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—
Chair

Mr. Garry Breitkreuz

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• (1530)

[English]

The Vice-Chair (Hon. Roy Cullen (Etobicoke North, Lib.)): I would like to call the meeting to order.

This is a study or review on the use of tasers. I'd like to welcome all the witnesses.

Today we have Mr. Walter Kosteckyj, a lawyer; Ms. Zofia Cisowski, mother of Robert Dziekanski; Riki Bagnell, mother of Robert Bagnell; and Patti Gillman, sister of Robert Bagnell.

Thank you all very much for coming today. Normally we ask if you would like to make an opening statement up to ten minutes long. We then turn it around to the committee to ask you questions. Thank you very much for coming.

I'd just like to make a comment for the members of the committee. If there's time after, we'd like to go in camera briefly to deal with Mr. Ménard's motion and any other future business. There are bells at 5:30 for a vote at 5:45. These are important witnesses, so we'll have to see how things go.

Mr. Dosanjh.

Hon. Ujjal Dosanjh (Vancouver South, Lib.): Mr. Chair, I have not spoken to any other members here, including on this side, but I have a suggestion to make, and if you see it as appropriate, I would suggest that they be given as much time as they need to speak, because we may not have many questions, and these aren't ordinary witnesses. I will just make that suggestion if that's appropriate.

The Vice-Chair (Hon. Roy Cullen): Is that agreed?

Some hon. members: Agreed.

The Vice-Chair (Hon. Roy Cullen): Okay.

Who would like to go first? Mr. Kosteckyj.

Mr. Walter Kosteckyj (Lawyer, As an Individual): Thank you, Mr. Chairman. And thank you, committee members for inviting us to be here today and to present our version of events.

With respect to the case of Robert Dziekanski, Mrs. Cisowski's son, this was more than just an incident about taser, and that's the point that I think is important to be made. It's important to be made from the point of view that this is, of course, a committee that deals with public security.

There are a lot of people who own a piece of what happened to Mr. Dziekanski, different agencies. Most important—just to review

those, and they're in my submissions—first of all, there's the role of the RCMP in this.

Before we get into the issue of the taser, there are couple of other aspects to the RCMP behaviour in this particular case that need to be questioned and that there have never been answers for, the most important of which, in my submission, is the fact that, to begin with, after this event and after the taser, an RCMP spokesman came out on the following day and made a press release in which he said, among other things: Look, we had taken every bit of time that we could possibly take that was reasonable in the circumstances, and what we did on that particular day was we gestured to this man; we tried to communicate with him; we tried to deal with him.

The tape shows that it took 24 seconds from the time they arrived until they tasered him.

The point I make about that is that the public loses confidence in its police and in its institutions when those institutions are not forthright and straightforward and don't correct themselves.

This point has never been corrected by the RCMP, to my knowledge. That statement was hurtful to my client, but more importantly, it misrepresented what happened on that particular morning and placed the police in a position where they lose the public trust. They need to be brought up on that.

This is a democracy. We give great powers to our police officers. We give powers of arrest. We give all kinds of power to them. But we expect that they will act appropriately back. They cannot misrepresent circumstances and expect that they are going to have the public's support.

In this country, all the boys who are nine and ten years old still grow up and want to be policemen and firemen, but they're not going to want to be those things if our police don't stand up and do the right things and say the right things and are honest and straightforward. That's one of the points I make.

The second point is about how they handled this circumstance with respect to my client, Mrs. Cisowski. Mrs. Cisowski was on the phone with Canadian Border Services at two o'clock in the morning, because by this time she had gotten home from the airport. She had been on the phone with Officer Chapin, who was the last border services agent to be in contact with her son. He made arrangements that he would contact her. After his shift, he would go out and meet with Robert or look for him, and they would get on the phone and call Mrs. Cisowski.

In the meantime, they had advised her that he was there, and she was moving heaven and earth to get back to Vancouver. Those of you who are familiar with the trip from Kamloops to Vancouver at two o'clock morning know it's not a particularly easy thing to do, unless you're driving, but even to arrange a flight.

The point is that it was conveyed. This information had to be conveyed to the police officer, and it was dealt with, as I say, by the officer who helped find the papers and who had just been on the phone. Yet she went through this trip, being driven, taking herself all the way down to Vancouver in this expectation, hope, and euphoria of finally finding her son. Of course, when she got down there, she was advised that he had passed on. But she was given no detail.

The point to all of that is that this has increased the difficulty she has suffered personally. She suffers currently from post-traumatic stress disorder as a result of matters related to this. She suffers from a condition that's related to intense grief that goes beyond normal psychological grief that you or I might suffer after the passing of a loved one. All this has been compounded by these various things that occurred.

• (1535)

Let's talk briefly about the taser, because I know that's what you were charged with more than anything else.

The simple point I would make about the taser, the use of it, and the way it was used in respect of Robert Dziekanski is that it has destroyed policemen as professionals in this context.

When the taser is a simple weapon, or people believe that it is a weapon of correction, a weapon that can be used to change someone's behaviour briefly, that it is a safe weapon to be used—in spite of the fact that it's a restricted weapon under the Criminal Code—and when the police are trained in this particular way and when they accept that behaviour, in my submission, they lose their professionalism.

I know there are some committee members here who were policemen. One of the things about police work that anybody who has ever done it knows is that it's an art form. It is not a simple application of putting handcuffs on somebody or the simple powers of arrest. It's artwork. It's knowing how to interact with people at the right time.

What we've done is take the artwork out of police work by giving these tasers to these police officers in these circumstances and saying, "You can use these things willy-nilly. They're safe. Go ahead. No one dies if you use these things." In fact, in Canada we've had 18 people in these circumstances, and in the United States they've had 240 in circumstances surrounding the use of the taser.

The point is, if we allow the use of these restricted weapons, and arm the officers with them and give them carte blanche, they're going to use them. All it's doing is taking away from the professionalism that police officers have enjoyed in this country dating back to the time of Robert Peel, which is, historically speaking, when the police services really first started. And the point of police services was that you were only as good as the public you served, and you were only as good as the information the public was prepared to provide to you.

