

## **VOLUME TWO**

### **PART 2: POST-BOMBING INVESTIGATION AND RESPONSE**

#### **CHAPTER II: RCMP POST-BOMBING**

##### **2.0 Set-up and Structure of the Federal Task Force**

According to the Attorney General of Canada, the Air India and Narita bombing investigations still have been "...by far, the most extensive investigations ever undertaken by the RCMP."<sup>1</sup> The RCMP faced numerous challenges and had to make many difficult decisions about its approach to the investigation. At times it was ill-prepared for the organizational and technical demands required for the investigation.

##### **Early Response and Formation of the Air India Task Force**

On June 23, 1985, A/Comm Donald Wilson, the OIC, Operations Branch of E Division, received a call from the HQ Duty Officer in Ottawa, who informed him of the Air India and Narita explosions that had occurred that morning. Wilson immediately contacted Richmond Detachment, which had jurisdiction for the Vancouver International Airport,<sup>2</sup> and directed that officers be sent to the airport to begin "...piecing together events." It is clear that politically motivated sabotage was suspected from the very beginning. At 9:30 AM, Insp. Lloyd Hickman of P Directorate, VIP Branch, contacted Wilson and requested that E Division VIP Security check with the Indian Consul General and at the Consulate to determine if any "...unusual parcels, cars, etc." were in the vicinity.<sup>3</sup>

Early the next morning, Wilson was advised that the RCMP Commissioner had directed that an investigator be dispatched from Vancouver to Tokyo at the earliest opportunity to liaise with Japanese police, and he was informed that an investigator from "the East" was being dispatched to Ireland to perform a similar function with respect to Air India Flight 182.<sup>4</sup> In the following hours, Wilson had a number of contacts with the OIC, Richmond Detachment, primarily to ensure that he had all the necessary resources available to him. A request for additional investigators for the Richmond Detachment investigation was made to the OIC, Contract Policing, and a request was made to Supt. Lyman Henschel, the OIC, Support Services in E Division, to make available a member from the National Criminal Intelligence Section (NCIS) to ensure effective liaison and that nothing

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<sup>1</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 277.

<sup>2</sup> Exhibit P-101 CAF0438, p. 22; Testimony of Lyman Henschel, vol. 46, September 17, 2007, pp. 5544-5545.

<sup>3</sup> Exhibit P-101 CAA0241, p. 1.

<sup>4</sup> Exhibit P-101 CAA0241, p. 2.

was “overlooked.” The member assigned was Sgt. Wayne Douglas, who, prior to the bombing, had been in charge of the Terrorist/Extremist NCIS unit at E Division.<sup>5</sup> Contact was made with Randil Claxton of CSIS to ensure liaison with the Richmond Detachment.<sup>6</sup>

### **Task Force to Be Led by the Federal Side of the RCMP**

On June 25, 1985, RCMP Headquarters in Ottawa directed that the investigation would be designated a “CSIS Act Investigation” and would be taken over from the Richmond Detachment by a Task Force that would be formed and which would eventually work out of E Division Headquarters.<sup>7</sup> Part IV of the *CSIS Act, the Security Offences Act*, gave the RCMP primary responsibility for performing peace officer duties in connection with criminal offences arising “...out of conduct constituting a threat to the security of Canada” or targeting “internationally protected person[s].”<sup>8</sup> The decision to set up the investigation as a “CSIS Act investigation” meant that the federal side of the RCMP would take over local jurisdiction from the Richmond BC contract policing unit.

The RCMP provides community policing services by contract in all provinces and territories of Canada, except Ontario and Quebec. These contracts make the RCMP the “regular police” in these jurisdictions: the provinces and municipalities that are responsible for providing local law enforcement services hire the RCMP to perform these duties. Contract police services are organized into 10 divisions, and divisions are further divided into sub-divisions or districts, which comprise groups of detachments. Each detachment operates independently, with its own dedicated resources, and is responsible for law enforcement and the prevention of crime within its defined jurisdiction. To support detachments, there are specialized units and operational support groups at division headquarters, as well as at the sub-division and detachment level. Division commanding officers are accountable to the RCMP Commissioner.<sup>9</sup>

In addition to its contract policing side, the RCMP is also responsible for providing designated federal services everywhere in Canada. The federal side of the Force is structurally separate from the contract policing side, with its own chain of command, reporting through Federal Operations. In addition to offences relating to national security, the federal side of the RCMP is also responsible for programs such as Customs and Excise, Immigration and Passport, Drugs and Organized Crime, Criminal Intelligence and International Policing.

Since the Air India investigation was constituted as a federal Task Force, personnel that would work on it would be drawn from the federal side of the RCMP and would report through Federal Operations. There were three units or task forces

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<sup>5</sup> See Section 1.1 (Pre-bombing), November 1984 Plot.

<sup>6</sup> Exhibit P-101 CAA0241, p. 3; Testimony of Lyman Henschel, vol. 46, September 17, 2007, p. 5557.

<sup>7</sup> Exhibit P-101 CAF0166, p. 1.

<sup>8</sup> *Canadian Security Intelligence Service Act*, S.C. 1984, c. 21, ss. 57, 61.

<sup>9</sup> Online: Royal Canadian Mounted Police <<http://www.rcmp-grc.gc.ca/ccaps-spcca/contract-eng.htm>> (accessed November 3, 2009).

set up, under the administration of their respective divisional National Criminal Intelligence Sections (NCIS): Montreal, Vancouver, and Toronto (and later Alberta).

The RCMP quickly put in place a group at Headquarters to coordinate the investigation.<sup>10</sup> The HQ Coordination Center initially had one Officer in Charge (OIC) and two readers, responsible for reviewing all incoming information. An information coordinator was soon brought in to produce daily situation reports. A search then began for two analysts to be assigned to the Task Force, but they were not found until two weeks after the bombing and began work on July 4, 1985. The Coordination Center staff therefore comprised five members in total, with one OIC. A “runner” was later recruited to handle telexes and to compile RCMP reports to the Kirpal Commission of Inquiry,<sup>11</sup> which had been instituted by the Indian government to explore the cause of the downing of Air India Flight 182.

### **The E Division Air Disaster Task Force**

On June 26, 1985, a Task Force was created in E Division under the direction of Assistant Commissioner Wilson,<sup>12</sup> and as of June 27<sup>th</sup>, the E Division Air Disaster Task Force was in place and operational.<sup>13</sup> It was directed by the OIC, Federal Operations, Chief Supt. Gordon Tomalty, and managed by Inspector John Hoadley.<sup>14</sup> Sgt. Robert Wall, who had been working at the Vancouver Integrated Intelligence Unit (VIU) prior to the bombing, was assigned to the investigation on June 25<sup>th</sup>, and was told that his team would form the core of a federal Task Force in relation to the two incidents.<sup>15</sup> The investigative team consisted of 17 investigators from RCMP federal units and two coordinators who were Non-Commissioned Officers, assisted by CSIS liaison Jim Francis, RCMP NCIS NSE Unit member Michael (“Mike”) Roth, as well as representatives from the VIU.<sup>16</sup> Supt. Les Holmes<sup>17</sup> joined the E Division Task Force as the OIC in late July,<sup>18</sup> after which Wall became the second-in-command.

The E Division Air Disaster Task Force, which was housed at E Division Headquarters, experienced some “growing pains” as it took time to find space to set up the unit, though, within about six weeks of the bombing, the unit was a “workable environment.” By the latter part of August, the Task Force had about 105 personnel working on the Air India/Narita investigation. While, in the early weeks, the Task Force was still gearing up and acquiring resources, this did not

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<sup>10</sup> Testimony of Robert Simmonds, vol. 74, November 8, 2007, p. 9365.

<sup>11</sup> Exhibit P-101 CAF0055, p. 6.

<sup>12</sup> Exhibit P-101 CAA0242, p. 1.

<sup>13</sup> Exhibit P-101 CAA0267, p. 1.

<sup>14</sup> Exhibit P-101 CAA0242, p. 1, CAA0267, p. 1.

<sup>15</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9658-9659.

<sup>16</sup> Exhibit P-101 CAA0242, p. 1.

<sup>17</sup> Hoadley and Holmes reported up through the Federal Operations side in Vancouver to the Federal Operations Officer, then to the Commanding Officer of E Division and ultimately to Headquarters in Ottawa.

<sup>18</sup> Exhibit P-101 CAF0503, p. 8. Holmes remained as the OIC until the fall of 1987.

prevent the investigation from getting underway. Wall testified at the Inquiry that "...those in the trenches with us rose to the occasion and made the best of a bad situation." Members of the Task Force regularly worked "extremely lengthy" hours for the first two to two and a half months of the investigation.<sup>19</sup> In fact, by July 25, 1985, an E Division update to HQ reported that "...issues of overtime, leave, health and welfare of our personnel must be addressed immediately," and measures were suggested to alleviate some of the pressures on the investigators.<sup>20</sup> The work was "grinding hard work" that left an "un-erasable" mark on the investigators, who were extremely dedicated and worked hard to solve the case under less than ideal conditions.<sup>21</sup>

The individuals on the Task Force were "...basically starting from nothing" in terms of their expertise in the area of Sikh extremism.<sup>22</sup> Though E Division housed the NCIS Terrorist/Extremist unit, which had as its mandate the development of intelligence about criminal threats to national security, the reality was that in the pre-bombing period this unit had developed only very limited knowledge about the major Sikh extremist players in Canada and had no meaningful access to sources in the community.<sup>23</sup> Only one or two Punjabi-speaking officers were on the Air India file, and there was a lack of understanding of Sikh culture.<sup>24</sup> These factors would pose challenges to investigators when they attempted to gather intelligence from within the Sikh community.

As a result, the Task Force relied heavily on CSIS for its knowledge and insight about Sikh culture and about the important figures in the Sikh extremist community.<sup>25</sup> On August 29, 1985, the E Division Task Force received a briefing from Ray Kobzey of CSIS BC Region, about the phenomenon of Sikh extremism and about the Babbar Khalsa.<sup>26</sup> Cst. Axel Hovbrender, a VPD member of VIIU who had been gathering intelligence about Sikh extremism during the years preceding the bombing, also provided briefings to the RCMP.<sup>27</sup> Hovbrender testified that due to the lack of background knowledge at the Task Force, it took a long time for the RCMP Air India investigation to get started in BC. He commented:

I think that I was feeling frustrated that it was taking a long time to get the investigation going. I sort of likened it to a battleship; it takes a while for the battleship to get going, but once it goes it's pretty impressive. It took ... about two or three weeks for them to do the things that I thought

<sup>19</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9660, 9661, 9713-9714.

<sup>20</sup> Exhibit P-101 CAA0282, p. 2.

<sup>21</sup> Testimony of Lyman Henschel, vol. 46, September 17, 2007, pp. 5567-5568; Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9713-9714.

<sup>22</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11587.

<sup>23</sup> See Section 3.4 (Pre-bombing), Deficiencies in RCMP Threat Assessment Structure and Process.

<sup>24</sup> Testimony of Norman Inkster, vol. 81, November 22, 2007, p. 10314. See also Chapter I (Post-bombing), Human Sources: Approach to Sources and Witness Protection.

<sup>25</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9661-9662.

<sup>26</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9662; Exhibit P-101 CAA0313, pp. 2-3.

<sup>27</sup> Testimony of Axel Hovbrender, vol. 33, May 24, 2007, pp. 3914-3915.

should have been done in the first week, and that was to interview some of those individuals who, as most of us knew or who were in the intelligence field, believed responsible for – that act, that tragic act. So, in the initial phases, I was feeling frustrated in relation to the lack of ... any sort of movement and any sort of enforcement activity against those individuals.<sup>28</sup>

The Task Force faced challenges in terms of its preparedness to undertake certain investigative initiatives in the Sikh community. For example, on July 21, 1985, E Division wrote to Headquarters that a "...contingency plan is required to respond to any potential arrests of suspect(s) in the investigation" and that included in this plan should be the "...realization that we may be lacking in suitable expertise in the interview/interrogation of suspect(s) and the potential to have available security cleared and experienced investigator/translators."<sup>29</sup> More than two years later, in October 1987, HQ suggested in a status report that one of the initiatives that should be undertaken was a review of investigation files in C, E and O Divisions, with emphasis on "...material accumulated in 1985/86 when investigators lacked knowledge of Sikh extremism generally and Canadian Sikh extremists in particular."<sup>30</sup>

## Access to Information about Sikh Extremism

### Failure to Use Past Threat Information

While members of the E Division Air Disaster Task Force might not have had significant knowledge or expertise with respect to the Sikh extremist community in Canada, within its own files the RCMP had a wealth of pre-bombing information that it had received about threats to Indian interests in Canada, including Air India.<sup>31</sup> This information had been passed by CSIS, DEA, and by sections of the RCMP itself to the RCMP Protective Policing Directorate to help officials provide sensitive protection to Indian personnel and missions in Canada.

