

**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.

January 20, 2009

PROCEEDINGS AT
HEARING (DAY 2)

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Vancouver, B.C.
January 20, 2009

1
2
3
4 THE COMMISSIONER: Good morning, everyone. Maybe many
5 of you, like me, have just heard one of the most
6 incredible speeches of -- perhaps in history. It
7 was indeed Churchillian in scope.

8 Anyway, yes, Mr. Vertlieb?

9 MR. VERTLIEB: Thank you, Mr. Commissioner. For this
10 morning, in terms of evidence, we have, just to
11 give you the order that we propose to go in this
12 morning, we have Monica Kullar, who was the
13 Customs Immigration person who actually stamped
14 the card at the primary line and we'll have her
15 take you through the geography. Next we have a
16 gentleman from the Border Services with video, and
17 the video we're going to play is all the video
18 that is relevant to Mr. Dziekanski and that'll be
19 about 45 minutes. And then we have Ms. Widiner,
20 who's a Lufthansa employee and dealt with the
21 bags. Those are the three that we believe we can
22 deal with this morning. And then we can deal with
23 the procedural issues that were canvassed
24 yesterday, if that's appropriate.

25 THE COMMISSIONER: Yes. I think that's appropriate.
26 And I think maybe, as I said yesterday, I don't
27 feel that there's any disadvantage to any counsel
28 in not having a ruling at this point on whether or
29 not those medical and other reports should be
30 filed, for you all have them and therefore, you
31 know the issues that they concern and accordingly,
32 you can govern yourself and your cross-examination
33 or whatever accordingly.

34 Okay. Yes, Mr. Vertlieb, let's have the
35 witnesses.

36 MR. VERTLIEB: So, Mr. Giles, could you page Monica
37 Kullar? I'm hoping she's in the courtroom. Yes,
38 she is in the courtroom, Mr. Commissioner.

39 THE REGISTRAR: Good morning.

40 MS. KULLAR: Good morning.

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

42 MS. KULLAR: Affirm, please.

43 THE REGISTRAR: Affirmed? I need you to stand, please.

44
45 MONICA KULLAR, a witness,
46 affirmed.
47

2
Monica Kullar
In chief by Mr. Vertlieb

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

2 A Monica Kaur Kullar.

3 THE REGISTRAR: Thank you. Counsel?

4 MR. VERTLIEB: Thank you, Mr. Commissioner.

5

6 EXAMINATION IN CHIEF BY MR. VERTLIEB:

7

8 Q Ms. Kullar --

9 THE COMMISSIONER: Just a moment. Ms. Kullar, would
10 you mind spelling for me your last name?

11 A Last name? K-u --

12 THE COMMISSIONER: Yes?

13 A -- l-l-a-r.

14 THE COMMISSIONER: Thank you very much.

15 MR. VERTLIEB:

16 Q Now, while we're setting up that large diagram of
17 the Customs area, let me just deal with some
18 background. You were born in Richmond and went to
19 UBC, graduating with a Bachelor's degree in the
20 year 2006?

21 A Correct.

22 Q And as summer work, you would work for the Canada
23 Border Services Agency or the predecessor, that
24 was part of your summer job?

25 A Yes.

26 Q And when you finished university, you then became
27 a full-time employee of CBSA?

28 A Yes.

29 Q So when was it that you actually started as full-
30 time work with CBSA?

31 A September 5th, 2006.

32 Q Now, just to jump ahead, and we will come back
33 then in detail to your work, you're presently
34 living in Quebec?

35 A Yes.

36 Q And what are you doing for CBSA there?

37 A I am a facilitator at our training facility there.

38 Q And what does that mean?

39 A I train new recruits entering the CBSA.

40 Q Now, let's talk about what it means to be a CBSA
41 officer. You are a peace officer; is that
42 correct?

43 A Yes.

44 Q And does that mean you have the powers of any
45 other peace officer, such as a police person who's
46 working in Vancouver or Richmond or elsewhere?

47 A While I'm on duty, yes.

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Monica Kullar
In chief by Mr. Vertlieb

1 Q And so when you're on duty, when you're working in
2 the Customs Hall, tell us about your uniform.
3 A What it looks like?
4 Q Yeah. Just describe it briefly.
5 A Okay. It's navy blue. We wear -- we have our
6 shirts, our Kevlar vests, our tool belts and
7 steel-toed boots.
8 Q And is there a move to bring in firearms for
9 members of CBSA?
10 A Yes.
11 Q So when you are working in the Customs Hall at
12 Vancouver Airport, International Airport, you're
13 really there as a police officer, that's the power
14 that you have in that job description?
15 A A law enforcement officer, yes.
16 Q So let's now talk then about the layout of the
17 Customs Hall, and we just call it the Customs Hall
18 because that seems to be the most common term used
19 by the different witnesses that we've spoken to.
20 You see the chart behind you, the blow-up?
21 A Yes.
22 MR. VERTLIEB: Okay. Now, I'm hoping, Mr.
23 Commissioner, that everyone can see it from that
24 spot, but maybe you cannot, Mr. Commissioner. I
25 can't tell from the angle.
26 THE COMMISSIONER: You go ahead.
27 MR. VERTLIEB: Okay.
28 THE COMMISSIONER: I'm just looking for my map.
29 MR. VERTLIEB:
30 Q Now, Ms. Kullar, we have not gone through the
31 areas of the airport that will be important to
32 this inquiry and so we'd like you as the first
33 opportunity now to take us through and show us
34 some of the areas and describe what we're going to
35 hear about. Yesterday we had a Ms. Hunter who
36 talked about the escalators and where the hosts
37 would be and I don't believe that is on that
38 diagram; am I correct there?
39 A Yeah. It would be back in this area here.
40 Q Okay. So to the right of that big blow-up?
41 A Yes.
42 Q Okay. Now, on the right side of that chart that
43 says "Primary Inspection Line" --
44 A Yes.
45 Q -- just point that, please, with the laser
46 pointer. Okay. Everyone can see that. That's
47 what people call the PIL?

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Monica Kullar
In chief by Mr. Vertlieb

1 A Yes.
2 Q P-I-L?
3 A Yes.
4 Q And anybody who's come through the airport in
5 Vancouver in the last five years certainly, they'd
6 come down escalators and they'd walk into the area
7 leading up to the PIL; is that correct?
8 A Yes.
9 Q And as the airport gets busier, that area becomes
10 larger and there's people there to move massive
11 amounts of new arrivals into Canada?
12 A Yes.
13 Q And that area would be for people arriving from
14 the United States or internationally?
15 A Correct.
16 Q And there are people who work for a company called
17 Marquise, who are there to greet and help people
18 if they can?
19 A Right.
20 Q Okay. As a Border Services agent, you're not part
21 of the greeting session by Marquise?
22 A No.
23 Q So someone like Ms. Hunter is no -- she's not
24 connected to your work at all?
25 A No.
26 Q Okay. So tell us about the PIL as it would have
27 been in October of '07. Roughly how many stations
28 were there?
29 A Twenty-four, I believe.
30 Q Sometimes there might be a few officers and
31 sometimes there might be many?
32 A Right.
33 Q And is that all a function of the expected
34 traffic?
35 A Yes.
36 Q And tell us what the job is of the officer, the
37 peace officer such as yourself, when you're at
38 that Primary Inspection Line?
39 A We are to ask questions to determine the
40 admissibility of a passenger and refer if somebody
41 needs further processing.
42 Q Okay. So tell us what questions you would
43 generally ask?
44 A Where have you -- if it's a visitor, what is the
45 purpose of your trip to Canada? Where do you plan
46 on going while you're here? Where will you stay?
47 Do you know anybody in Canada? For a returning

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Monica Kullar
In chief by Mr. Vertlieb

1 resident, where have you been? What was the
2 nature of your trip out to whatever country you
3 visited? What are you bringing back with you?
4 Q Okay. Now, when you're doing that job, that's the
5 very first peace officer that somebody would see
6 in that Customs Hall?
7 A Right.
8 Q And so your job is that of a, in effect, a very
9 quick screening agent?
10 A Yes.
11 Q To see if this person needs more attention?
12 A Right.
13 Q Now, are there two areas, one for residents of
14 Canada and one for visitors in terms of the line?
15 A Yes.
16 Q And the questions you would ask of a resident
17 might be different than what you would ask of
18 someone who's in the visitor line?
19 A Right.
20 Q Just to take the commissioner through the
21 geography, we can see the Primary Inspection Line
22 which is what all the people who work for CBSA and
23 others will call the PIL, correct?
24 A Correct.
25 Q So once you cross that PIL, and that's after the
26 agent such as yourself says, "Carry on," what then
27 happens to a person arriving?
28 A They proceed to the baggage carousels where
29 they're to pick up their luggage.
30 Q Okay. Now, are those baggage carousels on that
31 chart?
32 A They're these right here.
33 Q Okay.
34 A They're there and these two.
35 Q And those carousels would have the luggage from
36 all the different airlines?
37 A Right.
38 Q As a Primary Inspection Line officer, you would
39 not be worried about the baggage carousel; am I
40 correct?
41 A Right.
42 Q Now, it doesn't matter today how many baggage
43 carousel lines, but does that diagram more or less
44 show the way the Customs area would have looked in
45 October of 2007?
46 A Yes.
47 Q Okay. Now, just read out the writing in the

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Monica Kullar
In chief by Mr. Vertlieb

1 middle of that baggage carousel.
2 A This right here?
3 Q Yes. What does that say?
4 A Customs -- Canada Border Customs and Immigration
5 Hall.
6 Q So that hall is controlled by CBSA?
7 A Right.
8 Q CBSA maintains control over that for security
9 reasons?
10 A Yes.
11 Q And so that's -- that area is under the control of
12 the CBSA and not the airport?
13 A Yes.
14 Q Now, let's just discuss a bit more about this
15 Customs Hall, at the top of the diagram, in the
16 purple, yes, that says...?
17 A Immigration.
18 Q Tell us about that area.
19 A That is Immigration Secondary, so if a passenger
20 requires further processing on immigration
21 grounds, they go to that area.
22 Q So how would that come about? When you say a
23 passenger requires more processing, give us an
24 example.
25 A Somebody coming for a study permit or work permit,
26 landing, new immigrants, those that we want
27 further questioning done to determine their
28 admissibility into the country, that's all
29 Immigration Secondary.
30 Q So who would work in that area?
31 A BSOs that were Immigration, working the
32 Immigration function.
33 Q I'm sorry? Say again?
34 A Border Service Officers that were working the
35 Immigration function.
36 Q Okay. Now, is that the kind of job that as a CBSA
37 officer you could do? Are you trained to do that?
38 A Now, yes.
39 Q Okay. And so that would be more peace officers
40 working in that area to ask the specific person
41 questions?
42 A Correct.
43 Q And we understand there's also a detention area in
44 there?
45 A Yes.
46 Q And the detention area, tell us very briefly what
47 that's for.

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- 1 A For passengers that are being detained, they held
2 them in the detention area there.
- 3 Q And why might somebody be detained?
- 4 A If they're not admissible into Canada and we're
5 waiting to put them on a flight back to a
6 different country.
- 7 Q And there are booths in that area, as well?
- 8 A There are counters, yes.
- 9 Q Would the counters be similar to what you might
10 see in a bank?
- 11 A Yes.
- 12 Q As a bank teller type of counter?
- 13 A Correct.
- 14 Q And so there's perhaps 15 or 20 counters in there?
- 15 A Yes.
- 16 Q And there are seats in there for the immigrants
17 who are arriving?
- 18 A Yes.
- 19 Q Could you get a hundred people in that room as
20 immigrants?
- 21 A At a busy time -- just immigrants alone? Yeah.
22 You could during a busy day.
- 23 Q On a busy day, how long might somebody be in --
24 waiting to be processed in that room?
- 25 A A few hours.
- 26 Q Now, take us to the -- the left side of that
27 diagram, the darker blue section.
- 28 A Here.
- 29 Q Right there. Yes. Thank you.
- 30 A Okay.
- 31 Q What does that say?
- 32 A Secondary Inspection.
- 33 Q Tell us what Secondary Inspection means?
- 34 A This area was for Customs Secondary, so passengers
35 that have been referred for further Customs
36 processing or baggage examinations, they would go
37 into that area.
- 38 Q So that would be somebody who's either an
39 immigrant or a returning resident? It could be
40 anybody?
- 41 A It could be any traveller.
- 42 Q But if someone comes through as a -- just to go
43 back to the Immigration, if I come through as a
44 Canadian citizen with a Canadian passport, it's
45 unlikely that I'd be sent to the Secondary
46 Immigration.
- 47 A Yes.

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1 Q But anybody could be sent to Secondary Customs if
2 there was a concern about something in their
3 baggage or they had to make a declaration to pay
4 excess duty, et cetera?
5 A Correct.
6 Q Okay. And so in that secondary Customs area - and
7 we're going to see this on video - there are
8 counters where people can put their bags and the
9 officers can then look through the bags?
10 A Yes.
11 Q Now, all of these areas that we've just discussed
12 are places where CBSA peace officers are in
13 control?
14 A Correct.
15 Q And that would be someone such as yourself?
16 A Right.
17 Q Okay. So let's finish up with the diagram. We've
18 covered the Immigration. And you call that the
19 Secondary Immigration.
20 A Yes.
21 Q And there's no acronym for that, it's just called
22 Secondary?
23 A Yes.
24 Q And the Secondary Customs, is there any initial
25 for that?
26 A No.
27 Q You just call that Secondary Customs?
28 A Yes.
29 Q Now, finish up the rest of the diagram. There's a
30 little red mark -- yes, thank you. What's that
31 for?
32 A That is our Point exit. That's where every
33 passenger exits the Customs Hall.
34 Q And that's in your work called the Point?
35 A Called the Point, yes.
36 Q And tell us why it's called "Point"? Do you know
37 why that's the word everyone such as yourself
38 refers to it as?
39 A No.
40 Q Okay. Now, that's the funnelling point where
41 every passenger has to go through?
42 A Right.
43 Q And that's where at the very end of the Customs
44 Hall you'd see a couple of officers standing,
45 taking your declarations?
46 A Yes.
47 Q And that declaration card would be required for

1 someone who's a Canadian citizen or, indeed, just
2 someone coming to visit?
3 A Yes. Every passenger has one.
4 Q So that's the Point. And once you clear there,
5 have you essentially cleared the Customs Hall and
6 the control by CBSA?
7 A Once you've cleared Point, yes.
8 Q Okay. Now, the Customs officers, the CBSA
9 officers, are in front of some doors in a hallway;
10 am I right there, leading out to the International
11 Reception Lounge?
12 A The doors are around the corner.
13 Q Okay.
14 A Yes.
15 Q So when -- so if someone clears the Point, with
16 the red mark --
17 A Yes.
18 Q -- they've given in their card, they've cleared
19 everything --
20 A Yes.
21 Q -- CBSA no longer has any need to deal with that
22 person?
23 A Correct.
24 Q And then the passenger -- just show us where a
25 passenger would walk.
26 A They go straight up there and around the corner
27 into this area here.
28 Q Okay. Now, are there doors right between the blue
29 area and the green area?
30 A Yes.
31 Q And they're active, they're doors activated by
32 motion?
33 A Right.
34 Q Now, let's talk about the green area, the dark
35 green area. Just put your pointer on that,
36 please. Thank you. Well done. What does that
37 say?
38 A Passenger Service Area, IRL.
39 Q Now, that's what people in the airport and your
40 industry refer to as the IRL?
41 A Yes.
42 Q And IRL means International Reception Lounge?
43 A Yes.
44 Q So tell us about that area and who controls it.
45 A I'm not sure who controls it. This is where, if
46 you're connecting to a different flight, there
47 were baggage representatives there that will take

1 your domestic bags and then they exit through
2 those doors to go into the general greeting area.
3 Q Okay. The green area, the IRL, is that under the
4 control of CBSA?
5 A No.
6 Q Okay. So CBSA has no officers in there in any way
7 exercising control?
8 A No.
9 Q Skipping ahead, just so we know, that's the area
10 that we now understand Mr. Dziekanski to have been
11 dealt with by the police.
12 A Correct.
13 Q Okay. So the IRL has a baggage transfer system
14 for the passengers who are checking their bags
15 again to take another flight?
16 A Domestic flights, yes.
17 Q And just show us where those baggage check areas
18 would be with your pointer?
19 A They'd be back here.
20 Q Okay. And might there be in that area different
21 tour companies who are picking up passengers
22 standing with signs?
23 A Yes.
24 Q So during the cruise ship season, if there is a
25 cruise ship that's arriving, there might be people
26 standing holding a sign saying Holland America or
27 whatever?
28 A Yes.
29 Q And there would be perhaps skiers who have had
30 tours arranged, that would be standing in that IRL
31 area?
32 A Yes.
33 Q There would also be -- if someone called ahead to
34 have a limousine instead of a regular bus or taxi,
35 you might have a limousine driver in there?
36 A Correct.
37 Q Now, to get into that area, there's some measure
38 of control though, correct?
39 A Correct.
40 Q There is doors that swing only to the -- only out
41 of the lounge. Can you show us where those doors
42 are?
43 A That lead outside?
44 Q Yes.
45 A They're over this area.
46 Q Now, on that diagram which we've just covered, the
47 IRL, above it in lighter green, what does that

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Monica Kullar
In chief by Mr. Vertlieb

1 say?
2 A Meeting area.
3 Q And is that sometimes called the meet and greet
4 area?
5 A Yes.
6 Q And that area is totally open to the public?
7 A Yes.
8 Q There's no control at all?
9 A No.
10 Q Show us the two exit points from the IRL into the
11 meet and greet.
12 A Right here and over here.
13 Q Okay. So there's two exit points, both controlled
14 by motion-activated doors?
15 A Yes.
16 Q Most people leave by the first door you pointed
17 out?
18 A Yes.
19 Q Can you just point that out again for the
20 commissioner?
21 A Right there.
22 Q And you -- have you seen the video that was shown
23 taken by a gentleman named Pritchard of Mr.
24 Dziekanski?
25 A I saw it once in the very beginning of all this.
26 Q Do you recall when Mr. Dziekanski was standing in
27 the IRL, which doors he was standing at that show
28 in that video? If you don't remember, that's
29 fine, but if you do, just show us.
30 A When the RCMP came in?
31 Q Yes.
32 A At that time? In this area.
33 Q Okay. And that's the main -- that's the exit most
34 commonly used by passengers?
35 A Yes.
36 Q Now, on that light green area, heading out of that
37 door you just showed us, there's a line that goes
38 straight and then curves, you see that?
39 A Yes.
40 Q That's a railing?
41 A Yes.
42 Q And that's just to more or less direct the
43 passengers out of the doorway?
44 A Right.
45 Q And then past that meeting area to the top of the
46 diagram there are restaurants and other services
47 for people coming to the airport to pick up

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In chief by Mr. Vertlieb

1 somebody?
2 A Yes.
3 Q Okay. Now, that meet and greet area, depending on
4 the time of day and the number of planes, it can
5 be very busy or very quiet?
6 A Correct.
7 Q I'm just trying to see if there's any other --
8 yes, I know. I wanted you to show us where the
9 exit doors or entrance doors for that meet and
10 greet area would be.
11 A For the public --
12 Q Yes.
13 A -- to come in? Right over here.
14 Q Okay. All right. And we're going to show the
15 video, Ms. Kullar, taken by Mr. Pritchard later,
16 and that'll be the area where people have come in,
17 including the RCMP, but those doors are the exit
18 doors and entry doors. You can come in or out
19 without any control.
20 A Right.
21 Q Now, I just wanted to back up to the two exit
22 doors from the IRL. Show us again those two exit
23 doors, please? Thank you. That's one, that's
24 two. Is there some form of control on those doors
25 so that you need a pass to get in if you're in the
26 meet and greet area?
27 A Yes.
28 Q Tell us about that.
29 A You need a Prox card to Prox yourself into that
30 area.
31 Q You're saying Prox, P-r-o-x?
32 A Yes.
33 Q And what does that -- what is a Prox card?
34 A It's an ID card for the airport that activates the
35 doors to open for us when we come in or out.
36 Q So that could be the kind of card you might have
37 in an apartment building to get in. It's just
38 that kind of a gate access control?
39 A Yes.
40 Q And airline employees obviously would have access?
41 A Yes.
42 Q The limousine drivers, the tour guides, people
43 like that?
44 A I don't know for sure, but yes.
45 Q All right.
46 A Limousine.
47 Q So there's an element of control on those two

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Monica Kullar
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1 doors into the IRL?
2 A Yes.
3 Q But there's no control to get out. It's all
4 motion-activated?
5 A Correct.
6 Q Now, just to finish off the diagram, what's at the
7 top of the diagram on the top left corner?
8 A Up here?
9 Q Yes. Just roughly, what's up there?
10 A The seating area where there's a few stores,
11 there's a newsstand and a Burger King.
12 Q Okay. Now, there's an escalator that would take
13 somebody from the Arrivals level up to the
14 Departures level?
15 A Yes.
16 Q Can you show us where that is?
17 A I think that's that right there.
18 Q Okay. Just so you know, I'm asking you, some of
19 the witnesses who will be called later went up
20 those escalators to talk to airport people and
21 some of the security people came down those.
22 Those escalators go up and down?
23 A Correct.
24 Q Okay. Show us where the baggage people for the
25 airlines would sit in the Customs Hall.
26 A This area here.
27 Q Thank you. Show again, please?
28 A Right here.
29 Q Okay. So if you came off a flight and your bags
30 didn't arrive, you'd go there to talk to somebody
31 for the airline to get your bag organized?
32 A Yes.
33 Q But that baggage area is not something that is --
34 you don't control that. That's all airline work
35 for their passengers.
36 A Right.
37 Q And just finish up the bottom of the Customs Hall,
38 to the left of the baggage, the airline baggage
39 employees; do you see where I'm showing?
40 A Right here?
41 Q Yes. What's all that?
42 A This is seating area, I believe. And we've had
43 construction, so I don't remember what was in that
44 area at the time.
45 Q Okay. There used to be an area where if you had
46 oversized items, golf clubs, skis, they'd come out
47 off the -- not on the regular baggage carousel?