Well, the public is not talking to the police. The public is not happy. And it's got to stop here. You people have the power to influence the use of this particular instrument. It's not an instrument that should be used willy-nilly.

Police officers have to go back to basics—that is, using common sense. You don't show up on a scene, not interview a single suspect, and 24 seconds later, when there are four of you, overwhelm a guy who is really not in particularly great shape, not particularly large—although it's been reported that way. He was a guy of relatively modest size. In my estimation, after seeing him at the morgue, he was probably 5 foot 10 inches, maybe 5 foot 11 inches at most, and he might have weighed 180 pounds.

There were four trained police officers there. Not a single one asked a single question that day. Although they were told that he spoke no English, people thought he spoke Russian. Not a single attempt was made to try to communicate with him.

And this nonsense about gesturing that the police put out at the beginning is just totally unproven by the tape itself. And this begs the question again: If we didn't have the tape, what would the police be telling us about this incident today? That's the question the public has a right to have answered. The police have to come forward and explain why this mistake was made in the first place.

Now let's talk about the Canada Border Services Agency and what their role was in the Dziekanski matter. Mrs. Cisowski spent eight to ten hours at the airport that day. But ultimately she went to the Canada Border Services. And one of the things that we should remember in this particular case is that she was the sponsor of her son. She was responsible for her son while he was in Canada.

She had someone who spoke better English than she did go on her behalf. She says this happened about 7:30 or 8 o'clock, and that's also what the witness tells me, although Canada Border Services admits that it happened about 7 o'clock.

• (1540)

They say that this conversation took place with Officer Zadavec. We got that information from the disclosure obtained under the Access to Information Act. It wasn't anything that was willingly provided by Canada Border Services. It came out of access to information requests that had to be done by various interested parties. That in itself should tell you something. Six months later, that's the way the public has to find out about these things.

In any event, there's a simple question that's never been answered by Canada Border Services. Mr. Dziekanski went through primary customs at approximately 4:10. He would have been registered, you would expect, in a computer when he went through primary customs. From that point forward, he was met and dealt with by no fewer than seven Canada Border Services officers. Between four o'clock and when he was finally let go at midnight or one o'clock in the morning, seven different people had dealt with him. In fairness, one or two had dealt with him about four o'clock and determined that he didn't speak English. At that time, they still had an opportunity to get hold of a translator, even though the only translator available for a Slavic language at that time of day, as hard as this is to believe, was in Toronto. But that fellow still would have been around at four o'clock, had anybody taken the trouble to try to track him down and note that there was a guy having difficulty.

The more important point is this: when at seven o'clock they were asked about Mr. Dziekanski, which they admit, why didn't a Canada Border Services agent input his name into a computer and make the simple determination that some alarm bells should be going off? Here's a woman looking for her son who arrived at four o'clock. He went through primary customs. Where is he? Instead, no one bothered to enter his name or take any step. This is the benign neglect that surrounds everybody involved in this case. It goes from the airport authority to the police, and over to the RCMP. Rather than do the job properly, they decided to do it in a halfhearted way.

After all these disclosures, after all this information, after the Canada Border Services provided their public statement, and after I've asked publicly many times, where's the answer to this simple question? This committee ought to know, ought to be able to get that answer. He went through customs at four o'clock, presumably was entered into a computer. Why couldn't he be identified at seven o'clock? Why was she told he wasn't there?

The whole tragedy could have been avoided at that point. The answer she got—at seven o'clock according to them, at 7:30 or eight o'clock according to my witnesses—was that there was no Polish immigrant there that night, and that she might as well go home. But she didn't. She continued to hope. She went back to the airport authority.

We have seven, nine, or whatever it is, Canada Border Services agents. Nobody has disclosed their level of training. This was a weekend. Were these junior people? There were obviously acting supervisors. Were there students working? I've heard various rumours. But all these questions need to be answered. Why wasn't he dealt with more conveniently?

At the end of the day, they did the best they could. I'm not blaming any particular agent. But no one checked the computer. Officer Chapin tried to help him at the last instant. He apparently had some knowledge of Polish, but not much. He wasn't a native speaker. It doesn't even appear that he had a working knowledge. When he spoke to Mrs. Cisowski at two o'clock in the morning, they spoke English, not Polish.

•(1545)

At the end of the day, when they did finally release him, he didn't want to go. He made that fairly apparent. The reason he didn't want

to go was that he had made an arrangement to meet his mother at the baggage claim area. She said, "I'm going to pick you up there."

Now, I suspect, although I can't prove it, that he was never able to communicate that, because there was no one to communicate it to. He kept trying to. But, tragically, by this stage of the game, his mother had gone back to Kamloops.

This guy was a lost soul. Once the Canada Border Services were done with him—and I say this with respect—they should not be charged with looking after him once they've dealt with him, but there ought to be a facility they can turn him over to.

Here's a guy who clearly doesn't speak the language, doesn't want to leave because he can't communicate with anybody, and is trying to explain his circumstances, and yet there's nobody from the airport authority for him to be turned over to. They don't even have any security guards at that time of the evening in the area he's leaving. The oversight is unbelievable.

So here we have it. He slips through the hands of seven or eight different people. There's no one to speak to him. He's clearly giving the message that he's not ready to leave, because he's made this arrangement, and not more than 150 feet away is the mother passing on the same information to the airport authorities, not once, not twice, not even five times, more like ten times, begging, talking to them.

This is the point that I make in my brief about the airport authorities owning a piece of this tragedy. That's this. Here you have information desks. I understand that the committee was at the airport, and you would have had an opportunity to see where those information bureaus are. What's the point of having an information bureau that is hopeless and can't help you? Worse than that, they misled her into believing they were helping her.

She went to the first information bureau, which is located in the area that is closest to the doors where someone exits from international arrivals. It's a big, huge booth with green printing and writing, and it says "information booth". She went there, and she explained right off the bat that she had a son who was on this plane, that he didn't speak the language, that he was worried about flying, that she was fairly worried about him, and she now realized that she had told him she was meeting him in there and that she couldn't get in there. What could they do?