This material contained references to specific Sikh extremist individuals and groups who demonstrated a potential for violence and who were believed to have had the intent to carry out attacks against Indian interests in Canada. Parmar, Bagri, Surjan Singh Gill and the Babbar Khalsa were specifically mentioned.<sup>32</sup> Other information focused on ISYF members such as Manmohan Singh and Pushpinder Singh, who were involved in the Khurana meeting.<sup>33</sup>

<sup>28</sup> Testimony of Axel Hovbrender, vol. 33, May 24, 2007, p. 3915.

<sup>29</sup> Exhibit P-101 CAA0282, p. 2.

<sup>30</sup> Exhibit P-101 CAA0582, p. 12.

<sup>31</sup> See, for example, discussion of pre-bombing threat information in Section 1.12 (Pre-bombing), A "Crescendo" of Threats. Threats to Air India included the June 1st Telex: See Section 1.2 (Pre-bombing), June 1st Telex.

<sup>32</sup> For example, see Exhibit P-101 CAA0097, CAA0110, pp. 2-3, CAB0024, CAB0085, CAB0851, pp. 5-6, CAC0235, pp. 3-4, CAC0312, p. 3.

<sup>33</sup> Exhibit P-101 CAC0293, CAC0487, p. 5.

All of the threat information received by the RCMP P Directorate and NCIB was filed in central records at Headquarters. Through the Soundex system, it was possible to locate all mentions of a specific individual (regardless of the spelling of the name) in the documents. The central records could also be searched by subject areas, such as Sikh extremism, threats to the Government of India, or threats to Air India.<sup>34</sup> The entire holdings of Airport Policing, VIP Security and NCIB relating to Sikh extremism were therefore easily accessible for members of the HQ and E Division Air India Task Forces.<sup>35</sup>

However, this pre-bombing threat information does not ever appear to have been used by the RCMP to orient or provide leads for the Air India investigation. Not one of the RCMP officers involved in the investigation who gave evidence at the hearings was involved in reviewing this information or was aware of such a review, and no documentary record has been found indicating that such a review was performed at any time. Sgt. Warren Sweeney, one of the small number of members of the HQ Task Force, specifically recalled that he was never asked to collect the pre-bombing RCMP holdings about Parmar or Reyat.<sup>36</sup> Wall, who was the second-in-command and who remained on the E Division investigation for nine years,<sup>37</sup> had no recollection of there ever having been an effort at the divisional level to obtain access to P Directorate files in the post-bombing period, either at the Headquarters or at the divisional level.<sup>38</sup>

The pre-bombing information might have been invaluable in helping to orient the RCMP investigation in the early days, when they were experiencing difficulties in accessing CSIS information.<sup>39</sup> The information would have alerted the Task Force to the fact that, in the month prior to the bombing, Air India was warned of the threat of time/delay devices being placed in registered luggage – a lead that, from the record before the Commission, was never investigated for its possible connection to the time/delay device that ultimately brought down Air India Flight 182.<sup>40</sup> This information could also have led the RCMP to understand that Parmar was considered to be the “...most radical and potentially dangerous Sikh in the country,” and that Bagri was a close consort of Parmar who could easily be manipulated into committing a terrorist act and who was allegedly involved in a plan to hijack an Air India plane in October 1984.<sup>41</sup>

This information was already in the RCMP’s possession and was easily accessible. In some cases, it had even been transmitted in the pre-bombing

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<sup>34</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2653; Testimony of Warren Sweeney, vol. 26, May 9, 2007, p. 2692.

<sup>35</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2655; Testimony of Warren Sweeney, vol. 26, May 9, 2007, pp. 2692-2693; Testimony of Henry Jensen, vol. 44, June 18, 2007, p. 5451. Some restrictions applied where classified CSIS information was involved or where documents were flagged for the exclusive use of a Branch or Directorate, such as P Directorate, but the existence of relevant documents would be revealed following a central records search, and access could then be obtained from the sub-registry for CSIS information or from the Branch or Directorate involved: Testimony of Warren Sweeney, vol. 25, May 8, 2007, pp. 2653-2655.

<sup>36</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2655.

<sup>37</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 290.

<sup>38</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9672.

<sup>39</sup> See Section 4.1 (Post-bombing), Information Sharing and Cooperation in the Air India Investigation.

<sup>40</sup> Exhibit P-101 CAA0185. See also Section 1.2 (Pre-bombing), June 1st Telex.

<sup>41</sup> Exhibit P-101 CAA0110, p. 3.

period to E Division NCIS,<sup>42</sup> whose members Roth and Douglas were involved with the E Division Task Force, for the very purpose of assisting the divisional NCIS investigators to detect "...potential criminal acts, and if it does happen, to know who to look for."<sup>43</sup> Information passed to NCIS in the pre-bombing period included information about Parmar's group working on a secret project,<sup>44</sup> and about the BK being associated with a Sikh who advocated boycotting Air India.<sup>45</sup> NCIS members had, in fact, interviewed Parmar and Surjan Singh Gill shortly before the bombing, as part of a disruptive interview program conducted in conjunction with American authorities, in preparation for Indian Prime Minister Rajiv Gandhi's visit to the US.<sup>46</sup> The purpose of the interviews was "...to dissuade Parmar, Gill and their associates from any action against Gandhi who appeared to be their target at the time."<sup>47</sup> E Division NCIS members working in the VIIU had also received information, in the course of their discussions with the VPD members of VIIU, that could have assisted the RCMP in orienting the investigation and identifying the main players in the Sikh extremist movement and the Babbar Khalsa. An example was that VPD members of VIIU had learned in October 1984 that Surjan Singh Gill and Ripudaman Singh Malik were close associates of Parmar and that Malik was financially supporting Parmar, and had discussed this information with NCIS members.<sup>48</sup>

Under the circumstances, it is surprising that, to this day, the RCMP continues to complain that the initial focus of its investigation was on the wrong targets because the lack of CSIS information prevented it from discovering the more promising suspects. In a 1996 memorandum, Assistant Commissioner Gary Bass stated that "...lack of disclosure by CSIS in the early days, allowed the RCMP to seek a wiretap authorization on the wrong targets."<sup>49</sup> In confirming this position in testimony, Bass testified:

I would think that had the Task Force, on the day of the bombing or the day after the bombing – had access to all of the intercepted material on Parmar, he probably would have ... been one of the targets in the first authorization; I can't imagine that he wouldn't be – and as well as, probably some of the others there.

I don't know this for sure but looking at what's in that material today or in this case in 1995 and '96 ... if I had been in the Task Force in '85 and had that information on the day after the bombing, I would have been moving towards a wiretap on different people.<sup>50</sup>

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42 Exhibit P-101 CAA0160, CAC0290, p. 2.

43 Testimony of Warren Sweeney, vol. 26, May 9, 2007, pp. 2703-2704.

44 Exhibit P-101 CAC0290.

45 Exhibit P-101 CAA0160.

46 Exhibit P-101 CAA0871, p. 1, CAA0876, CAA1099, p. 2.

47 Exhibit P-101 CAA0876, p. 1.

48 Testimony of Axel Hovbrender, vol. 33, May 24, 2007, p. 3886.

49 Exhibit P-101 CAA0932, p. 3.

50 Testimony of Gary Bass, vol. 87, December 3, 2007, pp. 11201-11202.

While it is true that, without access to the contents of the CSIS Parmar intercepts, the RCMP might not have been able to demonstrate sufficient grounds to obtain a *Criminal Code* wiretap authorization on Parmar in the early days, the Force certainly had enough information in its own past holdings, and through its access to CSIS intelligence reports, to have been aware of individuals such as Parmar and Reyat as important potential suspects, especially since the RCMP was requested by CSIS to conduct searches of the Duncan Blast site shortly after the bombing.<sup>51</sup> Yet, it was not until mid-August 1985 that a formal decision was made to re-orient the investigation with a more central focus on “Talwinder Singh Parmar et al,” about whom the RCMP had “...definite evidence of criminal activity.”<sup>52</sup> At that time, a decision was also made to remove the earlier focus on Lakhbir Singh Brar, a leader of the ISYF who was present at the Khurana meeting. This appeared to stem from a belief that the persons responsible could not be associated with both the Babbar Khalsa, which was Parmar’s group, and the ISYF.<sup>53</sup> This assumption may have been questionable, but, had the RCMP searched its own files, it would have had sufficient information to enable it to focus on Parmar as well as on Lakhbir Singh Brar from the outset of the investigation.

### **Lack of Integration of Local Forces**

The VPD was another source of information about Sikh extremism and the important players in the movement. While the RCMP initially took steps to draw on VPD information and expertise, the Task Force’s failure to better integrate the VPD into its investigation meant that the Task Force did not fully benefit from this resource.

Early in the investigation, the RCMP seconded two VPD investigators to the Task Force. About two or three weeks after the bombing, Cst. Axel Hovbrender became involved with the Task Force as an investigator. He also continued to provide contextual information about the intelligence gathered by VIU prior to the bombing, but his main role was that of investigator.<sup>54</sup> Cst. Don McLean, a member of the VPD Indo-Canadian Liaison Team (ICLT), had established contacts in the Vancouver community and had had access to information from many sources prior to the bombing.<sup>55</sup> He began with the Task Force soon after the bombing and remained for two to three months.<sup>56</sup>

On June 23, 1985, the RCMP requested that McLean come to the Richmond Detachment, which was in charge of the Air India investigation in the immediate aftermath of the tragedy, to provide information about Sikh militants in the community.<sup>57</sup> He provided several verbal briefings to the RCMP about the

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<sup>51</sup> See Section 1.4 (Pre-bombing), Duncan Blast. There is also evidence that there was, in fact, significant sharing of information by CSIS with the RCMP about CSIS’s investigation and its targets of interest: See Section 4.1 (Post-bombing), Information Sharing and Cooperation in the Air India Investigation.

<sup>52</sup> Exhibit P-101 CAA0303. See Section 2.3.4 (Post-bombing), The Khurana Tape.

<sup>53</sup> See Section 2.3.4 (Post-bombing), The Khurana Tape.

<sup>54</sup> Testimony of Axel Hovbrender, vol. 33, May 24, 2007, p. 3915.

<sup>55</sup> See Section 3.5.4 (Pre-bombing), RCMP Failures in Sharing with Local Forces.

<sup>56</sup> Testimony of Don McLean, vol. 21, May 1, 2007, p. 2032.

<sup>57</sup> Testimony of Don McLean, vol. 21, May 1, 2007, p. 1986.



Vancouver Indo-Canadian community and about the identity of the Sikh extremists who were the most likely to have been involved in the Air India bombing. He identified these generally as the ISYF leaders, as well as Parmar, Bagri and the BK members. In particular, McLean advised the RCMP about Bagri's relations with Parmar and the intelligence that Bagri could be easily manipulated into committing a terrorist act.<sup>58</sup> He also briefed them about the information he had received indicating that, approximately two weeks before, ISYF leader Pushpinder Singh had commented that something would happen in two weeks – in response to a question about the lack of attempts on Indian diplomats (the Khurana information).<sup>59</sup> On June 28, 1985, McLean verbally advised the RCMP Air India Task Force of information (learned on June 27<sup>th</sup>) that the Toronto Sikh Temple was warning Sikhs not to fly Air India, and his report was copied to CISBC (Air India Task Force) and RCMP Sgt. Wayne Douglas. The report specifically indicates that the Malton Sikh Temple was "...associated to [Talwinder] Parmar group."<sup>60</sup> Eventually, the RCMP Task Force also took copies of all of the VPD reports from the ICLT and VIIU.<sup>61</sup> An analytical document which compiled the available intelligence, prepared by a Coordinated Law Enforcement Unit (CLEU) analyst, in cooperation with VPD members of the ICLT and the VIIU in early 1985, was also provided to the RCMP Task Force.<sup>62</sup>

During the initial stages of the investigation, McLean was actively involved with the RCMP Task Force. He reviewed incoming intelligence on a daily basis and assisted the Task Force in assessing the information and identifying the individuals involved. The RCMP also requested his assistance in using his sources to obtain information. However, McLean testified that he was never involved in a joint investigation with any of the RCMP members investigating Air India, but was simply carrying out RCMP instructions.<sup>63</sup> When an early post-bombing RCMP telex mentioned McLean as a contact person with respect to the NCIS probe into local factions of the BK and the ISYF,<sup>64</sup> this did not mean that McLean participated directly in the probe as an equal partner. He explained that his role was limited mostly to assisting Douglas of E Division NCIS in identifying the individuals involved. Beginning approximately one month after the bombing, the RCMP asked for McLean's assistance less and less in terms of obtaining information from his sources. In his words, he became a "token muni" at the RCMP Task Force, used only to give an impression that the RCMP was integrating municipal forces and using them to assist in the investigation.<sup>65</sup>

Meanwhile, the RCMP was pursuing its own investigation, in its own direction. McLean assumed, though he was apparently not informed directly, that the

<sup>58</sup> Testimony of Don McLean, vol. 35, May 29, 2007, pp. 4143-4144, 4157-4158.