- 1 A Yes.
- 2 Q Okay. And that would be that area we're just
3 showing. But that's been under construction, so
4 it's different today than back in '07?
- 5 A Yes.
- 6 Q Okay. Show us the Primary Inspection Line, the
7 PIL extension.
- 8 A Right here.
- 9 Q Now, tell us what the PIL extension is, because
10 one of the witnesses refers to that. Tell us what
11 that is.
- 12 A It's the special service counter, so golf carts
13 that airlines are bringing passengers down on or
14 wheelchair passengers, they come to the side
15 counter here.
- 16 Q Who else might come through there?
- 17 A We will call crew over from the crew line which is
18 just in front of that area, unaccompanied minors
19 sometimes come through that area.
- 20 Q Okay. So there's -- there would be Border
21 Services officers there, but there's more room to
22 accommodate -- you said carts, wheelchairs and
23 different -- and there's people walking?
- 24 A There's only one officer stationed there, yes.
- 25 Q Okay. And that's sort of a glassed-in area?
- 26 A Yes.
- 27 Q Okay. Thank you. Now, does that area show, that
28 drawing, does that show where the desk would be if
29 somebody had to fill in their Customs card?
- 30 A I believe it's these cubicles right here, these
31 squares.
- 32 Q We were told that there's a desk where if a
33 passenger didn't fill in their declaration card,
34 they could get a card and fill it in and there
35 also is a book there for translations?
- 36 A Yes.
- 37 Q And can you show us again where that might --
38 okay.
- 39 A There's one there, one there --
- 40 Q All right.
- 41 A -- a couple there.
- 42 Q There's a couple of those desks?
- 43 A There's a few that are along the length of PIL.
- 44 Q And those desks are fairly close to the Border
45 Services officers?
- 46 A Yes.
- 47 Q So those desks are more or less in front of the

1 Border Services officers and not at the very end
2 of the hall.
3 A There are some at the back of the hall, but there
4 are some right in front of us, as well.
5 Q All right. And this is where we're told there
6 would be a book with translations available if
7 somebody wasn't speaking one of the languages
8 spoken normally?
9 A Right.
10 Q Tell us what languages are commonly spoken by CBSA
11 employees other than, obviously, English and
12 French?
13 A We have a lot that speak Punjabi, Hindi, Japanese,
14 Cantonese and Mandarin. Those are probably the
15 bulk, the majority of the main languages.
16 Q How often in your -- in your time at CBSA working
17 at the Primary Inspection Line, would you have had
18 to deal with someone who spoke Polish?
19 A Not too frequently.
20 Q Prior to Mr. Dziekanski can you recall it
21 happening?
22 A Not off the top of my head, no.
23 MR. VERTLIEB: Okay. Perhaps at a convenient time, Mr.
24 Commissioner, we can just mark the copy of that
25 diagram. We don't need to --
26 THE COMMISSIONER: Yes, all right.
27 MR. VERTLIEB: But we don't -- at your convenience.
28 THE COMMISSIONER: What is it, Exhibit 3?
29 THE REGISTRAR: There's only Exhibit 1.
30 THE COMMISSIONER: Okay. Exhibit 2 then.
31 MR. VERTLIEB: Thank you.
32
33 EXHIBIT 2: Colour copy - Floor Plan Airport
34 Customs area
35
36 MR. VERTLIEB:
37 Q Is there anything else that you could think of
38 that we haven't covered to give the commissioner a
39 sense of what goes on in that area controlled by
40 the Canada Border Services Agency?
41 A No.
42 Q Let's then discuss what happened on October 13,
43 2007 with you and your work that day. What time
44 did your shift start?
45 A 1600, so 4:00 p.m.
46 Q And when did your shift end?
47 A 1:00 a.m.

1 Q Your duty that day was primarily -- primarily to
2 work at the -- at what's called the PIL?
3 A Yes.
4 Q Tell the commissioner though how that might work.
5 You might be assigned to the PIL; did that mean
6 you would be there from 4:00 until the end of your
7 shift at 1:00? Would you have to stay there all
8 the time or might you go somewhere else?
9 A We are supposed to stay there. If a supervisor
10 requests help in a different area, they could call
11 us back, but that is where we are stationed for
12 the shift that we're working that day.
13 Q As we understand it, Ms. Kullar, you were not the
14 first officer to deal with Mr. Dziekanski.
15 A Correct.
16 Q You dealt with him to stamp his card though and
17 get him through the PIL?
18 A Yes.
19 Q Okay. Do you know the name of the person who
20 dealt with him and sent him to the book to do the
21 translation in Polish?
22 A I don't know who was talking to him before, no.
23 Q We were told by Ms. Hunter that no one tells the
24 passenger how to fill in the form because you want
25 to make sure that whatever is written is not
26 prompted by somebody else or put in by somebody
27 else; is that a fair way of categorizing it?
28 A Do BSOs help them or does she and her colleagues?
29 Q Her job.
30 A Her job, no. They're just supposed to help
31 explain the card.
32 Q So there is a book that we've heard about that
33 would have translations and you know it has one
34 for Polish if someone needs it?
35 A Yes.
36 Q Okay. Tell us then about your very first recall
37 of dealing with Mr. Dziekanski.
38 A He approached my booth. He was speaking rapidly
39 in Polish and waving his E311 declaration card at
40 me. And he was --
41 Q And what is the E311?
42 A It's the declaration card that passengers are
43 required to fill out.
44 Q Okay. Keep going.
45 A And he was pointing to a particular spot on the
46 card and just kept repeatedly pointing to it. And
47 he was looking for his -- he pulled out a boarding

1 pass stub and the part that he was pointing to on
2 the card was the part that says what airline he's
3 arriving on. So I took the boarding pass stub
4 from him and filled in the airline information on
5 his card.

6 Q Okay. Let me stop you one second. Let's now deal
7 with that card.

8 A Okay.

9 Q And...

10 A Thank you.

11 Q Now, this was emailed yesterday, Ms. Kullar, to
12 all of our colleagues who are here representing
13 different participants. I have a few extra, if
14 any of you do not have yours handy. If it would
15 help, I don't mind assisting. Okay. Let's look
16 at this card. We went over this with you
17 yesterday and I'd like you to take the
18 commissioner and the participants through it.
19 This is a copy, Ms. Kullar, given to me by Mr.
20 Brongers, who is the lawyer assisting on the
21 participant for CBSA. I have not seen the
22 original, but I'm confident this is what was filed
23 and dealing with Mr. Dziekanski.

24 If we need the original at a later date, we
25 can always get that. I think we can go through it
26 this way.

27 A Okay.

28 Q So let's look at the top of the card. At the very
29 top left corner, what is that marking?

30 A It's the number "1".

31 Q Meaning...?

32 A How many passengers are travelling on this
33 particular declaration card.

34 Q And who put that mark on?

35 A I did.

36 Q Okay. Go to the top -- stay on the top line, go
37 over to the "V".

38 A Yes.

39 Q Tell us what that is.

40 A That is marked off for visitor. It's either
41 resident or visitor to Canada.

42 Q Now, you could not speak with Mr. Dziekanski at
43 all?

44 A Correct.

45 Q He only spoke Polish. Whatever it was, it was --
46 there was no way you could communicate with him?

47 A Right.

- 1 Q How did you know then to mark "V" for visitor?
2 A He had a Polish passport with a visa in there. If
3 he was a resident, he would have some sort of
4 documentation, such as a Canadian citizen passport
5 or permanent resident card.
6 Q Now, then next, under number "1", last name, first
7 name, et cetera --
8 A Yes.
9 Q -- there's the name Dziekanski, Robert and then
10 date of birth and citizenship, Polski, which I
11 know means Poland. That was filled in by Mr.
12 Dziekanski?
13 A Yes.
14 Q Okay. Lines 2, 3, 4, there's information and then
15 a line through it; tell us about the line through
16 it.
17 A Mr. Dziekanski had filled in his birth date and
18 citizenship on all four lines, so I crossed off
19 the next three lines.
20 Q And you crossed this off when you were in the
21 booth dealing with him?
22 A Yes.
23 Q Okay. Through that time were you in any way
24 speaking to him?
25 A I was trying to ask him a few questions while I
26 was doing this, yes.
27 Q Do you remember what questions you asked? Not
28 word-for-word obviously, but can you just give us
29 your best recall of what you asked?
30 A I was asking where he was coming from and he kept
31 speaking in Polish, so I'd try broken English, and
32 just asked him, "Do you speak English? Do you
33 speak English?" Just asked him that a few times.
34 Q And did he speak any English at all?
35 A No.
36 Q Did he appear to understand your English at all?
37 A No.
38 Q Continue then down with the card, please, under
39 "home address", who filled that information in?
40 A The home address, he did. And then where it says
41 "arriving by" on the left hand side for airline
42 information, he had written "samolot" and then the
43 "DE6070" is my printing.
44 Q Okay. Samolot, I understand, is Polish for
45 airplane, just so you know. That was written by
46 Mr. Dziekanski?
47 A Correct.

- 1 Q So he's indicating he's arriving by an airplane?
2 A Yes.
3 Q You wrote in "DE6070", what does that mean?
4 A That is the flight number that he was travelling
5 on that day.
6 Q And "DE" is that the initial for Condor?
7 A Condor.
8 Q Now, "purpose of trip" is marked "personal", who
9 did that?
10 A He did.
11 Q And "arriving from", there is an "X" "other
12 country direct", who did that?
13 A That was him, as well.
14 Q Now, if you're coming in from Frankfurt to
15 Vancouver, is that the right answer?
16 A Yes.
17 Q Now, then the next section, this is the one that
18 you want to make sure you correctly filled out, so
19 that you know whether there's inspection required;
20 is that the case?
21 A Yes.
22 Q And all the answers were "no". Who filled those
23 answers in?
24 A That was the passenger, as well.
25 Q Was this all filled in prior to Mr. Dziekanski
26 coming to your booth?
27 A Yes.
28 Q Did you make any marks in that section of the
29 declaration?
30 A On the answer portion?
31 Q Yes.
32 A No, I just stamped the centre.
33 Q All right. So now let's look at the next section,
34 which is Part B, called "Visitors to Canada". If
35 he was coming to Canada with -- and had arranged
36 immigration in advance, would that be the section
37 he fills in?
38 A With somebody immigrating, there's no real
39 specific section they have to fill out there, but
40 on the majority of times we would write
41 "Immigration" right in that spot.
42 Q Okay. So just to jump ahead for Part C, what --
43 "Residents of Canada", what does that mean?
44 Obviously it means somebody that lives here in
45 Vancouver all the time, is a Canadian citizen.
46 But who else would be a resident of Canada for
47 that section?

20
Monica Kullar
In chief by Mr. Vertlieb

1 A Just anyone residing here, whether they're here
2 on, say, a three-year study permit, for example,
3 we get them to fill out the resident portion.
4 Q So somebody who's planning to move to Canada
5 permanently but has not yet been landed and
6 stamped and cleared, would they properly be
7 filling in Part B then?
8 A Essentially, yes.
9 Q Okay. So the point is that's the right section
10 for Mr. Dziekanski or someone like him to be
11 filling in?
12 A Yes.
13 Q And that section, Part B, was filled in by Mr.
14 Dziekanski?
15 A Yes.
16 Q And Part C?
17 A Yes.
18 Q And then the signature, that's his signature,
19 that's not yours?
20 A No.
21 Q Now, on this front page, before we go to the back,
22 there's a stamp in the middle.
23 A Yes.
24 Q And who put that stamp on it?
25 A I did.
26 Q The date is -- help us with that, please?
27 A October 13th, 2007.
28 Q Tell us about the stamp then. How was that -- why
29 did you put that on?
30 A We -- the primary officer stamps every card of the
31 passenger they are dealing with, so it has our
32 individual stamp numbers on there so we know who
33 was dealing with a passenger.
34 Q How would we know that's your stamp?
35 A Our stamp numbers are assigned to us and on our
36 daily schedules, our stamp numbers are right by
37 our names.
38 Q So you're confident that -- you're confident
39 that's you?
40 A Yes.
41 Q Okay. Let's go to the backside of this
42 declaration, but it's the second page of the
43 photocopy. You're the first CBSA representative,
44 so we just want to have that explained to the
45 commissioner.
46 A Okay.
47 Q Tell us about the handwriting on there. Go top to

1 bottom, please.
2 A Okay. So on the left corner is the number "1"
3 which refers to the number of passengers
4 travelling on this declaration card.
5 Q Who put that on?
6 A I did. Next to that, towards the right-hand side,
7 I marked an "X" with "lang" which is an
8 immigration referral based -- mandatory for
9 language.
10 Q Tell us what you mean by that.
11 A So if the passenger does not speak English or
12 French and we are unable to communicate with them,
13 it is a mandatory referral for a language barrier.
14 Q Referral to who?
15 A It would go to both Customs and Immigration, if
16 they are a non-resident.
17 Q So that's a coding for your other CBSA employees?
18 A Yes.
19 Q So that code tells the people that this gentleman
20 has to go to both Customs and Immigration?
21 A That particular code in the corner just refers to
22 Immigration. And then mine in the centre there is
23 also the one that I notated for a Customs
24 referral.
25 Q Okay. Let's get clear on that. The "X" and l-a-
26 n-g means language?
27 A Yes.
28 Q The "X" means what?
29 A Immigration.
30 Q Below that is the Roman numeral or the letter "I".
31 What is that, please?
32 A The "I" refers to a new immigrant landing.
33 Q And who put that on there?
34 A I do not know who put that on. It's --
35 Q Okay.
36 A -- done after me.
37 Q But you know what it means but you're not -- you
38 don't know who did it?
39 A Yes.
40 Q Tell us what that would mean, a new immigrant?
41 What does that mean for us?
42 A They need to go to Immigration to have their
43 landing documents processed.
44 Q So if somebody was trying to leave through the
45 Point and that person showed this card that we're
46 discussing to the officer, that officer would say
47 something like, "Wait, hold on, you've got to go

1 -- you've got to go back to Customs. You've got
2 to go to Immigration?"
3 A Correct.
4 Q So we've covered the number "1", the "X", the word
5 "lang" and the "I". The "I", that means
6 Immigration?
7 A Yes.
8 Q What's the "36"?
9 A That was our referral code for the day to Customs
10 Secondary.
11 Q Who wrote that?
12 A I did.
13 Q Below that what's written, please?
14 A "Lang" again, it's for the same purpose, language.
15 Q Who wrote that?
16 A I did.
17 Q And what's beside that? It looks like an "E"?
18 A Yeah. There is an "E" that's circled with an
19 officer's badge number. That is written by the
20 secondary officer who examines the passenger and
21 that's once they're completed their examination,
22 they write examined on the back of the card.
23 Q And would that be -- which officer, Immigration or
24 Customs or...? How would that work?
25 A The "E" on top of the "36" refers to the Customs
26 officer.
27 Q Okay. And what's below that?
28 A The officer's badge number.
29 Q Okay. So whoever examined for Customs purposes
30 has put the badge number on it?
31 A Yes.
32 Q Okay. There's a date stamp at the top.
33 A Yes. That's stamped by the Immigration officer
34 once they have finished the Immigration process
35 with this passenger.
36 Q So the back of this shows that a Customs officer,
37 a CBSA peace officer, has examined Customs and
38 cleared it?
39 A Yes.
40 Q And at the top it also shows that a CBSA
41 Immigration officer has examined and cleared it?
42 A Yes.
43 Q So once these markings are on the sheet, whoever
44 is holding this declaration should be able to get
45 through the Point?
46 A Yes.
47 Q And then into Vancouver.

- 1 A Yes.
- 2 Q Have we covered all the markings that are on this
3 declaration card?
- 4 A Yes.
- 5 Q Okay. Now, I wanted to ask you about the
6 Immigration stamp on October 13, 2007. I think we
7 may hear evidence that Mr. Dziekanski cleared
8 somewhere after midnight, which would then mean
9 the 14th of October of 2007. Now, just tell the
10 commissioner how that might come about with that
11 date stamp?
- 12 A Our stamps need to be manually changed for dates,
13 so it would have had to have been changed right at
14 midnight to the 14th by the officer in order for
15 it to show 14th when he was stamping it.
- 16 Q And sometimes that's done and sometimes it might
17 be dismissed?
- 18 A Right.
- 19 Q So you can't look at this stamp for October 13 and
20 say that must have happened before midnight on
21 October 13th?
- 22 A Correct.
- 23 Q It maybe did, maybe didn't. You just can't be
24 certain by looking at the stamp?
- 25 A Correct.
- 26 Q Did you at any time feel the need to get a Polish
27 interpreter to help you discuss this declaration
28 card?
- 29 A At primary, no.
- 30 Q And tell the commissioner why not?
- 31 A At primary, we're the initial screening point, so
32 any thorough examinations or if we need to further
33 explain something to a passenger, that will be
34 done in secondary by a secondary officer. So
35 essentially, if we have the card filled out to the
36 best of our ability, we refer them to secondary
37 for further processing.
- 38 Q So for this gentleman coming through, where you
39 could not speak with him at all, it wasn't of
40 concern to you because you were going to ensure he
41 was given more screening by both Customs and
42 Immigration?
- 43 A Yes.
- 44 Q So you would not for your function that evening or
45 that afternoon, worry about his Immigration papers
46 and any other official documents he had, except
47 for the passport?

