The only recollection I have is that when he was  
15          -- when he was taken down to the ground, by my  
16          point of view I was able to see -- I was able to  
17          see his legs, and when a couple of officers  
18          adjusted their position I was then able to see his  
19          hands. And I don't know if it was due to the --  
20          due to the -- due to the restraints or due to --  
21          due to whatever other circumstances, but his --  
22          his hands did look discoloured.

23      Q     All right. Well, let me take you to page 5 of  
24          your statement, and actually we should probably  
25          start at the bottom of page 4. And I'm looking at  
26          the bottom:

27

28                   And uh, and once RCMP ...

29

30                   ...had him on the ground, uhm...

31

32                   Do you see that part?

33      A     Are we on page 4, or...

34      Q     Yes. It's about a third of the way up from the  
35          bottom.

36      A     Where it says "And uh" --

37      Q     "And uh, and once RCMP ..."

38      A     -- and once RC" -- yeah.

39      Q     And then you go on to say:

40

41                   ...had him on the ground, uhm ...

42

43                   ...I noticed, uhm, he was laid down on his  
44          stomach, handcuffs, uh, handcuffs on, on his  
45          hands, hands behind his back.

46

47

1                   And Constable Mangan:

2  
3                   How did the RCMP get him to the ground?

4  
5                   Uhm, it, it looked to me, I, uh, maybe two,  
6                   maybe two of em ...

7  
8                   ...two of em had, had finally positioned him,  
9                   he was, he was putting up a fight. Eve, even  
10                  while he was being tazored and, and two or  
11                  three of em, that took them, took them a  
12                  couple of seconds to get him, to get him on  
13                  the ground, and it didn't, and it didn't look  
14                  easy, didn't look like it, it was an easy  
15                  job.

16  
17                  Kay.

18  
19                  Uhm, so once they had him on the ground, uhm,  
20                  like a, he, he was, he was still breathing,  
21                  he was still, once they had him on the ground  
22                  he was still alive and breathing and, I  
23                  imagine a pulse, and uh, it wasn't until  
24                  maybe five or ten minutes or so after that,  
25                  that, that he uh, I noticed, I noticed uh, uh  
26                  the Constables uh, breaking off of him. And  
27                  uh, and, and then I noticed only one, uhm,  
28                  sitting, sitting by his uh, sitting more  
29                  towards, more towards his, his upper body.  
30                  Uhm, and it looked to me that he was, he was  
31                  monitoring, monitoring his breathing and, and  
32                  his pulse.

33  
34                  Kay.

35  
36                  Is the answer from Constable Mangan. And you go  
37                  on:

38  
39                  And shortly after that, I noticed his uh,  
40                  because he was still laying on his stomach at  
41                  that point, with the, with the head to uh, to  
42                  his left side, uhm, I noticed uh, the hands  
43                  on the back, the hands started to loose ,  
44                  started to loose their color.

45  
46                  Do you see that, sir?

47                  A        Yes, I do.

1 Q So you had not left yet to go back to the Customs  
2 Hall when you observed that Mr. Dziekanski was  
3 already starting to lose his colour.  
4 A His -- his hands looked a little discoloured. I  
5 couldn't tell from the distance I was at, I  
6 couldn't tell if it was from handcuffs or from --  
7 or from anything else.  
8 Q Well, look, do you want to correct your answer,  
9 sir? Was it at this point that he stopped that  
10 you didn't see him moving any longer?  
11 A No, I'm pretty -- I'm pretty sure I remember  
12 seeing toes move and feet still moving at this  
13 point.  
14 MR. STEWART: In fairness, I don't think what you read  
15 to him is in any way inconsistent with what his  
16 evidence has been. I'm not sure what he's  
17 correcting. He's indicated that he left to go to  
18 Customs for five minutes and then he came back.  
19 I'm not -- I don't understand -- I'm not following  
20 what the correction is, or the inconsistency is.  
21 MR. KOSTECKYJ: Well, quite simply --  
22 MR. STEWART: And I don't know if the witness does.  
23 MR. KOSTECKYJ:  
24 Q Well, quite simply I'm just pointing out that the  
25 witness saw the takedown and saw that the man  
26 started -- his hands started to change colour  
27 before he left the scene. Is that an -- does that  
28 -- that's what's being depicted here, is it not,  
29 sir?  
30 A Yes.  
31 MR. KOSTECKYJ: All right.  
32 THE COMMISSIONER: No, that's what he's saying and he's  
33 always said that.  
34 MR. STEWART: And that's consistent with what he's  
35 always said.  
36 THE COMMISSIONER: Yes, fine.  
37 MR. KOSTECKYJ: Okay.  
38 MR. STEWART: I'm not sure then what the suggestion of  
39 a correction was.  
40 THE COMMISSIONER: Well, we're much past that now.  
41 MR. STEWART: Okay.  
42 MR. KOSTECKYJ:  
43 Q Now, you didn't actually see anybody take his  
44 pulse, did you, when he was down on the ground?  
45 A No, I did not.  
46 MR. KOSTECKYJ: Thank you, those are my questions.  
47 A Thank you.