<sup>59</sup> Testimony of Don McLean, vol. 35, May 29, 2007, p. 4143. See, generally, Exhibit P-101 CAA0249, CAC0487.

<sup>60</sup> Exhibit P-404, p. 3.

<sup>61</sup> Testimony of Don McLean, vol. 21, May 1, 2007, p. 2037; Testimony of Don McLean, vol. 35, May 29, 2007, p. 4159.

<sup>62</sup> Testimony of Axel Hovbrender, vol. 33, May 24, 2007, pp. 3915-3916. See Exhibit P-391, document 124 (Public Production # 3254).

<sup>63</sup> Testimony of Don McLean, vol. 35, May 29, 2007, pp. 4144-4145, 4162, 4173.

<sup>64</sup> See Exhibit P-101 CAA0249, p. 2. See also Section 1.6 (Pre-bombing), Khurana Information.

<sup>65</sup> Testimony of Don McLean, vol. 35, May 29, 2007, pp. 4145-4146, 4162.

RCMP had developed its own intelligence sources and no longer needed his information. As a result, he simply resumed his former functions for the ICLT and continued to work with the community.<sup>66</sup> Wall testified that he recalled being informed by Hoadley that investigators had to be federal police officers in order to receive certain kinds of information, and that municipal police officers could not be fully integrated for this reason.<sup>67</sup>

McLean had access to resources and contacts in the community that the RCMP did not have, and he hoped that these resources would be accessed and used by the RCMP in its investigation. He was surprised and disappointed when the RCMP did not utilize his services to the extent that it could have. McLean indicated that, even after his formal involvement with the RCMP Task Force ended, he would have provided the RCMP with information he received from his sources if it was relevant to the Task Force, and also admitted that he did not receive any information that could actually have been used to directly identify the persons responsible for the Air India bombing.<sup>68</sup> Nonetheless, his ability to assist the Task Force was limited because of his lack of access to information about the status of the ongoing investigation and about the information being acquired by the RCMP. Without this knowledge, it would have been much more difficult for McLean to assess any information he was receiving in terms of whether it could be relevant to the RCMP investigation.

CSIS, by contrast, allowed McLean to take a more active role in providing assistance with its investigation, beginning immediately after the bombing. He was granted the appropriate security clearance to access the “very top levels” of CSIS in Vancouver, and was privy to incoming intercepts and intercept logs or summaries to see whether he could provide additional information. He was tasked by CSIS to provide background information about the community and the ICLT’s work in the community, and to assist in identifying individuals who came to CSIS’s attention as a result of physical or technical surveillance. McLean continued to work with CSIS throughout the year following the bombing.<sup>69</sup>

## **Problems with the Federal Task Force Structure**

### **Difficulties in Staffing the Federal Task Force**

S/Sgt. Robert Solvason, who was seconded to the Task Force from Surrey NCIS in September 1985 and continued to work on the Air India investigation for the next 10 years, explained in his testimony that it was difficult to recruit individuals with good operational skills and experience in major crimes investigations on the federal side.<sup>70</sup> Most officers acquired this type of experience by working in the contract policing units, which dealt with major criminal investigations on a daily basis. Officers in the contract General Investigation Sections (GIS)

<sup>66</sup> Testimony of Don McLean, vol. 35, May 29, 2007, pp. 4162-4163.

<sup>67</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9714-9715.

<sup>68</sup> Testimony of Don McLean, vol. 35, May 29, 2007, pp. 4163-4164, 4172.

<sup>69</sup> Testimony of Don McLean, vol. 35, May 29, 2007, pp. 4146, 4160, 4165, 4172.

<sup>70</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11549-11550.

were involved in many cases as "...first responders to major crimes," including homicides. They were "...right up to date on the latest techniques" and were "... usually hand-picked to get there." These investigators had the opportunity to learn how to handle and develop sources and how to use their information to "...further our evidentiary needs for the serious crimes aspect."<sup>71</sup>

It was difficult to recruit experienced homicide investigators for the Task Force because the investigation fell under the jurisdiction of the RCMP's federal policing operations, and because municipal contract units were "very protective" of their homicide investigators at that time.<sup>72</sup> As a result, there were not many members of the original Air Disaster Task Force with experience in major crimes investigations,<sup>73</sup> and there were very few, if any, homicide investigators. Solvason explained that even his own experience in major crimes investigations, which included working on the Kamloops GIS unit, was "quite dated."<sup>74</sup>

Wall testified that drawing from the federal sections allowed the Task Force to draw "...a great talent pool from varying backgrounds."<sup>75</sup> Solvason recognized that there were in fact officers from the federal drug squad and Commercial Crime who had skill sets of benefit to the Task Force. But, in his view, it was a question of trying to bring together the "proper mix" of skills. Because of the difficulty in attracting homicide and major crimes investigators, this "proper mix" was more difficult to obtain.

This situation also created difficulty at the management level. When Hoadley was ordered by the Commanding Officer of E Division to set up a Task Force, he immediately began looking for what he called a "good staff sergeant," meaning someone who had a good knowledge of operational techniques and good managerial assets. Again, it was difficult to get this type of individual on the federal side as officers with good operational skills were more often found in the contract policing units.<sup>76</sup>

### **Problems with the Federal Task Force Model**

The Air Disaster Task Force was not created as a permanent section. It brought in individuals who were seconded from many other federal duties. It provided no established structure or career paths and offered limited opportunities for promotion. Wall stated that, at the time, he did not think a Task Force situation "...lends itself to necessarily a good work environment long-term inasmuch as careers are limited, opportunities are limited and it's by and large a very thankless job." His view at the time was that it would have been better to have created a permanent section of investigators rather than a Task Force model where people were brought in from elsewhere.<sup>77</sup>

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<sup>71</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11545, 11550.

<sup>72</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11587.

<sup>73</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9658-9659.

<sup>74</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11550.

<sup>75</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9661-9662.

<sup>76</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11549-11550.

<sup>77</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9709; Testimony of Robert Wall, vol. 77, November 16, 2007, p. 9732.

The structure of the Task Force posed challenges for the continuity of the investigation. The RCMP promotion system requires officers to compete for positions. An officer who becomes eligible for a promotion may compete for positions that become available at the officer's eligible rank. The fact that the Task Force was not a permanent section meant that investigators were often promoted out of the Task Force, taking with them the knowledge that they had accumulated while serving on the Task Force.

Beginning in 1986, John Stevenson of CSIS acted as a Liaison Officer and, in that capacity, provided documents on a daily basis to three different RCMP investigative units in E Division, including the unit investigating Air India. He observed that there were "...a fair number of people turning over on the RCMP Task Force," but not on the other units.<sup>78</sup> Bill Turner, who was at CSIS HQ in 1985 and joined the Sikh Desk in 1986, commented on his view of the negative effect that a high turnover had on the expertise of the investigators:

**MR. GOVER:** And when we think about other issues like institutional culture that could impact on how cases are investigated, do you think that the RCMP had a turnover rate or a culture of promotion that worked against creating a constant membership in the taskforce?

**MR. TURNER:** Oh, I think so. There was a turnover rate. They did have some core investigators. But again, I don't know how many people they had come and go for periods of six months to a year, two years, but there was a regular rotation around a core.

**MR. GOVER:** And that worked against accumulating that critical mass of investigative expertise. Is that fair?

**MR. TURNER:** Well, yeah, if you look in the – not just the security intelligence area, but you have to look within that and you have to look at the Sikh extremists milieu, which is quite different than looking in the Al Qaeda or something else.

**MR. GOVER:** And —

**MR. TURNER:** So it's not just national security background you need; you also need background in the Sikh area.<sup>79</sup>

One of the deficiencies noted by Bass when he began his review of the investigation into the Air India bombing in 1995 was that "...there was not a lot of continuity at the very senior management levels of the organization."<sup>80</sup> Since the file was "so big" it was:

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<sup>78</sup> Testimony of John Stevenson, vol. 62, October 16, 2007, pp. 7653-7654, 7658.

<sup>79</sup> Testimony of Bill Turner, vol. 66, October 25, 2007, pp. 8304-8305.

<sup>80</sup> Testimony of Gary Bass, vol. 87, December 3, 2007, p. 11288.

...very difficult to get people up to speed when they come into it, especially if they're not involved right in the investigation; they're kind of at the management level where I was. So new people coming in would get parts of the information ... they certainly wouldn't have a good strong understanding of the case which I'm sure you can appreciate from work here.... A "lesson learned" is that there has to be a way "to ensure senior level continuity."<sup>81</sup>

High turnover, combined with the lack of a good information management system, made it difficult to retain knowledge on the Task Force.<sup>82</sup> Once Bass took charge of the file in 1995, he carried it all the way to the trial and, according to S/Sgt. Bart Blachford, Bass "...carried that with him until today in fact."<sup>83</sup>

Blachford stated that, with large criminal investigations, the problem of officers getting promoted in the RCMP and being moved far away, is still a challenge today.<sup>84</sup> To better maintain continuity of the investigation, when the Task Force was re-invigorated in 1995, a system known as "over-ranking" was implemented.<sup>85</sup> This system allowed investigators to stay in place, even if ordinary promotional considerations might have warranted their being transferred to some other duty. The Task Force had the ability to ask that a member receive a promotion to the next rank, but not change position or locations. Insp. Jim Cunningham testified that this was "...somewhat of a quick fix." It was not a perfect solution, since the Task Force could give a promotion, but might not always provide the investigator with the challenges to "...develop him for the next level."<sup>86</sup> Further, while "over-ranking" allows managers to "...put in a business case," stating why a particular member should be able to keep their promotion and stay on file, these decisions are still made "...on a case-by-case basis."<sup>87</sup>

### **Lack of Training**

The Air India investigation was specifically designated a "CSIS Act Investigation" because the crime was seen as arising out of "...conduct constituting a threat to the security of Canada." Yet, most investigators received no training on terrorism/extremism investigations.

There was little attempt, within the structure of the Task Force, to educate members or to provide them with specific skills training in the areas of extremism or terrorism. RCMP members of the Air India investigation were "...not required to have specific training prior [to] or during their involvement in

<sup>81</sup> Testimony of Gary Bass, vol. 87, December 3, 2007, p. 11288-11289.

<sup>82</sup> Testimony of Mervin Grierson, vol. 75, November 14, 2007, pp. 9460-9461.

<sup>83</sup> Testimony of Bart Blachford, vol. 63, October 17, 2007, pp. 7818-7819.

<sup>84</sup> Testimony of Bart Blachford, vol. 63, October 17, 2007, p. 7834.

<sup>85</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 290.

<sup>86</sup> Testimony of Jim Cunningham, vol. 87, December 3, 2007, pp. 11336-11337.

<sup>87</sup> Testimony of Bart Blachford, vol. 63, October 17, 2007, p. 7834.

the investigation.”<sup>88</sup> In response to a request by Commission counsel, the RCMP identified three courses it offered which were relevant to “...specific training on Sikh extremism or religious or politically motivated terrorism.” These included:

- **Cross-cultural Education** – a course which provided “broad training” on cultural awareness. From 1978 to 1994, 10 of the “core Air India investigators”<sup>89</sup> completed this course. The RCMP, in its submissions, indicated that there was “a core of 92 investigators,” which was maintained throughout the course of the investigation;<sup>90</sup>
- **Investigational Techniques – Criminal Extremism/Terrorism** – a course which commenced in 1988. Twenty-one of the “core Air India investigators” from 1988 to 1996 completed this course;
- **Cross-cultural Education – The Sikhs** – a course which commenced in 1992. From 1992 to 1995, three of the core Air India investigators completed this course.<sup>91</sup>

The lack of available courses in criminal extremism/terrorism investigative techniques for the first three years of the investigation may help explain some of the difficulties that members of the Task Force seemed to encounter in their approach to sources in the Sikh community.<sup>92</sup> The RCMP members involved in the Air India investigation also did not always understand the need for centralization in national security investigations, nor appreciate the value of intelligence and the relevance of the larger Sikh extremism context.

RCMP HQ Task Force member Sweeney would later reflect on the early months of the Air India investigation, noting that the RCMP needed to increase its “... intelligence gathering and analytical capabilities” with respect to terrorism if it was to adequately assist in the investigation of future terrorist acts.<sup>93</sup>

### **File Management – Coordination, Centralization, and Organization**

The quantity of information and intelligence that was collected by the RCMP created a large investigation – of a scale never experienced by the RCMP, before or since – spanning three continents and six countries.<sup>94</sup> Given the scale and complexity of the investigation, an obvious challenge that faced the RCMP was the management of information.

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<sup>88</sup> Exhibit P-101 CAF0438, p. 23.

<sup>89</sup> Exhibit P-101 CAF0438, p. 23.