They basically said don't worry, just wait a while, and he'll probably show up through the door. Well, after going back and forth there three or four times, she went up the escalator to the larger information bureau, where there were more people working and there were computers located on the desk. She spoke to them no fewer than four or five times, the last time being at ten o'clock.

In any event, here's the point that is the most important about this: she was misled during that period of time into thinking that they actually were looking for him. The reason she says that is that they wrote his name down; they had a form there; they had two computers, and they appeared to be looking in the computers, and she assumed they were trying to do something, and they were announcing his name.

Unbeknownst to her, but known to them, is the fact that that announcement doesn't go into the secure area. They knew that. She didn't.

Here they are leading her to believe that they were looking for your son, that they had the computers; they had the paper; they were tracking this. She went back there on numerous occasions and didn't quit even after she was told by immigration that he was not there. She went back there still, two more times, the last time with this friend who was driving her there. They were told at ten o'clock at night, "Hey, look, he's not here. Go home."

• (1550)

If they had told them something simple like "We don't know, and it's not our job", she wouldn't have gone home. She wasn't leaving until she found out. She left because she was told to go home. So this benign neglect turned into something more.

Then we have the whole notion of the lack of security. You've got these guys running around in uniform carrying out security. First of all, they appear to be totally untrained. I believe that if you ask the police candidly, they will tell you that these security people are totally untrained and are probably as much of an issue to the police as they are to us. And this is the point I make. When they finally showed up and interacted with Robert Dziekanski, which wasn't until chauffeurs who were there went running and looking for them, after phone calls were made, they had one simple interaction with Mr. Dziekanski. He was reaching for a computer and they motioned to him—you can see it on the tape—to put it down. He did. Then what did they do? They turned their backs on him. They didn't even try to interact with him. The most simple....

You don't have to be a trained police officer, you don't have to be a trained security professional, and you don't have to be a psychologist to know that if you turn your back on somebody in those circumstances, you're telling them you don't care and you're just adding to their level of frustration. And that's what happened here from the security point of view. So there's a huge issue about how these people who are working in our airports are trained, whether they're properly trained, and how they ought to be trained.

The tragedy was further compounded in this particular case because normally when you come out through the international arrivals.... And anybody who has used Vancouver airport will note that when you come through these big glass sliding doors where Mr. Dziekanski came out, there's a station for a security guard and there's normally somebody posted there. It shouldn't be lost on anybody that he actually walked out of the secure area. He was escorted out by Officer Chapin because Chapin thought he would eventually be able to meet up with his mother. I'm not saying that Chapin did anything wrong in those circumstances. He had no one to turn him over to. But there was no one out there guarding that post.

This is the entrance to the most secure area of the airport. This is where all the people we're trying to keep in...and we're trying to keep people from getting in there because there are doors that lock. You need a special pass to get in there, and there was no security guy there.

The Vice-Chair (Hon. Roy Cullen): Excuse me, sir, I don't want to interrupt. I know we said that time would be unlimited, but you've

had about 25 minutes now. In fairness to the other witnesses, do you know how much time you're going to need?

Mr. Walter Kosteckyj: I'll be wrapped up within five to ten minutes. I'll try to wrap it up fairly quickly.

The Vice-Chair (Hon. Roy Cullen): Thank you.

Mr. Walter Kosteckyj: The point to this is that if anybody anywhere along the line had done their job on that evening.... Remember, he was let back into that secure area because he was lost. He thought, "I'm being taken out of here"—even though he didn't want to leave—"because I'm supposed to meet someone here". That's the point he was trying to make. It's the point his mother made to everybody. Once he was out he was let back in, not escorted by a security guard, but by a chauffeur, a guy who had a card that allowed him to go in and out of the area on a security clearance to pick up VIPs. That's who let him back in and got him into that no-man's land between those two doors where we found him. And there were no security personnel around. They were nowhere to be found.

At the end of the day, the tragedy in this is that we see the last 24 seconds of his life. In those 24 seconds the police arrive and make a decision about using the taser as they enter the scene, before they've even talked to him. The witnesses hear them say that and the audiotape makes note of that. So they made that decision without thinking.

They then approached him without taking any more time or effort because they felt entitled to use that weapon at will. If there had been any thought given by anybody to what happened on that particular evening, Mr. Dziekanski would still be alive today.

Those are my submissions.

• (1555)

The Vice-Chair (Hon. Roy Cullen): Thank you very much, sir.

Just so you know, although we're focusing on the use of tasers, you're probably aware that we were in Vancouver and met with the Greater Vancouver Airport Authority, the Canada Border Services Agency, and the RCMP. We traced the steps that Mr. Dziekanski took on that fateful day and were briefed on the whole affair. But our focus is on the use of tasers. You're also aware, I'm sure, that there are a number of other studies and reviews going on. But I very much appreciate your comments.

Is Ms. Cisowski going to add anything at this time?

Mr. Walter Kosteckyj: Just so the committee is aware, she's going through a particularly difficult time right now. Yesterday would have been her son's 41st birthday, so being at the airport was a trying event for her. She was given the opportunity to lay some flowers and a card for him there. I just bring that to your attention, because she is going through a particularly difficult time right now.

Mrs. Zofia Cisowski (Mother of Robert Dziekanski, As an Individual): If at the airport there could have been a better communication link between mother and son, then.... I have a question also.

These RCMP officers who are expected to help people stood back and chatted as they waited for others to arrive. They appeared detached, as if they had played no part in this fatal incident. This is what is truly repulsive to me. Why didn't they check on my son if he was passed out? Didn't they have a responsibility to check on my son and do what they could until the paramedics came, especially since they caused his condition?

The Vice-Chair (Hon. Roy Cullen): Okay. Is that it?

Mr. Walter Kosteckyj: Yes.

The Vice-Chair (Hon. Roy Cullen): Thank you very much, Ms. Cisowski. We are very empathetic to the difficult situation you're in. Thank you for having the courage to come here today with your lawyer and give us your remarks and story.

Riki Bagnell, are you going to speak first?

Mrs. Riki Bagnell (Mother of Robert Bagnell, As an Individual): No, Patti will.

The Vice-Chair (Hon. Roy Cullen): Patti Gillman, you have the floor.