Lance Rudek

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

1 MS. ROBERTS: (Indiscernible - away from microphone)  
2 Mr. Commissioner, or do you want to take the  
3 break.

4 THE COMMISSIONER: All right, this would be a good  
5 time.

6  
7 (WITNESS STOOD DOWN)

8  
9 THE REGISTRAR: The hearing will recess for ten  
10 minutes.

11  
12 (PROCEEDINGS ADJOURNED FOR AFTERNOON RECESS)  
13 (PROCEEDINGS RECONVENED)

14  
15 THE REGISTRAR: The hearing is resumed.

16  
17 LANCE RUDEK, a witness,  
18 recalled.

19  
20 MR. KOSTECKYJ: Mr. Commissioner, I wanted to seek the  
21 indulgence to ask before my friend started, two  
22 additional questions, if I might be permitted.

23 THE COMMISSIONER: Yes, go ahead.

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

27  
28 Q I just wanted, sir, to know what your position  
29 was. Were you in the IRL when you saw this  
30 gentleman's hands change colour?

31 A Yes.

32 Q And do you have a sense of how far away you were  
33 from where Mr. Dziekanski was laying at that time?

34 A I can guess, I don't know the exact measurement,  
35 but I would say between 15 and 20 yards.

36 Q Okay. And is it correct that you thought that he  
37 was between five-foot-seven and five-foot-ten  
38 inches tall?

39 A That's correct.

40 Q And you gauged that by your own height?

41 A That's correct.

42 Q And what is your height, sir?

43 A Five-eight.

44 MR. KOSTECKYJ: Thank you, those are my questions.

45  
46  
47

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

3

4 Q Mr. Rudek, my name is Helen Roberts. I'm a lawyer  
5 for the Government of Canada. I have a few  
6 questions for you. I don't believe anybody's  
7 asked this yet, but why is it that you attended  
8 the IRL door that night?

9 A In the first place?

10 Q Yes.

11 A To -- to help, to assist.

12 Q Were you dispatched to that location?

13 A Yes and no. I was -- during our -- our break  
14 period we were -- we were sitting down with our  
15 coffee break and we heard these calls coming in  
16 over the radio, and I had -- I had asked my  
17 supervisor if he thinks it's all right if I -- if  
18 I go, and he acknowledged. And so myself and  
19 another patroller, we went.

20 Q What kind of incident did you understand that you  
21 were going to?

22 A I understood I was going to a -- to an aggravated  
23 individual who -- who was upset and who was -- and  
24 who was -- and who was upset.

25 Q All right. When you go there what was Mr.  
26 Dziekanski doing?

27 A Well, I --

28 Q Or shortly after you got there. I mean, what was  
29 he doing?

30 A He was breaking airport property.

31 Q In your statement you made some observations about  
32 how he moved. Do you remember now how he moved,  
33 or would it be helpful for me to point you to  
34 portions of your statement?

35 A I -- yeah, I think I have a good recollection  
36 of...

37 Q Could you tell the Commissioner how -- how he  
38 moved?

39 A His -- his movements were -- were fluid, but they  
40 were -- they were fluid, but at the same time when  
41 he was -- when he was picking things up it was --  
42 watching him do these things you didn't -- you  
43 were unsure as to whether or not he was going to  
44 -- he was going to be able to pick it up  
45 successfully, or if he was going to fall over in  
46 the -- in the attempt of trying to pick it up. So  
47 his movements were fluid, but they were also just

1 kind of -- you didn't know which way it was going  
2 to go.

3 Q How was his walking?

4 A His walking was -- his walking was normal, I would  
5 suppose, but having -- with the way he was walking  
6 you could tell he was aggravated, he was upset, he  
7 was distraught, he was angry.

8 Q Perhaps I could ask you to look at page 7 of the  
9 longer statement. And Constable Mangan had asked  
10 you to recount as much as you could remember. And  
11 about midway down the page after the reference to  
12 "(TALKING IN BACKGROUND)", you say:

13  
14 Uhm, he, he looked, he looked very fatigued,  
15 uhm, when he was, when he was throwing the  
16 stuff around he, uh, he was almost falling  
17 over as he was, as he was doing this. He  
18 wasn't, he wasn't able to do it steadily, he  
19 was, he was almost tripping over himself as  
20 he was doing this.

21  
22 Is that what you told Constable Mangan?