<sup>90</sup> Exhibit P-101 CAF0438, p. 22. There is a question as to whether this number of 92 was, in fact, maintained throughout. See Section 2.2 (Post-bombing), *The RCMP Investigation: Red Tape and Yellow Tape*.

<sup>91</sup> Exhibit P-101 CAF0438, pp. 22-23.

<sup>92</sup> See Chapter I (Post-bombing), *Human Sources: Approach to Sources and Witness Protection*.

<sup>93</sup> Exhibit P-101 CAF0055, p. 7.

<sup>94</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 277.

## Organizing the File

Before the Air India investigation, the RCMP did not have policies or procedures for the use of information management systems in major investigations. As a result, the different Task Force units across the country implemented different applications. This resulted in confusion and delay in setting up an information system for the Air India investigation.<sup>95</sup> A manual TIPS system was initiated in Vancouver, and the Task Force members converted the existing Richmond file information into a TIPS record system.<sup>96</sup> Toronto utilized a totally different automated system, whereas Ottawa and Montreal maintained sequential paper files.

The TIPS system, which is a manual card system, is named for the concept of “tips” – or leads in a criminal case. This system was used by the Michigan State Police at the time, and imported into British Columbia. Every piece of information and every investigative lead that came in was made the subject of a “tip” or a file – and was given its own folder and number.<sup>97</sup> When a “tip” came in, investigators were assigned to investigate or follow up the specific piece of information or area.<sup>98</sup> All initiatives with respect to that particular undertaking were housed in that TIP folder. TIPS were opened under the name of the person or organization related to the information received.<sup>99</sup> Administrative personnel in the office would read any incoming information and “card” the names mentioned into a card index system. Other identifiers – for example, dates of birth, fingerprint section numbers – were added to the cards as well.<sup>100</sup> An officer who was trying to find all references to a particular individual within the file for the investigation would go to the card index and look for that name. The card would then refer to the TIP files in which that name appeared. If the name was referenced in a number of different TIP files, the card would contain the cross-references to the other tips. Some TIP files would end up consisting of three to four pages, while others could number in the thousands of pages.<sup>101</sup>

After individual Task Forces had already implemented their own document management systems, a Headquarters directive came out requiring that a TIPS/PIRS system was to be used.<sup>102</sup> The PIRS system, which was the Police Information Retrieval System, was a national automated “alpha reference,” or indexing system, that provided file references but not the actual material in the file.<sup>103</sup>

The Headquarters directive was received with reluctance and resulted in a “major overhaul” of the established day-to-day operations that each Task Force

<sup>95</sup> Exhibit P-101 CAF0056, p. 3.

<sup>96</sup> Exhibit P-101 CAA0267, p. 1.

<sup>97</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9662-9663.

<sup>98</sup> Testimony of Warren Sweeney, vol. 26, May 9, 2007, p. 2750.

<sup>99</sup> Testimony of Jim Cunningham, vol. 87, December 3, 2007, pp. 11322-11323.

<sup>100</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9662-9663.

<sup>101</sup> Testimony of Jim Cunningham, vol. 87, December 3, 2007, pp. 11321-11323.

<sup>102</sup> Exhibit P-101 CAF0056, p. 4.

<sup>103</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 294.

had put in place. This resulted in a backlog. Members were unfamiliar with the systems, and their implementation created a significant workload – hence, the reluctance. Personnel needed to be well-informed, and the system required “full managerial support” to establish its credibility. Due to deficiencies in this respect, TIPS/PIRS became a secondary application at some units, and was not “...utilized to its fullest.”<sup>104</sup>

The TIPS/PIRS system was ultimately implemented in all four investigation units, and while it was described as a “...very useful tool,” its use by the “...Vancouver Task Force was not uniformly positive.” Personnel in the E Division Task Force had in place the manual TIPS system, and had no experience with PIRS. They felt that they could not utilize a tool that required, on their part, training and the conversion of data, while coping with the pressures and demands of the investigation itself. TIPS/PIRS training was provided to all units, with the exception of Vancouver. Hardware was also a challenge for the E Division Task Force in the early days of the investigation. While Headquarters had two analysts, each with a computer terminal, there were six analysts in Vancouver who were provided with only one terminal to share.<sup>105</sup>

The manual TIPS system remained in use as the main system at E Division,<sup>106</sup> and Solvason testified that, as late as 1991, the “...filing system of that time” was still the manual system of index cards and physical files.<sup>107</sup> Until the entire E Division file was digitized into a Supertext document management system in the mid-1990s, the Task Force relied on the card index system as the main means to locate information within the files (with more limited reliance on PIRS).<sup>108</sup>

While the RCMP Security Service (and then CSIS) had used the NSR system, a searchable and centralized computer database since 1981, the RCMP did not implement an equivalent system for the centralized sharing of narrative information. CSIS personnel entered their intelligence reports and threat assessment information into a central database that was searchable by other regions and by Headquarters.<sup>109</sup> The RCMP units, by contrast, distributed summaries of their initiatives by way of “ciphered telex,” a top secret level telex-sharing system.<sup>110</sup> The investigative units did not provide detailed information or distribute the actual reports about their initiatives,<sup>111</sup> with the result that analysts at Headquarters did not have ready access to data, and had to specifically request material from the divisions in order to obtain detailed information.<sup>112</sup> Some time in 1986, a national searchable narrative database, Divisional Investigative Database 22 (DIB 22), began implementation.<sup>113</sup> This database, however, has

<sup>104</sup> Exhibit P-101 CAF0056, pp. 4-6.

<sup>105</sup> Exhibit P-101 CAF0056, pp. 7, 10.

<sup>106</sup> Exhibit P-101 CAF0056, p. 7.

<sup>107</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11601.

<sup>108</sup> Testimony of Jim Cunningham, vol. 87, December 3, 2007, pp. 11329-11330.

<sup>109</sup> Testimony of Ray Kobzey, vol. 32, May 23, 2007, pp. 3734, 3738.

<sup>110</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9663.

<sup>111</sup> See Section 2.1 (Post-bombing), Centralization/Decentralization.

<sup>112</sup> Exhibit P-101 CAA0055, p. 6. For a more detailed discussion of this topic see Section 2.1 (Post-bombing), Centralization/Decentralization.

<sup>113</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9663.



been described as a “meat and potatoes” database, which focused only on what was viewed as the most important material. Not everything which existed in hard copy was put into electronic format, with the result that not all continuation reports were retyped and entered into the system.

Though the investigational Task Forces all ultimately used TIP systems, each set their systems up in their own way. Headquarters did not use the TIP system at all, and maintained a sequential file instead. As there was no standardization, the same information would be filed under different numbers in different locations.<sup>114</sup> This created extra work for investigators who needed to compare information they had on file in order to ensure that their files were complete.

Moreover, there was different information on the files at the different Task Force locations and at Headquarters in Ottawa. In fact, the lack of an effective centralized filing system meant that a Task Force investigator looking for the RCMP system-wide holdings on the national investigation would have had to look at the BC master file, at the Ottawa file, at the Toronto and Montreal and perhaps even Hamilton files. The officer would also have needed to look in electronic files as well, since it was not possible to know whether a document would be in one or more or all of the systems.<sup>115</sup> The existence of multiple filing systems with different material made finding information on any particular subject an onerous task, and posed the risk that information would be missed. In 1990, in preparation for the abuse of process motion in the Reyat trial, E Division cautioned Headquarters that the materials E Division had collected on the “... subject of requests for access to CSIS materials by the Force” were incomplete, and that additional documentation “...no doubt exists at both this HQ’s level and HQ’s Ottawa.”<sup>116</sup>

The fact that there was information stored in files at multiple locations was recognized when the Air India Task Force was reinvigorated in 1995. The Task Force requested that the Toronto and Montreal files be shipped to Vancouver, and these files were digitized and uploaded, along with the E Division files, to “Supertext,” a new searchable electronic document management system. This allowed for easier searching of the database and tracking of documents. Yet, as late as 2007, in preparing information for a briefing to Commission counsel on the issue of Mr. A, Sgt. Terry Goral still had to search through a number of different HQ and BC files, because all of the information had not been compiled into one system.<sup>117</sup>

### **Difficulties in Locating Information on File**

Investigators also, at times, experienced difficulties in locating information that was on file. Solvason testified, in relation to the manual system in use in 1991, that the rule was that when taking out a “...master file, you’re supposed to put a charge card there; [but] didn’t always happen” and sometimes things were

<sup>114</sup> Testimony of Jim Cunningham, vol. 87, December 3, 2007, p. 11327.

<sup>115</sup> Testimony of Jim Cunningham, vol. 87, December 3, 2007, p. 11328.

<sup>116</sup> Exhibit P-101 CAF0232. See also CAF0259.

<sup>117</sup> Testimony of Jim Cunningham, vol. 87, December 3, 2007, pp. 11329-11330.

misfiled.<sup>118</sup> Hence, when a tip review in relation to the November 1984 bomb plot was conducted by an RCMP analyst in February 1986, it was noted that the report about the information obtained by the RCMP from Person 1 in 1985 was not on file.<sup>119</sup> Similarly, there was a report which indicated that, on June 22, 1985, the video camera at the Vancouver International Airport, which should have faced the lost and found area, was found facing the floor. The camera holder was loose and needed to be tightened. Investigators, following up for the Watt Mackay review on whether there were other cameras in operation and whether any of the tapes had been examined, noted that the analysts "...are aware that there was a file on this issue but were unable to locate it for the purposes of discussing this review."<sup>120</sup>

The RCMP also experienced difficulty in locating information that had been provided to the Task Force by CSIS. For example, CSIS provided the RCMP with two reels of tape that were said to record Parmar making the statement: "If someone implicates me or gets me arrested for planting the bomb, that person would have to be an insider. How any other person can do it – who doesn't know anything." However, a review of RCMP information on file, conducted in 1988-89, revealed that there was "...no information to indicate that the tapes were transcribed or what action resulted," and "...efforts to surface the tape were unsuccessful."<sup>121</sup>

The sheer bulk of information also made it difficult for the RCMP to locate and correct errors on file. For example, the Watt Mackay review, completed in 1989-90, noted that "...CSIS surveillance mixed up Surjan Singh Gill with his brother Gurdam Singh Gill on 85-06-24 (around Vancouver and out to VIA)," and that, when the photographs of the subject CSIS covered at VIA were compared with photographs of Surjan Singh Gill, "...it does appear that the subject was not Surjan Gill."<sup>122</sup> However, the Air India "inclusive timeline" (a chronology prepared by the RCMP, which summarized events in relation to Air India, dated September 1999) replicated this error, repeatedly referring to CSIS PSU observations of "Surjan Singh Gill" around Vancouver and at Vancouver airport.<sup>123</sup>

At times the RCMP had to re-request material from CSIS that it was unable to locate in its own files.<sup>124</sup> For example, as a result of the Watt Mackay review, RCMP E Division requested six particular CSIS documents to assist them in the Air India investigation. One of these documents was an important analytical document

118 Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11618.

119 Exhibit P-120(c), p. 6 (entry for Feb. 26, 1986: doc 518-3).

120 Exhibit P-101 CAF0343(i), p. 45.

121 Exhibit P-101 CAF0343(i), p. 34.

122 Exhibit P-101 CAF0343(i), pp. 57-58.

123 See Exhibit P-101 CAF0519, pp. 3-4. In response to this contradiction, while Insp. Cunningham agreed that both documents could not be correct, he replied that one would also need to look at yet another document, the "relevant timeline," as "...there is the possibility that those particular notations in relation to Surjan Gill and the surveillance being conducted, may have been removed" in that document:

Testimony of Jim Cunningham, vol. 87, December 3, 2007, pp. 11332-11333.

124 Exhibit P-101 CAF0056, p. 24.

– referred to as “the Dexter analysis” – which CSIS had already provided to the RCMP a number of years prior, but which the RCMP was no longer able to locate on file.<sup>125</sup>

Bill Turner of CSIS testified in relation to the RCMP’s requests for documents in the context of the Malik and Bagri trial:

**MR. GOVER:** And had any of the information provided to the RCMP been lost by them?

**MR. TURNER:** I think there were occasions that we knew that we had given them information and we said we’d given that to you already and the response was “Well we’re not sure where it is. Can you provide it again?”