Mrs. Patti Gillman (Sister of Robert Bagnell, As an Individual): Good afternoon, Chairman and members of the committee.

I'm relieved to be here today. For me and my family, this is an extremely important destination in what has been a very, very long journey.

As I'm sure you know, my brother, Robert Bagnell, died on June 23, 2004, moments after he was tasered by Vancouver police. Two days after his death, the Vancouver Police Department contacted my family to inform us that Bob died of an apparent drug overdose.

I know you won't be able to answer these questions, but my questions have always been as follows: If using tasers on my brother was the right thing to do, would the police not have disclosed the fact of their use immediately? Would they have concealed the fact that they used tasers, for an entire four weeks, before announcing to the media, not to us, that they used tasers the night my brother died? Would they have waited a further three weeks before coming up with a burning building from which Bob needed to be rescued?

No, I believe the police knew immediately that the force they used on my brother was excessive. They needed those seven weeks to pull together a plausible explanation to justify their use of the weapon whose manufacturer had aggressively marketed it to them, misleading them into believing that the taser could cause no harm.

More than two years after Bob died, a coroner's inquest was finally convened in September 2006. The inquest, in our opinion, was about saving the taser, not about the changes that might be made to prevent similar deaths in the future. No one, least of all the lawyer for the police and the two lawyers who had standing at the inquest for Taser International, was prepared to conceive of the possibility that the taser may not be the perfect weapon, that there may even exist the possibility that the taser could cause or in some way contribute to death.

We learned some interesting facts at the inquest. We learned that the four ERT members who were in physical contact with Bob when he stopped breathing delivered their mostly identical statements to

investigators 17 days after the incident, after seeking legal advice. We learned from the advanced life support staff who attended to Bob right after he stopped breathing that every muscle in his body was spasmed. They said they had only ever seen that in rigor mortis, which they normally would not see until hours later.

We learned that it was possible that Bob had less than half the lethal amount of narcotics in his system, not nearly enough in and of themselves to kill him. We learned that the data download feature on both tasers that were used on Bob conveniently failed, so that the number, duration, and mode of uses were impossible to verify. We learned that police attended the autopsy. The pathologist testified that the cause of death was partly determined by information she was given. The cause of several taser-like marks on Bob's body were inconclusive and the pathologist was unable to determine whether Bob's heart underwent any electrical arrhythmia.

That's the thing about death that occurs after taser. Even Dr. Butt testified recently to this committee that very uncommonly is there specific pathology with the taser. And I don't begin to understand the science behind the taser or how it affects the human body.

Coroners and medical examiners often choose to mention a condition they call "excited delirium" as the cause of death. They are influenced by Taser International to specifically not mention the taser. The manufacturer's aggressive approach against coroners and medical examiners explains why relatively few deaths have been found to be caused by tasers. Both so-called excited delirium and the taser are undetectable on autopsy, and therefore unprovable. However, as a friend of mine says, "Excited delirium doesn't sue coroners, Taser International does." So drugs, psychosis, and excited delirium take the blame for these deaths despite the lack of any evidence to show that the taser did not cause or contribute to them in any way.

● (1600)

Tasers have not been safety-tested in this country, and nobody knows whether individual weapons match the manufacturer's specifications. The only truly independent testing I am aware of is what was done on the two tasers that were used on my brother the night he died. One of those two tasers was found to be 84.5 times more powerful than the manufacturer's specifications. Of course, Taser International reacted to those findings in its usual hostile manner, and the company that tested the tasers was made to resile from its findings. However, the author of the report, the man who tested the tasers, testified at my brother's inquest and stood steadfastly behind his methodology and his conclusions.

At this time the two tasers are still awaiting new testing protocols, protocols that are being developed by police. Today I learned that the two tasers used on my brother arrived in Ottawa this week.

Tasers urgently require expert and truly independent testing for safety on humans. Every time a police officer uses a taser they engage in a deadly game of Russian roulette with a potentially lethal weapon. Not so long ago, the past president of the Canada Safety Council urged that minimum standards for the efficacy and use of tasers be developed and noted that relying completely on specifications provided by the manufacturer of the taser is completely unacceptable. Since we are dealing with possible electrocution, it seems the Canadian Standards Association would be the most logical place to start. And if after the taser has been tested it is to remain in the police arsenal, then a much higher standard of necessity must be imposed upon its use in Canada so that police officers can better predict the potential for severe, unintended, and possibly deadly effects, and therefore consider their force options more carefully.

There's been a great deal of reluctance by law enforcement officials and coroners in Canada to admit that the taser may not be as safe as the manufacturer originally misled them to believe. This has only been exacerbated by the fact that the manufacturer has ingratiated itself into our law enforcement community by, for example, compensating individual police officers and at least one coroner, and spending thousands of dollars in sponsorship of Canadian law enforcement events. They have even recently announced that they'd like to be part of any inquests and reviews in Canada.

My brother Bob's death was the 58th in North America. According to my research, the number of dead now stands at 337. It's no coincidence that the taser is the common denominator in all of these deaths.

Canadians witnessed the last horrifying moments of Mr. Dziekanski's life as it was stolen from him. Had the events leading up to my brother's death been captured on video, Canadians would have been outraged in 2004, and perhaps many of those who have since died in Canada, including Mr. Dziekanski, might still be alive today.

What would we learn if we could bear witness to the last moments of the lives of Terry Hanna, Clayton Willey, Clark Whitehouse, Ronald Perry, Roman Andreichikov, Peter Lamonday, Robert Bagnell, Jerry Knight, Samuel Truscott, Kevin Geldart, Gurmeet Sandhu, James Foldi, Paul Saulnier, Alesandro Fiocco, Jason Dean, Claudio Castagnetta, Quilem Registre, Howard Hyde, and Robert Knipstrom?

Would we agree that taser use was justified during Clayton Willey's altercation at the mall? Were three taser jolts justified when Clark Whitehouse tried to flee from police on foot? What about when police arrived, tasers already drawn, to find Roman Andreichikov sitting on a couch rocking back and forth mumbling to himself? Was it okay to shock Peter Lamonday several times when he was already on the ground? How about Alesandro Fiocco, who refused to cooperate with police? These are but a few Canadian examples where the lives of these men and their loved ones went sideways in a heartbeat.