23 A Well, yes it is.

24 Q All right. And does that accord with your memory  
25 now?

26 A Yes, it does, but what I just finished saying  
27 still stands, and that's -- that's -- that's my  
28 recollection is he was able to complete motor  
29 functions, but it was -- it looked -- it appeared,  
30 I don't know if clumsy's the right word, but it  
31 appeared that you didn't -- you weren't able to  
32 judge which way it was going to go. It was either  
33 he'd pick it up and then you'd see him pick it up  
34 and he'd be fine with it, or he'd try to pick it  
35 up and he could possibly end up falling over. It  
36 just had that appearance to it where it had...

37 Q All right. You've also described, and I think  
38 we've seen it on Mr. Pritchard's video that at a  
39 certain point the police -- one of the police  
40 officers points and Mr. Dziekanski backs off?

41 A Yes.

42 Q Co you remember that happening?

43 A I remember seeing it in the video, I...

44 Q All right. Well, perhaps I could ask you to look  
45 at page 9 of your statement. I think you've  
46 described it there at the bottom of that first  
47 paragraph.

1 A Well, whereabouts are we looking?

2 Q At the bottom of the first paragraph of your  
3 evidence, the last -- I'm sorry, it's when the  
4 police first came. The last -- the fourth line to  
5 the bottom there of that last -- first paragraph.

6  
7 ...as soon as he saw the Police he  
8 immediately almost tried ta, tried to run.  
9 As, as if, as if, --

10  
11 Are you with me?

12 A Yeah.

13 Q On the page?

14 A Yeah.

15 Q Yes.

16  
17 -- I don't know, just as he, he backed off  
18 but in a, in a staggered stance kind of.  
19 Like, like not submissively, but backing off  
20 as if to defend yourself.

21  
22 Do you remember that now?

23 A Yep.

24 Q Okay. Can you tell us what it was, what  
25 observation you made that led you to that  
26 conclusion, or what it was about his movement that  
27 made you reach that conclusion?

28 A I think -- I think it just was the -- I think it  
29 just was the -- in the manner in which -- when the  
30 officer pointed and told him to -- to go to a  
31 certain area, it was just his manner of -- of  
32 throwing his arms up and -- and walking away at a  
33 -- at a brisk pace.

34 Q All right.

35 A That kind of gave me that -- that kind of walking  
36 away and saying I don't want to have anything to  
37 do with you, I don't -- I don't what to have  
38 anything to do with this (gesturing), and that's  
39 -- that's how it appeared, how it appeared to me.

40 Q All right. In answering one of Mr. Kostecky's  
41 questions you talked about you had a reaction of  
42 shock at one point. Do you remember saying that?

43 A Can you go over it again with me, please.

44 Q My recollection, and I stand to be corrected, I  
45 don't have the note in front of me, is that you  
46 were describing when Mr. Dziekanski had the  
47 stapler.

- 1 A Okay.
- 2 Q And you were in some shock and you thought the  
3 police officers were in some shock at that time.  
4 Is that -- did I have your evidence correct?
- 5 A I don't know if "shock" is the right word, but  
6 puzzled, stunned, kind of in the awe of what was  
7 happening in front of them, kind of thing.
- 8 Q Okay. You were surprised.
- 9 A Surprised, yes. That would probably be a better  
10 word.
- 11 Q Thank you. You were asked earlier, I think by Mr.  
12 Vertlieb, and said you couldn't recall which side  
13 Mr. Dziekanski's head was facing when he was on  
14 the ground. And then Mr. Kosteckyj read to you  
15 from your statement at page 5 and you said the  
16 head was to his left side. Do you want me to take  
17 you to that part of your statement, or do you  
18 remember that being read earlier?
- 19 A I remember that being read earlier. And because  
20 of the time difference from the incident till now,  
21 if that's what's in my statement, that's what in  
22 the statement. Right now I can't --
- 23 Q Well, fair enough, but your best memory at the  
24 time you gave the statement was that his head was  
25 turned to his left?
- 26 A Yes. At the time of the statement, yes.
- 27 Q And would that have been towards the glass wall  
28 into the meet-and-greet area, or away from the  
29 glass wall? If he's on his stomach, and he's  
30 turned to the left, that suggests to me he's  
31 facing away from the glass wall, but would that be  
32 correct?
- 33 A Yeah, I believe that to be correct.
- 34 Q Thank you. And my last question is about the  
35 statement you gave to Constable Bentley. And the  
36 time he gives at the beginning of the statement is  
37 2:19 in the morning.
- 38 A Yeah.
- 39 Q All right. Where were you when you gave that  
40 statement to Constable Bentley?
- 41 A Still just inside the IRL.
- 42 Q All right. And as was pointed out earlier, he was  
43 interviewing you for a file for a mischief charge,  
44 was that your understanding?
- 45 A That was my understanding, yes.
- 46 Q All right. And you've taken Criminology courses?
- 47 A Yeah.

Lance Rudek

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

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

1 Q All right. And you know that there wouldn't be  
2 much point in investigating a criminal charge if  
3 somebody had died.