Certainly, that was the case with some disclosure letters and we provided, I think, about 3,000 disclosure letters to them.<sup>126</sup>

Similarly, Mervin Grierson noted that he represented CSIS in the Narita trial in Vancouver:

...and knew every piece of paper that went into the disclosure package for that trial in 1988. And years later – that was all declassified. The RCMP got the same material as the Defence got; they got five boxes of documents. We would be having discussions and they’d say, “Well, we don’t know about that. You didn’t provide that to us.” And I’d say, “Well, it’s in the public domain. It was released five years ago.” “Well, we can’t find it. It’s not on our Air India file. So, again, without being uncharitable to those members, they didn’t have that continuity of knowledge, and their method of retrieving that was more labour-intensive than ours were.<sup>127</sup>

The inability of the RCMP to locate information on file appears to have caused some tension between the two agencies. As explained by Grierson, there were times when CSIS knew that it had shared certain information with the RCMP because it had a “tracking mechanism,” but the RCMP “... would create a big stink,” accusing CSIS of never having provided the information. CSIS would go through its files and find that the RCMP had indeed been provided the information by CSIS years ago.<sup>128</sup>

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<sup>125</sup> Exhibit P-291, item 80. The Unit Head for the BC Region Counter Terrorism Section, John Stevenson, testified that he was once asked to provide another copy of CSIS materials he had previously given because the RCMP somehow misfiled or misplaced it within E Division and could not find it: Testimony of John Stevenson, vol. 62, October 16, 2007, pp. 7676-7677.

<sup>126</sup> Testimony of Bill Turner, vol. 66, October 25, 2007, p. 8313.

<sup>127</sup> Testimony of Mervin Grierson, vol. 75, November 14, 2007, pp. 9460-9461.

<sup>128</sup> Testimony of Mervin Grierson, vol. 75, November 14, 2007, pp. 9460-9461.

On the other hand, Blachford testified that, despite the limitations of a manual system, he did not experience difficulty in retrieving the information he required:

**MR. BOXALL:** Were there problems then – given the size of the file and the technology existing at that time – with the RCMP’s management of a file this size and the number of documents and tips and so on?

**S/SGT. BLACHFORD:** Well, it was a struggle. I mean it was a manual maintenance, file maintenance system, cards, but I think it was done fairly well.... I was able to access these tips in my review and find them before we went out and did follow-up. I ... my job as part of the Watt McKay Review was to go back and research the file and I was able to find material that I needed and ... it seemed to be logically accessible.

**MR. BOXALL:** So your evidence was there wasn’t any problem with persons being able to access the information —

**S/SGT. BLACHFORD:** I certainly didn’t have trouble finding the material on the file. It may have taken a little longer than I like because of the volume that you had to go through but....<sup>129</sup>

### Retention of Information

In spite of the fact that the Air India investigation continuously remained open, the RCMP did not preserve all relevant materials over the years. The RCMP destroyed a number of important files, documents, and audio recordings. In 1999, when the RCMP began once again to follow up on the November 1984 bomb plot,<sup>130</sup> retired Sgt. Wayne Douglas was contacted regarding his knowledge of the incident and, specifically, about his knowledge of certain "...reports, notes or tapes" that he may have received from the VPD. Douglas advised that his "...notebooks may have been shredded" when he turned them in to the Task Force on his retirement. The destruction of his notebooks posed a challenge for the RCMP’s ability to reconstruct the interactions between the VPD and Douglas, the main investigator on the November 1984 Plot issue, and meant that the RCMP was forced to rely on Douglas’s recollection of events, 15 years after the fact.<sup>131</sup>

Similarly, in relation to the individuals identified by Mr. Z as being responsible, or associated with those responsible, for checking in the luggage with the bombs,

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<sup>129</sup> Testimony of Bart Blachford, vol. 63, October 17, 2007, pp. 7830-7831.

<sup>130</sup> See Section 1.1 (Pre-bombing), November 1984 Plot.

<sup>131</sup> Exhibit P-101 CAF0521, pp. 7-8.

the tapes of interviews with these individuals were "...destroyed for unknown reasons during the investigation and there were no copies made and none were transcribed."<sup>132</sup>

### Ongoing File Reviews

One of the ways the RCMP attempted to address the challenges of managing the quantity of information on file was through ongoing file reviews. The Task Force undertook massive file reviews every few years, with the first file review beginning six months after the bombing.<sup>133</sup> These reviews required a large mobilization of resources each time, but never seemed to lead to any innovations or changes in the filing system itself. From the outset, the E Division Task Force did not organize its material by issues, themes or incidents, and there was no running thematic summary of the file created as the investigation went along.<sup>134</sup> Despite the difficulties encountered on successive file reviews, this never changed, and the errors continued to accumulate in the files over the years. When Gary Bass began the process of reviewing the files when the Task Force was reinvigorated in 1995, there was still no executive summary or report on the status of the investigation to use as a starting point. Bass, in his February 9, 1996 memorandum, wrote:

...the file volume and complexity of the investigation has meant that few people ever acquired a grasp of the big picture, in terms of evidence over the years. We have noted that as the details of certain events have been told and retold over the years, they have become increasingly less accurate.<sup>135</sup>

When the Crown, as part of the prosecutorial decision on whether to proceed to trial, was called on to determine whether there was a substantial probability of conviction, it had to go through the entire holdings in the possession of the RCMP. It took the Crown approximately four years to review all of the information on the file, and it was during this review process that the Crown for the first time reorganized the information thematically.<sup>136</sup>

### Conclusion

The Air India Task Force was created to solve the greatest crime in Canadian history, but faced numerous challenges in this endeavour. While some of these challenges were inherent to the investigation itself, a number of difficulties arose as a direct result of structural decisions made in relation to the Task Force.

<sup>132</sup> Agreed statement read into testimony by agreement with the Attorney General of Canada during Testimony of Robert Wall, vol. 77, November 16, 2007, p. 9729.

<sup>133</sup> Late 1985 HQ analysts review E Division files; 1985-1988 Project Dojail (review in connection with the civil litigation); Exhibit P-101 CAF0391: 1988-1989 File review by Watt McKay; review for SIRC; Exhibit P-101 CAF0411, p. 1: 1992 "complete examination of entire Air India investigation" by E Division NSIS Investigators; Exhibit P-101 CAF0391: February 1995; 1995-1996 File review under Gary Bass.

<sup>134</sup> Testimony of Jim Cunningham, vol. 87, December 3, 2007, pp. 11324, 11326.

<sup>135</sup> Exhibit P-101 CAA0932, p. 5.

<sup>136</sup> Testimony of Jim Cunningham, vol. 87, December 3, 2007, pp. 11323-11324.

The Task Force belonged to the federal side of RCMP operations, which, unfortunately, had few officers trained in major crime investigations and virtually none acquainted with the issues of Sikh extremism or with the ability to speak Punjabi. Municipal police forces could have provided much useful information to the Task Force, but were badly under-utilized. As well, because the Task Force was temporary, investigators were promoted out of the unit and the resulting high turnover could only have eroded the collective mastery of the file.

The investigation was slow to get up-and-running and, in the early days, was dependent on CSIS for investigative leads and targets. This fact is particularly unfortunate, as the RCMP had a great deal of information about pre-bombing threats and key figures in the Sikh extremist movement, but never used it to orient the investigation set up after the bombing. As well, information generated by the Task Forces themselves was not organized in a well-thought-out manner. Files in different locations used different filing systems and were never organized according to issue, theme, or incident. There were important instances where files that held important content were lost or destroyed.

These problems needed to be identified early on – and should have been, in the course of the many file reviews that were conducted. Either they were not identified, or the will to effect change was not there.

## 2.1 Centralization/Decentralization

### The Need for Centralization in Security Offences Investigations

A key challenge faced by the RCMP in conducting the Air India investigation resulted from the overall organization of the Force's operations. In 1985, RCMP operations were decentralized. RCMP Headquarters was "...fundamentally an administrative" office and was "...not deeply involved in field investigations."<sup>137</sup> Divisions were used to being "autonomous,"<sup>138</sup> conducting investigations without input or oversight by Headquarters.

Prior to the Air India bombing, the RCMP had recognized that there were circumstances in which this model of decentralized control would need to be modified. It was noted in the draft RCMP Guidelines respecting National Security Enforcement that security offences investigations required a "...high level of central control and coordination."<sup>139</sup> Centralized *control* in national security investigations makes sense for a number of reasons. Investigations relating to national security issues involve highly sensitive information: the investigative decisions that are made could impact on national and international interests. A central body is necessary to analyze all relevant information – which may be coming in from multiple jurisdictions – in order to ensure that the information is shared with the proper units. A central unit also has the broadest perspective,

<sup>137</sup> Testimony of Robert Simmonds, vol. 74, November 8, 2007, p. 9365.

<sup>138</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9671.

<sup>139</sup> Exhibit P-101 CAA0039(i), pp. 9-10 [Emphasis added].

and is thus in the best position to make accountable decisions of overall benefit to the investigation. If investigative decisions are left solely to regional management, the broader national and international perspective will be lost.

### **Limited Control by RCMP Headquarters**

The draft National Security Enforcement guidelines, while establishing an obligation to supply HQ with reports on security offences investigations,<sup>140</sup> did not confer any actual power or impose any obligation on HQ to control or impact investigations. Reports were to be sufficiently detailed to "...allow Headquarters to respond to enquiries by Government," and detailed operational plans had to be submitted only where significant resource commitments or intrusive measures were involved.<sup>141</sup> Thus the nature of the actual control to be exercised by HQ in Ottawa in the case of national security offences investigations remained modest, resulting in the view that it was control in name only.

The RCMP's discomfort with any significant operational centralization, at both the HQ and divisional level, came to characterize an unhealthy and ineffective relationship between Ottawa and the divisions throughout the Air India investigation.

At HQ, an Air India Task Force Coordination Centre was set up to coordinate the divisional Task Forces in Montreal, Vancouver, Toronto and later Alberta. According to Robert Simmonds, who was Commissioner at the time, the purpose of the Headquarters Task Force was "...to do nothing more than to look at all of the information that was being generated" by the investigative groups in the divisions, as well as through foreign liaison in Japan and Ireland.<sup>142</sup> The Headquarters Task Force was not to manage, supervise or review the investigative activities of the divisions.<sup>143</sup> The idea was that those investigating in Vancouver might not know everything happening in the Toronto investigation, so central coordination via the HQ Task Force would provide a "...reasonable assurance that nothing would be overlooked or missed."<sup>144</sup>

In the first months of the investigation, HQ management representatives met at the Prime Minister's Office (PMO) on a daily basis. The first endeavour of the Headquarters Task Force was to produce daily situational reports for senior management to outline investigative matters and "...general information dealing with PMO's decisions" and "...aspects of [the] civil aviation investigation."<sup>145</sup> The reports summarized the initiatives that were underway in each unit's respective areas, and were sent out to all of the divisional Task Forces as well, so that everyone in the network would have all the information available at the same time.<sup>146</sup>

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<sup>140</sup> Exhibit P-101 CAA0039(i), p. 15. See also pp. 20-21, providing for reporting requirements about the offence itself and related criminal intelligence.

<sup>141</sup> Exhibit P-101 CAA0039(i), pp. 16-17, 20.

<sup>142</sup> Testimony of Robert Simmonds, vol. 74, November 8, 2007, p. 9366.

<sup>143</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, pp. 2647-2648.

<sup>144</sup> Testimony of Robert Simmonds, vol. 74, November 8, 2007, p. 9366.

<sup>145</sup> Exhibit P-101 CAA0248, CAF0055, p. 4.

<sup>146</sup> Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9667-9668.

On July 25, 1985, HQ wrote to the division Task Forces, stating that questions could arise from "...the PMO, DEA, MOT and the CASB."<sup>147</sup> The memo indicated that, in order to enable the Commissioner and the author to respond in an "informative manner," HQ "...must always be aware of the details of your respective investigations."<sup>148</sup> The reporting requirements placed on the divisions proved to be "labour intensive." The divisions were required to report all ongoing initiatives to HQ Ottawa through a Top Secret cleared telex system,<sup>149</sup> and in the first few months did so by daily updates. The divisions would also copy all of the other divisional Task Force units when sending out their daily updates so that "...all the task forces within this network would have all the information available of the investigation at the same time."<sup>150</sup>

### **Divisional Autonomy in the Investigation**

The E Division Task Force generally operated autonomously, taking operational decisions and undertaking investigative steps without having to seek approval from Ottawa.<sup>151</sup> Important operational initiatives, such as assembling applications to intercept communications) or engaging in source development, could be launched without seeking approval from Ottawa.<sup>152</sup> Bill Turner, who was at CSIS HQ in 1985, and who joined the Sikh Desk in 1986, described the contrast between CSIS's highly centralized structure and the RCMP's structure with respect to the Air India investigation:

Well, the RCMP is quite different. They're very decentralized. I mean the CO in 'E' Division has a lot more authority on running the investigation out in 'E' Division. They do talk, obviously, to their headquarters counterpart but 'E' Division is semi-autonomous.<sup>153</sup>

S/Sgt. Robert Wall testified that, while there was some resistance to a model of Headquarters control, it was made clear early on that this was the way the operation would be run, and that, in a paramilitary organization, "...you do as you're told by your superiors."<sup>154</sup> However, the reality was that HQ personnel were not actually E Division personnel's "superiors." The HQ Task Force was set up in such a way that divisional investigators did not have any formal reporting requirements that obliged them to respond to questions or operational suggestions from HQ. In terms of the official line of command, Sgt. Warren

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147 Canadian Aviation Safety Board.