Would we agree that taser use was justified as my brother, all 136 pounds of him, lay on his back on a bathroom floor alone, unarmed, in extreme medical distress, resisting police attempts to drag him out by his feet by holding on to inanimate objects for dear life while 13 highly trained police officers stood by as the only witnesses to the last moments of Bob's life, watching as he was subdued to death?

• (1605)

No, I believe that if Canadians could see with their own eyes what really happened—not the police's tidy version of events, but what really happened when these 20 people died in this country—they would be outraged.

I'm almost done.

In the days leading up to today, I have racked my brain trying to conjure up the words that might help you look at the issue of tasers from a different perspective: that of a person who has been deeply affected by the loss of a family member to this deadly weapon. I am but one grieving family member. Somewhere out there are thousands of other family members left behind to mourn the other 336 people who have died.

I know that the eyes of the world are on Canada at this pivotal point. They watch, and they wait. Those who know us know that we will do the right thing. Canada will take the lead and see these weapons finally and independently tested. Canada will set the standard and impose strict regulations that will not allow police unfettered access to this technology. And finally, they know that Canada will impose a much-needed moratorium on tasers until we know, beyond a shadow of a doubt, whether or not their use on human beings is safe.

Canada will pay special attention to the studies that have found problems with tasers.

As the father of one taser victim said,

The issue is not whether or not the taser can be used in a high percentage of cases to reduce death and/or physical trauma to officers and civilians alike. The issue is whether or not it's OK to kill the rest through ignorance and rationalization just because it's a small percentage.... The successes aren't the problem—the failures are.

Thank you.

• (1610)

The Vice-Chair (Hon. Roy Cullen): Thank you very much, Ms. Gillman.

Ms. Bagnell, would you like to make a statement?

Mrs. Riki Bagnell: I'll just add to some of the things Patti already brought up.

In the months following Robert's death, my daughter Patti and I spent hundreds of hours researching other deaths that involved the use of a taser. We were both surprised and shocked to discover many other such deaths of people such as habitual drug users, the mentally ill, and others in weakened conditions.

Coroners' reports refer to a condition they call "excited delirium" as a contributing factor. I've never heard of dogs, pigs, bears, or cows showing any signs of excited delirium before they died after being tasered.

Tasers are being administered on a daily basis to people in all walks of life—children as young as six years old, senior citizens in their 80s, and all those in between. Some have been tasered while in handcuffs or in jail cells. It seems that the taser has become a brutal form of subjugation, which was not its originally intended purpose. Here in Canada, the taser was supposedly introduced to be used instead of a gun in situations in which a police officer or others might be in imminent danger.

Since the inquest into our son's death, the list has continued to grow to 337 North Americans, 20 of them in Canada, after tasers were deployed. Are we still to believe that it is a mere coincidence that these people are dead? Are we to accept that they were coincidentally in the throes of dying of natural causes when they just happened to be tasered? Good God, what will it take to assure the Canadian public and our hard-working police forces that this device is safe to use?

Why does our government resist having these tasers safety tested, as all other electric devices are tested in this country? Why are police departments relying solely on the standards and use policies that come directly from Taser International? As a responsible Canadian citizen, I insist that my government place a moratorium on tasers until they have been tested and deemed safe and absolutely non-lethal. We owe this to our citizens and to our police officers.

Patti and I have reached out to several victims' families as we've tried to comfort each other while this madness prevails. None have been treated fairly. We each, in turn, have walked away from these inquests feeling stunned and betrayed, knowing that the truth has not fully been told.

As the mother of Robert Bagnell, I do not accept that he died of a simple drug overdose. I believe he died after being hit several times, while in a weakened state, by two tasers. I also believe that there was never a need for 13 strong, burly policemen to make that fateful call to employ their tasers on this one sick man. Had my son's death been recorded on video, I'm certain that it would have been found to be every bit as sad and brutal as the death of Robert Dziekanski, and now there is nothing more we can do for any of them. But perhaps through our efforts and your recommendations we can make a difference and in so doing, save some lives.

In a few days I will reach my 68th birthday. I could never have imagined that I would become so immersed in something so vital and so important in this final stage of my life. But as long as I am able, along with my daughter Patti, who has given so much of herself, I will continue to fight against the uncontrolled and often unwarranted and brutal use of this deadly device.

Thank you very much.

• (1615)

The Vice-Chair (Hon. Roy Cullen): Thank you very much, Mrs. Bagnell.

Before we proceed to questioning, my colleague Ujjal Dosanjh asked me to convey his sincere apologies. He had to leave. There is a bill that has hit the chamber of the House of Commons that he has to be there to debate as the critic for public safety and national security. So he regrettably had to leave.

I'll turn the questioning now to Ms. Barnes.

Hon. Sue Barnes (London West, Lib.): I think we're very fortunate that you have had the courage to come to us today, and we appreciate everything you've said. I personally am sorry for your loss, and I'm sure you have added to the responsibility we feel in this committee.

I don't think we have the ability to get all the answers in this review on tasers, but we will start a process, and other people will be engaging around this process.

I thank the chair and the other members of the committee for allowing more than the normal amount of time, because I think what you had to say to us today was more important than the questions we could pose to you. You are looking for the answers, and so are we.

Thank you so much.

The Vice-Chair (Hon. Roy Cullen): Thank you, Ms. Barnes.

Monsieur Ménard.

[*Translation*]

Mr. Serge Ménard (Marc-Aurèle-Fortin, BQ): This is a truly sad and tragic matter.

Like my colleague to my right, I'm very happy that you've come to testify before the committee. The light you've shed through your testimony is extremely important to us. We are all the more certain of the need for Canada to hold an independent and objective inquiry before tasers can continue to be used as easily. We have started this inquiry ourselves, but inquiries undertaken by parliamentarians have limits. The procedure is extremely complex and the time in which we can question witnesses is very short. Some professional organizations appearing before us are well aware of those limits and know how to get around them. In any case, we need to get scientific and technical opinions from completely neutral and objective individuals. That's what I've been asking for right from the start.