- 1 A Yes.
- 2 Q But he did have a passport. You'd need that to
3 get him past your screening?
- 4 A He showed me his passport. Yes.
- 5 Q Tell us your -- I think we've all seen it, anybody
6 who's travelled there, but tell us what you do
7 with a passport?
- 8 A When the passenger initially comes up to our
9 booth, we scan their passport into our machinery
10 there, which therefore puts in the computer his
11 entry into Canada that day. So it would record
12 what time he entered and if I'm going to make a
13 referral, I do it at that point in the computer
14 system, as well.
- 15 Q How do you do that in the computer system?
- 16 A There are buttons that we would hit for
17 Immigration referral or Customs referral or there
18 was also a cash referral option.
- 19 Q Okay. Now, your shift changed at four o'clock.
20 Do you remember where Mr. Dziekanski was in terms
21 of the passengers you dealt with once you came on
22 duty?
- 23 A He was one of the first few passengers I had that
24 evening.
- 25 Q Do you remember Mr. Dziekanski?
- 26 A Yes.
- 27 Q Tell us why, please?
- 28 A Sorry? Tell you why?
- 29 Q Yes.
- 30 A The thing that made him stand out in my mind is
31 the way his face was sweating when he came up to
32 our -- to my PIL booth and that's essentially the
33 main reason that I remembered him from all the
34 other passengers that evening.
- 35 Q What do you mean by that? Why do you remember him
36 for that?
- 37 A I found it unusual that his face was sweating so
38 much. He literally had sweat dripping off of his
39 chin, like rolling down and dripping off of his
40 chin, which I found stood out in my mind.
- 41 Q And did you notice any part of his clothing that
42 was showing to this...?
- 43 A No, he wasn't sweating from his chest or
44 underarms. I remember I noticed that, because
45 usually when somebody's sweating that much from
46 their face, their body will be sweating, as well.
47 So I found it odd that his chest wasn't sweating

1 at all, but his face was dripping with beads of
2 sweat.

3 Q How often in the course of a shift at that
4 inspection point would you see somebody sweating,
5 a passenger coming off a plane?

6 A I'd say there was a couple per shift.

7 Q Is there anything else about your dealings with
8 Mr. Dziekanski at the start of your shift, after
9 4:00 p.m. that you recall that you wish to discuss
10 right now?

11 A No, that's all I remembered.

12 Q Okay. You concluded your shift about 1:00 a.m.?

13 A Yes.

14 Q Tell us about the last part of your shift, where
15 were you?

16 A When the flights are done for our shift in the
17 evening time, we do what's called falling back, so
18 we fall back into secondary just to ensure that
19 the exams are being completed there, to see if we
20 can help out any other officers, just before we
21 all go home. So I was in the back in Secondary
22 near the Agriculture counter.

23 Q So show us where you were. Use the pointer,
24 please.

25 A So if this is Secondary, Agriculture would have
26 been around here.

27 Q At that time, Agriculture and Customs were in the
28 same area?

29 A Yes.

30 Q Today it's different?

31 A Yes.

32 Q So you were -- you had left the PIL and --

33 A Yes.

34 Q -- gone to the back, to the Secondary Customs?

35 A Yes.

36 Q Okay. Approximately what time did you do that,
37 real roughly?

38 A Roughly around 12:30 or so.

39 Q And did you stay there until your shift finished
40 and --

41 A Until we were released by our supervisor, yes.

42 Q And how did you leave?

43 A We had doors that kind of take you back through
44 Secondary this way to our change room area.

45 Q Okay. And did those doors lead out into a public
46 area?

47 A There is a hallway that we have to cross that's

1 public, but our change room is just across the
2 hall. There's not many passengers in that area at
3 all.

4 Q Okay. Did you see Mr. Dziekanski at about the
5 time you were in the Customs area?

6 A Yes.

7 Q Tell us about that, please.

8 A I saw him with another BSO standing by the cash
9 counter. The BSO was just talking to a few other
10 officers to see if we were all done with Mr.
11 Dziekanski in that area.

12 Q And what's the best estimate you have for the time
13 of that?

14 A That I last saw him?

15 Q Yes.

16 A I left probably just before 1:00, maybe ten to or
17 so, so he was in the process of leaving as we
18 were.

19 Q Did you have any dealings with the gentleman then?

20 A No.

21 Q Did you speak with him?

22 A No.

23 Q Did you get close enough to observe him?

24 A No.

25 Q Is there anything you remember about seeing him
26 there at that time?

27 A I just remember he wasn't sweating any more,
28 because I was looking at that when I first walked
29 in. And he seemed a lot calmer than when I
30 initially saw him at PIL.

31 Q So by the time you were leaving the planes that
32 had been expected to arrive for the evening had
33 already arrived?

34 A Yes.

35 Q So there was no need for you then to stay at the
36 PIL because there would be no more arrivals?

37 A Correct.

38 Q And would that -- was that usually the case on a
39 Saturday night at the Vancouver International
40 Airport at that -- in that month?

41 A Yes. For the most part the last flight comes
42 around 12:00, ten after 12:00.

43 Q You subsequently found out that Mr. Dziekanski had
44 died at the airport.

45 A Yes.

46 Q How did that come to your knowledge?

47 A I was watching the news the following evening at

- 1 home when I saw it on the news reports.
- 2 Q Did you think that that might be the gentleman you
3 had dealt with on that Saturday?
- 4 A I believe the news report had mentioned he was
5 Polish, so I initially thought it was that man
6 that I had dealt with the day before and a
7 superintendent called me within five minutes of
8 that, so I was -- it was affirmed that it was the
9 same passenger.
- 10 Q Tell us about, then, what happened when the
11 superintendent phoned?
- 12 A He just wanted to know if I remembered the
13 passenger and just to ask if I had watched the
14 news and had heard what happened.
- 15 Q And you -- tell us about that discussion.
- 16 A It was very brief. He asked if I remember the
17 passenger. I said, "Yes." He said that I may be
18 required to do a report or answer questions within
19 the next -- within the following few days. And I
20 said that would be okay.
- 21 Q Did that happen, that you had to do a report or
22 speak with somebody?
- 23 A Yes.
- 24 Q And tell us about that, please.
- 25 A I don't remember the -- how many days afterwards,
26 but the RCMP interviewed me and I was required to
27 write a report about my interaction with Mr.
28 Dziekanski to my superintendent or to our chief,
29 sorry.
- 30 Q Were you interviewed person-to-person by the RCMP?
- 31 A Yes.
- 32 Q So you'd first seen this gentleman sometime
33 shortly after 4:00 --
- 34 A Yes.
- 35 Q -- p.m. on the 13th. And you didn't see him again
36 until you were at the back in the Secondary
37 Customs area, shortly before 1:00 a.m. on the 14th
38 of October?
- 39 A Yes.
- 40 Q Now, did you wonder why he was still in the
41 airport, given the Condor arrival and your dealing
42 with him at the PIL?
- 43 A I was wondering, yes, why he was still there that
44 length of time.
- 45 Q Did you ever ask anybody?
- 46 A At that day, no.
- 47 Q Okay. Did you --

1 A We were --

2 Q Did you ever get a phone call during that shift

3 from someone at Customs about Mr. Dziekanski?

4 A Yes.

5 Q Tell us about that.

6 A I was at the extension counter and the extension

7 counter keeps track of what time flights arrive

8 and what time they show up at PIL. And an officer

9 called from Secondary questioning what time the

10 Condor flight had landed that evening, so I

11 checked the clipboard and told him it was

12 approximately four o'clock. And from that, he

13 looked at my stamp number and said I was the one

14 that referred this passenger based on a language.

15 Then I remembered from that who the passenger was

16 and I asked the officer if he was still sweating.

17 The officer said, "No," and that's as much as I

18 can remember from that conversation.

19 Q So you were at the extension area. Point that out

20 again, please?

21 A Right here.

22 Q And why were you there and what time were you

23 there?

24 A It was a few hours before my shift was over. I

25 don't remember the specific time, but usually I

26 don't -- if you're covering somebody's break, you

27 can go to that area or if there's down time

28 between flights, officers also come to this area

29 here.

30 Q So you were in that area doing your job.

31 A Yes.

32 Q And you got a phone call from another Border

33 Services agent. Do you remember who that was?

34 A Officer Bharya.

35 Q And that's Kal Bharya?

36 A Yes.

37 Q Okay. He's going to be coming here later to talk

38 to the commissioner. And Mr. Bharya phoned you?

39 A Yes.

40 Q And he phoned you at the extension area?

41 A Yes.

42 Q And that's because that area is where flights are

43 tracked?

44 A Yes.

45 Q So he wasn't phoning for you. He was just phoning

46 for someone at that area?

47 A Correct.

- 1 Q Okay. So he wanted to know what time the flight
2 arrived and you told him?
- 3 A Yes.
- 4 Q Did you have any discussion with him about why
5 that gentleman, Mr. Dziekanski, the Polish
6 gentleman, was still there?
- 7 A I remember him asking me if I remember the
8 passenger. I said, "Yes." And we did question
9 what he was doing the entire time, but we didn't
10 discuss too much as to where he was during those
11 hours.
- 12 Q Did you think about asking to bring in a Polish
13 interpreter to find out why he had been in there
14 that long or that length of time?
- 15 A At Primary did I think that?
- 16 Q No. When Mr. Bharya phoned you, when you were at
17 extension.
- 18 A No.
- 19 Q Is there anything else you discussed with Mr.
20 Bharya when he phoned you when you were in the
21 extension area?
- 22 A Not that I remember, no.
- 23 Q And this phone call was sometime later that
24 evening?
- 25 A Yes.
- 26 Q Do you know when it was or do you wish not to be
27 guessing?
- 28 A I don't want to guess.
- 29 Q Okay. Is that the only phone call you received
30 from somebody in Customs or Immigration about Mr.
31 Dziekanski during that shift?
- 32 A Yes.
- 33 Q And then it was sometime after that phone call
34 that you happened to see Mr. Dziekanski?
- 35 A Yes.
- 36 Q But it was coincidence that you saw him. You
37 weren't in any way dealing with him?
- 38 A No.
- 39 Q In your time working at the airport from your
40 summer student days and when you were a summer
41 student, how many summers was it that you were
42 working at the airport?
- 43 A I left for my training the second summer, so I
44 worked one full summer and a month of the second
45 summer.
- 46 Q And then you started full-time in '06?
- 47 A Yes. And throughout the year I was part-time.

1 Q Throughout the school year?

2 A Throughout the school year, yes, three shifts a
3 week.

4 Q When did you leave the Customs work at Vancouver
5 Airport?

6 A I left September of 2008.

7 Q So you worked at the airport at least two years
8 full-time?

9 A Yes.

10 Q Plus summers.

11 A Yes.

12 Q Had you ever in that work experience heard of
13 someone being in the airport for six or seven
14 hours in the Customs terminal?

15 A No.

16 Q When you stamped the card --

17 MR. VERTLIEB: -- which we should mark as an exhibit,
18 Mr. Commissioner, the Customs declaration card,
19 please?

20 THE COMMISSIONER: Yes, Exhibit 3.

21 MR. VERTLIEB: Thank you.

22 THE REGISTRAR: Exhibit 3.

23 MR. VERTLIEB: Thank you, Mr. Commissioner, Mr. Giles.

24

25 EXHIBIT 3: Copy - E311 Declaration Card

26

27 MR. VERTLIEB:

28 Q When you stamped this sometime after 4:00 p.m.
29 tell us what you last did with Mr. Dziekanski at
30 that time.

31 A If a passenger does not communicate in English
32 with me, I usually point them behind me towards
33 the next part they need to go to, the next
34 section.

35 Q So you didn't need -- feel the need to call an
36 interpreter to tell him what to do?

37 A No.

38 Q So how did you communicate with him to tell him to
39 leave? What did you do?

40 A I don't specifically remember what I did in that
41 particular case. Usually I will point the
42 passenger to the direction they need to go to
43 next.

44 Q And what would the way -- how would you do that?

45 A If they need to go to Immigration, which would
46 have been over my left shoulder, I would normally
47 point this way, and I'd say "Immigration", even

1 though there's a language barrier, I usually still
2 say the word. Or if I want them to head towards
3 the exit, towards Point, I would point over my
4 right shoulder.
5 Q Where did Mr. Dziekanski go as -- at your last
6 sighting of him at the PIL?
7 A Once he passed through PIL and he was behind me, I
8 do not know which direction he walked.
9 Q Okay. When you were dealing with him the very
10 first time, did you have any concerns about him
11 from a security standpoint in terms of personal
12 security?
13 A No.
14 Q Did you feel any physical threat in any way?
15 A No.
16 Q Did he appear to be courteous with you as best he
17 could, given the language issue?
18 A Yeah.
19 Q If you had decided to call an interpreter, could
20 you have done so?
21 A We don't call interpreters to Primary. If an
22 interpreter is going to be used, it's going to be
23 done in Immigration or Customs Secondary.
24 Q We have other people coming who can talk about
25 Immigration availability during that time, so I
26 won't ask you any more about that.
27 A Just --
28 Q Now, finally --
29 A Sorry. I'm just going to mention, at PIL we do
30 have interpreters for Cantonese, Mandarin and
31 Korean during the day, but other than that, we
32 don't have interpreters up at Primary.
33 Q Okay. And that -- during the day is when you're
34 expecting flights from Asia?
35 A Correct.
36 Q One last area, if you were in the Customs Hall in
37 the large area between the PIL, as we call it, and
38 the Point, and you saw someone sleeping, what
39 would you do, just your own personal --
40 A I usually wake them up.
41 Q Why? Why would you do that?
42 A I wake them up to ask them if there's a reason
43 they're staying in our area, if they're waiting
44 for somebody, and if they don't really have a need
45 to be in the area, I encourage them to exit.
46 MR. VERTLIEB: Ms. Kullar, thank you very much. Thank
47 you, Mr. Commissioner.

Monica Kullar

Exam by Mr. Buchanan (for Ms. Kullar and PSAC)

1 THE COMMISSIONER: Yes, Counsel?

2 MR. BUCHANAN: Mr. Commissioner, I'm Chris Buchanan.

3 I'm counsel for Ms. Kullar, as well as counsel for
4 the PSAC. I don't know if you wish to take the
5 morning break now, but I do have several questions
6 of this witness.

7 THE COMMISSIONER: Oh, start, if you don't mind.

8 MR. BUCHANAN: Okay.

9

10 EXAMINATION BY MR. BUCHANAN ON BEHALF OF MS. KULLAR AND
11 PUBLIC SERVICE ALLIANCE OF CANADA:

12

13 Q How long did you deal with Mr. Dziekanski at PIL?

14 A Thirty seconds or so.

15 Q Okay. And we've heard from an earlier witness
16 that a CBSA officer left the booth and took him to
17 the table where the Customs forms were and showed
18 him the Polish translation. In your experience,
19 how frequently would that type of service be done
20 for passengers?

21 A It depends on the officers. I do walk passengers
22 to the table occasionally.

23 Q Okay. And is there any other translation
24 documents that you have with you at the booth?

25 A There's a pamphlet that has the same E311
26 translations in the same languages that are in the
27 binder, and I know I personally and some other
28 officers keep a copy on us, as well.

29 Q So when -- why would you keep a copy of that
30 pamphlet on yourself?

31 A Personally, if it's not too busy at PIL, I'll pull
32 out the translation card and help the passenger
33 right at my counter. If it is a busy day and
34 there's a line-up, then I encourage them to go to
35 the table where they can take a little bit more
36 time to fill out the E311 using the translation.

37 Q And is there any difference between the
38 translation form that's at the desk and the
39 pamphlet that you have with you?

40 A No.

41 Q Okay. Now, you were asked about some coding on
42 Exhibit 3, which is the E311 card of Mr.
43 Dziekanski. And is there a code that you can put
44 on if -- if you would want a Secondary Immigration
45 officer or Secondary Custom officer to call you to
46 explain something?

47 A Yes. If we needed to be a little bit more

1 detailed in our communication with the secondary
2 officers, we have a code that we write on there,
3 telling them what booth to call us in at Primary,
4 and that allows us to give them a little bit more
5 information.

6 Q And did you feel the need to put that code on Mr.
7 Dziekanski's card?

8 A No.

9 Q Okay. Is there any physical barrier that prevents
10 a passenger, once they have gone through the PIL
11 line, to come back to speak to an officer at PIL?

12 A No.

13 Q And in your experience, do passengers come back?

14 A All the time.

15 Q And why would they come back?

16 A Some of them want to know what carousel their
17 luggage is on, some of them may have questions
18 about where they're supposed to go next if they
19 want some sort of direction of where a connecting
20 flight is, lots of reasons.

21 Q And do your knowledge, did Mr. Dziekanski return
22 to PIL that evening?

23 A No.

24 Q Okay. The -- as I understand your evidence, you
25 scanned Mr. Dziekanski's passport into a scanner,
26 correct?

27 A Yes.

28 Q Okay. And that then creates a computer record
29 entry of that, correct?

30 A Yes.

31 MR. BUCHANAN: Okay. Mr. Commissioner, last night we
32 received a document generated from a CBSA database
33 that has certain information and I wish to put it
34 to the witness. I have some spare copies for
35 other counsel.

36 THE COMMISSIONER: Yes. Go ahead.

37 A Thank you.

38 MR. BUCHANAN:

39 Q If you can turn to the third page, it's headed
40 ICS/SID Secondary; do you have that in front of
41 you?

42 A Yes.

43 Q Okay. Can you just tell us what this document is?

44 A This is a record of the traveller's passage
45 history, so it has their tombstone information on
46 the top there, date of birth, first and last name,
47 the type of document we used.

1 THE COMMISSIONER: This is a printout from the
2 computer?
3 A Yes.
4 MR. BUCHANAN:
5 Q And under the "Additional Information" you'll see
6 that in the second area, but what does that
7 information tell us?
8 A The lane number lets us know what booth, primary
9 booth he went through, our work locations, our
10 airport code, that's my user ID, so we know which
11 officer dealt with him at PIL. It's got the date,
12 the time he was processed.
13 Q If you just stop at the time, it says 1909, what
14 does that tell us?
15 A That's the time that he went through PIL. Our
16 computer is on Eastern Standard time so it's
17 actually minus three hours.
18 Q So that would tell us he went through PIL around
19 1609?
20 A Yes.
21 Q Okay. Now, you see at the bottom it says a
22 heading called "Referrals".
23 A Yes.
24 Q Can you just tell us what information is in there?
25 A This shows if the passenger was referred to
26 Customs or Immigration Secondary. And where it
27 says "type", we have two options which is either
28 mandatory or selective and because of the language
29 barrier, it is a mandatory referral, therefore it
30 shows Customs Secondary was mandatory and
31 Immigration Secondary was mandatory.
32 Q And I think in your evidence you indicated that
33 when Mr. Dziekanski was present, that you pressed
34 the buttons to indicate the referral. Would that
35 be how that information would show up here?
36 A Yes.
37 Q Okay. And under "status" there's a term
38 "unaquitted". What does the term -- I'm going to
39 ask you a different question first. What does the
40 term "acquitted" mean?
41 A Once you have finished examining the passenger and
42 they are finished in either, for example, Customs
43 Secondary, and I'm done, I would go into the
44 computer, hit "acquit", so we now know that he is
45 done with Customs Secondary.
46 Q Okay. And if you could turn your mind back to
47 October of 2007, what was the practice about

Monica Kullar

Exam by Mr. Buchanan (for Ms. Kullar and PSAC)

1 whether or not CBSA officers would mainly enter in
2 "acquitted" after dealing with passengers?