4 A I was just cooperating with the RCMP officer.

5 Q All right. Well, my point is the police officer  
6 wouldn't be interviewing you for a mischief charge  
7 if he knew that Mr. Dziekanski was dead.

8 THE COMMISSIONER: Well, I don't even know that he knew  
9 it was a mischief charge.

10 MS. ROBERTS: Well, that's what Constable Bentley tells  
11 him in the statement.

12 THE COMMISSIONER: Oh, all right.

13 MS. ROBERTS: And I thought he'd acknowledged that  
14 that's why he was being interviewed.

15 Q Was I incorrect about that?

16 A That's what he said to me. I was just cooperating  
17 with the RCMP officer.

18 Q All right. At the time you spoke to him did you  
19 know Mr. Dziekanski had been pronounced dead?

20 A At the time I spoke with -- with Bentley?

21 Q Correct.

22 A I believe at that -- I believe at that point I  
23 did, I think. I believe I did, yes.

24 MS. ROBERTS: All right. Thank you.

25 MR. HIRA: Mr. Commissioner, I have an extra copy of  
26 the statement, if you wish to follow along.

27 THE COMMISSIONER: All right.

28

29 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE  
30 KWESI MILLINGTON:

31

32 Q Sir, my name is Ravi Hira. I represent Officer  
33 Millington. And I am just going to in broad  
34 strokes go over your observations of Mr.  
35 Dziekanski, what you did with him, some specific  
36 details of the police first interaction with him,  
37 and then deal with you going to the Customs Hall  
38 and speaking after that with Constable Bentley.  
39 All right. You, when you first saw him, you  
40 viewed him as an aggravated, an aggressive  
41 individual, would you agree with me?

42 A Yes.

43 Q You described him as being very out of it, and  
44 very unstable.

45 A Yeah. That was the -- that was the appearance how  
46 it was translating through my eyes, yes.

47 Q And you've described to Mr. Vertlieb the nature of

- 1 his eyes, and the profuse sweating that you noted,  
2 correct?
- 3 A Yes.
- 4 Q And you've described to Ms. Roberts about the  
5 balance that you observed when he was picking up  
6 things?
- 7 A Yes.
- 8 Q And in addition at page 8 of your statement --
- 9 A Which --
- 10 Q The long one, the one you gave to Officer Mangan.  
11 And I'm looking just below the middle of the page  
12 where you asked what his balance was like. You've  
13 described it as:
- 14
- 15 . . .he was able ta, ta walk and then to run,  
16 but he was, he was, he was tripping over  
17 himself as he was trying to walk and run, he  
18 was, tsk.
- 19
- 20 You recall him doing that, that is tripping over  
21 himself?
- 22 A The reason I gave that type of description is  
23 because that was how it appeared to me, how -- how  
24 his feet were working when he was trying to pick  
25 up things, when he was trying to -- when -- after  
26 he would pick something up, that's what it looked  
27 like he was almost doing as he was picking it  
28 up --
- 29 Q Fair enough.
- 30 A -- kind of thing.
- 31 Q So you arrived there and you try to speak with  
32 him, correct?
- 33 A That's correct.
- 34 Q And at that stage he's grabbing a computer system?
- 35 A Yep.
- 36 Q And you think you are able to make some contact  
37 with him because he's -- well, he's got the  
38 computer system ready to drop on the ground. He  
39 doesn't drop it immediately, correct?
- 40 A Correct.
- 41 Q And then, although he stopped for a brief second,  
42 he said something in a language you couldn't  
43 understand and then he threw the computer on the  
44 ground?
- 45 A That's correct.
- 46 Q And then you again try to get him to calm down,  
47 correct?

- 1 A Correct.
- 2 Q And instead he picked up a chair.
- 3 A That's correct.
- 4 Q Again you tried to speak to him to try to get him  
5 to calm down, correct?
- 6 A Correct.
- 7 Q He stopped briefly and then threw the chair  
8 against the window?
- 9 A Correct.
- 10 Q Breaking the chair.
- 11 A Correct.
- 12 Q Now, let's move forward to when the police arrive.  
13 And if it helps I'm at -- looking at -- I've gone  
14 through page 2 of your statement, and I'm looking  
15 at page 3 if you need to refer to it; if you  
16 don't, that's fine.
- 17 A Sorry, you said page 2 and 3?
- 18 Q I've just finished with page 2 and I'm at page 3.  
19 The police officers were -- and you've described  
20 these actions, were trying through their body  
21 expressions, trying to tell him to calm down,  
22 relax, correct?
- 23 A That was the demeanour with which their appearance  
24 was giving off when they first approached, yeah.
- 25 Q And instead of complying with that suggestion, he  
26 seemed to, as you said, accumulate something in  
27 his hand that you believed he got from the  
28 counter, correct?
- 29 A Correct.
- 30 THE COMMISSIONER: Well, I think the sequence isn't the  
31 same as you've put it in that statement. He says:  
32  
33 ...I don't know if he got it from the counter  
34 or where he got it from, but he had something  
35 in his, managed to ge... to have or, or to  
36 accumulate something in his hand and he was  
37 starting to wave it around. I couldn't tell  
38 what it was at first. And, uh, as he was  
39 doing so, all RCMP members were, their body  
40 expressions, everything, was telling him, was  
41 telling him to calm down...  
42
- 43 And so on, and so on.
- 44 MR. HIRA: Thank you, Mr. Commissioner.
- 45 Q That is your recollection as read to you by the  
46 Commissioner?
- 47 A Yep.