When we went to Vancouver, I was shocked to see the minute-by-minute, and sometimes second-by-second, playback of the video recordings from various cameras. You could follow Mr. Dziekanski, except for a few moments. However, what those tapes reveal is a bit different from what Mr. Kosteckyj noted, that only 10 seconds passed between the time that the policemen arrived in front of Mr. Dziekanski and the time they fired the taser; there were 57 seconds between the time when the first officer entered the building and the time that the taser was fired. So, they came into the building and they had to go through it. At one point, they jumped over a small wall and came face to face with Mr. Dziekanski. They jumped over this small wall 47 seconds after entering the building, and 10 seconds later, they used the taser. As you correctly noted in the letter you sent to us, Mr. Kosteckyj, this clearly contradicts the first statements made by the RCMP.

For my part, I was impressed by the cooperation from staff at the Vancouver Airport Authority. However, I was extremely disappointed by the lack of cooperation from the RCMP. When they came to testify before us, we had to interrupt them after half an hour because they were giving a detailed presentation on the RCMP presence in British Columbia, at the airport, and on their various activities including drug seizures and so on. Yet they knew full well, as the people from the Vancouver Airport Authority had understood, that if our committee had travelled there, it was to hear them tell us what had happened to Mr. Dziekanski, and specifically to obtain an explanation on how the taser had been used in relation to their protocol requirements. In fact, they continue to remind us that they have to follow this protocol before using the taser. They also told us that this matter was under investigation and that until the investigation was completed, they could tell us nothing more.

I have come to exactly the same conclusion as Ms. Gillman. Frankly, I greatly appreciate the rigour of your reasoning, all the more so because this was a very dramatic situation for your brother. Under the circumstances, I too have concluded that Canada must undertake an objective and independent inquiry on tasers before allowing them to be used as they are now.

•(1620)

When I was Quebec's Public Safety Minister, we were given a presentation on the taser which made the same point as the one made by Ms. Bagnell, meaning that it would replace the firearm. I realize that this is not true, for all kinds of reasons. Those people could tell us that other methods learned and used by police officers, such as the bear hug or other means to immobilize an individual on the ground, have been fatal—it's happened at least in Quebec—and that this has gotten a lot of media attention. They could tell us that, under such circumstances, those deaths could have been avoided if the taser had been used.

Do you agree that if the inquiry goes forward—and you want it to, as do we—it should also address other means that the police use to immobilize individuals, so that people can make the best possible determination of which circumstances each of those methods should be used in. The dangers associated with each method, the training that has to be provided to police officers prior to use, and intervention protocols needing to be applied will all need to be specified.

•(1625)

[English]

The Vice-Chair (Hon. Roy Cullen): Merci, Monsieur Ménard.

Would someone like to respond to that?

Mr. Walter Kosteckyj: I think it's absolutely part of the question as to what the use-of-force continuum is, where you can use any particular weapon or any device.

At the earliest point, a police officer, by being there in a uniform, is the first line of defence. His second line of defence is the mere touching of someone and asking them to come along with him. Beyond that come the next steps, and you're quite right: when should they be using the taser, as opposed to, in the case of Mr. Dziekanski, if they were so worried, why would they not have used, for example, pepper spray? Those are excellent questions. Or when might the baton be used?

Those are all things that have to be considered in the context of where and when and if you're going to allow the taser to be used as a weapon, because clearly, if the police are going to use it at the level they're using it at now in the continuum of force, Canadians have a problem. I believe this committee ought to have a problem with that as well.

The Vice-Chair (Hon. Roy Cullen): Thank you.

Ms. Gillman, did you want to comment?

Mrs. Patti Gillman: Yes.

I think it's important to also add that the police, in my opinion, need far better training in non-violent methods, non-physical methods of defusing situations, basic communication skills, specifically when they're dealing with people who are in mental or medical distress. You might take a serious look at what, for example, Toronto is doing with their mobile response units, where they are sending trained medical and mental health specialists along with the police to a lot of these calls. I think that's something that could be useful across the country.

The Vice-Chair (Hon. Roy Cullen): Okay, thank you, Ms. Gillman.

Ms. Priddy.

Ms. Penny Priddy (Surrey North, NDP): Thank you, Mr. Chair.

Thank you for being here today. This must be incredibly difficult, because every time you have to retell your story or rehear your story, it's like living it one more time. So thank you for doing that. But since you are here to share information, then I would be pleased to ask a couple of questions.

We have heard as we've travelled the country many things, which Mr. Kosteckyj has also said and which we've heard from the Bagnell family, about the importance of public oversight, not just concerning the use of tasers, but in a more general way as well. We've also heard the discussion about where a taser fits in a continuum of force, which is a very puzzling discussion, because it seems to vary, depending on where we have the discussion and who we have the discussion with.

First, if I might, Mr. Kosteckyj, I have a question for you. You called this in some ways a "benign neglect" death. I think that was the phrase you used. In my personal opinion, this death is about a much broader range of factors than only a taser. I'd also like to ask you a different kind of question, if I might.

We visited the airport. We're often moved by different things, or we learn by seeing different things. We're just different by nature in how we absorb information. I think I may have shared this with you, but I stood at the top of the escalator that Robert would have been on—because they are the same stairs that go around and around—thinking of all of the hope that he would have had as he was standing on the top of that escalator and, as that escalator went down, how much further removed that piece of hope and that dream were. For me, that was probably the most powerful part of the tour, aside from the concrete information I learned.

I'd like you to answer for me if you can, please, Mr. Kosteckyj, first, how the airport could be different. I'm talking about the CBSA and the airport part. If you could wave your pen or whatever, how would you make that different so that this could not happen again?

I have a question for the Bagnell family. When I looked at your website, you had a reference on it that all of us have been quite frustrated trying to find information about. It was about the research that can link taser deaths. I noticed that on your website, when you talked about the numbers of deaths, you cited 30 as being either somehow related or causal to the use of the taser. I'd be thrilled if you could share where you got that research. We keep asking the manufacturer of taser and others, "Can you prove any relationship?", and everybody says, "No. Coroners' reports all say no, so we can't, no." I'd be thrilled to have that and hear a bit about what's on your site.

