



MEDIA STATEMENT

CRIMINAL JUSTICE BRANCH

May 6, 2011

11-07

Decision of Special Prosecutor Richard Peck, Q.C. Announced

Victoria - The Criminal Justice Branch of the Ministry of Attorney General today announced the results of Richard C.C. Peck, Q.C.'s independent charge assessment with respect to allegations of misconduct involving four members of the Royal Canadian Mounted Police as they pertain to the in-custody death of Robert Dziekanski at the Vancouver Airport on October 14, 2007. Mr. Peck's review included an examination of the circumstances of the physical altercation with Mr. Dziekanski, the subsequent RCMP investigation into his death and the testimony of the four officers at the Braidwood Inquiry.

Mr. Peck has recommended and the Criminal Justice Branch has accepted that each of the four officers be charged with perjury in relation to the evidence that each officer gave at the Braidwood Inquiry, and that the charges proceed by way of Direct Indictment.

Mr. Peck has concluded that there is no substantial likelihood of conviction in relation to any potential charges arising from the circumstances of the physical altercation with Mr. Dziekanski or the subsequent investigation into his death.

Mr. Peck's recommendations will be forwarded to the Deputy Attorney General for review and approval of proceeding by way of Direct Indictment.

This Media Statement has been issued today in response to information indicating that aspects of Mr. Peck's recommendations had entered the public domain and were expected to be the subject of media reports.

A more detailed Clear Statement in relation to Mr. Peck's conclusions will be released publicly once the Deputy Attorney General has completed his review of Mr. Peck's recommendations. The Clear Statement will not contain details about the decision to not approve charges arising from the circumstances surrounding Mr. Dziekanski's death in order to protect the integrity of the perjury prosecutions. Those details will be released upon completion of the perjury prosecutions.

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Mr. Peck was appointed June 18, 2010 by Assistant Deputy Attorney General Robert W.G. Gillen, Q.C. to determine whether, in view of the evidence heard at the Braidwood Inquiry and the findings and recommendations of Commissioner Braidwood, it was appropriate to reassess the decision of the Criminal Justice Branch not to prosecute any of the officers involved in the incident. Mr. Peck was also to review other conduct of the officers in connection with the incident.

Mr. Peck's mandate included:

- Conducting an independent review of the Braidwood Commission report relating to the death of Robert Dziekanski. This review was to include the four officers' conduct in relation to the initial encounter with Robert Dziekanski, their participation in the subsequent investigation and their testimony at the Braidwood Inquiry, with a view to determining whether anything contained in the report called for a reassessment of the Branch decision not to prosecute the officers.
- Providing a written report to the Assistant Deputy Attorney General with the results of his review and the reasons for his decision.
- If in his view the initial charge assessment should be revisited given the findings made by Commissioner Braidwood in his report, proceeding to examine all materials relied on in the original charge assessment decision and any other materials he might deem appropriate including the evidence taken at the Braidwood Inquiry and exhibits or reports filed therein, and making whatever charge assessment decision he deemed appropriate in the independent exercise of his prosecutorial discretion.
- In addition, examining any other conduct of the four officers in relation to the matter, and in particular their statements to investigators and their testimony at the Braidwood Inquiry with a view to determining whether their conduct was at any time contrary to any provisions of the *Criminal Code* or applicable provincial legislation and making whatever charge assessment decision he deemed appropriate in the independent exercise of his prosecutorial discretion.
- If following his review, and any charge reassessment he might undertake, it was his view that a prosecution was warranted in connection with the conduct of the four officers in relation to their initial encounter with Mr. Dziekanski or their subsequent conduct in relation to this matter, to take conduct of the prosecution and any subsequent appeal.

On June 29, 2010 the Branch announced that Mr. Peck had recommended that the initial charge assessment should be revisited, citing among other reasons that the Braidwood Commission Report into the death referred to "factual material that was not available to the Branch at the time [of the initial charge assessment decision], including but not limited to expert video analysis and expert opinions relating to the reasonableness of the escalation and de-escalation of force."

No further information will be released or comment made by the Special Prosecutor or the Criminal Justice Branch at this time.