- 1 Q Thank you. And it's your recollection today?
- 2 A Yeah.
- 3 Q Going on to the top of page 4. At this stage and  
4 the RCMP are trying to have him relax and to put  
5 it down, trying to defuse the situation; is that  
6 correct?
- 7 A From -- from what I saw it looked like they were  
8 -- one or two of them were, you know, making  
9 gestures like this (gesturing) to -- in a downward  
10 motion. And that's all I really remember.
- 11 Q Sort of hands around the chest area with palms  
12 pointing downwards with gestures downwards?
- 13 A More -- more a hip level, but it was -- it was a  
14 clear...
- 15 Q And your reaction was surprise when you saw that  
16 object in his hand in these circumstances?
- 17 A Yes.
- 18 Q Now, you thought that -- you didn't know where the  
19 Taser hit him, but you thought it was around the  
20 upper leg area?
- 21 A Yeah. I was -- I was just shooting off guesses.  
22 I didn't know where the Taser hit him.
- 23 Q All right. And he jumped back quite a bit after  
24 he got the initial Taser shock, correct?
- 25 A He didn't go down.
- 26 A Correct.
- 27 Q And I've proceeded onto page 5. Even after being  
28 tasered it took -- he was putting up a fight, it  
29 took two or three of them to take him down. Is  
30 that your recollection?
- 31 A That's my recollection.
- 32 Q It was -- it didn't like an easy job to do, that  
33 is, to take him down.
- 34 A Yeah, it didn't look easy.
- 35 Q And after he was on the ground and his -- and the  
36 handcuffs on him, you noticed that the officers  
37 continued to monitor him?
- 38 A It appeared as though that's what they were doing.  
39 I can't say for certain, but...
- 40 Q No, fair enough. It appeared that they were  
41 monitoring his breathing and his pulse?
- 42 A Yes.
- 43 Q Is that -- thank you.
- 44 A I didn't know if that was a question.
- 45 Q Sorry about that. That's my fault. And you  
46 noticed that -- that at some point in time with  
47 his hands behind the back he started to -- they

- 1 started to lose their colour, correct?
- 2 A Correct.
- 3 Q And it was at this stage, and I'm looking at  
4 three-quarters of the way down page 5, it was at  
5 this stage that you went to the Customs Hall?
- 6 A Correct.
- 7 Q And when you returned from the Customs Hall the  
8 fire and ambulance were already there?
- 9 A Correct.
- 10 Q At some point in time, and you can't tell us when,  
11 Mr. Enchelmaier found the stapler.
- 12 A Yeah. I cannot put an exact time on it, but yes.
- 13 Q Do you recall -- I think you've told us where the  
14 stapler was found, so I won't go there. You  
15 expressed to the officer that when the police  
16 arrived he went into a sort of a defensive stance,  
17 correct?
- 18 A Yeah, that's how it -- how it appeared to me to  
19 be. You -- he wasn't -- he wasn't greeting them  
20 with open arms.
- 21 Q No. You described it as a -- and I'm looking at  
22 page 9, if it's of any assistance. You described  
23 it as a kind of backing off "to put up a fight,  
24 kind of thing, you know."
- 25 A He had -- I remember him being at -- being at an  
26 angle towards the officers, so being -- being  
27 square with somebody is an indicator of -- of --  
28 it's not a friendly one.
- 29 Q You described it as "backing off as if to defend  
30 yourself". Backing off "to put up a fight, kind  
31 of thing, you know." Do you recall --
- 32 A Oh, and that's where I'm referring to, when I'm --  
33 when I'm describing standing at a -- standing at  
34 an angle towards on these -- when you're squared  
35 off with somebody.
- 36 Q Thank you. And that was something that truly  
37 surprised you in these circumstances?
- 38 A Yeah. It didn't look like things were going to  
39 get any better.
- 40 MR. HIRA: Thank you. Those are my questions. Thank  
41 you very much. And just for ease you may wish to  
42 have that statement marked as a letter exhibit,  
43 not a full exhibit. It's something that you may  
44 or may not wish to use in due course, Mr.  
45 Commissioner.
- 46 THE COMMISSIONER: Yes, I think that's so. That will  
47 be marked for identification.