Mr. Kosteckyj, I'll go to you first on the difference to an airport.

• (1630)

Mr. Walter Kosteckyj: Well, one of the biggest differences—and I think this is an issue this committee ought to be concerned with, because it does deal with public safety—is that when somebody shows up at primary customs and they go through a computer, you would think that there would be some alarm bells that go off when that person is directed to secondary customs and they don't show up. If that system isn't in place, it ought to be in place. It's conceivable that somebody's not going to show up for half an hour, or maybe an hour, but at some point, when it goes past that, why aren't some alarm bells going off and getting people to pay attention to the fact that they're missing somebody in an area where they're supposed to be accountable for everyone who's there? They don't want people wandering around in there, because presumably they pose a security risk. If that had been done, that would have ended things hours earlier.

The second thing, as I said, is that we can't, at the end of the day, ask the Canada Border Services agents to be babysitters and to help people, for lack of a better term, who are lost, but they have to have a place to turn them over to. You have this airport, this beautiful structure, probably one of the most beautiful airports I've ever been in, but it's dysfunctional. There's no place, and there's no one there to help that lost traveller.

Now you have the Olympics coming here.

Ms. Penny Priddy: I'm from Vancouver, which is part of why I'm asking this question. We're about to have hundreds and thousands of people coming.

Mr. Walter Kosteckyj: Exactly. And they have to have a place to be able to be turned over to and dealt with, and the airport authority ought to be charged with that job. It's one of its jobs: moving traffic, directing people to where they might want to go, and having an opportunity to do that. And in my submission, if those two things had happened, these events wouldn't have taken place and the discussion about the taser would be incidental.

Getting back to Mr. Dziekanski for a second, and I think this is very important in his case, the one thing that we do know is that alcohol and drugs were not factors in his death. Neither one of those two things was present, so excited delirium is off the table as far as a possible explanation in that particular case. I just make that point.

• (1635)

The Vice-Chair (Hon. Roy Cullen): Ms. Gillman, would you like to...?

Mrs. Patti Gillman: I hope I get your questions right. The studies and research that you refer to, are you wondering...? Sorry, what is it?

Ms. Penny Priddy: Well, when I went to your website, I think it said there were 30 deaths that could be linked to tasers, and when we've asked for research, we've been told there isn't any research that says deaths can be linked to tasers. Not that I'm necessarily concluding that's the case, I'm just anxious to have the information you have.

Mrs. Patti Gillman: You just asked the wrong people.

Ms. Penny Priddy: Yes.

Could you refer us to it in some way, send it to us, whatever, tell us where you got it? I ask this because most of what we've been able to gather is around how it affects pigs, dogs, and whoever else, but no reports say it really has affected the death of the person.

Mrs. Patti Gillman: I have a coroner's report from a case where the taser was deemed to have caused the death. I will look into whether or not I can share that with you. I'd be happy to share any of the documentation I have, and I have reams and reams of it, as you can imagine.

That was the original intent of my website. When I originally started the website it was because I was running out of room for paper, and I wanted a place online where I could start to store some of what I knew and what I had—

Ms. Penny Priddy: It's very helpful.

Mrs. Patti Gillman:—rather than having to print everything all the time. Most of what I have on there I've learned through web searches and news reports. I do taser web searches daily, every day. A day doesn't go by when I don't.

I also receive a lot of information from people. There's a network of people across North America who are quite interested in this issue, and they send me documentation.

Ms. Penny Priddy: Well, if you could. I don't want to hold up the committee, but if you have an ability to share that and refer that, that would be really helpful for us, because some of us have been pretty frustrated, thinking there must be something causal but not being able to find anything that said that.

Mrs. Patti Gillman: I will try to make that happen. I'd be happy to share anything I have.

Ms. Penny Priddy: That would be very helpful. Thank you so much.

Thank you, to both of you.

The Vice-Chair (Hon. Roy Cullen): Thank you very much.

[*Translation*]

Mr. Ménard was sorry to have to leave, but he had to take part in a debate on the bill under consideration in the House.

[*English*]

With that, I'll go to Mr. MacKenzie, please.

Mr. Dave MacKenzie (Oxford, CPC): Thank you, Chair.

To the panel, I offer our condolences to you and our sympathies for what you're going through. I do appreciate the fact that you're here. I know that the Bagnell family has been through an inquest and perhaps some other legal things, and I understand that the same will occur. So from my side here, our condolences to you and our sympathy with you, and I know and appreciate what you're going through.

The Vice-Chair (Hon. Roy Cullen): Thank you, Mr. MacKenzie.

Ms. Barnes.

Hon. Sue Barnes: One small question with respect to research. One of the things you get into is the ethics of doing human research with such a device that obviously is very painful and can have effects on different people in different ways. In your studies, Ms. Gillman, could you just go over what your thoughts are about how research should be done? The research we've been told about doesn't seem complete. That's the kindest way to say it. But I'd just like your thoughts, because if you've spent that much time on this subject, you would know, I think, a bit more than we do.

Mrs. Patti Gillman: Yes, I think that testing these weapons on human beings would be completely unethical, and I can't imagine who would ever put their hand up to have those tested on them.

I don't think the science behind the taser is rocket science. It is for me, because that's not at all my thing. But there are people, and I hear from them all the time, who seem to have a base understanding of what's going on here.

I don't know if you've ever been to the website excited-delirium.com. Whoever owns that site.... Well, I recommend that you go there.

• (1640)

Hon. Sue Barnes: Perhaps our researcher could—

Mrs. Patti Gillman: The science exists. I'm not capable of addressing the science.

The Vice-Chair (Hon. Roy Cullen): Yes, go ahead, Mr. Kosteckyj.

Mr. Walter Kosteckyj: There was a study that was conducted in Chicago on pigs, which was quite famous, and one of the people investigating that was a police officer, who was conducting some of those investigations. One of the points they made was that they could not get ethical clearance to do the testing on humans.