3 A In 2007 it wasn't done for a hundred percent of
4 the passengers. It was not practised that
5 commonly.

6 Q Okay. So I think we can -- so if this document
7 would tell us what about whether Mr. Dziekanski --
8 I gather this document shows that the officer who
9 dealt with Mr. Dziekanski hadn't manually
10 acquitted; is that correct?

11 A Right.

12 Q Okay. Now, so if -- you as a CBSA officer, do you
13 have access to this information during your shift?

14 A I do, yes.

15 Q Okay. And is this database password-protected?

16 A Each user has their own password.

17 Q Okay. And I'll come back to this document in a
18 second. I just want to turn to 2007 --

19 THE COMMISSIONER: That'll be a good time for the break
20 then.

21 MR. BUCHANAN: Thank you.

22 THE COMMISSIONER: Ten minutes.

23

24 (WITNESS STOOD DOWN)

25

26 (PROCEEDINGS ADJOURNED FOR MORNING RECESS)

27 (PROCEEDINGS RECONVENED)

28

29 MONICA KULLAR, a witness,
30 recalled.

31

32 EXAMINATION BY MR. BUCHANAN ON BEHALF OF MS. KULLAR AND
33 PUBLIC SERVICE ALLIANCE OF CANADA, continuing:

34

35 Q Thank you, Ms. Kullar. Before the break, I was
36 asking you some questions about the ICS printout
37 and I just want to clarify one matter, and that's
38 in October 2007 would this information be
39 available to a Custom official during their shift?
40 Like could you pull this up at a computer
41 terminal?

42 A A Customs officer, yes.

43 Q Okay. And if you had pulled up Mr. Dziekanski's
44 form, would you know for certain whether he was
45 still in the secured area or whether he could have
46 left through the Point?

47 A Based on this screen, no.

1 Q Okay. And so what would be the means to determine
2 for sure whether a passenger was still in the
3 secured area as of October 2007?

4 A Either a visual inspection of the different areas
5 in our Customs Hall, or we could also go through
6 every single card that was turned in that day to
7 see if that card had, in fact, been turned in.

8 Q And I gather there would be a large amount of
9 cards. How many cards would there be during a
10 shift?

11 A On a Saturday day shift, thousands, 20,000 or so.

12 Q Okay. At the PIL booth itself, is there a way to
13 -- is there any alert or security buttons?

14 A We have a silent alarm underneath the PIL booth
15 that goes to the RCMP centre.

16 Q Okay. The last area I'd just like to ask you some
17 questions, Commission counsel asked you whether
18 you worked in Secondary Immigration and you said
19 now you could. In October 2007 what duties did
20 you perform?

21 A At that time we had BSOs who were strictly
22 Customs.

23 Q Sorry, if I just stop you there, you've used BSO a
24 number of times; what does BSO stand for?

25 A Border Services officers.

26 Q Okay. So continue please.

27 A At that time we had officers that were designated
28 to do Immigration and those of us that were
29 designated to do Customs.

30 Q And you were designated to do what?

31 A Customs.

32 Q And so as a designated Customs person, where would
33 you work?

34 A We would work either PIL, Point or Customs
35 Secondary.

36 Q Okay. And if somebody was designated Immigration,
37 where would they work?

38 A Immigration Secondary.

39 MR. BUCHANAN: Okay. Thank you. Those are my
40 questions.

41 THE COMMISSIONER: I think that should be marked. What
42 are we, Exhibit 4?

43 THE REGISTRAR: Marked as Exhibit 4.

44

45 EXHIBIT 4: Copy - ICES Traveller History
46 Report

47

Monica Kullar

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

1 MR. KOSTECKYJ: Mr. Commissioner, my friend and I, Mr.
2 Hira, have agreed that he would go first for
3 today's proceedings.

4 THE COMMISSIONER: Thank you.

5 MR. HIRA: For the record, Ravi Hira representing
6 Constable Kwesi Millington.
7

8 CROSS-EXAMINATION BY MR HIRA ON BEHALF OF CONSTABLE
9 MILLINGTON:
10

11 Q Now, Officer, you said that he had sweat dripping
12 off his chin, correct?

13 A Yes.

14 Q And you said you encounter a couple of passengers
15 on each occasion that are sweating, correct?

16 A Yes.

17 Q Would you say -- would you agree with me -- would
18 you agree with the proposition that he appeared to
19 be sweating sort of more than a passenger with a
20 slightly sweaty brow or a passenger that was hot?

21 A He was sweating differently.

22 Q And what do you mean by that, he was sweating
23 differently?

24 A Like you said, most passenger will have a sweaty
25 forehead. His was -- the sweat was literally
26 dripping off his chin.

27 Q And have you seen a passenger look like that in
28 the past?

29 A No.

30 Q And have you seen a passenger look like that
31 since?

32 A No.

33 Q Surely based on your training, you were concerned
34 about his medical condition?

35 A I didn't think if it was a medical condition at
36 that time.

37 Q Okay. Now, based on Exhibit 4, he -- you complete
38 your interactions with him, it appears, at 4:09
39 p.m., correct?

40 A Yes.

41 Q And once one leaves the PIL, there's no way back
42 out into the pre-PIL area or the Primary
43 Inspection area, is there?

44 A To go in front of PIL?

45 Q Yeah.

46 A No.

47 Q All right. So from approximately 4:10 p.m.

- 1 onwards, and until he leaves the Point, he is
2 totally in control of CBSA?
- 3 A Yes.
- 4 Q All right. Now, how many CBSA officers would you
5 have patrolling the area, that is, that area
6 between Primary, the PIL -- that is, sorry, that
7 area after the PIL and up to the Point, in other
8 words, the area that deals with the baggage
9 carousels, et cetera?
- 10 A There may be a few rovers scheduled to work and
11 those are officers that circulate the baggage
12 carousels and interview passengers at the baggage
13 carousels. Other than that, it would be officers
14 that were walking from PIL to Secondary for
15 whatever purpose throughout the day.
- 16 Q So perhaps my question was poorly worded. In
17 fact, it was a bit premature. So you have two
18 types of people there. You have some types of
19 people called rovers that are there to interview
20 people, correct?
- 21 A Yes.
- 22 Q And then you have people, CBSA officers, that are
23 going from one place to another whose job it isn't
24 to interview people --
- 25 A Correct.
- 26 Q -- to get to wherever they're going to.
- 27 A Yes.
- 28 Q So Saturday afternoon, Saturday is a busy time,
29 how many CBSA officers would you have from the PIL
30 to the Point?
- 31 A Walking through or scheduled to work --
- 32 Q In total.
- 33 A -- in that area?
- 34 Q In total. Approximately.
- 35 A There may be a couple that are scheduled to work
36 in that space in between the two.
- 37 Q All right. So when you say that there are a
38 couple that are scheduled to work in that space in
39 between the two, are you suggesting those are the
40 rovers or just CBSA officers that are assigned to
41 the Customs and Immigration Hall?
- 42 A No. The only people assigned to work there will
43 be the rovers.
- 44 Q Okay. So how many rovers do you have?
- 45 A A couple per shift.
- 46 Q Okay. So you -- just dealing with numbers now,
47 you've got a couple of rovers per shift. How many

- 1 other CBSA officers do you have?
2 A Maybe 15 or so working PIL.
3 Q Yes?
4 A And maybe ten to 15 working Secondary.
5 Q When you say Secondary, are you including both
6 Immigration Secondary and Customs Secondary?
7 A No, so that's just Customs Secondary and the Point
8 team.
9 Q So now we're up to about between 27 and 32
10 officers, correct?
11 A On -- yeah, for the most part.
12 Q And in addition to that, you would have officers
13 working in the Immigration area, correct?
14 A Yes.
15 Q And how many would that be? And I'm referring to
16 Secondary Immigration.
17 A Back in 2007, maybe ten max.
18 Q All right. So somewhere between 37 and 42
19 officers, correct?
20 A During the day, yes.
21 Q Now, what about washrooms, where are they located?
22 A Far side, over here.
23 Q So just by the Secondary Immigration; is that
24 correct?
25 A This is the -- well, like to get into Secondary
26 Immigration would be up in this area.
27 Q Right.
28 A And the washrooms are behind there, so you can't
29 see that from Immigration.
30 Q And are patrols done of the washrooms?
31 A At that time, no.
32 Q Now, I'm just sort of trying to understand here.
33 You get a phone call at some point in time from
34 Mr. Bharya that asks whether you had dealings with
35 Mr. Dziekanski, correct?
36 A The purpose of the call was to see what time the
37 flight landed.
38 Q Yes. And you're still in the PIL area but the --
39 the lower part of the PIL area?
40 A Yeah, right here.
41 Q All right. And this call, can you give us a
42 guesstimate, is it, say, around ten o'clock?
43 A It was a few hours before we fell back, so around
44 10:30 or so, give or take a half-hour.
45 Q So this is six and a half hours after you've dealt
46 with this person, correct?
47 A Yes.

- 1 Q And at this stage, you were surprised that he was
2 still in the system, correct?
- 3 A Yes.
- 4 Q Did you convey to the Officer Bharya what you'd
5 observed about his sweating?
- 6 A Yes.
- 7 Q And he told you he wasn't sweating that much,
8 correct?
- 9 A Yes.
- 10 Q And you again saw him, you said, at about five to
11 1:00 or so?
- 12 A Just before I left, yes.
- 13 Q At any time did you express any concern about this
14 person's physical condition or the amount of time
15 that he was in the system to any supervisor?
- 16 A No.
- 17 Q Have there been any changes since that would
18 require you to express that concern?
- 19 MR. BRONGERS: Mr. Commissioner, Jan Brongers on behalf
20 of the Government of Canada.
- 21 THE COMMISSIONER: Yes.
- 22 MR. BRONGERS: I'm just going to remind counsel that
23 this witness is being called to provide her
24 factual recollection of what happened at the time.
25 She is not being put up as someone responsible for
26 policy issues or changes that may have been made.
27 And so if ultimately the Commission is interested
28 in that information, we can identify a proper
29 witness to answer those questions. But Border
30 Service Officer Kullar was a factual witness to
31 what happened then. She is not up as a
32 representative of the CBSA management and
33 direction to explain these types of questions.
- 34 THE COMMISSIONER: Mr. Hira, I think that's a point
35 well taken.
- 36 MR. HIRA: I will move on.
- 37 Q At that time, was there any requirement to report
38 this man's condition as you first observed him to
39 any supervisor?
- 40 A From my role as a primary officer, no.
- 41 Q At that time was there any requirement to report
42 the length of time that this person had been in
43 the system, be it by ten o'clock, which is
44 approximately six hours, or five to 1:00, which is
45 approximately nine hours or eight and a half
46 hours, to any supervisor?
- 47 A Again, as a primary officer, no.

- 1 Q Now, you've pointed out the area where baggage is
2 sort of picked up by -- I'm sorry. You pointed
3 out the area where airline baggage employees are,
4 correct?
- 5 A Yes.
- 6 Q Could you just shine that area -- shine on that
7 area one more time?
- 8 A Right here.
- 9 Q Thank you. And what about baggage that is not
10 picked up from the carousel? Do you know where
11 that goes?
- 12 A Just in front of the airline desks.
- 13 Q All right. And at that time, what happened to
14 that baggage, what steps, if any, were taken at
15 that time to connect up the person and the
16 baggage?
- 17 A I do not know.
- 18 Q Okay. Now, was there any method - you've told us
19 that you have some buttons that you can press to
20 summon people from the RCMP to the PIL area,
21 correct?
- 22 A Yes.
- 23 Q Was there any method for somebody outside the blue
24 area, anybody in the green areas or the white
25 areas, in other words anybody in the meeting area
26 or the public areas, is there any way to
27 communicate between the public areas and the
28 secure blue areas at that time?
- 29 A Communicate with whom, passengers or officers?
- 30 Q Passengers, members of the public.
- 31 A They cannot come in. There are pay phones located
32 throughout the Customs Hall that passengers can
33 use to make phone calls outwards.
- 34 Q What about phone calls inwards?
- 35 A To contact passengers, no.
- 36 Q Now, you didn't ask Mr. Bharya or the people that
37 you saw him dealing with at five to 1:00 as to why
38 he was still there, correct?
- 39 A I did not interrupt their examination, no.
- 40 Q Were they examining him at five to 1:00?
- 41 A They were still interacting with the passenger.
- 42 Q When you say interacting, what do you mean by
43 that?
- 44 A Well, the passenger was still there. They were
45 still trying to get him out, therefore I wasn't
46 about to interrupt just to find out what was going
47 on. There was enough officers taking care of the

Monica Kullar

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

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

1 matter.

2 Q Now, in your experience up to 2009, how many times
3 had you had to find a passenger or -- let's put it
4 another way. How many times had you had to
5 determine whether a passenger who had cleared the
6 PIL had left the hall or not? As you may
7 recall --

8 THE COMMISSIONER: Mr. Hira, what's this got to do with
9 anything? I don't know what your question is
10 about in terms of any issue I can possibly think
11 of.

12 MR. HIRA: Well, I'm happy to move on, Mr.
13 Commissioner.

14 THE COMMISSIONER: All right. Thank you.

15 MR. HIRA:

16 Q In terms of Exhibit 3 -- I'm sorry, yes, Exhibit
17 3, the Customs declaration form, it's your
18 evidence that other than the three lines that you
19 had to cross off, there was nothing unusual on
20 that form in terms of filling it out?

21 THE COMMISSIONER: Well, she didn't say that was
22 unusual.

23 MR. HIRA: I'm sorry?

24 THE COMMISSIONER: She didn't say that was unusual.

25 MR. HIRA: Well then let's deal with it another way.

26 Q What, if anything, did you consider unusual about
27 the way the Customs form was filled out?

28 A There wasn't anything unusual about it.

29 MR. HIRA: Okay. Those are my questions, Mr.
30 Commissioner.

31 THE COMMISSIONER: Thank you very much.

32 MR. KOSTECKYJ: Walter Kosteckyj, counsel for Zofia
33 Cisowski.

34

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

37

38 Q If during the course of -- let me rephrase that.
39 Once you had met with Mr. Dziekanski and you had
40 processed him at Primary, and by that I mean you
41 had entered his name into the computer - that had
42 been done, correct?

43 A Yes.

44 Q And that was done sometime around four o'clock or
45 shortly thereafter?

46 A Yes.

47 Q Could any other CBSA agent who wanted to inquire

1 about Mr. Dziekanski, would they have been able to
2 access the information and know that he had
3 cleared Primary Customs at a certain time?
4 A In 2007, Customs, I believe, were the only ones
5 that had the password to check this program.
6 Q Sorry?
7 A Customs officers, the ones that perform the
8 Customs function --
9 Q Yes.
10 A -- could pull this up. Immigration, I don't know
11 if they had access to looking at this.
12 Q Okay. Is that because you're not -- you weren't
13 trained in Immigration at the time that you're not
14 sure if they could have done it --
15 A Yeah.
16 Q -- or you don't -- or you're telling us that they
17 couldn't have done it?
18 A In 2007 we worked separately, so we had our own
19 computer systems that we used.
20 Q So -- let's go back to 2007 so we understand this.
21 What was the difference between the Customs
22 function and the Immigration function?
23 MR. BRONGERS: Again, Mr. Commissioner, we would be
24 happy to answer these types of policy questions.
25 Border Service Officer Kullar is here to explain
26 what she saw and therefore, I'm not sure it's
27 appropriate to put the burden of explaining this
28 on Ms. Kullar when someone else would be more
29 appropriate.
30 THE COMMISSIONER: You might want to narrow it a bit.
31 MR. KOSTECKYJ: That's fine.
32 Q What -- what was the function that you performed
33 as a Customs officers?
34 A Customs officers, we did PIL, Point and Secondary
35 Customs.
36 Q All right. But you did have interaction with
37 Immigration?
38 A We interacted with them, yes.
39 Q And was it the case that on some occasions the
40 same officer might be -- might be assigned to
41 Immigration on one day or one week or one month
42 and end up being on Customs another time?
43 A At that time, no.
44 Q All right. So were there actually separate
45 bodies, just so that I understand? Did you work,
46 for example, for Canadian Border Services and the
47 people that worked for Immigration worked for a

- 1 different department?
- 2 A No, we were all working for Canada Border
3 Services.
- 4 Q All right. So if an Immigration officer received
5 a call inquiring about Mr. Dziekanski, they may or
6 may not have been able to access that information
7 through their computer; is that your answer?
- 8 A Correct.
- 9 Q Okay. And you don't know the answer to that
10 because you weren't working as an Immigration
11 officer?
- 12 A Right.
- 13 Q But you did enter the information into the -- into
14 the system?
- 15 A Did I? Yes.
- 16 Q Yes. Now, do you recollect that at some point a
17 baggage -- somebody that we're going to hear from
18 later, a Ms. Widiner, who works for, I think,
19 Lufthansa, came to the PIL area because she had
20 tracked down Mr. Dziekanski's bags and was looking
21 for him; were you aware of that on the evening?
- 22 A No.
- 23 Q So that was never communicated to you?
- 24 A No.
- 25 Q Okay. Remind me again of the area that you were
26 working at about ten o'clock or 10:30. It was at
27 the bottom area?
- 28 A I was sitting in this area.
- 29 Q Yeah. And what is that called again?
- 30 A Extension.
- 31 Q Okay. Now, was there any procedure at the time
32 that you were aware of for dealing with the
33 situation where someone would come to the
34 extension or to Primary Immigration and say,
35 "Look, I found the bags of somebody who's -- who
36 doesn't appear to have picked them up," and checks
37 with you and you find out that, in fact, they'd
38 cleared Immigration? Was there any process in
39 place to try and track that person down?
- 40 A No. There was always so many bags left behind.
- 41 Q Okay. I always got the impression, travelling at
42 international airports, that when a passenger is
43 separated from their bags that's a security issue.
44 Were you trained that that was an issue when you
45 had bags and no passenger?
- 46 A No.
- 47 Q When you were dealing with Mr. Dziekanski, I got

- 1 the impression from reading your statement that
2 Mr. Dziekanski was excited and speaking quickly to
3 you about filling out his card and showing you his
4 card to begin with, but that he calmed down during
5 the course of your discussions with him.
- 6 A Yes.
- 7 Q And it seemed, is it fair to say, that he was
8 trying to make himself understood and when he felt
9 that he was understood, he calmed down?
- 10 A Yes.
- 11 Q Now, when you have somebody who has any special
12 needs, whether it be a child travelling alone,
13 somebody who needs some special assistance, are
14 there people at that time that you could call
15 upon, airport employees or others who worked in
16 the Customs Hall, to assist that person?
- 17 A From my experience, if somebody needs special
18 assistance, there is a representative from the
19 airline that usually brings them to us.
- 20 Q Okay. But the question I'm asking is was there in
21 October of 2007, were there people who worked in
22 the Customs Hall that you could call upon to get
23 assistance if you needed it?
- 24 A There are customer service -- YVR reps in that
25 area.
- 26 Q All right. So that's the point. So -- besides
27 the 40 or so Canadian Border Services employees
28 that were wandering around in the hall and working
29 there, there were also representatives from the
30 Vancouver International Airport working in there,
31 correct, in the hall?
- 32 A I don't know if they were on shift, but we do have
33 reps in that area. On that given day, I do not
34 know.
- 35 Q Okay. And are they -- are they available to you
36 if you need assistance for somebody? Can you call
37 upon one of these people to direct someone to
38 where they need to go?
- 39 A You would have to physically be in front of them.
40 We don't have a phone to call them.
- 41 Q Okay. Do you have a way of paging people in the
42 area?
- 43 A At PIL, no.
- 44 Q Okay. So at that time, if someone needed a guide,
45 they wouldn't be -- you wouldn't be able to call
46 for a guide from the PIL area?
- 47 A No.