148 Exhibit P-101 CAA0288, p. 1.

149 The "Cipher System."

150 Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9667-9668.

151 Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9667. There were certain initiatives for which approval of Ottawa was required – for example, any operational plans requiring foreign travel or investigations requiring Ottawa's assistance to coordinate through diplomatic channels: Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9668.

152 Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9668-9669.

153 Testimony of Bill Turner, vol. 66, October 25, 2007, p. 8275.

154 Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9671.



Sweeney testified that E Division did not report to him. The only ways that he could have required the division to provide answers to HQ questions would have been either to have Chief Superintendent Norman Belanger, who was put in charge of the HQ Air India Task Force, sign the request, or to place his request through the supervisor of divisional investigators within the division.<sup>155</sup>

### **The Impact of Decentralization on HQ Control and Effectiveness**

The RCMP's philosophy of decentralization, and the structure that embodied it, affected the ability of HQ to act as a coordinating body. Divisions only informed HQ of what they thought HQ should know. The HQ situation reports were neither detailed nor complete because the divisional reports upon which they were based were lacking in detail, and the divisional responses to HQ requests, and information sharing with HQ, were "inadequate." The result was that HQ "...analysts were not working with all the pieces of the jug [sic] saw puzzle,"<sup>156</sup> making it impossible for HQ to provide any true in-depth coordination or direction. It became "very frustrating" for analysts to receive correspondence stating that "...12 perimeter interviews were conducted to date", with no indication of "...what most of those interviewed had to say,"<sup>157</sup> or to be given a report that a review of CSIS material from the Parmar intercept "...revealed nothing of significance other than intelligence regarding contacts he has made," with no information as to the identity or nature of those contacts.<sup>158</sup>

The result was that Headquarters did not have a sufficient understanding of what was occurring on the ground, or even a basic understanding of the focus of E Division initiatives. For example, on July 22, 1985, RCMP HQ NCIB sent a telex to E Division with numerous questions about the state of the investigation at the E Division Task Force. At the end of the list of questions, HQ asked: "What is E Division Task Force's main investigational concentration at this point? What is their future operational plan?" and concluded by noting that "...more details required in daily reports," and that copies needed to be provided "...of statements, interview reports, intercept reports, surveillance reports, etc."<sup>159</sup> In the face of such basic information deficits, it would clearly have been impossible for HQ to assume any meaningful centralized direction or coordination of the investigation.<sup>160</sup>

HQ also experienced difficulties in obtaining responses to its requests of the divisions. It took months before E Division finally responded to HQ's requests for information about the November Plot in the months following the bombing.<sup>161</sup> When asked to comment about the non-responsive attitude of E Division with respect to the November Plot matter, Sweeney explained that by the time most

<sup>155</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2627.

<sup>156</sup> Exhibit P-101 CAF0055, p. 6.

<sup>157</sup> Exhibit P-101 CAF0055, p. 6.

<sup>158</sup> Exhibit P-101 CAA0292(i), p. 3.

<sup>159</sup> Exhibit P-101 CAA0286.

<sup>160</sup> Exhibit P-101 CAF0055, p. 8.

<sup>161</sup> See Section 2.3.1 (Post-bombing), November 1984 Plot and Section 3.4 (Pre-bombing), Deficiencies in RCMP Threat Assessment Structure and Process.

requests were sent in September 1985, the Air India Task Force was operational, and E Division was constantly receiving requests for updates and information. He believed there was a feeling in E Division that HQ should simply let the on-the-ground investigators do their job, and that they would notify the appropriate recipients once they received the information.<sup>162</sup>

Sweeney identified the lack of true central control as a problem in a 1986 report examining the role of the Coordination Center in the Air India investigation.<sup>163</sup> In his recommendations he stated that:

Policy should be drafted whereby Part IV.I (now Part VI) offences and major international investigations such as Air India, are controlled and directed from HQ's. All the major decisions affecting Canada under Part IV.I have to be made in Ottawa in consultation with other government departments. As such, HQ's requires that all information gathered be forwarded, analyzed, assessed and disseminated from one central area. (This is the way CSIS operates.)<sup>164</sup>

In June 1986, HQ attempted to readjust its relationship with the divisions. By that time, in addition to the Air India bombing, a number of Sikh extremist incidents had occurred, including: the attempted bombing of the *Indo-Canadian Times* office in Surrey; the attempted murder of Indian Cabinet Minister Malkiad Singh Sidhu; the arrest of Parmar in Hamilton in connection with a plot to blow up the Indian Parliament and to kidnap children of Indian MPs;<sup>165</sup> and the plot to blow up another Air India plane, discovered in Montreal in April/May 1986.<sup>166</sup> At this point, HQ began to see the need for a more direct and active role on its part and for control over the multiple Sikh extremism-related investigations, which by this time had been given the collective title, "Project Colossal."

HQ sent a telex to the divisions stating that the "...events of the last few days" have necessitated an "urgent review" of the RCMP response to the most "...serious and wide-ranging criminal extremist activity ever encountered in this country."<sup>167</sup> The telex asked for the cooperation of the divisions stating that:

It is abundantly clear that the magnitude of the task at hand goes far beyond the bounds of Divisional autonomy.... Individual actions and initiatives cannot be addressed in a narrow, regional context. For these reasons, there will be occasions when it is reasonable and necessary for HQ to direct field operations.<sup>168</sup>

<sup>162</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2627.

<sup>163</sup> Exhibit P-101 CAF0055, p. 2; Testimony of Warren Sweeney, vol. 26, May 9, 2007, pp. 2706-2707.

<sup>164</sup> Exhibit P-101 CAF0055, p. 8.

<sup>165</sup> Exhibit P-102: Dossier 2, "Terrorism, Intelligence and Law Enforcement – Canada's Response to Sikh Terrorism," p. 47.

<sup>166</sup> Exhibit P-101 CAF0504, p. 1.

<sup>167</sup> Exhibit P-101 CAF0504, p. 1.

<sup>168</sup> Exhibit P-101 CAF0504, p. 1.

According to the telex, the role of HQ would be to coordinate, monitor and assess all ongoing Sikh extremist criminal investigations and, as necessary, to direct specific investigative operations.

Though it appears that Headquarters' view of the level of control that it should exercise over the investigation was beginning to change, no structural or cultural changes occurred to allow for this level of control to be implemented.<sup>169</sup> Even when analysts from HQ sent what would appear to have been instructions to the divisions, these were often taken as "suggestions," and were met with indifference. Thus, on February 6, 1987, Cpl. Doug Wheler, an analyst at HQ, sent the E Division Task Force a number of questions, some of which related to Pushpinder Singh's purported statements made two weeks before the bombing that "something would happen" in two weeks.<sup>170</sup> Wheler wrote that there should be a "...complete re-examination of Khurana situation on 85 June 12," including a determination of whether Khurana was "still adamant" that the conversation took place. He also wrote that VPD members involved in this incident should be re-interviewed "...to determine if anything was missed."<sup>171</sup>

Wheler's report was forwarded to the E Division Task Force on February 9, 1987.<sup>172</sup> The E Division response, dated February 18<sup>th</sup>, was devoted mostly to correcting what clearly were perceived as misunderstandings of the existing information by HQ,<sup>173</sup> and to advancing the justification for the Division's view that the Khurana scenario had already been sufficiently investigated. It is apparent that there was no "complete re-examination" of the Khurana situation at that time, nor does it appear that the VPD members who had been listed as having been involved in the scenario were contacted for purposes of any serious follow-up.<sup>174</sup>

The failure of the divisions to report all relevant information to HQ, and the perception that reporting obligations were onerous and at times unnecessary, continued well into the investigation. In July 1988, E Division had been dealing directly with Crown Counsel James Jardine and with CSIS BC Region in connection with the Reyat trial. A memo by the Non-Commissioned Officer in Charge of Operations of the E Division investigation noted:

With respect to HQ's Ottawa they have not been supplied with any of the previous correspondence on this subject from this division. HQ's NSOTF have been dealing direct with CSIS HQ's and [therefore suggest] we may wish to re-consider sending copies to them. If we are to send them we will have to put together all previous correspondence for them.<sup>175</sup>

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<sup>169</sup> In fact, it was not until after Justice O'Connor made his recommendations in connection with the Arar Commission of Inquiry that the RCMP began to take steps to implement a model of central control for national security investigations.

<sup>170</sup> See Section 1.6 (Pre-bombing), Khurana Information and Section 2.3.4 (Post-bombing), The Khurana Tape.

<sup>171</sup> Exhibit P-391, document 429 (Public Production # 3811), pp. 9-10.

<sup>172</sup> Exhibit P-391, document 429 (Public Production # 3811), p. 1.

<sup>173</sup> Exhibit P-101 CAA0528.

<sup>174</sup> See Section 2.3.4 (Post-bombing), The Khurana Tape.

<sup>175</sup> Exhibit P-101 CAF0223.

The ineffectiveness of the RCMP's Ottawa bureaucracy in coordinating and organizing the investigation is well illustrated in a number of the source episodes. When members of RCMP HQ received oral information from CSIS about a CSIS source who had been asked by Bagri to borrow her car on the night before the bombing, the information was not committed to paper (with the result that it is now impossible to know exactly what information was, in fact, passed at the time) and was not properly reported to the divisions. It also appears that HQ decided that, as the CSIS source was not able to identify other individuals who accompanied Bagri to the airport, it was not worth pursuing the matter any further. It was not until years later that the significance of the information that had been provided to RCMP HQ would be recognized, when E Division pursued the matter directly with CSIS after the Watt Mackay review.<sup>176</sup>

In the case of Mr. Z, since HQ was not informed of the fact that E Division had already developed and was pursuing his information, it was unable to keep CSIS properly informed of the RCMP's own initiatives. Once it was discovered that CSIS and the RCMP were, in fact, pursuing parallel investigations, confusion and ill will between the agencies ensued.<sup>177</sup> In the case of Tara Singh Hayer, RCMP HQ took an aggressive stance with CSIS, threatening to go after the identity of CSIS's community contact when CSIS passed along information from the individual about Bagri's purported confession of his involvement in the bombing. In fact, unbeknownst to HQ, the RCMP already had access to this CSIS contact (Tara Singh Hayer) and had developed this same information sometime earlier.<sup>178</sup> In both cases, the lack of information at HQ prevented it from effectively communicating with CSIS in order to identify and correct any potentially problematic overlap with CSIS's operations, and this in turn led to further friction with CSIS.

At the same time, even if a decision had been made to provide formal authority to HQ to direct the investigation, it does not appear that HQ would have been equipped for the task. Solvason testified that suggestions for actions from Ottawa were not generally received with great enthusiasm at the E Division Task Force. He stated that "...you had to do it, but it wasn't really received with any great deal of – it wasn't welcome." This was, in part, due to the fact that the input of HQ was not seen as making any particularly useful contribution. According to Solvason, RCMP HQ input was sometimes dismissed because directions in some cases came "...from civilians or people that did not necessarily have hands-on experience and certainly were a large distance away."<sup>179</sup> He went on to explain that:

In a normal homicide investigation, people with highly-skilled and unique abilities come together as a small team and they're very much adaptive to circumstances as they flow and they make decisions sometimes instantly as the investigation progresses.

<sup>176</sup> See Section 1.3 (Post-bombing), Ms. E.

<sup>177</sup> See Section 1.4 (Post-bombing), Mr. Z.

<sup>178</sup> See Section 1.2 (Post-bombing), Tara Singh Hayer.

<sup>179</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11574.

So, to have somebody from thousands of miles away make those decisions was different.

In his view, while there was a need to "...coordinate things from a national perspective" because of the multiple Task Forces across Canada, "...sometimes that went a little further in terms of 'do this, do that' and when somebody is directing your resources there instead of here, it makes it difficult sometimes."<sup>180</sup>

To make things worse, HQ was not provided with sufficient resources to enable it to manage and analyze all the information being produced in the multiple Task Force units. A group of five Coordination Center members could only have provided the most general supervision and oversight for an investigation of this magnitude.

### **Conclusion**

Factors related to culture, resources, structure and staffing all combined to defeat any true centralized coordination and control of the RCMP investigation, at least up to the reinvigoration of the investigation in 1995. The effect of this lack of centralization was that HQ did not have the information it would have needed in order to effectively coordinate the Air India investigation. Furthermore, even in circumstances where HQ wanted to provide investigative input, it had no structural authority over the divisions, and its "directions" were often disregarded or treated as mere suggestions.