1 K FOR IDENTIFICATION: Copy - Statement of  
2 Lance Rudek taken October 14, 2007  
3

4 CROSS-EXAMINATION BY MR. HARRIS ON BEHALF OF CORPORAL  
5 BENJAMIN ROBINSON:  
6

7 Q Sir, I'm Reg Harris. I'm counsel for one of the  
8 RCMP officers that were present on that evening.  
9 Dealing with some of the issues that your evidence  
10 has raised and some of the factors in your  
11 statement, as I understand, once you were  
12 dispatched you were moving through the meet-and-  
13 greet area when you were encountered by four  
14 individuals, you were approached by four people;  
15 is that right?

16 A That's correct.

17 Q And they had voiced to you concerns regarding an  
18 individual in the IRL area, correct?

19 A Correct.

20 Q And by your observations these four people  
21 appeared to be troubled and concerned?

22 A Correct.

23 Q All right. Now, as what you learned, the  
24 information that you learned you certainly had  
25 concern over property damage within the airport,  
26 would that be fair?

27 A Correct, yes.

28 Q And concern over whether or not someone could  
29 possibly get hurt by what was transpiring. Would  
30 that be fair?

31 A That would be fair. Correct.

32 Q All right. And as I understand your approach, I  
33 think you used the word, I may be wrong, but you  
34 go in on a low-key approach. Would that be  
35 accurate?

36 A That would be accurate.

37 Q And that's what you did on this occasion when you  
38 approached Mr. Dziekanski, you used a low-key  
39 approach?

40 A Correct.

41 Q And by low-key approach, it's by your -- the way  
42 you carry yourself and your dialogue with the  
43 individual, yes?

44 A Correct.

45 Q And your purpose in using a low-key approach is  
46 not to escalate the situation, yes?

47 A Correct.

- 1 Q And in this case, despite using a low-key  
2 approach, the result was quite the opposite, it  
3 escalated dramatically in your presence, correct?
- 4 A Yes, correct.
- 5 Q And that was the grabbing of the computer and  
6 smashing it to the ground. That was one of the  
7 escalations?
- 8 A Correct.
- 9 Q And that was the throwing the chair against the  
10 glass window, that was another one of the  
11 escalations?
- 12 A Correct.
- 13 Q And from your perspective you had done nothing to  
14 precipitate such a response to your presence,  
15 correct?
- 16 A Sorry, can you say that again?
- 17 Q From what you had seen, you had done nothing to  
18 cause that type of response?
- 19 A Correct.
- 20 Q All right. Sir, we heard some testimony about  
21 your perception about the officers when they  
22 approached Mr. Dziekanski. And first, you didn't  
23 get the sense that the officers rushed at Mr.  
24 Dziekanski, did you, when they first approached?
- 25 A My interpretation is they took the quickest way to  
26 get to the situation that was visible.
- 27 Q Certainly a direct route to get there, but in  
28 terms of the contact with him, they didn't rush  
29 right into his space and get right up into his  
30 face, from your observations?
- 31 A Not -- not right away, no.
- 32 Q All right. And, in fact, sir, we've heard your  
33 evidence about after the stapler was picked up and  
34 the -- the calming motions that you observed with  
35 the hands. Do you remember giving that evidence?
- 36 A I do.
- 37 Q And you will recall that you were played a video,  
38 and it's been called in these proceedings the  
39 Pritchard video, correct?
- 40 A Correct.
- 41 Q And you've had a chance to look at it during your  
42 evidence, the Pritchard video, correct?
- 43 A Correct.
- 44 Q And that video is not taken from the same  
45 perspective or angle that you're viewing at,  
46 correct?
- 47 A Correct.

- 1 Q And which, from your perspective, had a better  
2 view of the officers' actions, the Pritchard video  
3 or where you were standing at the time?
- 4 A Pardon? Can you say that again, please?
- 5 Q At the time in which you say the officers were  
6 making these hands gestures, that is, when the  
7 stapler is raised and the hands gestures are  
8 there, is it your view that you had a better view  
9 than the camera footage, or did the camera footage  
10 have a better view of the officers than you did?
- 11 A No, I would -- I would say I had a better view.
- 12 Q All right. In any event, sir, just to make clear,  
13 you're clear on this point that when the stapler  
14 was raised you got the distinct impression that  
15 the officers were doing everything they could to  
16 defuse the situation. Would that be accurate?
- 17 A I -- I'm not trained as an RCMP officer. I don't  
18 know what levels, that what step levels you have  
19 to take, so I wouldn't -- I wouldn't be able to  
20 presume they followed every --
- 21 Q A fair -- a fair comment.
- 22 A -- every step.
- 23 Q But from what -- from your observations it was  
24 your view that they were trying to defuse the  
25 situation?
- 26 A They were trying to defuse it, yes.
- 27 Q And that was at the point that you say that -- I  
28 believe it was read to you by earlier counsel,  
29 that Mr. Dziekanski was backing up with the  
30 stapler and -- and you had the view that he was  
31 backing off to put up a fight kind of thing.
- 32 A It appeared he was -- he was backing off to make  
33 space, yeah.
- 34 Q All right. And to put up a fight, according to  
35 what you say in your statement. You agree with  
36 that?
- 37 A Yeah.
- 38 Q All right.
- 39 A Yes.
- 40 Q Now, we've heard some evidence about the IRL area,  
41 that is, the semi-sterile area inside those --  
42 those doors. You know what I'm referring to?
- 43 A Yes.
- 44 Q And simply because of the fact that there was not  
45 an aircraft in till 2:00 a.m. does not mean that  
46 there might be passengers that are stragglers come  
47 around the Point into the area where Mr.