- 1 Q Is that different today?
- 2 A From PIL? No.
- 3 Q Now, in the area of the PIL, you said that during
- 4 the regular business hours, there were translators
- 5 available to assist passengers if they happened to
- 6 be Asian speakers, correct?
- 7 A During the day shift when we -- those are the
- 8 majority of our flights, yes.
- 9 Q And the day shift would be between 9:00 and 5:00
- 10 or 8:00 and 4:00?
- 11 A They usually get in about 9:00 or so and when the
- 12 last flight's done, they leave, three o'clock
- 13 maybe.
- 14 Q Okay. And during that period of time back in
- 15 2007, there were Asian interpreters, and that
- 16 would be principally, you indicated, for Hindi,
- 17 for Punjabi, for the Mandarin; is that correct?
- 18 A Translators?
- 19 Q Yes.
- 20 A We have Cantonese, Mandarin and Korean.
- 21 Q All right.
- 22 A The question was regarding other officers that
- 23 speak different languages. Those are the
- 24 different languages that our officers are able to
- 25 speak.
- 26 Q Okay. But there were translators available for, I
- 27 think you indicated, too in your principal
- 28 testimony for people who spoke Japanese; is that
- 29 correct?
- 30 A No. Immigration Secondary has translators they
- 31 can call upon over the phone, but physically
- 32 there, our main interpreters are Cantonese,
- 33 Mandarin and Korean. That's it.
- 34 Q All right. Were you aware that there were Polish
- 35 interpreter services? In your training did you
- 36 become aware that there were Polish interpreter
- 37 services available through the Polish consulate in
- 38 Vancouver if you needed to call upon them?
- 39 A In our training? No.
- 40 Q Were you aware of that in October of 2007?
- 41 A For PIL? No, we don't use interpreters.
- 42 Q So at PIL, interpreters just aren't part of the
- 43 program?
- 44 A Just those three that I mentioned.
- 45 Q All right. So if you don't speak those three
- 46 languages, there's no translation service
- 47 available?

Monica Kullar

Cross-exam by Mr. Brongers (for Government of Canada)

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

1 A At Primary. They'll get that in Secondary.
2 MR. KOSTECKYJ: Okay. Those are all my questions.
3 THE COMMISSIONER: Yes, Mr. Brongers?
4 MR. BRONGERS: Jan Brongers for the Government of
5 Canada.
6

7 CROSS-EXAMINATION BY MR. BRONGERS ON BEHALF OF THE
8 GOVERNMENT OF CANADA:
9

10 Q Ms. Kullar, I just have a couple of quick
11 questions. You now work at Rideau, Quebec; is
12 that correct?

13 A Yes.

14 THE COURT RECORDER: Could you speak up a bit, please?

15 MR. BRONGERS: Certainly.

16 Q When did you begin working in Rideau?

17 A September 2008.

18 Q So prior to that you were working at the Vancouver
19 International Airport?

20 A Yes.

21 Q Okay. And when you were interacting with Mr.
22 Dziekanski did you ever feel the need to call
23 anyone for assistance?

24 A No.

25 Q And why not?

26 A I didn't feel there was any threats to myself and
27 for language reasons, they would help him in
28 Secondary.

29 Q And did you feel he was in need of medical
30 attention at any time?

31 A No.

32 MR. BRONGERS: Thank you. Those are all my questions.

33 THE COMMISSIONER: Thank you.
34

35 CROSS-EXAMINATION BY MR. HARRIS ON BEHALF OF CORPORAL
36 ROBINSON:
37

38 Q My name is Reg Harris. I'm counsel for Corporal
39 Robinson, one of the RCMP officers there that
40 night. I'd like to ask you questions firstly
41 related to the physical layout, if I understand
42 correctly. That green area is also known -- in
43 the green area on the map, it's also known as
44 what's called a semi-sterile environment; would
45 you agree with that?

46 A The dark green?

47 Q Yes.

- 1 A Yes.
- 2 Q And by semi-sterile, what that means is though
3 there's card access, there's no one standing Point
4 to control and monitor who's coming and going; do
5 you agree with that?
- 6 A We do have security personnel that's stationed
7 outside the door here, and there's usually one
8 here too.
- 9 Q All right. And within the blue area, and I'm
10 talking about the lighter blue area, that is sort
11 of the area where you generally worked that we've
12 heard about?
- 13 A Yes.
- 14 Q And when you work within that area, you've talked
15 about when answering commission counsel's
16 questions, you wear a uniform?
- 17 A Yes.
- 18 Q And as part of your uniform, you carry some
19 enforcement tools, if you will?
- 20 A Defensive tools, yes.
- 21 Q And in that regard you carry OC pepper spray?
- 22 A Yeah.
- 23 Q You have -- do you have restraining devices,
24 handcuffs?
- 25 A We have handcuffs.
- 26 Q And you have -- you were wearing a ballistic vest?
- 27 A Yes.
- 28 Q And, as well, do you also carry a collapsible
29 baton?
- 30 A Yes.
- 31 Q All right. And despite that being sort of a
32 secure area, you still carry those defensive
33 tools, correct?
- 34 A Yes.
- 35 Q And that's because passengers, once they have
36 accessed their baggage from carousels, it is
37 possible that they could have weapons or
38 implements that could cause you harm if they're so
39 inclined, within those devices, within their
40 baggage?
- 41 A Yes.
- 42 Q All right. And therefore, if someone was to feel
43 that a passenger -- it wouldn't be unreasonable to
44 be cautious about a concern that a passenger may
45 have a weapon, even though they're coming out of
46 that area, the blue area or the dark green area?
- 47 A It would be possible, yes.

- 1 Q All right. Now, if I understand -- I may have
2 missed it and I apologize, the time that you last
3 saw Mr. Dziekanski was approximately what time,
4 ma'am?
- 5 A Sometime just before 1:00.
- 6 Q All right. And at that time you saw nothing to
7 suggest that he was agitated or upset?
- 8 A No.
- 9 Q All right. And during your dealings with him, you
10 saw nothing to suggest that he had consumed any
11 liquor?
- 12 A At Primary I initially thought he may be under the
13 influence of something.
- 14 Q Okay. You didn't smell any liquor on him?
- 15 A No.
- 16 Q Now, I take it in the dark green area that we see
17 there, if you see illegal activity such as someone
18 acting out in a violent area, one of the responses
19 you would do would be to call the RCMP?
- 20 A In the green area?
- 21 Q Yes, the dark green area.
- 22 A If we happened to be in that area, yes.
- 23 Q And turning back for a moment to your observations
24 of Mr. Dziekanski, you never saw anything that
25 would suggest that later on he would be picking up
26 furniture and throwing furniture at glass or
27 ripping a computer and throwing it to the ground,
28 did you?
- 29 A No.
- 30 Q And I take it in your employment -- well, at the
31 Vancouver Airport, you pass through that dark
32 green area on several occasions?
- 33 A No, barely ever.
- 34 Q All right. Certainly from your observations of
35 that area and the blue area in your time had you
36 ever seen a passenger pick up a computer and throw
37 it to the ground?
- 38 A No.
- 39 Q Had you ever seen a passenger pick up any
40 furniture and throw it at a glass -- at the
41 glass --
- 42 A No.
- 43 MR. HARRIS: -- windows at all? All right. Thank you
44 for answering my questions.
- 45 A Thank you.
- 46
- 47

50

Monica Kullar

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

Re-exam by Mr. Vertlieb

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

3

4 Q Yes. Ms. Kullar, yesterday we heard from Patricia
5 Hunter, who is one of the customer service agents
6 that was working that night.

7 THE COMMISSIONER: Your name, please?

8 MR. STEWART: Sorry, Dwight Stewart, counsel for the
9 airport.

10 Q Do you recall her being on that night?

11 A I do not remember.

12 Q She described at or about the time where Mr.
13 Dziekanski had arrived at the PIL that basically
14 the PIL line was empty, there weren't passengers
15 queued, the pre-PIL area was basically empty; do
16 you recall that?

17 A I do not remember.

18 Q Okay. But certainly you never -- you never
19 thought there was any reason for you to seek the
20 assistance of any of those customer service agents
21 that night?

22 A No.

23 MR. STEWART: Okay. Those are my questions.

24 THE COMMISSIONER: That's everyone? All right.

25 MR. VERTLIEB: Just one -- sorry, Mr. Commissioner, one
26 area I just wanted to clarify, if I may.

27

28 RE-EXAMINATION BY MR. VERTLIEB:

29

30 Q Very briefly, one of counsel called the IRL, the
31 dark green area a semi-secure area and talked
32 about security. In terms of security, would there
33 be CBSA people in that area as a part of their
34 job?

35 A No.

36 Q Okay. What you might have is that there might be
37 -- a guard or other security officers in there,
38 depending on whether or not passengers were coming
39 through with bags?

40 A Correct.

41 Q So if there are no connections to be made, there
42 would not be any security in that area; is that
43 correct?

44 A I don't know how they staff that area.

45 Q Okay.

46 A Sorry.

51
Trevor Gross
In chief by Mr. McGowan

1 MR. VERTLIEB: That's fine. Thank you.
2 THE COMMISSIONER: Ms. Kullar, thank you very much for
3 your time. You've been very helpful. Thank you.
4 A You're welcome. Thank you.

5
6 (WITNESS EXCUSED)
7

8 MR. VERTLIEB: Now, the next witness, Mr. Commissioner,
9 that we had planned to call is Trevor Gross for
10 video. Now, let me just explain a moment, if I
11 may. His evidence to show the videos that were
12 taken by the CBSA would be about 45 minutes and we
13 anticipate his total evidence in commission
14 counsel time about an hour. We have a witness who
15 is the Lufthansa airline employee, Ms. Widiner,
16 and Mr. Mullins in New York wishes to listen to
17 her evidence, and so we really want to start her
18 at two o'clock for convenience.

19 So the question then is do you wish us to
20 break now or start Mr. Gross and then stand him
21 down?

22 THE COMMISSIONER: Well, let's start Mr. Gross and
23 stand him down.

24 MR. VERTLIEB: Thank you, Mr. Commissioner.

25 THE REGISTRAR: Please stand. Do you wish to be sworn
26 or affirmed? Sworn is on the Bible and affirmed
27 is not.

28 MR. GROSS: I'll swear.

29 THE REGISTRAR: You'll swear?

30 MR. GROSS: Yes.

31
32 TREVOR GROSS, a witness,
33 sworn.
34

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

36 A Trevor Gross.

37 THE COMMISSIONER: Thank you, Mr. Gross. Just have a
38 seat, if you would.

39 A Thank you.
40

41 EXAMINATION IN CHIEF BY MR. MCGOWAN:
42

43 Q Mr. Gross, I'm going to ask you questions from
44 here. For the record it's Patrick McGowan. If
45 you could just speak into the microphone and keep
46 your voice up.

47 Mr. Gross, you're employed by the Canadian

1 Border Service?

2 A Yes.

3 Q And where are you currently positioned?

4 A I'm currently positioned at a downtown location
5 with Immigration Inland Enforcement.

6 Q Okay. And tell us just very briefly what it is
7 you do now in your position?

8 A In my position now, I generally deal with
9 Immigration matters where people have already
10 crossed into Canada, whether legally or illegally,
11 and determine whether a foreign national or a
12 permanent resident is inadmissible in Canada.

13 Q Okay. In 2007 October you had a different
14 position, correct?

15 A Yes.

16 Q You were a Canadian Border Service officer at the
17 airport?

18 A That's correct.

19 Q Were you working -- at that time we've heard there
20 was a separation between Customs and Immigration.
21 Were you working with Customs or Immigration?

22 A I was on the Customs side.

23 Q Okay. And what was your position with the Customs
24 side?

25 A I was a Border Services officer.

26 Q Okay. And did you work the same position each
27 time you worked or did you work different
28 positions?

29 A As the previous witness explained, I was always a
30 Customs officer; however, I would work at the
31 Primary Identification Line, at PIL, one day and,
32 you know, rotate through different positions, work
33 Secondary one day and...

34 Q Now, you're here to give some evidence about
35 security videos, correct?

36 A Correct.

37 Q Now, I just want to be clear, you're not a
38 security officer?

39 A No.

40 Q You don't have a specific security role other than
41 your usual role as a Customs officer?

42 A That's correct.

43 Q And you don't have a particular technical role
44 with the Canadian Border Service, correct?

45 A Yes.

46 Q Okay. You were working on -- you were not working
47 on the evening of October 13th, 2007, correct?

- 1 A Correct.
- 2 Q You had no personal dealings with Mr. Dziekanski?
- 3 A That is correct.
- 4 Q Okay. Your involvement started on the morning of
- 5 October 14th, correct?
- 6 A That is correct.
- 7 Q You were working a shift that day that started at
- 8 approximately 6:30 in the morning?
- 9 A That day I started at eight o'clock in the
- 10 morning.
- 11 Q Eight o'clock in the morning. And what was your
- 12 assigned duty that day, if you recall?
- 13 A I was -- my duty was as a rover, which generally
- 14 involved examining passengers at the baggage
- 15 carousel area, but as a rover, it could involve
- 16 other duties, as well, being called out, for
- 17 instance, to the south ramp area of the airport,
- 18 where you deal with private planes coming in, or
- 19 sometimes assisting in different locations on
- 20 different odd duties.
- 21 Q Okay. As a rover, do you work in uniform?
- 22 A Yes.
- 23 Q Okay. Now, I understand that on October 14th,
- 24 2007 you were nearing the end of your term at the
- 25 airport?
- 26 A That is correct.
- 27 Q How many shifts did you have remaining?
- 28 A On October 14th, I had four more days.
- 29 Q Okay. And I understand that because of your
- 30 expected departure shortly, you were attempting to
- 31 avoid certain types of involvement with
- 32 passengers; is that correct?
- 33 A In general, yeah. I didn't want to get involved
- 34 in a large seizure that would have -- would have
- 35 meant that I would have had to have followed up on
- 36 paperwork after the fact. If I could have avoided
- 37 that, that would have been to my benefit.
- 38 Q And as a result of that, you were looking for a
- 39 task that might involve some sort of useful work
- 40 that wasn't directly interacting with passengers,
- 41 correct?
- 42 A More so. I wasn't purposely looking for it, but
- 43 there was a task that was available.
- 44 Q Okay. And did you speak with a supervisor about
- 45 that?
- 46 A Yes.
- 47 Q Okay. Which supervisor was that?

1 A Superintendent Lennie.

2 Q Okay. That's Colin Lennie?

3 A Colin Lenny.

4 Q Okay. And as a result of your discussion, were
5 you tasked with something to do?

6 A Yes.

7 Q And what was that?

8 A I was tasked to go through our video footage that
9 had been captured from our security cameras in the
10 Customs Hall, to review the video that was
11 captured on those cameras and to determine at what
12 -- well, for a couple different reasons. We
13 wanted to find out where Mr. Dziekanski was.
14 There was a long period of time between when we --
15 when Mr. Dziekanski entered the PIL line until he
16 approached or was processed by a Border Services
17 officer. So one of our goals was to determine in
18 this very unusual and abnormal situation where Mr.
19 Dziekanski was during that period of time.

20 In addition to that, we wanted to determine,
21 because we had heard or been aware of a certain
22 level of aggression, that we wanted to find out if
23 there was any motivating factors within the CBSA
24 area that would have elevated his level of
25 anxiety.

26 Q Okay. So you were certainly aware there had been
27 an incident involving Mr. Dziekanski and the RCMP
28 the night before?

29 A Yes.

30 Q And your task was specifically related to
31 following up on that incident?

32 A Yes.

33 Q And the possible involvement or interaction of Mr.
34 Dziekanski with Border Service officers?

35 A Yes.

36 Q And time spent in the Customs Hall?

37 A Yes.

38 Q Okay. And what specific instructions were you
39 given with respect to these videos?

40 A That I can't recall, what the specific
41 instructions were. I just had a general feeling,
42 whether or not it was told to me or not, to --
43 just for the purposes of an investigation into
44 what happened, just to look for Mr. Dziekanski and
45 try to find him on video, using any of the cameras
46 that would have been available to us.

47 Q Okay. In October of 2007 are you able to tell us

- 1 how many cameras there were in the Customs area,
2 the Customs Hall, starting from the Primary
3 Inspection Line and carrying on to the Point?
4 A At that time, to the best of my knowledge, there
5 was 13 --
6 Q Okay.
7 A -- cameras located.
8 Q Now, did the Canada Border Service or Customs have
9 cameras at any point past the area we've been
10 calling the Point?
11 A There -- yes.
12 Q Okay. How many?
13 A To my knowledge two.
14 Q Okay. And are those included in the number 13 you
15 told us?
16 A Yes.
17 Q Okay. Of those 13 cameras, were they all
18 operational on October 13th and 14th, 2007?
19 A From what I recall, the cameras were operational,
20 however, there were some limitations on the
21 cameras.
22 Q Tell the commissioner about those limitations.
23 A Okay. The -- at the time there was construction,
24 there was renovations taking place in the CBSA
25 Hall. I can recall that one camera was severely
26 obstructed by the hoarding that was up to -- as
27 far as construction goes at one of the baggage
28 carousels. Another camera that I recall was not
29 aimed in a very proper direction to really capture
30 a lot of detail or a lot of activity.
31 THE COMMISSIONER: Are these the type of cameras that
32 are stationary or that can go back and forth?
33 A They are a pan type of camera, so they can be
34 controlled to move, and in this situation that I'm
35 explaining with the one camera, it appears that it
36 was aimed at a very poor location.
37 THE COMMISSIONER: But they don't do this by
38 themselves, go back and forth?
39 A They are stationary once they are aimed, yes.
40 THE COMMISSIONER: Okay.
41 MR. MCGOWAN:
42 Q Are each of these cameras recorded?
43 A Yes.
44 Q Okay. And is there a time counter with each of
45 the cameras?
46 A Yes.
47 Q And do you know whether the time counters amongst

1 the 13 cameras are synchronized?