## **2.2 The RCMP Investigation: Red Tape and Yellow Tape**

### **Introduction**

On May 10, 1991, Inderjit Singh Reyat was convicted of two counts of manslaughter and four explosives charges relating to the Narita bombing. He was sentenced to ten years imprisonment. Reyat was arrested in England on February 5, 1988, and he fought the extradition until he was returned to Canada on December 13, 1989. RCMP E Division members received high praise by counsel in the UK for their efforts in what was described as a "logistical nightmare."<sup>181</sup> James Jardine, who had worked with members of E Division for six years in connection with the Reyat trial, had similar praise for the investigators who worked tirelessly in the preparation of this case.<sup>182</sup>

There is no question that the conviction of Reyat in relation to his role in the Narita bombing was a significant success for the RCMP. While the efforts of the RCMP in relation to the Narita investigation are well documented, it is considerably more difficult to reconstruct the RCMP's progress in relation to the investigation of the bombing of Air India Flight 182 during the period of the late

<sup>180</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11588.

<sup>181</sup> Exhibit P-101 CAF0176.

<sup>182</sup> Testimony of James Jardine, vol. 47, September 18, 2007, p. 5782.

1980s and early 1990s. The question that naturally arises is – what was the RCMP doing in relation to the Air India investigation during this period?

The RCMP, like any government agency, has finite resources that it must strategically allocate to best meet its institutional objectives. Not surprisingly, to a great extent, the RCMP measures its success in terms of convictions. In its difficult task of budgeting efficiently for various initiatives, it will naturally consider the likelihood of successfully resolving an investigation as a factor in its decision-making. At the same time, resourcing itself can impact on the likelihood of success for an investigation. No investigation, no matter how potentially “open and shut” the case may be, will be solved if there are no officers available to collect the evidence. The manner in which resources are allocated is by its very nature a statement about priorities, which in turn trickles down to the ranks as a form of message about how the Force expects investigative energy to be expended. A close examination of the history of the Air India investigation provides a lesson in the interconnectedness of investigative priorities, financial and human resources, creativity, and, ultimately, investigative progress or the lack thereof.

Forensics made it more likely to resolve the Narita case, at least in part. The RCMP focussed its resources and energy on obtaining at least one conviction, albeit for lesser charges, targeting an accused who was not believed to have been a mastermind of the conspiracy. Meanwhile, the difficulties associated with resolving the Air India case led the RCMP to devote fewer, rather than more, resources to this important investigation. From the outset, both the Narita and the Air India bombings were approached as traditional homicide investigations – attempting to link forensic evidence from the scene of the crime and eyewitness evidence to the suspects. The problem was that the Air India Flight 182 crime scene, which was thousands of metres below the Irish Sea, was vastly more problematic than that of the Narita bombing.

For years, the position of the RCMP was that until sufficient evidence had been collected from the crime scene, the Air India investigation had gone as far as it could go. The result was that, for a time, there were not many investigative initiatives ongoing at E Division in connection with Air India, other than attempts to retrieve exhibits from the Irish Sea and to obtain forensic reports.<sup>183</sup> Rather than looking for alternative approaches to the investigation or reorienting it in the only way that made sense under the circumstances – as an intelligence-led investigation – the RCMP let the investigation fall into stagnation for years. The undersea dives were expensive operations. Meanwhile, resources for other investigative initiatives were not made readily available to E Division investigators, who were, in fact, actively discouraged from pursuing Air India initiatives at all. Over time, morale became a very serious issue in the E Division unit. Many investigators at the Task Force did their best to pursue the Air India investigation, despite a difficult work environment. Some even tried to focus efforts on developing an approach based on the potential for a conspiracy

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<sup>183</sup> Testimony of Laurie MacDonell, vol. 76, November 15, 2007, pp. 9642-9643, 9646-9647.

charge and on pursuing potential sources. However, the negative climate that developed at the Task Force inevitably had an impact on the investigators, and thus on the investigation.<sup>184</sup>

The Air India investigation was finally overhauled in 1995, as calls for a public inquiry grew louder in the lead-up to the ten-year anniversary of the bombing. What could have been done earlier was undertaken only then, ten years after the bombing. The investigation was injected with significant new resources and a dedicated task force was again created, which allowed investigators to focus their energy entirely on this investigation. The investigation was reoriented towards a conspiracy approach. At this point, the investigation went forward with a wiretap application on the basis of information that had been available to the RCMP for years. When the case ultimately went to trial, it was almost entirely on the basis of source information, in many cases developed by CSIS or other agencies first, and in some cases known to the RCMP for years (for example, Ms. E).<sup>185</sup>

## **The Progress of the Investigation: 1987-1995**

### ***Structural Changes and Resources***

In the early years of the Air India investigation, there was tremendous drive to solve the crime at all levels of the RCMP. Retired Staff Sgt. Robert Solvason testified that everyone was doing "...whatever they could" and that the Air India investigation was the "...number one priority in the Force." This meant that there was a push at HQ and at the divisions to ensure that sufficient resources were made available to meet investigative needs and to see that the investigation was being well managed and well run.<sup>186</sup> A dedicated Task Force was formed in E Division, and investigators on the Air India file were able to focus their efforts exclusively on this investigation.

Beginning in the late 1980s, a number of structural changes occurred that affected the continuity of, and priority afforded to, the Air India investigation. As early as 1986, investigative resources became increasingly devoted to the Narita investigation and prosecution, to the exclusion of the Air India explosion, and by September 1986, efforts at E Division were mainly focused on the Narita incident.<sup>187</sup> An internal RCMP report about the status of the investigation dated September 10, 1986, states that the "thrust" of the investigation was on the forensic findings arising out of materials uncovered at Narita and that:

While ever cognizant of the loss of Air India's Flight 182, to date nothing in terms of physical evidence has been established on which efforts parallel to those ongoing in the Narita case might be based.<sup>188</sup>

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<sup>184</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11565-11566, 11604.

<sup>185</sup> See Section 1.3 (Post-bombing), Ms. E.

<sup>186</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11551-11552.

<sup>187</sup> Exhibit P-101 CAA0494, p. 2.

<sup>188</sup> Exhibit P-101 CAA0494(i), p. 2.

Over time there was a “slow degeneration” of the Air India investigation, which began receiving lower and lower priority.<sup>189</sup>

By 1987, many of the key figures in the management of the Air India investigation were no longer on the Task Force. Supt. Les Holmes, who had been the OIC of the E Division Task Force, had been transferred, and Inspector John Hoadley, who had managed the E Division investigation, had retired. Similarly, at RCMP HQ in Ottawa, C/Supt. Norman Belanger, who was the head of the Coordination Centre and then of Special Projects Branch, which had been set up to manage the Air India investigation at HQ, had left his position as well.<sup>190</sup> In addition, while dedicated task force units were set up to focus on the Air India investigation immediately after the bombing, over the years the Air India investigation was transferred to the National Security Offences Task Force (NSOTF), then to the National Security Offences Section (NSOS), and, by 1989, to the National Security Investigations Section (NSIS). With those changes, the Air India investigation was no longer conducted by a dedicated unit, but became one among a number of other matters handled by the new units.<sup>191</sup>

Staff Sergeant Bart Blachford, who was involved with the Air India investigation throughout most of the 1990s and subsequent years and is now the lead investigator in the continuing RCMP investigation, explained that during the early 1990s, although “...people always wanted to move that file forward,” members of NSIS were also responsible for other files and were “...continually dealing with other Sikh matters” as they arose. He noted that, in the context of “limited manpower,” the focus of E Division was on completing the Reyat trial.<sup>192</sup> By 1989 there was a “tremendous” reduction in resources dedicated to Air India at E Division,<sup>193</sup> and Sgt. Laurie MacDonell, who joined NSIS at E Division Headquarters in 1990, testified that, in the early 1990s, he never “...felt a push or drive” coming from Headquarters to prioritize the Air India investigation. It was one of a number of priorities at the time and was “...in a bit of a lull at that point.”<sup>194</sup>

In late 1989, there was a formal attempt to shut down the Air India investigation at E Division. Solvason recalled being called to attend a team leaders’ meeting at E Division, along with Insp. Ron Dicks and Sgt. Robert Wall. They were advised that the Air India investigation was being concluded and that the team would focus solely on the Narita investigation. An announcement was made that C/Supt. Frank Palmer, OIC Federal Operations E Division, would be releasing members who had been seconded to the unit. The secondments were terminated and officers were sent back to their home units. However, a day or two later, a message arrived from Ottawa reversing that decision and “...ordering those people back.” They had only been gone about three days.<sup>195</sup>

189 Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11551-11552, 11596; See Testimony of Laurie MacDonell, vol. 76, November 15, 2007, p. 9647.

190 Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11565-11566.

191 Testimony of Bart Blachford, vol. 63, October 17, 2007, pp. 7832-7833.

192 Testimony of Bart Blachford, vol. 63, October 17, 2007, pp. 7811-7812.

193 Testimony of Robert Wall, vol. 76, November 15, 2007, pp. 9707-9708.

194 Testimony of Laurie MacDonell, vol. 76, November 15, 2007, pp. 9642-9643, 9646-9647.

195 Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11573-11574.



Though Ottawa intervened to prevent the investigation from being shut down, it does not appear that it provided instructions or resources to E Division to re-prioritize the investigation.

After the attempt to shut down the investigation, there was yet another reorganization at E Division and the Air India investigation was assigned to a single person, who was responsible for coordinating various recovery attempts of the wreckage of Flight 182 and file administration.<sup>196</sup>

Though the RCMP provided a written response to questions from Commission counsel indicating that there was a “core group” of 92 investigators dedicated entirely to the Air India investigation throughout the course of this investigation,<sup>197</sup> this number does not seem to be supported by the evidence and most likely includes investigators engaged in the preparation for the Narita trial and the Reyat prosecution, which was the main focus of the E Division NSIS unit throughout most of this period.

### ***Discouragement of Intelligence-Led Initiatives and the “Yellow-Tape” Approach***

In spite of the limited resources allocated to the investigation, some of the E Division investigators “...wanted to be more active and try other things.”<sup>198</sup> In Solvason’s view, for instance, the chances of successfully making a forensic case out of the investigation were very remote and it seemed to be more “...realistic to pursue other initiatives towards a conspiracy because in fact, that’s what we believed it was.”<sup>199</sup>

Indeed, from the outset of the Air India and Narita investigations, the RCMP’s view was that there had been one conspiracy planned to execute two concurrent acts of terrorism against the Indian government<sup>200</sup> (“one phone call books both tickets”<sup>201</sup>), in which the key conspirators were Parmar, Bagri, Gill, and Johal – with Inderjit Singh Reyat being used in the conspiracy for his bomb-making expertise and access to materials. A conspiracy, in non-technical terms, is an agreement among individuals to break the law at some time in the future, and in some cases, with at least one overt act to further that agreement.

Solvason and other investigators attempted to engage in intelligence-oriented endeavours, such as source development and strategic prosecutions. However, E Division management seemed unable to appreciate the value of these pursuits and actively discouraged these initiatives.<sup>202</sup>

<sup>196</sup> There were three teams – only one of which dealt with Sikh extremist issues, including the Air India disaster: See Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11575-11576. At the time, there were approximately 25 NSIS members, including the OIC: See Testimony of Bart Blachford, vol. 63, October 17, 2007, p. 7808.

<sup>197</sup> Exhibit P-101 CAF0438, pp. 20, 22.

<sup>198</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11601; See also Testimony of Laurie MacDonell, vol. 76, November 15, 2007, pp. 9655-9656.

<sup>199</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11566, 11601.

<sup>200</sup> Exhibit P-101 CAF0055, p. 2.

<sup>201</sup> Testimony of Bart Blachford, vol. 63, October 17, 2007, p. 7813.

<sup>202</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11566.

In Solvason's view, one of the keys to advancing the RCMP's evidentiary position with respect to the Air India conspiracy would be to develop sources who had knowledge of the involvement of the main conspirators. It was believed that many members of the Sikh community had knowledge bearing on the Air India case, but that they were fearful of the extremist elements in the community and were of the view that, "...the police don't do anything and can't do anything." Therefore, one strategy Solvason developed was the pursuit of prosecutions against Sikh extremists to raise the "stature" of the police. In his view, fighting terrorism is a "...political war as well," and part of the battle is to create an impression about "...who has power, who can do things, who doesn't." Solvason felt that the successful prosecution of prominent extremists, who were engaging in criminal activity in the Sikh community, would help the RCMP get access to better sources in the Sikh community, and this could, in turn, be of use to the Air India investigation.<sup>203</sup> However, these initiatives were not well supported by E Division management.