1           Dziekanski was, you agree with that?  
2       A     Yeah.  
3       Q     All right. In other words, before the area had  
4            been sealed off, that is, while you're standing  
5            there watching Mr. Dziekanski at the door before  
6            the police even get there, there was nothing to  
7            prevent straggling passengers to have encountered  
8            him, would that be fair?  
9       A     That would, and the only reason being for that is  
10           because the chairs were set up so it was setting  
11           off the door sensor and the door was opening and  
12           closing, opening and closing, opening and closing,  
13           so anybody could have walked...  
14       Q     I'm referring to passengers coming from behind  
15            him, from the Customs area.  
16       A     Oh.  
17       Q     Before it was sealed off and rerouted.  
18       A     Yeah. No, definitely. I'm 100 percent, yes.  
19       Q     All right. And there was nothing to prevent  
20            employees that were unaware of what was  
21            transpiring --  
22       A     Yes.  
23       Q     -- from coming up behind him.  
24       A     Yes, correct.  
25       Q     Nothing to prevent Customs officers from coming up  
26            behind him, unaware of what was going on?  
27       A     Yes, correct.  
28       Q     So in essence, even though that was a semi-sterile  
29            area, you had no control of what might come up  
30            behind Mr. Dziekanski, would that be fair?  
31       A     Correct, yeah.  
32       Q     Now, in your role as a security officer at that  
33            time, did you have some basic first-aid training?  
34       A     Yes.  
35       Q     All right. And in that training you -- you  
36            receive training about monitoring unconscious  
37            patients and checking for breath sounds and  
38            checking for pulse, correct?  
39       A     Yeah. Yes.  
40       Q     All right. And in your comments where you said  
41            words to the effect in your statement about it  
42            appeared that the officers were monitoring for  
43            breathing, and you assumed a pulse, correct?  
44       A     I -- I assumed that's what they were doing, yes.  
45       Q     All right. And that assumption was based on  
46            observing their actions, correct? And their  
47            actions were consistent with what you had been

Lance Rudek

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

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

1           trained in that regard in those type of  
2           activities, correct?

3           A     Correct.

4           MR. HARRIS: All right, sir. Thank you for answering  
5           my questions.

6

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

9

10          Q     Mr. Rudek, I'm David Butcher, I'm counsel for one  
11           of the officers, and just a few questions for you.  
12           The first is just to confirm something that I  
13           don't think anybody else has done yet. That  
14           statement that has been put to you by most counsel  
15           was taken at five o'clock, 5:04 in the morning of  
16           October the 14th; is that correct?

17          A     That's correct.

18          Q     So you were still on shift --

19          A     That's correct.

20          Q     -- when the statement was taken. The incident was  
21           about three-and-a-half hours old and very fresh in  
22           your memory when the statement was taken?

23          A     That's correct.

24          Q     When you were working for Securiguard, did you  
25           have any defensive tools with you, any pepper  
26           spray or anything?

27          A     No.

28          Q     Nothing at all?

29          A     No.

30          Q     Now, when you walked up towards the IRL doors you  
31           saw Mr. Dziekanski destroying property.

32          A     Correct.

33          Q     You saw him obstructing the exit from the Arrivals  
34           area?

35          A     Correct.

36          Q     And you perceived that he posed a threat to any  
37           traveller who might have to leave the area?

38          A     Correct.

39          Q     Why didn't you move in to try to remove him from  
40           the IRL doors? Was it because you were concerned  
41           for your safety, or was it because of policy, or  
42           was it for some other reason?

43          A     It was a combination of both. It was -- it was my  
44           job is to observe and report. I'm not -- I don't  
45           have -- at that point in time I didn't have Use of  
46           Force training. I didn't have anything of that  
47           sort. And -- and, yeah, with his -- with his

Lance Rudek

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

Re-exam by Mr. Vertlieb

1 actions, with his -- with his physical  
2 description, and -- and the way he was -- the way  
3 he was acting, I -- I didn't -- I didn't feel safe  
4 entering there. I didn't -- I didn't want -- I  
5 didn't want anything -- if he was to get agitated  
6 by any of my actions, and I didn't -- I didn't  
7 want to be the result of that -- of that  
8 aggravation.