2 A To my knowledge they are.

3 Q Okay. Are the cameras monitored routinely or were
4 they in 2007 October to your knowledge?

5 A Not per se.

6 Q Okay. Was there a place where somebody could
7 monitor them?

8 A Yes.

9 Q Now, with respect to the cameras, I understand you
10 have done some work to attempt to indicate on a
11 map the camera angles of the cameras that were in
12 place on the date you did your review and the day
13 prior to your review, correct?

14 A I did.

15 Q Okay. You took a map very similar to the large
16 map beside you and marked some camera angles on
17 there, working -- I don't know, did you work with
18 somebody else to do that?

19 A No, when -- I think what you're referring to is
20 it's different than what I did.

21 Q Okay.

22 A When I was reviewing the video, I just made on a
23 rough sketch, I suppose, a list of where the
24 cameras were located and what directions they were
25 aimed and what areas each camera had coverage of.

26 Q And do you still have that document?

27 A I don't.

28 Q Okay. Was it destroyed?

29 A I would imagine so, yes.

30 Q Okay. If I'm right, you just threw it out shortly
31 after your review; is that right?

32 A As soon as I was done getting all the required
33 video. I did that just to help me out to be able
34 to track the movements of Mr. Dziekanski. For
35 instance, if I knew he was on a certain camera, I
36 wanted to know based on the direction he was
37 travelling which camera I should look at next to
38 try to capture his movements.

39 Q Okay.

40 THE COMMISSIONER: Is this a good time to break?

41 MR. MCGOWAN: It is, Mr. Commissioner.

42 THE COMMISSIONER: All right. We'll break for lunch.
43 Two o'clock.

44

45 (WITNESS STOOD DOWN)

46

47 (PROCEEDINGS ADJOURNED FOR NOON RECESS)

(PROCEEDINGS RECONVENED)

1
2
3 MR. VERTLIEB: Mr. Commissioner, we're having some
4 technical difficulties, so we'll come back to Mr.
5 Gross.

6 Just a couple of things, Mr. Commissioner:
7 one, the media have been asking about access to
8 exhibits and it's our understanding from our own
9 rules and generally accepted procedure that the
10 media would have access; however, if any of our
11 participants have -- object to access on a
12 particular exhibit, please let the commissioner
13 know or let me know so we can deal with it if
14 there's a submission that any one of you wish to
15 make and, of course, the media would have an
16 opportunity to deal with the submission that's
17 made. So I just wanted to mention that to you,
18 Mr. Commissioner, if that's agreeable to you, sir.

19 THE COMMISSIONER: Oh, yes. The media should have
20 access.

21 MR. VERTLIEB: Thank you. Secondly, Mr. Commissioner,
22 as you know, there's many colleagues of mine and
23 Mr. McGowan's here who are in and out for
24 different parts of the proceeding and they don't
25 wish to be rude. If they're here or not here,
26 they don't wish you to take that --

27 THE COMMISSIONER: No, that's understandable. That's
28 standard practice.

29 MR. VERTLIEB: Fine. Thank you. We'll then continue
30 then with Mr. Gross, please.

31
32 TREVOR GROSS, a witness,
33 recalled.
34

35 EXAMINATION IN CHIEF BY MR. MCGOWAN, continuing:
36

37 Q Yes, Mr. Gross, just before we broke you were
38 telling us about the cameras in the Customs Hall
39 and you told us that there was approximately 13
40 cameras in operation on October 14th, 2007, some
41 of which had their views at least partially
42 obscured by construction; is that --

43 A Yes.

44 Q -- fair? Did you make a list or have you seen a
45 list of the cameras that were in operation at that
46 time?

47 A Yes.

- 1 Q Okay. And do you have that list with you?
- 2 A Yes.
- 3 Q Okay. Now, I have a copy here. It's titled
- 4 "Camera Locations" at the top.
- 5 A Yes.
- 6 Q And it has 16 cameras listed.
- 7 A Mm-hmm.
- 8 Q The cameras are numbered. The first camera is
- 9 voluntary compliance/PIL and the final one says
- 10 "not in use". Are we looking at the same list
- 11 then?
- 12 A It's the same list.
- 13 Q Okay. I'm going to show you one other document.
- 14 I have a map very similar to the coloured map up
- 15 there. Do you have that same map in front of you?
- 16 A Yes, I do.
- 17 Q And this map has what appears to be numbers with
- 18 "Vs" in front of them. Am I correct that those
- 19 are -- the numbers correspond to the camera
- 20 numbers on your list?
- 21 A That's correct.
- 22 Q And the "Vs" denote the approximate viewing angle
- 23 of each of the cameras.
- 24 A A very approximate angle, yes.
- 25 Q Okay. You didn't create this map but you can
- 26 confirm those are the approximate angles of the
- 27 cameras.
- 28 A They look --
- 29 Q On the day that you did your review.
- 30 A It looks good to me, yes.
- 31 Q Okay. Now, sir, you were -- told us you were
- 32 tasked with reviewing these videos and maybe I'll
- 33 just have you tell the commissioner a little bit
- 34 about how you went about that.
- 35 A Okay. First of all, on the first day that I
- 36 started reviewing the video, I noticed
- 37 Superintendent Colin Lennie already sitting at the
- 38 computer station, where the video -- where we have
- 39 access to controlling the captured video footage.
- 40 And I was just curious as to what he was doing.
- 41 He explained it. It was regarding the incident
- 42 the night before. And I was probably a little
- 43 more familiar with the video system than him and
- 44 probably had more time than he did at that point,
- 45 so very shortly after, I took over the process of
- 46 going through the video trying to find any type of
- 47 evidence.

- 1 Q Did you watch the entirety of each of the videos
2 that were in operation?
- 3 A No.
- 4 Q No. Okay. What time did you start watching?
5 What was the start time on the recordings that you
6 started looking at?
- 7 A I started at four o'clock, roughly four o'clock,
8 the time that we knew Mr. Dziekanski had crossed
9 the PIL line.
- 10 Q Okay. And on the video timer, what time did you
11 stop watching?
- 12 A At approximately 1:30.
- 13 Q That is 1:30 in the morning on the 14th?
- 14 A Yes. Sorry.
- 15 Q Okay. Now, just to clarify, there's 16 cameras
16 here. You did or did not watch the video footage
17 from each of those cameras?
- 18 A I watched only footage from cameras that would
19 have relevant footage on it.
- 20 Q Okay.
- 21 A Cameras such as -- on the map that we have, for
22 instance, Camera Number 15 and Number 15, we knew
23 that Mr. Dziekanski was not in that area, so I
24 didn't review the footage from those cameras. It
25 was only cameras where he may possibly have been.
- 26 Q So that you watched the camera angles that were
27 anywhere from the Primary Inspection Line to the
28 Point; is that correct?
- 29 A Yes.
- 30 Q Okay. And for those camera angles, did you watch
31 them in regular time or fast-forward speed?
- 32 A It depended on what was actually on video at the
33 time. If it was -- if -- if on a particular
34 camera angle there were a number of passengers,
35 number of people, a lot of activity, I would slow
36 it down to -- I would watch it in regular speed or
37 even slow it down even further to try to pick Mr.
38 Dziekanski out of a group of people, or try to
39 determine if somebody that I suspected might have
40 been him, you know, pause it, take a good look.
41 At other times, if there is no activity in the
42 Customs Hall, I would speed up the playback until
43 I saw activity. So whatever was comfortable,
44 based on the time, what was captured on video.
- 45 Q Am I correct that what you were attempting to do
46 was capture every incidence where Mr. Dziekanski
47 appeared on any of these videos?

- 1 A That's correct.
- 2 Q Okay. How confident are you that you identified
3 all of those incidents?
- 4 A Very confident.
- 5 Q Okay. Now, when you found Mr. Dziekanski's image
6 on one of the videos, what did you do?
- 7 A I would go back a little bit and start recording
8 the video onto the hard drive and continue the
9 recording until we knew he was off that camera.
- 10 Q Okay. So you copied the -- only the segment with
11 a little bit on each end where Mr. Dziekanski
12 appeared?
- 13 A That's correct.
- 14 Q Okay. How did you identify him on the video?
- 15 A He -- he was wearing rather distinctive clothing.
16 The clothing that he was wearing stood out quite
17 well. He had a distinctive gait when he walked,
18 sort of an upper body lateral movement that was
19 easy to pick out in larger crowds. And by that
20 time I had a fairly good idea of what his face and
21 his attire looked like, that I could easily
22 reference it.
- 23 Q Okay. Now, I've been asking you about videos, but
24 to be accurate, these were digital recordings,
25 correct?
- 26 A Yes.
- 27 Q Okay. Was a decision made by you or by somebody
28 else not to capture a wider portion of the video?
- 29 A There was no decision about it at all. It wasn't
30 even considered, I suppose, to capture a huge
31 period of time where there was no inactivity
32 (sic).
- 33 Q Okay. Do the recordings from the 13th and the
34 14th of October 2007, aside from the clips you
35 excised, do the remainder of those recordings
36 still exist?
- 37 A No --
- 38 Q What happened to them?
- 39 A -- not to my knowledge. The video system, it's
40 like a digital video recorder, it stores
41 information temporarily on a hard drive. It's not
42 unlike a tape system on a reel or on a loop,
43 whereby once the hard drive is full, it just
44 starts then taping or recording over the portion
45 that is already there. So that's what had
46 happened.
- 47 Q Okay. Did you have a discussion at any point with

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1 anybody about the prospect of attempting to retain
2 the remainder of the recordings from those time
3 periods?
4 A No.
5 Q Do you know how long they last before they're
6 recorded over? If you don't, that's fine.
7 A I don't. I've been given approximate time
8 periods, but I don't know.
9 Q How long did the task take you to complete?
10 A Up to three full days.
11 Q That's three shifts?
12 A Sorry, yes.
13 Q Okay. Eight hours --
14 A Yeah, two -- two and a half to three full shifts.
15 Q And those are eight-hour shifts?
16 A Eight and a half hours, yes.
17 Q Eight and a half hours. Okay. Now, I'm going to
18 -- have you got the camera locations document in
19 front of you?
20 A Yes.
21 Q And I don't know if it's necessary to go through
22 the -- to the big map, but let me just ask you
23 about a couple of these. The cameras are marked
24 with numbers on the map that you were looking at a
25 few moments ago, correct?
26 A Yes.
27 Q Now, cameras 14 and 15, they say "in transit
28 area". Where are those on the map, if I'm holding
29 it with the --
30 A Okay.
31 Q Let's hold it the same way that the large map is
32 over there, with the green on the left-hand side.
33 A Okay. The "in transit" area is not even on this
34 map that's in front of us. It would be, if I was
35 to extrapolate, it would be around this area here.
36 Q Okay. So that's prior to -- to the right-hand
37 side as we're looking at the map in the Primary
38 Inspection Line.
39 A Yes.
40 Q Okay. Now, Camera 12, that's a camera angle
41 that's also outside the Customs Hall, correct?
42 A Yes.
43 Q Okay. And does that camera angle cover passengers
44 leaving through the meet and greet area and
45 perhaps also people entering the meet and greet
46 area from street-side?
47 A It could, yes.

1 Q Okay. How many clips did you excise from the
2 master recording?
3 A Twelve separate clips.
4 Q Okay. I'm just looking at your --
5 A Oh, sorry.
6 Q Yes, go ahead.
7 A More than 12.
8 Q Okay. You actually designated 12 clip numbers,
9 correct, with some having "A" and "B" and "C"
10 designations, which actually increases the number;
11 is that right?
12 A That's correct.
13 Q So it's a total of approximately 17 --
14 A Yes.
15 Q -- video clips?
16 A Yes.
17 Q With respect to those clips, you -- you've made a
18 list of the clips that you kept?
19 A Yes.
20 Q And there's a file number which is 1, 2, 3, and so
21 on, correct?
22 A Correct.
23 Q And you've recorded the start and stop time of
24 each of the clips?
25 A Yes.
26 Q And there is a camera angle, correct?
27 A Camera location, yes.
28 Q Okay. And that corresponds with your camera
29 locations list and the map?
30 A Yes.
31 Q And finally, there is a description, correct?
32 A Yes.
33 Q And the description just is a very brief
34 description of where the camera coverage is.
35 A What's occurring on the camera, yes.
36 Q Okay. What's occurring on the camera, fair
37 enough.
38 MR. MCGOWAN: Now, perhaps before we go any further, we
39 could mark these documents.
40 THE COMMISSIONER: Now, I've got two. Is there a third
41 page?
42 MR. MCGOWAN: There should be three, Mr. Commissioner.
43 There should be a map with the camera angles shown
44 on it, a list of camera locations, and finally, a
45 list of the camera clips with times.
46 THE COMMISSIONER: No, I don't have the latter. Just
47 want to do this...

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1 MR. MCGOWAN: Mr. Commissioner, perhaps the camera
2 locations could be the next exhibit, that one
3 list.

4 THE COMMISSIONER: I was thinking maybe 5A, B and C.

5 MR. MCGOWAN: Perfect.

6 THE COMMISSIONER: 5A is camera location; 5B is the
7 map.

8 THE REGISTRAR: 5A.

9

10 EXHIBIT 5A: Copy - List of security camera
11 locations

12

13 THE COMMISSIONER: 5B is the map; and 5C is the summary
14 document.

15

16 EXHIBIT 5B: Copy - Floor Plan of Airport
17 Customs area, showing camera angles

18

19 EXHIBIT 5C: Copy - List of security camera
20 activity

21

22 MR. MCGOWAN:

23 Q Sir, you've looked at each of these clips since
24 you recorded them?

25 A Yes.

26 Q I'm going to ask you now, with the assistance of
27 Mr. Parhar, to take us through those clips. Now,
28 just before we do that, I want to just clarify.
29 Starting at "1" and moving through "12", those are
30 organized in roughly chronological order, correct?

31 A That's correct.

32 Q Okay. The first clip starts at 1605 and runs --
33 16:05:07 and runs for approximately just under a
34 minute?

35 A Yeah.

36 Q And where is this? We see the start of it there
37 on the video screen.

38 A Yes.

39 Q Which area of the Customs Hall is this?

40 A This is a view looking at the Primary
41 Identification Line on the left of the screen.
42 That's the Primary Identification Line there.

43 Q Yes. And I understand we're going to see Mr.
44 Dziekanski coming through the Primary Inspection
45 Line on this segment.

46 A That's correct.

47 MR. MCGOWAN: Mr. Commissioner, can you see the video

1 screen adequately from there or would you like
2 it...?

3 THE COMMISSIONER: Yes. I'm just going to have a look.
4 Is there a chair there? Very good.

5 MR. MCGOWAN:

6 Q Now, there's no sound with these videos, these
7 recordings, correct?

8 A That's correct.

9 Q Okay. Perhaps you could just play the first
10 segment and, sir, feel free to point out what you
11 see on the recordings as they're happening. If
12 you see Mr. Dziekanski, please indicate with the
13 laser pointer.

14 A Sure.

15

16 (VIDEO CLIP PLAYING)

17

18 A That's Mr. Dziekanski crossing through the PIL
19 line right there. And then at that point Mr.
20 Dziekanski just walks back towards -- in a very
21 regular fashion, the way that most travellers
22 would proceed from that point.

23 Q Now, I wonder if we could just play that last
24 little piece again where we see him walking
25 through the right --

26 A Certainly.

27 Q -- hand side, if we could just move that back a
28 few seconds.

29

30 (VIDEO CLIP REWOUND AND REPLAYING)

31

32 Q Are we able to enlarge that to full screen again?

33 A So you can see him walking by this way here. To
34 me, that would -- it could mean an indication that
35 he is headed towards the Immigration Secondary
36 area.

37 Q Is he walking in the direction of that area of the
38 Customs Hall?

39 A That's correct.

40 Q Okay.

41

42 (VIDEO ENDED)

43

44 Q The next clip that you have identified is
45 approximately 30 seconds, starts approximately 30
46 seconds later in time?

47 A Yeah.

1 Q And where are we going to see Mr. Dziekanski in
2 this clip?

3 A Okay. On the map, if I can refer to the map --

4 Q Certainly.

5 A -- he should be around this area here.

6 Q You're identifying somewhere over near the
7 Immigration area?

8 A That's correct.

9 Q That's Immigration Secondary.

10 A Correct.

11 Q Okay. If we could play the next clip, please, on
12 full screen.

13

14 (VIDEO CLIP PLAYING)

15

16 A So on the left is the windows to Immigration
17 Secondary, and Mr. Dziekanski enters the scene
18 right up there.

19 Q If you could just identify the windows you were
20 speaking of?

21 A These would be the windows here.

22 Q And Mr. Dziekanski...?

23 A Right there.

24 Q Are you able to say where Mr. Dziekanski is in the
25 screen right now?

26 A It appears that he's behind this pillar right
27 here. And now he turns and heads in a different
28 direction. And he exits the scene right in the --
29 towards that area.

30 Q Thank you. I'll just ask you to keep your voice
31 up to make sure we can all hear.

32 A Okay. Did you want me to repeat that?

33 Q No, that's fine, I think.

34 A Okay.

35 Q I think it was probably captured.

36

37 (VIDEO ENDED)

38

39 Q Is that the conclusion of that clip?

40 A It appears to be.

41 Q And that clip concluded at approximately four --
42 just before 4:08 in the afternoon, correct?

43 A Correct.

44 Q The next clip is -- commences just about two
45 minutes later, at 16:09:27?

46 A Yes.

47 Q And which area are we going to see in this clip?

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1 It's Camera 11 it looks like.
2 A I'll have to see the clip before I can point it
3 out.
4
5 (VIDEO PLAYING)
6 (VIDEO STOPPED)
7
8 A Okay. So this is from an overhead camera. The
9 camera location would be roughly this area, and
10 it's elevated one level above the floor level.
11 And the view is towards the Primary Identification
12 Line.
13 Q So we're looking down on the baggage carousels
14 here?
15 A That's correct.
16 Q And this clip runs for approximately 30 seconds?
17 A Yes.
18 Q Go ahead, please.
19
20 (VIDEO PLAYING)
21
22 A I believe that's Mr. Dziekanski there, walking
23 back towards the Primary Identification Line.
24
25 (VIDEO ENDED)
26
27 Q Is that the conclusion of that clip?
28 A It appears to be.
29 THE COMMISSIONER: Can you just pause a minute? Are
30 you able to point out where Camera 4 is on the
31 screen?
32 A Yeah. Camera 4 is roughly --
33 THE COMMISSIONER: No, on the picture.
34 A Oh, sorry. It would be just to the left of this
35 area here.
36 THE COMMISSIONER: Okay. Thank you.
37 A Underneath the upper level.
38 THE COMMISSIONER: Okay. Behind those pillars.
39 MR. MCGOWAN:
40 Q Now, from this camera --
41 A Yeah, on the other side of the posts.
42 THE COMMISSIONER: Yes.
43 MR. MCGOWAN:
44 Q Now, sir, from this camera angle, can you show us
45 where on the screen the PIL would be?
46 A PIL would be this area up here.
47 Q And which side would Immigration be on?

1 A Immigration would be on the left.

2 Q Okay. Moving to the next clip, that will be clip
3 number 4, file number 4, and this clip overlaps
4 with the previous clip ever so slightly; is that
5 right?

