

BRAIDWOOD COMMISSION POSTPONED AGAIN

October 27, 2008

VANCOUVER – The start of the Braidwood Hearing and Study Commission of Inquiry into the circumstances surrounding the death of Robert Dziekanski at the Vancouver International Airport on October 14, 2007 has been postponed for a second time.

The inquiry was scheduled to begin on November 12 after an earlier postponement from October 20. It has now been rescheduled to start on January 19 and is expected to sit for six weeks.

The commission's counsel, Mr. Art Vertlieb, QC, said the postponement was necessary because Crown counsel was still considering whether to lay charges against the RCMP officers involved in the incident at the airport. A conducted energy weapon (Taser) was used against Mr. Dziekanski by one of the RCMP officers shortly before he died.

"We've been told that Crown counsel is waiting for additional information from RCMP investigators before making a decision," said Mr. Vertlieb. "To fulfill its mandate in the most ideal way, the commission needs the cooperation of the RCMP, including access to the Dziekanski case files. But that's unlikely to happen until a decision is made on charges."

The head of the commission, retired B.C. Appeal Court Justice Thomas Braidwood, QC, said he was disappointed that the hearing could not proceed as scheduled on November 12, adding that the public deserves to have answers to what occurred at the airport.

Mr. Vertlieb was advised last month by legal representatives for the RCMP that they would not be in a position to participate in the commission's proceedings until after Crown counsel had made a decision on charges. Crown counsel subsequently notified Mr. Vertlieb that the decision would be made by the second week of October, but the decision has been delayed because Crown counsel is still waiting for additional information from RCMP investigators.

"As things now stand, the commission cannot get access to the RCMP files. That means we don't know which witnesses RCMP investigators have interviewed and whether they are people who may be able to help us with our work," said Mr. Vertlieb.

He added that without hearing evidence directly from the RCMP officers who were on the scene when Mr. Dziekanski died, and having access to the RCMP's files on the case, it would be very difficult for the inquiry to provide Mr.

Dziekanski's family and the public with a complete record of the circumstances of his death.

Mr. Braidwood was appointed in February by B.C. Attorney General Wally Oppal to head two commissions of inquiry. The first was a "study" commission into the use, safety and effectiveness of conducted energy weapons in B.C. by police forces other than the RCMP. The second phase will be a "hearing" and "study" commission into the death of Mr. Dziekanski.

Unlike a "study" commission, a "hearing" commission has the authority to compel participants to appear before it and to produce documentary information. A "hearing" commission can also make a finding of misconduct against a person or persons, or make a report that alleges misconduct by a person or persons.

The report on the first phase of the commission's work is currently being written.

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For more information please contact:

Chris Freimond
604-990-1378
778-840-2428 (cell)