One of the points that I think I've always noticed is that nowhere in any of the testing—even where they tested on police officers—do they ever test it by shooting someone directly into the front. They always do the testing.... It seems to me, whenever I've watched it, and I could be corrected—I may be wrong—that I've only ever seen it shot into the back. Typically, the taser is discharged into a police officer's back, and he's usually young and healthy, and they've got a couple of guys standing beside him ready to catch him. In any event, the point is that they're not usually shot into the chest.

The Vice-Chair (Hon. Roy Cullen): Thank you.

Does anyone else have a question?

Bonnie Brown.

Ms. Bonnie Brown (Oakville, Lib.): If I'm correct, Patti Gillman, you recommended a moratorium until we have better knowledge and we have better protocols, etc. I am wondering if Mr. Kosteckyj is also recommending a moratorium.

Mr. Walter Kosteckyj: My position would be this: I would take the police, at the very least, back to where they were supposed to be in the first place, before they instituted what Mr. Kennedy described in his report. I commend that report because it seems to me that it was a very well done report, the initial report about this usage creep. That is the point where the taser has been used at such a low level.

Take it back, at the very least, to the point where it's an alternative to lethal force until such time as the police have either shown that it's safe in other circumstances, or the studies are in, or you've gone to where you've got to go, either by way of a royal commission, as I've heard has been suggested, or that other studies are taking place. In fact, there's one that's starting off with Judge Braidwood in British Columbia—as you probably know—in early May. But I would say that if not a moratorium—I don't know that I'd go that far—at the very least say it's an alternative to lethal force. Use it there, and prove where it should be used elsewhere.

Ms. Bonnie Brown: Mr. Kosteckyj, I think that most forces that have adopted the taser have adopted it with that phrase: it's the last force before lethal force. But now we have ten years' experience, and we can see that when people have that extra weapon, they're pulling it out way too often. They are not following these protocols, and therefore we could bring in a new protocol. We really don't have the authority, but we could say something is the national protocol, and my guess is that three or four years down the road we'd be into this usage creep all over again, because people are human and it's a nice alternative to actually having to take somebody down physically to get handcuffs on them. It's a lot neater for the police.

Mr. Walter Kosteckyj: With all due respect, we're in a sad circumstance if Parliament can't control our police officers and actually tell them what they're required to do. If we've got that problem, we've got a bigger problem in this country.

This is a democracy, but at the end of the day, the buck stops here, at Parliament. If our police officers aren't going to follow those instructions, it's time to get new ones. That starts at the top and works its way down. That would be my point.

The Vice-Chair (Hon. Roy Cullen): Thank you, sir.

Ms. Priddy, do you have a final question?

Ms. Penny Priddy: Perhaps just in expansion of the continuum of force piece, which you would both have looked at, we've been told that it was introduced originally—and it was in B.C.—as the next alternative to a lethal weapon, although there seems to be some debate about this.

I just read in my own local paper that it's being used by transit police and has occasionally been used on people who are escaping fare evasion. I wouldn't think that if you were escaping fare evasion on a sky train or subway that someone would pull out a gun and shoot you, but they are using a taser.

So that doesn't fit at all with my understanding of where it fits in the continuum of force. If those are the circumstances under which we're finding it used, then it reinforces what I think people have said about that usage creep or taser creep.

Thank you.

• (1645)

Mrs. Patti Gillman: I think we are heading in the direction of the U.S. style of cowboy policing. They need to be reined in.

The Vice-Chair (Hon. Roy Cullen): Thank you.

Was that it, Ms. Priddy?

Ms. Penny Priddy: Yes, thank you.

The Vice-Chair (Hon. Roy Cullen): Madame Thi Lac.

[*Translation*]

Mrs. Ève-Mary Thaï Thi Lac (Saint-Hyacinthe—Bagot, BQ): Good day, everyone.

I want to thank you for coming here to meet with the committee members. I also want to offer you my sincere condolences, as well as to your families, on the death of your brother and son, respectively. I also want to salute your courage and above all your commitment to seeking answers with regard to the events which have befallen you

and your respective families, and to the quest to enlighten our committee in our current study on the use of the taser.

The Bloc Québécois was the first party to demand a moratorium on using the taser gun. We know that, in general, the police are there to protect the public. We must salute the work of the majority of police officers; they do an excellent job. Nevertheless, we gave them a very dangerous weapon and told them this weapon was the solution and not dangerous, and this is the problem. During training sessions, police officers were told that this was a harmless tool to replace a gun.

My colleague Mr. Ménard has asked for an independent and objective inquiry. Two weeks ago, during our trip to Vancouver, I asked a question of one of the witnesses with regard to an almost absurd situation. In fact, I reminded him that in the riding next to mine, a taser had been seized one week earlier. There is always a black market for any weapon.

I asked the witness the following question: if a criminal repeatedly used a taser in order to inflict injury on an individual or even kill them, would the autopsy reveal beyond any shadow of a doubt that that person had been murdered? The answer was no. It's quite absurd to say that a weapon is safe without being able to say with certainty that an individual has been killed, knowing that that individual has died as a result of that weapon being discharged several times.

I think that my comment is in keeping with what your families have said. Until we have determined that this weapon poses no danger, we must demand a moratorium and for an independent and objective inquiry to be undertaken in Canada on the use of the taser.

In closing, I want to salute your courage again. I encourage you to continue to speak out, because this will help our committee. Your testimony and your commitment will be very valuable not only for our committee, but also to raise awareness of this situation throughout Canada. Thank you very much.

[*English*]

The Vice-Chair (Hon. Roy Cullen): Does anyone want to add any comments?

I think that's it, then. We can wrap it up.

Ms. Gillman, I notice you mentioned the Canadian Standards Association, whose head office is in my riding. I'll be asking them if this would be something they could do. I know there have been concerns by members of the committee that the product, the taser, hasn't been tested in Canada as much as it might have been.

The committee is appreciative of what you've told us here today. We respect and value your contribution and your courage for being here, as my colleagues mentioned, to relive this again. We are very much seized with this issue. We're looking for answers, and we want to come up with some recommendations that will deal with this question. Again, thank you for coming.

I'm going to suspend this meeting for a few moments to clear the room. We'll go in camera for a while to deal with a couple of matters.

Thank you.

[*Proceedings continue in camera*]

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