6 A That's possible. He -- it looks like it, yes.

7 Q Starting at 16:09:59 and carrying on for a little
8 over a minute.

9 A Yes.

10

11 (VIDEO PLAYING)

12

12 (VIDEO STOPPED)

13

14 Q Now, we're back to the original camera angle here
15 where we saw Mr. Dziekanski entering originally,
16 correct?

17 A That's correct.

18 Q So on the left-hand side, that's the Primary
19 Inspection Line we're seeing?

20 A Correct.

21 Q Okay. Play the clip, please.

22

23 (VIDEO PLAYING)

24

25 Q And if you could just point out where you see Mr.
26 Dziekanski.

27 A Yeah. It appears that this is Mr. Dziekanski
28 right here, so he's returned, possibly to look at
29 the -- in this area here where there are people
30 congregated, there is a monitor with the baggage
31 carousel numbers on it and the corresponding
32 flights.

33 Q Is that the conclusion of that clip?

34 A Yes.

35

36 (VIDEO ENDED)

37

38 Q Now, the next clip indicated on your list, the
39 next clip indicated on your list commences at
40 21:25:19; is that correct?

41 A That's correct.

42 Q So do I understand then from 1409 -- or 1411 -- or
43 1611, pardon me, to 2125 you were unable to
44 identify Mr. Dziekanski on any of the camera
45 recordings you reviewed?

46 A That's correct.

47 Q Okay. And the next camera is back to Camera 4,

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1 which you told us was near Immigration.

2 A Yes.

3 Q And we're looking at a clip that's labelled 4A,
4 correct?

5 A Correct.

6 Q Running for just a short period of time.

7 A Yes.

8

9 (VIDEO CLIP #4A PLAYING)

10

11 Q Now, is that the Immigration office on the left
12 there?

13 A In this area here, yes.

14 Q Just show us where Mr. Dziekanski is when he
15 enters the screen.

16 A Mr. Dziekanski is seen just cutting across the
17 corner of the scene right here.

18 Q If we could just play that one more time, please.

19

20 (VIDEO CLIP #4A REWOUND AND REPLAYING)

21 (VIDEO ENDED)

22

23 Q For the next clip you've identified is -- the next
24 clip you've identified is from the same camera?

25 A Yes.

26 Q Approximately six minutes later, 2131?

27 A Yeah.

28 Q And running for a few seconds, as well. If we
29 could play that clip, please, and if you could
30 just show us when Mr. Dziekanski enters the...

31

32 (VIDEO CLIP #4B PLAYING)

33

34 A Mr. Dziekanski is on the very far right of the
35 scene here.

36 Q Is that the conclusion of the clip?

37 A That's the conclusion.

38

39 (VIDEO ENDED)

40

41 Q Now, the area we're looking at is the open area of
42 the Customs Hall where the baggage carousels are,
43 correct?

44 A Correct.

45 Q I notice we watched a clip there of approximately
46 a little over 30 seconds and saw very few people
47 walk through the clip. Is this a typical

- 1 situation in the Customs Hall or is this a
2 particular quiet time, can you tell?
- 3 A At this point I would say it's relatively quiet.
- 4 Q During a busy time, would we see a lot more people
5 in this camera angle?
- 6 A Certainly, yeah. And at the airport, it's very
7 cyclical, I suppose, as far as traffic goes, based
8 on large flights coming in, times of day, things
9 like that, so, you know, within -- within two
10 minutes of that -- of this, it could be full of
11 people again, just depending on what flights are
12 arriving.
- 13 Q You mean if a busy flight was to come in and those
14 people were to enter the Customs Hall?
- 15 A Yes.
- 16 Q The next clip is labelled number 5; is that
17 correct?
- 18 A Yes.
- 19 Q Okay. Just for the record, that last one was 4B.
- 20 A Yes.
- 21 Q The next clip starts, am I right, almost -- number
22 5 starts just over an hour after number 4B?
- 23 A That's correct.
- 24 Q We're looking at camera angle 6, which is going to
25 show an area down near the Point?
- 26 A Correct. On the map, Camera 6, the physical
27 location of the camera would be roughly in this
28 area here, and the view is of the Point -- sorry.
29 Let me just correct that. Sorry, it's my mistake.
30 Camera 6 is located around this area here.
- 31 Q Okay. We're going to view a clip of approximately
32 two minutes in length?
- 33 A Yes.
- 34 Q If you could point out Mr. Dziekanski when he
35 enters the frame and moves through it.
- 36
- 37 (VIDEO CLIP #5 PLAYING)
- 38
- 39 A Mr. Dziekanski right there.
- 40 Q Okay. We see him walking on the left-hand side.
41 Now, I don't see a time indication on the screen
42 of these clips. When you were viewing it and
43 making your decisions about what to excise and
44 creating your list, where did you get the times
45 from?
- 46 A On the file, on the program itself.
- 47 Q Okay.

1 A The times are on there.

2 Q Okay. So they're not stamped on the screen.

3 A Not on the screen, but on the player, they're
4 stamped on the program.

5 Q Thank you. I wonder if we could just back that up
6 then and start that clip again.

7

8 (VIDEO CLIP #5 REWOUND AND REPLAYING)

9

10 Q Are we able to start that clip over or is it...?

11

12 (VIDEO CLIP #5 REWOUND AND REPLAYING)

13

14 Q So am I correct, this is a -- shortly after 10:30
15 in the evening of October 13th and Mr. Dziekanski
16 is walking in the direction of the Point?

17 A That's correct. Point is right in this area here.

18 Q Okay.

19 A Mr. Dziekanski is there.

20 Q And are you able to tell us where Mr. Dziekanski
21 is now on the screen?

22 A Right in this area. It appears that he had
23 recently dropped something and picked it up. And
24 this would be the area that passengers would
25 present their E311 declaration cards to the
26 officers.

27 Q And we'll see another camera angle of this same
28 area at this same time?

29 A I believe so, yes. Okay. And it appears that
30 this is Mr. Dziekanski here. My best guess is
31 that he was directed in from Point into Customs
32 Secondary and this would be the entrance to
33 Customs Secondary.

34 Q When you saw him walking towards Customs
35 Secondary, did you see him accompanied by any
36 Border Service officer on the video?

37 A Just now I didn't. I wasn't taking the best look,
38 but, no. It appears that this might be a Border
39 Service officer, but I -- I can't be sure.

40 Q Are we able to play those last 20 seconds again?

41

42 (VIDEO CLIP #5 REWOUND AND REPLAYING)

43

44 Q You just point when you see Mr. Dziekanski. And
45 if you could just identify the area where the
46 Customs Secondary is.

47 A This is the entrance to it and Customs Secondary

1 is all behind this wall here. On the map his
2 routing was pretty -- fairly similar to this. He
3 went to Point and then followed a little path
4 along to the entrance of Customs Secondary around
5 in this area.

6 Q Okay.

7

8 (VIDEO ENDED)

9

10 Q Now, the next clip we're going to see is Clip 6,
11 which from your list seems to overlap with the
12 previous clip. It's again about -- shortly after
13 9:30 in the evening. We're going to see Mr.
14 Dziekanski in the area of the Point and Customs
15 Secondary, correct?

16 A Yes. And just for the record, it did appear that
17 there was a Border Services officer that followed
18 Mr. Dziekanski into Secondary.

19 Q Thank you. Are you able to tell us who that was
20 from your review of the video?

21 A No. The only -- the only reason for saying what I
22 did was because it appears that it's the same
23 consistent uniform with that of a Border Services
24 officer and the direction that the officer would
25 be travelling is unlike any direction that a
26 regular passenger would be travelling.

27 Q Okay. Well, perhaps we'll have a better look at
28 it on this view. And if you could just tell us
29 what we're looking at here before we run the clip.

30 A Okay. This is Point. These are the officers that
31 are situated at Point.

32 Q Those are the two officers that take the Customs
33 declaration cards when a passenger is exiting the
34 Customs Hall, correct?

35 A That's correct. There's an officer here and it
36 appears to be two officers here.

37 Q Please play the clip.

38

39 (VIDEO CLIP #6 PLAYING)

40

41 A Mr. Dziekanski.

42 Q If we could just pause it there for a moment.

43

44 (VIDEO PAUSED)

45

46 Q You're identifying Mr. Dziekanski in the white
47 jacket on the left-hand side.

1 A Yes.

2 Q Are you able to say from your review of the video
3 who he's dealing with?

4 A I have -- I have a bit of knowledge, I suppose,
5 who it was he dealt with. I believe this is
6 Officer Ashley Smith. I'm not entirely familiar
7 with that officer, but that's the name I've heard.

8 Q That's fine. That will be of some assistance to
9 us. Carry on with the clip, please.

10

11 (VIDEO CLIP #6 PLAYING)

12

13 Q Now, we'll just pause it there. There appears to
14 be two Border Service personnel around Mr.
15 Dziekanski. You've told us one you believe is
16 Officer Ashley Smith. Are you able to tell who
17 the other one is?

18 A I'm not.

19 Q And are you able to surmise where they may be
20 directing Mr. Dziekanski to from your review of
21 the other clips that overlap with this one?

22 A To the Secondary Inspection Hall.

23 Q That's the Customs Inspection Hall?

24 A That's correct.

25 Q And is the area that they were pointing to on the
26 video consistent with that?

27 A Yes.

28 Q Carry on with the clip, please. That's the
29 conclusion of that clip?

30 A It appears to be, yes.

31

32 (VIDEO ENDED)

33

34 Q The next clip is titled number 7 and again is an
35 overlapping clip at approximately 10:30 in the
36 evening, starting at specifically 22:33:59. And
37 the camera angle is number 10 in the secondary
38 area; is that correct?

39 A Yes.

40 Q Now, before we get started, this clip is going to
41 run for just over ten minutes; is that right?

42 A Yes.

43 Q And during -- for the duration of this clip, we're
44 going to see Mr. Dziekanski in the -- in and
45 around the Customs Secondary area; is that right?

46 A That's correct.

47 Q Play the clip, please.

1 (VIDEO CLIP #7 PLAYING)

2

3

Q And if you could just tell us when you see Mr. Dziekanski and as much as you're able, the identity of Border Service personnel who deal with him in the clip.

6

7

A It appears that Mr. Dziekanski is right here. He came from this area here. This is Border Services officer Kal Bharya. And joining Officer Bharya is BSO Kelly McKenzie.

10

11

Q I just wonder if we could pause it there for just a moment.

12

13

14

(VIDEO PAUSED)

15

16

Q I see four -- what appears to be four Border Service personnel in the screen shot; are you able to tell us who the additional two are?

17

18

19

A I can only guess. I can tell you who I believe they might be, based on appearance.

20

21

Q Why don't you go ahead and do that, if you think it's an educated guess and you're familiar with these people.

22

23

24

A My guess is this is Albert Chow and I believe her name is Elizabeth Lavallee.

25

26

Q Thank you.

27

A Lavallee.

28

Q Thank you. Carry on with the clip, please.

29

30

(VIDEO CLIP #7 PLAYING)

31

32

A That appears to be the end.

33

34

(VIDEO ENDED)

35

36

Q Thank you. Now, the next clip covers a short period at approximately the same time as the end point of this clip, correct? 2244 and 33 seconds is the --

37

38

39

A Yes.

40

41

Q -- commencement time. And that clip is -- the next clip is labelled 7A?

42

43

A Yes.

44

Q Okay. And it's going to be camera angle 8, covering the area from Secondary towards Immigration, correct?

45

46

A That'll be Camera 8 is the camera that is on the

47

1 map, roughly this area, that is looking towards
2 Point.

3 Q Okay. As with the others, please identify Mr.
4 Dziekanski when you see him --

5 A Sure.

6 Q -- from your review.

7

8 (VIDEO CLIP #7A PLAYING)

9

10 A There's Mr. Dziekanski there.

11 Q I wonder if we could just play that one more time
12 and if you could, if you're able, tell us who's
13 walking with him.

14

15 (VIDEO CLIP #7A REWOUND AND REPLAYING)

16

17 A There's Mr. Dziekanski there. It appears that
18 he's walking with Officer Kal Bharya.

19 Q And are you able to tell where they're walking
20 towards?

21 A They're walking -- I'll show you on the map.
22 They're walking roughly this direction here right
23 now. From this angle and it's such a short clip,
24 it's impossible really to tell where they're
25 heading.

26 Q The area at the back of the clip the way we're
27 looking at it is the Point?

28 A That's correct.

29

30 (VIDEO ENDED)

31

32 Q The next clip is labelled 7B and is approximately
33 seven minutes later in time at 2251 in the
34 evening?

35 A Yes.

36 Q Running for about 40 seconds.

37 A Yes.

38 Q And again, we're going to be looking at camera
39 angle 4, are we, aimed towards Secondary
40 Immigration?

41 A Yes.

42

43 (VIDEO CLIP #7B PLAYING)

44

45 A So there's Mr. Dziekanski there now and they're
46 heading in the direction of Immigration Secondary,
47 escorted by two officers. And here they're

- 1 entering the door to -- the one officer did.
2 Q And where does that door lead to, sir?
3 A That door is to Immigration Secondary.
4 Q And are you able to assist us with who the two
5 officers accompanying Mr. Dziekanski were?
6 A It's hard to tell from this video, this shot. I
7 -- I would assume that it's Officer Bharya and
8 Lavallee again.
9 Q And again, this clip is approximately seven
10 minutes after the previous one we watched,
11 correct?
12 A Yes.
13 Q Okay.
14
15 (VIDEO ENDED)
16
17 Q Now, the next clip we're going to be looking at,
18 sir, is labelled 7C; is that right?
19 A Yes.
20 Q And it's quite a time subsequent to the previous
21 clip; is that right?
22 A That's correct.
23 Q The next clip commences at 12:38 in the morning?
24 A Yes.
25 Q And runs 12:38:08 and runs for just about 40
26 seconds, and it's the same camera angle?
27 A Yes.
28 Q Now, let me ask you this, you certainly would have
29 reviewed the time period on this camera angle
30 between 2252 and 12:38; is that right?
31 A Yes.
32 Q Is this the only door for passengers in and out of
33 the Secondary Immigration area?
34 A I can't say for sure at that time because of
35 construction in the area.
36 Q Okay. Mr. Dziekanski certainly didn't exit the
37 Secondary Immigration area through this door
38 during the period between 2252 and 12:38; is that
39 right?
40 A Yes.
41 Q Do you know whether there's a broader camera angle
42 that would have caught him exiting if he was
43 leaving at -- through some other way?
44 A I don't -- I don't believe there was another
45 camera that would have caught him exiting another
46 way.
47 Q Okay. And you're not able to assist us with

1 whether there may have been another exit door?

2 A No.

3 Q Fair enough. Please play this clip and identify
4 Mr. Dziekanski when you see him.

5

6 (VIDEO CLIP #7C PLAYING)

7

8 A So Mr. Dziekanski here is walking with whom I
9 believe to be Border Service Officer Adam Chapin.

10 Q I wonder if we could just back it up just a bit
11 and see him walk across again, please.

12

13 (VIDEO CLIP #7C REWOUND AND REPLAYING)

14

15 Q And are you able to assist us at all from your
16 review with what it is he's pushing?

17 A Just a regular baggage cart from the Vancouver
18 Airport.

19 Q It appears to have luggage on it, does it?

20 A Yes.

21 Q Thank you.

22

23 (VIDEO ENDED)

24

25 Q Now, the next clip is going to run for
26 approximately six minutes; is that right?

27 A That's correct.

28 Q And the file number you've given that is number 8?

29 A Correct.

30 Q We're looking at camera angle 10, which is again
31 back at Customs Secondary; is that right?

32 A That's right.

33 Q And again, please assist us, if you can, with when
34 Mr. Dziekanski is on screen and who might be on
35 screen with him.

36 A Okay.

37

38 (VIDEO CLIP #8 PLAYING)

39

40 A So there's Mr. Dziekanski there. That appears to
41 be Border Services Officer Adam Chapin.

42 Q And just while we're watching this, this is
43 approximately 20 to 1:00 in the morning?

44 A Yes. That appears to be Officer Bharya again,
45 although it's really not of great quality here to
46 be able to ascertain for certain. Yeah, I would
47 say that that's Officer Bharya.

1 That would be BSO McKenzie that just walked
2 off the screen to the right.

3 So it appears that Officer Chapin may have --
4 may have an E311 card in his hand that he's
5 writing on right now.

6 Q Are you able to assist the commissioner with the
7 identities of the other officers standing close to
8 Officer Chapin? If we could just pause the video.

9

10 (VIDEO PAUSED)

11

12 A This individual here I believe is Superintendent
13 Jen Urata, U-r-a-t-a. And I really don't know --
14 that officer doesn't look familiar to me at all.

15 Q Thank you. And the officer standing on this side
16 of the silver table?

17 A This appears to be Officer Bharya.

18 Q Carry on with the clip, please.

19

20 (VIDEO CLIP #8 PLAYING)

21

22 A It's very possible that this officer is Officer
23 Lavallee. And Officer Chapin and Mr. Dziekanski
24 exited in this direction.

25

26 (VIDEO ENDED)

27

28 Q Thank you. Is that the only entrance and exit to
29 Customs Secondary for a passenger, do you know?

30 A I believe at that time with construction, it was.

31 Q Thank you. Now, the next clip we're going to
32 watch is labelled clip number 9; is that right?

33 A Yes.

34 Q That commences just after quarter to 1:00 in the
35 morning and runs for about a minute.

36 A Yes.

37 Q Quarter to 1:00, if that's not what I said. And
38 then camera angle 8 is the camera we're looking
39 at, correct?

40 A Yes.

41 Q And we're going to be seeing in this Mr.
42 Dziekanski moving to the Point area and past; is
43 that right?

44 A Yes.

45 Q Again, if you could identify both him and anybody
46 he interacts with, if you're able.

47

1 (VIDEO CLIP #9 PLAYING)

2

3 A That appears to be Officer Chapin and Mr.
4 Dziekanski

5 Q Can you assist with the identity of the other two
6 officers?

7 A I cannot.

8 Q Thank you.

9 A And Mr. Dziekanski has now exited past the Point
10 towards the reception area.

11

12 (VIDEO ENDED)

13

14 Q Now, according to your security camera clock, this
15 clip concluded at 12:46:30 in the morning of
16 October 14th, 2007; is that right?

17 A That's correct.

18 Q The approximate time according to your time
19 records that Mr. Dziekanski exited the secure area
20 of the Customs Hall through the Point?

21 A Yes.

22 Q And we have another clip capturing this same exit;
23 is that right?

24 A Yes.

25 Q Clip number 10 from camera angle 13?

26 A That's correct.

27 Q If we could play that please.

28 A Before you play it, I'll show on the map, as well,
29 camera 13 is located roughly in this area here and
30 it looks towards this direction.

31 Q Looking back towards the Point from the non-secure
32 side?

33 A Yes.

34

35 (VIDEO CLIP #10 PLAYING)

36 (VIDEO ENDED)

37

38 Q And that clip again, sir, was just after quarter
39 to 1:00 on October 14th?

40 A Yes.

41 Q And Mr. Dziekanski is walking in the direction of
42 the IRL or International Reception Lounge?

43 A That's correct.

44 Q Now, the next video clip, there are two more which
45 you have got here, both approximately four minutes
46 in length; is that right?