9 Q And you weren't alone, were you. You were with  
10 your colleague, Mr. Arora at the time?

11 A Correct.

12 Q And can you just tell me a bit about the policy  
13 side of that? What was the policy that you made  
14 some reference to?

15 A On observing and reporting.

16 Q Yes.

17 A Your --

18 Q Was the policy that whenever there was anybody who  
19 was considered violent or perceived to be violent  
20 that the RCMP had to be involved, rather than the  
21 security people?

22 A That's --

23 Q Is that your understanding of the policy?

24 A That's -- yes, that's my understanding of the  
25 policy.

26 MR. BUTCHER: Thank you, those are my questions.

27 MR. VERTLIEB: Two areas briefly, please, Mr.  
28 Commissioner.

29

30 RE-EXAMINATION BY MR. VERTLIEB:

31

32 Q You told one of the lawyers, it happens to be Mr.  
33 Kosteckyj, that you did not see anyone taking his  
34 pulse. A number of minutes later you told  
35 another lawyer, Mr. Hira, that it looked like  
36 someone was monitoring breathing and pulse. Can  
37 you help us with those two statements?

38 A It -- if you're referring to me commenting on what  
39 the RCMP officers were doing, then, yes, the RCMP  
40 officers appeared to be monitoring -- I don't know  
41 for certain if that's what they were doing or not,  
42 but it appeared that that's what they were doing.  
43 So I did not see them do it, but it appeared that  
44 that's what they were doing. I could not see  
45 their hands actually monitoring for a pulse. I  
46 could not see them actually listening for a  
47 breath, but they were -- they were hunched over

1           him, extremely close, so that if that's what they  
2           were doing, they would be able to do that.  
3       Q     Now you've said when you left the room the first  
4           time Mr. Dziekanski was still moving.  
5       A     To my recollection, yes, I could.  
6       Q     And that meant to you he was still conscious?  
7       A     That would signal to me, yes.  
8       Q     So if someone when you left is moving and  
9           therefore conscious, why would there be an  
10          interest in monitoring breathing and pulse when  
11          you had the comments about being taught in CPR to  
12          check for someone's breathing and pulse if they  
13          were unconscious?  
14       A     Can you repeat that one more time, please?  
15       Q     When you left the room he was moving and you  
16          conclude he was conscious.  
17       A     Correct.  
18       Q     You mentioned that you took CPR training.  
19       A     Correct.  
20       Q     And you were taught how to check breathing and  
21          pulse if someone was unconscious?  
22       A     Yes.  
23       Q     Why would there be checking of breathing and pulse  
24          if a person was conscious?  
25       MR. STEWART: This witness can't speak to why, and it's  
26          an interesting thing, this witness has very  
27          specifically said he did not see -- see anyone  
28          taking the pulse.  
29       THE COMMISSIONER: Well, I'm sure the witness can look  
30          after himself.  
31       MR. STEWART: Okay.  
32       MR. VERTLIEB:  
33       Q     Can you help us with that?  
34       A     Can you revert back to that, that last subsection  
35          is just -- you were asking -- you're asking why,  
36          can you finish off your...  
37       Q     Well, you've mentioned your CPR training.  
38       A     Yes.  
39       Q     And you were taught to check breathing and pulse  
40          if somebody was unconscious.  
41       A     Yes.  
42       Q     When you left the first time Mr. Dziekanski was  
43          moving, according to your --  
44       A     Yes.  
45       Q     -- evidence, and therefore, as you said,  
46          conscious.  
47       A     Yes.

1 Q Can you just help us understand why you would  
2 assume there was monitoring of breathing and pulse  
3 in that circumstance?

4 A I would assume that after somebody has gone  
5 through what Mr. -- Mr. Dziekanski has gone  
6 through, I would assume there is -- there is  
7 monitoring of -- of breathing and pulse after --  
8 after something of that nature has happened to  
9 somebody. I would assume that that is -- that is  
10 what is supposed to be done.

11 Q Okay. So that's the basis of your evidence, your  
12 assumption?

13 A That's the basis, yes.

14 MR. VERTLIEB: Thank you.

15 THE COMMISSIONER: All right, thank you for your time.

16 Thank you very much for coming.

17 A Thank you.

18

19 (WITNESS EXCUSED)

20

21 MR. VERTLIEB: I think, given the hour, this might be a  
22 good time to break, Mr. Commissioner.

23 THE COMMISSIONER: All right, Monday at 10:00.

24 THE REGISTRAR: This hearing is now adjourned until  
25 Monday at 10:00 a.m.

26

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

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