47 A Yes.

- 1 Q And the first one is labelled 11 and the next one
2 labelled 12 and they both come from camera angle
3 12; is that right?
- 4 A That's correct.
- 5 Q Where is camera 12 located?
- 6 A On the map roughly this area here.
- 7 Q You're showing a -- with your laser pointer a
8 location in the meet and greet area, the public
9 side of the meet and greet area, correct?
- 10 A Yes.
- 11 Q And we can see, just before we start the clip,
12 we're looking into the meet and greet area and am
13 I right that that railing we see running through
14 the picture is the exit lane from the
15 International Reception Lounge?
- 16 A That's correct. And you can see on the video just
17 a very small portion of the railing --
- 18 Q Okay.
- 19 A -- which would be roughly this right here. Pardon
20 my shaky hands.
- 21 Q And can you tell us what we can expect to see in
22 this first clip, clip number 11?
- 23 A I can't recall till I see it.
- 24 Q Okay. And this clip runs from 12:47 in the
25 morning to 12:52 in the morning approximately?
- 26 A Yes.
- 27 Q Play the clip, please, and please assist us with
28 anything you can while it's playing.
- 29
- 30 (VIDEO CLIP #11 PLAYING)
- 31
- 32 A That's Mr. Dziekanski there.
- 33 Q Now, if we could just pause the clip for just a
34 moment there.
- 35
- 36 (VIDEO PAUSED)
- 37
- 38 Q At this point, Mr. Dziekanski has left the secure
39 area of the airport and passed through the one-way
40 glass doors, correct?
- 41 A Correct.
- 42 Q And on the left-hand side -- I wonder if you could
43 just point to the large map with your laser
44 pointer and show us approximately where he's
45 located when we see him here.
- 46 A Right now I'd say he's roughly there.
- 47 Q Okay. With the doors to the outside being to the

1 left of the screen as we see it?

2 A The doors to outside would be right up here.

3 Q Okay.

4 A There is another -- I believe there's a secured
5 door of some sort to the IRL somewhere in this
6 area.

7 Q Okay.

8 A There's a glass wall but I believe you can get
9 back in from a door somewhere in this area. And
10 then there's the other door back where he came --
11 he would have come from.

12 Q Thank you. Please carry on with the clip.

13

14 (VIDEO CLIP #11 PLAYING)

15

16 Q Are you able to assist us with where Mr.
17 Dziekanski is during this time period on that
18 clip?

19 A Barely. It appears that he's in this area here.
20 I'm guessing that he's very close to the glass
21 wall.

22 Q And what's back in that area at that time?

23 A What's back in regards to...?

24 Q The area where you're pointing to, what's located
25 there or was located there in October of 2007?

26 A I believe there was an information booth there, in
27 this area here, like a tourist information type
28 booth.

29 So it appears that there's doors that just
30 opened here.

31 It appears that that's Mr. Dziekanski there.
32 That may be the end.

33

34 (VIDEO ENDED)

35

36 Q Now, sir, the final clip is labelled number 12,
37 correct?

38 A Correct.

39 Q And it's again approximately four minutes in
40 length?

41 A Correct.

42 Q The same camera angle?

43 A Yes.

44 Q And am I right that we are not going to see Mr.
45 Dziekanski in this clip, but we are going to see
46 security guards and the RCMP entering?

47 A I believe that's correct.

81
Trevor Gross
In chief by Mr. McGowan

1 Q Okay. And this clip commences at approximately
2 1:19 in the morning, almost 1:20 in the morning?
3 A Correct.
4 Q And run approximately four minutes. Play the
5 clip, please.

6
7 (VIDEO CLIP #12 PLAYING)

8
9 A So we see some security personnel coming here. It
10 appears that those are the Mounties entering there
11 now.

12 Q I wonder if we could just pause the video there
13 for a moment.

14
15 (VIDEO PAUSED)

16
17 MR. MCGOWAN: Mr. Parhar, I wonder if you could make --
18 go away from the full screen view so we can see
19 the time counter.

20 Q I can't read that from here, but Mr. Gross, I
21 wonder if you're able to tell us the time counter.

22 A The time on there is 0122 in the morning.

23 Q Okay. And is there --

24 A Hours.

25 Q O-one-twenty-two and how many seconds?

26 A Fifteen seconds, .478.

27 Q Okay. Now, that time designation, that's a time
28 of day designation, correct?

29 A Correct.

30 Q Okay. Please carry on with the video and go back
31 to full screen.

32
33 (VIDEO CLIP #12 PLAYING)

34
35 A That may be the end of the clip.

36
37 (VIDEO ENDED)

38
39 Q Now, is that the conclusion of that clip then?

40 A If we can just see the timer on the bottom, just
41 to verify. Yes.

42 Q Okay. Now, you concluded your review of the
43 recordings and the creating of these clips within
44 a few days after October 14th, 2007; is that
45 right?

46 A That's correct.

47 Q And how did you store the clips when you created

Trevor Gross

In chief by Mr. McGowan

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

1 them?

2 A Well, the clips were first dragged to the hard
3 drive on the desktop computer system I was using.

4 From there, then I burned those files onto CDs.

5 Q Okay. Do you believe that the clips that we've
6 shown here today were all of the clips that you
7 captured --

8 A Yes.

9 Q -- in your review?

10 A Yes.

11 Q Who did you provide copies of the clips to?

12 A I know one went to the chief, Binder Kooner, at
13 the time; one went to Superintendent Colin Lennie;
14 I believe another went to Superintendent Lucky
15 Paul; and I also provided a copy of this, as well
16 as extended footage of the outside area, like from
17 the last camera angle we just watched, I think I
18 ended up burning another hour or so of footage and
19 giving that to Constable Mangan with IHIT.

20 Q And do you know when you provided this to the
21 RCMP?

22 A On I believe -- the burning process took a lot
23 longer than I expected, especially for that one-
24 hour clip. I intended to give it to her on the
25 17th when she was at the airport. I believe I had
26 to have left it for her to pick up and she
27 probably would have received it the 18th or 19th
28 of October.

29 Q That's 2007?

30 A Correct.

31 MR. MCGOWAN: If I might just have a moment, Mr.
32 Commissioner. Those are my questions for this
33 witness.

34 THE COMMISSIONER: Now, does counsel have any questions
35 of this witness?

36 MR. KOSTECKYJ: I do.

37 THE COMMISSIONER: Yes?

38 MR. KOSTECKYJ: I do, My Lord.

39 THE COMMISSIONER: Yes?

40 MR. KOSTECKYJ: My name is Walter Kosteckyj, counsel
41 for Ms. Cisowski.

42

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

45

46 Q I just wanted to understand, these cameras you
47 indicated could be monitored. Was there a room

Trevor Gross

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

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

1 where the cameras could be viewed?

2 A Yes.

3 Q And was that usually a room that was manned at any
4 particular time?

5 A There is a few different areas where the cameras
6 could be monitored. There are different screens
7 at these stations where you could pull up the
8 different camera angles, so it wasn't just one
9 specific area.

10 Q But was -- was it monitored routinely?

11 A Not necessarily.

12 Q So it was happenstance as to whether it was
13 monitored or not?

14 A Yes.

15 Q And could they be remotely controlled, the
16 cameras, from that same area?

17 A Yes.

18 Q Do you know from reviewing the tapes who the
19 rovers were that were working that night as
20 Immigration or Canadian Border Services officers?

21 A I do not know.

22 MR. KOSTECKYJ: All right. Those are my questions.

23 MR. HIRA: I have a couple of questions.

24 THE COMMISSIONER: Yes, indeed.

25 MR. HIRA: Ravi Hira, appearing for Officer Millington.

26

27 CROSS-EXAMINATION BY MR. HIRA ON BEHALF OF CONSTABLE
28 MILLINGTON:

29

30 Q Sir, the second-last clip which shows Mr.
31 Dziekanski leaving the IRL, the dark green area,
32 and going into the meeting area and then going
33 around the meeting area past the construction, you
34 know the clip that I'm talking about?

35 A No, not fully. You may be -- are you referring to
36 the clip where he comes around the corner here and
37 is seen on his own?

38 Q I'm talking about the second-last clip.

39 A Okay.

40 Q The clip --

41 A Where we see him just entering around this area
42 here?

43 Q That is correct.

44 A Okay.

45 Q The meeting area.

46 A Yes.

47 Q Is there another way back into the International

1 -- sorry, the IRL?
2 A There -- both doors -- we could see the sliding
3 door as it opened on the video. They're roughly
4 in this area somewhere, maybe here. And then
5 there's also the exit point where the regular
6 passenger stream goes through these doors here.
7 As far as the public is concerned, the public
8 doesn't have access to get back into the IRL area.
9 As the first witness today was explaining, I
10 believe that's all done through Prox card with
11 airline employees and what have you.
12 Q You were referring to some sliding doors that were
13 opening; where are those?
14 THE COMMISSIONER: Well, they're both at the end of the
15 arrow; is that not so?
16 MR. HIRA:
17 Q Both --
18 A Yeah, that would make sense.
19 MR. HIRA: Thank you, Mr. Commissioner.
20 Q And in the video, did the sliding doors to the
21 left of the diagram where the public does not have
22 access, did those appear to open?
23 A They did.
24 Q And did he appear to go in through those sliding
25 doors?
26 A That I couldn't tell.
27 Q Now, when -- going back in time in the videos, the
28 -- he goes back to the Point after the Secondary
29 Immigration area; is that correct? As you may
30 recall, he leaves the Point. You then pick him up
31 in the Immigration Secondary area and the bag is
32 wobbling as he moves along and we see him behind a
33 pillar; is that correct?
34 A Are we talking one of the first few videos?
35 Q That is correct.
36 A Okay. So you're -- so he goes from Primary --
37 Q Yes?
38 A Generally -- basically, this is the routing that I
39 could formulate anyway. He goes to -- around the
40 doors of Immigration. I'm not sure, one of these
41 areas here, where there's doors. And then he
42 doesn't go in and somehow he makes his way back
43 toward -- by PIL to take a look at the monitor.
44 Q That is correct, and it's the "somehow he makes
45 his way in" back to the PIL to take a look at the
46 monitor. I gather the camera coverage is such
47 that it is possible, inadvertently, of course, not

Trevor Gross

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

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

1 meaning to do it purposely, to make it back
2 without being picked up on -- by any of the
3 cameras?

4 A Yes.

5 Q And in terms of camera coverage in the washroom
6 area, I gather there isn't any?

7 A That's correct.

8 MR. HIRA: Thank you.

9 THE COMMISSIONER: Yes, Counsel?

10 MR. BUTCHER: I just have a couple of questions.

11

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

14

15 Q In the very bottom left-hand corner of the
16 passenger service area is a third white arrow.

17 A Here?

18 THE COMMISSIONER: Your name please?

19 Q Yes.

20 THE COMMISSIONER: Your name please, Mr. Butcher?

21 MR. BUTCHER: I'm sorry. It's David Butcher for
22 Constable Bill Bentley.

23 Q Is that a third exit from the -- from the IRL?

24 A Yes.

25 Q And can somebody come back in those doors, as
26 well?

27 A They are doors that are one-way doors, so unless
28 the door was open and somebody saw an opportunity
29 to go in through an open door that somebody had
30 left open, you're not allowed access.

31 Q Now, your diagram shows a number of ranges of
32 views of these different cameras, correct?

33 A Correct.

34 Q I presume that it must be that Mr. Dziekanski, for
35 the time that he's not seen on any camera, could
36 have been in any of the areas outside of the range
37 of views of the cameras shown on this diagram?

38 A Yes.

39 Q And one last question. I've been speaking to your
40 counsel about this. Would it be possible for you
41 to take a copy of this drawing and draw in on the
42 drawing where Mr. Dziekanski is at the different
43 times that you have described?

44 A It would all be guessing. I mean, I -- I can tell
45 you where he is on the video. It would be much
46 harder to tell you where he --

47 Q You don't think you would be able to do that

Trevor Gross

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

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

1 accurately, is that what you're telling us?

2 A No. I mean, my belief, based on when we saw him on
3 those very short clips going one way and then very
4 briefly coming back, he was approximately in this
5 area. I'm guessing that he was going to the
6 washroom, because he was heading in the direction
7 of the washrooms here, and I think the men's
8 washroom is there. So it appears that he came
9 from this area here where there's no -- there was
10 no camera coverage and it appeared as if he was
11 going back to that same area.

12 What I could tell from having reviewed all
13 the cameras and all the video everywhere is that
14 Mr. Dziekanski was not wandering around in the
15 Customs Hall. He must have been stationary for us
16 not to have caught him at --

17 Q On one camera or another?

18 A Right. Right.

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

20 MR. STEWART: Dwight Stewart for the airport. Dwight
21 Stewart, the airport.

22
23 CROSS-EXAMINATION BY MR. STEWART ON BEHALF OF VANCOUVER
24 INTERNATIONAL AIRPORT:

25
26 Q Just very quickly with respect to the passenger
27 service area which is referred to as the IRL, my
28 friend was just making reference to the arrow at
29 the very, very bottom left-hand corner of the map.

30 A This one here?

31 Q Yes. Thank you. And just to begin with, do you
32 know the source of this map?

33 A No.

34 Q This was provided to you by commission counsel as
35 just an aide-mémoire or, I mean, as a...

36 A I don't know who -- I don't really know the source
37 of the map. My counsel provided it to me.

38 Q And you -- did -- you didn't put the white arrows
39 on, did you?

40 A No.

41 Q So you're just sort of speaking to the best of
42 your knowledge from your recollection of the
43 airport?

44 A That's correct. And I didn't put on the camera
45 locations either. What we see on the map, as far
46 as the "Vs" that project from the numbers for the
47 cameras -- just for the record, as well, too, our

Trevor Gross

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

1 -- that's not completely accurate as to the view
2 that the camera was showing that night.
3 Q Okay. And just for everyone's assistance, and I
4 think that I noticed this correctly, Camera 6, it
5 seems to suggest that it points back towards the
6 PIL.
7 A Yeah, that's correct. So that's --
8 Q It actually points towards --
9 A -- an error on the map.
10 Q It points the other way, correct?
11 A Correct, yes.
12 Q Okay. So that points the other way?
13 A Yeah.
14 Q Just quickly then returning then to that door down
15 on the bottom left-hand side, does it trigger your
16 recollection that that's like a fire door, a
17 break-away door that would be used for access for
18 letting people in or out but it's a secure part of
19 the building?
20 A Yes.
21 Q It's not a usual point of egress for the
22 passengers or public.
23 A Exactly, yeah.
24 Q Okay. Again, if I can trigger your recollection
25 then with respect to the white arrow seemingly
26 indicating that the second point of entry from --
27 I'm sorry, point of exit from the IRL to the
28 meeting area, not that one, the other.
29 A This one here?
30 Q Yes.
31 A Okay.
32 Q Just see if that triggers a recollection. It's my
33 understanding that that door is an exit only
34 door --
35 A Okay.
36 Q -- and not a Prox point.
37 A Okay.
38 Q You can't --
39 A I can't, no.
40 Q Okay. You don't know the specifics of that?
41 A Right.
42 Q But it's then the other white arrow which is the
43 sliding glass door that -- have you seen the
44 Pritchard video, sir?
45 A It's been awhile. Yeah. I haven't -- I've only
46 seen what's on the media.
47 Q You can't place where that was to this?

Trevor Gross

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

1 A Where the incident happened?

2 Q Well, the sliding glass door where Mr. Dziekanski
3 was.

4 A Not -- not to a great degree of expertise.

5 Q Okay. I just wanted to see if I could assist.

6 A Okay.

7 MR. STEWART: Thank you, sir.

8 A Yeah.

9 THE COMMISSIONER: Anybody else? All right. Thank you
10 very much for your help.

11 A You're welcome.

12 THE COMMISSIONER: That was quite clear.

13 A Thank you.

14

15 (WITNESS EXCUSED)

16

17 THE COMMISSIONER: Well, we missed the afternoon break.
18 I don't -- is there anything we can do in ten
19 minutes?

20 MR. MCGOWAN: Mr. Commissioner, perhaps just before the
21 witness leaves we ought to mark those CDs, perhaps
22 collectively as the next exhibit.

23 THE COMMISSIONER: All right. I thought we had. 5A is
24 the camera locations, 5B is the map and 5C is the
25 last document having to do with the times.

26 MR. MCGOWAN: Yes. I'm speaking about the actual
27 recordings that we played.

28 THE COMMISSIONER: Oh, I see.

29 MR. MCGOWAN: They're contained on individual CDs or
30 DVDs, one for each clip, and perhaps they could
31 collectively be marked as Exhibit 6.

32 THE COMMISSIONER: Yes, Exhibit 6. And how many of
33 them are there?

34 MR. MCGOWAN: I believe there's 17 and they have the
35 file numbers noted on the exterior of the DVD.

36 THE COMMISSIONER: Yes, Counsel?

37 MR. BRONGERS: Thank you, Mr. Commissioner. Jan
38 Brongers for the Government of Canada. The only
39 request I have is that as you may have noticed,
40 Mr. Commissioner, there were some individuals who
41 were caught on these videos dealing with Customs
42 officials and I'd like to consult with my client
43 in terms of privacy concerns, whether perhaps
44 their images should be blanked out, those
45 individuals who just happened to be dealing with
46 Customs officers. I'm worried, of course, once
47 the CD is made an exhibit that it will then be

1 given to the media, and --
2 THE COMMISSIONER: Well, I think this would be one
3 occasion that we'll seal the exhibit.
4 MR. BRONGERS: Okay.
5 THE COMMISSIONER: And if the media want access, we'll
6 have to deal with it.
7 MR. BRONGERS: Thank you, Mr. Commissioner.
8 THE COMMISSIONER: All right.
9 MR. MCGOWAN: Mr. Commissioner, just out of an
10 abundance of caution, I believe there may also be
11 a video recording that was taken of the screen as
12 we were playing them, and I wonder if your order
13 ought also to apply to that also?
14 THE COMMISSIONER: Yes, it will. Now, in the event the
15 press can handle it without showing other
16 individuals, that would not contradict the spirit
17 of what I'm saying. Yes?
18 MR. GRANGER: A point of order. Peter Granger from
19 CTV.
20 THE COMMISSIONER: Yes, Mr. Granger. Come on forward
21 so we can hear you.
22 MR. GRANGER: Just to let you know, Judge, through
23 **Freedom of Information** we accessed the majority of
24 what we saw this afternoon.
25 THE COMMISSIONER: All right.
26 MR. GRANGER: What we didn't see were a lot of the
27 interactions between Mr. Dziekanski and, of
28 course, the Border Service guards, but most of it
29 we've already seen and we've already aired it, so
30 the issue --
31 THE COMMISSIONER: The issue is dead.
32 MR. GRANGER: That's it.
33 THE COMMISSIONER: All right. Thank you for the
34 information. Mr. Brongers, I don't think we can
35 do anything.
36 MR. BRONGERS: That's what I wanted to consult with. I
37 don't know, perhaps the version that was released
38 to the media already had their pictures
39 pixellated, but -- so that -- I just wanted an
40 opportunity to check with my client --
41 THE COMMISSIONER: All right.
42 MR. BRONGERS: -- actually before it was marked as an
43 exhibit. Obviously if it's been released, it's
44 been released. And then it cuts both ways,
45 because they can show what they already have.
46 THE COMMISSIONER: Yes, indeed. All right. We'll
47 adjourn now till ten o'clock tomorrow.

1 THE REGISTRAR: Marked as Exhibit 6?

2 THE COMMISSIONER: Yes, sealed.

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EXHIBIT 6: Originals - 17 Canada Customs
video disks

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(PROCEEDINGS ADJOURNED TO JANUARY 21, 2008 AT
10:00 A.M.)

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