At one point, Solvason noticed a report from the RCMP's Kamloops Detachment about Bagri's involvement in an altercation. There was some suggestion that Bagri had been involved in an assault on another Sikh, and that this individual had lost a gold necklace worth about \$1,000. There were indications that Bagri may have stolen the necklace. The matter had been looked at in a cursory manner by the municipal police force and had been concluded. Solvason had the idea of taking a team up to Kamloops to reinvestigate that issue. In his view, if successful, the initiative would improve morale, lower Bagri's stature in the community, and make it more difficult for him to travel internationally if he were to have a criminal conviction.<sup>204</sup>

The plan called for taking two members to Kamloops to conduct interviews and another member to do source debriefings, with Solvason going up to coordinate the initiative. However after "...a lot of correspondence back and forth," Solvason was eventually told to go to Kamloops and take only one other person with him, and that Solvason was to "do everything." Despite this staffing situation, Solvason was able to put together a case that ended in a conviction. In Solvason's view, this conviction did "...have a positive effect for us that we were able to do something even though it was a relatively minor offence. And of course, it diminished Bagri's stature because now he was a convicted thief."<sup>205</sup>

In another case, Solvason gathered evidence and built a case against an individual named Harjinderpal Singh Nagra for conspiracy to bring a known Sikh extremist into the country under a false identity.<sup>206</sup> He considered the Nagra case to be "...very much a test case" to see if investigators could obtain the cooperation of mostly Sikh witnesses, something the Force had not done up to that point. Given his view that the Air India case should be reoriented towards a conspiracy investigation, Solvason believed that the Nagra case would also be useful to see if the Force could be successful in a conspiracy prosecution. Solvason was, in

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<sup>203</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11568, 11572.

<sup>204</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11571.

<sup>205</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11571-11572.

<sup>206</sup> Exhibit P-101 CAF0752, pp. 5-6.

fact, successful in recruiting witnesses from the Sikh community. In the end, the prosecution went forward and was successful at trial. The success of the case "... elevated [the RCMP's] stature in the community and made an impact upon Tara Singh Hayer." Solvason felt that the success of the Nagra case was instrumental in eventually convincing Hayer to be a witness on the Air India disaster.<sup>207</sup>

It is notable, however, that the Nagra case was successful in spite of the lack of support for this initiative by the management of the E Division unit. Solvason testified that his requests to use resources in the Nagra case were often questioned and denied. During the investigation, Solvason submitted an operational plan to go to the Philippines, where important elements of the alleged conspiracy had taken place. The plan involved taking a Crown lawyer to the Philippines to take section 30, Canada Evidence Act affidavits, and to assist in some investigative and diplomatic work, because Canada had no formal agreements with the Philippines government and that country has a different system of law. There was also a requirement for clerical assistance, since Solvason's team was not computer-trained and would have been required to take affidavits. In total, his operational plan called for bringing two investigators, a Crown counsel and some support staff to the Philippines. After submitting the operational plan, Solvason was told to go by himself. Solvason's experience in Manila took a toll on his health. When he came back he became dizzy and kept falling down. He saw a doctor who put him off work for some time for exhaustion, and later, in 1991, he was diagnosed with post-traumatic stress disorder.<sup>208</sup>

After the success of the Nagra case at first instance, the matter was appealed to the BC Court of Appeal and subsequently to the Supreme Court of Canada, where the conviction was overturned on the basis of an error in the charge to the jury. A retrial was ordered but did not take place. Solvason testified that "... resources were not made available to me to do that file." Solvason explained that it was a "...very awkward situation", and he "...couldn't see going through that again" because "...if you didn't have the support, it just was impossible, and I told the Crown that."<sup>209</sup>

Solvason was not the only investigator frustrated by the lack of support for, and the active discouragement of, initiatives related to the Air India investigation in this period. Sergeant Frederick Maile was transferred into NSIS and took charge of the unit where Solvason had been working, focusing mainly on the investigation of white supremacists and potential eco-terrorists [environmentalists]. This was during the time that the Air India investigation had been assigned to a single person. Maile "...wasn't particularly pleased" because he felt that he had accepted the transfer with the understanding that he would be working on the Air India bombing. But, according to Solvason, "...such was not the case."<sup>210</sup>

Eventually, Maile developed a project that he believed would allow him to investigate the Air India bombing through the "back door." He initiated a "source

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<sup>207</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11569-11571.

<sup>208</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11569, 11603.

<sup>209</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11570.

<sup>210</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11576-11577.

development project," ostensibly to focus on increasing sources of information for the Force. This project would involve "speculative" interviews with people who were likely to have knowledge of the Air India disaster. The hope was that if investigators approached the "right people", that it would be possible to develop sources able to assist with the Air India investigation.<sup>211</sup> It was through this "source development initiative" that investigators Maile and Solvason decided to interview Ms. E, who proved willing to discuss the details of Bagri's visit to her the night before the bombing.<sup>212</sup> Ms. E ultimately provided a written statement to Maile in which she stated that she recalled Ajaib Singh Bagri visiting her on the night before the Air India bombing and asking to borrow her car to deliver luggage to the airport. Though Solvason and Maile considered Ms. E's information to be of major importance, when they returned to the office and reported the results of their interview to the other NSIS members, the revelation was received with "...a lot of anger and hostility."<sup>213</sup> Despite the fact that the investigators had managed to get Ms. E to cooperate, which she was not willing to do in her 1990 interview with Cpl. Rick Rautio and Cst. Blachford, the NSIS members were angry that Maile and Solvason had pursued this investigation without authorization.

Aside from source development initiatives, Solvason also wanted to pursue other Sikh extremist cases that had potential connections to the Air India case. It was Solvason's view that "...all of those matters" are "...interrelated in some way" and "...they're the same people who are doing it or for the same reasons." On that basis, he believed "...those [investigations] should be focused in a central place and worked on together because one thing may quite often lead you into another."<sup>214</sup>

One such potential case was the investigation of the 1988 attempted murder of Tara Singh Hayer, who had been shot by Harkirat Singh Bagga.<sup>215</sup> Despite Solvason's suggestions, and in spite of the numerous connections between this plot and Ajaib Singh Bagri that were known at the time,<sup>216</sup> E Division management was unwilling to take on this investigation. Harkirat Singh Bagga was charged and convicted as a result of the work of the Surrey Major Crime Unit, but in Solvason's view many possible connections remained unexplored. He felt that there had been others behind Bagga who were connected to the major figures in the Sikh extremist movement. Solvason testified that, though resources were being expended on Narita as a "priority" initiative, the unit "...did have some resources" that could have been devoted to the Hayer assassination attempt.<sup>217</sup>

It appears that after the RCMP Air India Task Force was reconstituted in 1995, it finally took on the investigation of the 1988 shooting, which it came to believe

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211 Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11577.

212 See Section 1.3 (Post-bombing), Ms. E.

213 Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11581.

214 Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11597.

215 See Section 1.2 (Post-bombing), Tara Singh Hayer.

216 See Section 1.2 (Post-bombing), Tara Singh Hayer.

217 Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11596-11597, 11609-11610.

was possibly connected to the Air India case. In 1997, Blachford was involved in putting together the RCMP report to Crown counsel for the prosecution of Bagri for his involvement in the shooting. He requested that Hayer provide articles he had written about Bagri, Parmar and the Babbar Khalsa (BK) between September 1987 and August 1988 in order to "...establish a motive for why Bagri would have conspired with Harkirat Bagga to murder Tara Singh Hayer." In one of the articles, dated August 19, 1988, Hayer had made reference to "...an alleged confession by Bagri in 1985 regarding his involvement in the Air India incident."<sup>218</sup> This article was finally translated late during the Air India trial. It raised the possibility that Bagri sought to eliminate Hayer because he was capable of implicating him in the Air India bombing and had been publicly identifying him as one of the perpetrators. Had this incident been properly followed up on in 1988, this important connection might have been made earlier.<sup>219</sup>

While so many of the intelligence-led initiatives proposed by the investigators were being discouraged, during this period when there was so little other activity on the Air India investigation, NSIS management was focused on attempting to obtain forensic evidence. With few resources made available for other endeavours, the Force was mostly just waiting, apparently believing that the Air India investigation was effectively at an impasse until forensic evidence became available. As explained by MacDonell, this was a time when:

We were at stages where we were waiting for information from the Service to be provided, evidence to be gathered from the sea bed and technical information to come. In addition to that, there were not a whole lot of resources on the unit to deal with a full-fledged task force. Like, you know, it takes a considerable amount of people to do that, and during that period of time resources were limited.<sup>220</sup>

The lack of a crime scene and the attempt to develop one has often been cited as the main reason why so little was going on in the Air India investigation in the late 1980s and early 1990s.<sup>221</sup> During this time period, the RCMP focused its efforts on "enormously expensive" wreckage recovery operations in relation to Air India Flight 182.<sup>222</sup> There were two major dive operations – in 1989<sup>223</sup> and in 1991<sup>224</sup> – for which the RCMP sent missions to Ireland to attempt to gather "conclusive evidence" of a bomb from the Air India debris at the bottom of the Irish Sea.<sup>225</sup>

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<sup>218</sup> *HMTQ v. Malik, Bagri and Reyat*, 2002 BCSC 823 at para. 6.

<sup>219</sup> See Section 1.2 (Post-bombing), Tara Singh Hayer.

<sup>220</sup> Testimony of Laurie MacDonell, vol. 76, November 15, 2007, p. 9646.

<sup>221</sup> See, for example, Testimony of Robert Wall, vol. 76, November 15, 2007, p. 9707; Testimony of Henry Jensen, vol. 44, June 18, 2007, pp. 5472-5473; Testimony of Gary Bass, vol. 87, December 3, 2007, pp. 11287-11288.

<sup>222</sup> Testimony of Norman Inkster, vol. 81, November 22, 2007, pp. 10376-10378.

<sup>223</sup> Exhibit P-101 CAA1109, p. 1. This was the first dive since the 1985 recovery and very little wreckage was recovered due to poor weather.

<sup>224</sup> Exhibit P-101 CAA1109, p. 2.

<sup>225</sup> Exhibit P-101 CAA0335, p. 30.

This focus on forensics may have been attributable in part to an opinion received by the early Task Force that it should focus on the substantive counts (i.e., possible accusations of murder, use of explosives, or similar charges). To prove the substantive charges, it was necessary to prove that Air India Flight 182 was brought down by a bomb. In addition, forensic evidence was assumed to be necessary, even in a case of conspiracy.<sup>226</sup> Blachford agreed that, even before the expert reports and studies had been completed, there was a “general impression” that Air India was brought down by a bomb. However, the RCMP was “...still trying to look for that Holy Grail of forensic evidence and that was never to be found.”<sup>227</sup>

The best results that could be obtained remained limited, even if the “holy grail” was found, as was demonstrated by the Narita prosecution. Under the circumstances, the exclusive focus on forensics (the so-called “yellow tape” approach) was surprising.

The Force knew by 1988, when Reyat was charged,<sup>228</sup> that it was unlikely that anyone else would be brought into the Narita prosecution. The Force was able to link parts of the debris found at Narita to items Reyat had purchased in the lead-up to the bombing – including a Sanyo stereo tuner that was believed to have housed the bomb. The people who were considered to be the true “brains” behind the planning and execution of the bombing were not charged, as there was insufficient evidence to tie them to the crime scene. Even the link to Reyat that was made in the Narita case required means other than forensic. Reyat was ultimately convicted for manslaughter only.

Given the results obtained in Narita, with a crime scene vastly less problematic than that of the Air India explosion, it was likely that any forensic evidence ultimately obtained in relation to the Air India Flight 182 crime scene would, at best, provide a link to Reyat only. Even with such a conclusive connection, but without other evidence, the best result realistically to be hoped for after a successful recovery effort would be the conviction of Reyat for manslaughter in connection with Air India as well as Narita. In order to get to “the brains” of the operation, more would have been needed.

While the RCMP’s wreckage recovery efforts are laudable, and ultimately contributed to proving that Air India 182 had been downed by a bomb loaded aboard a plane in Vancouver,<sup>229</sup> it is unfortunate that, for a long period of time, the resources invested in these efforts, and the perceived technological

<sup>226</sup> Testimony of Gary Bass, vol. 87, December 3, 2007, pp. 11184-11185, 11287, 11310-11313.

<sup>227</sup> Testimony of Bart Blachford, vol. 63, October 17, 2007, p. 7813. According to Blachford it was “late in 1990” that the RCMP was able to “...successfully conclude that, in fact, it was a bomb that brought down Air India.” John Garstang, Air Crash Investigator, developed a technical process to prove that Air India was bombed and concluded that Flight 182 had been bombed, but at the time had not issued a written report. By February 1995, the RCMP had two experts who would state that Air India Flight 182 went down as a result of a bomb, but still had no hard forensic evidence to support this conclusion: Exhibit P-101 CAF0390, p. 8.

<sup>228</sup> Exhibit P-101 CAA1109, p. 1.

<sup>229</sup> *R. v. Malik and Bagri*, 2005 BCSC 350.

impossibility of gathering further forensic evidence, seemed to stand in the way of pursuing other initiatives or made the pursuits of such initiatives seem less urgent. In any criminal investigation, putting off source or witness development initiatives and failing to pursue other initiatives poses problems. As explained by MacDonell:

Any investigation that is long term, when we're talking years, not only do police investigators come and go, and when they leave they take knowledge; new investigators have to be trained, but on the other side, you have witnesses. Their memories, other evidence that may exist, as time goes on, there is the risk of losing a good portion of that.<sup>230</sup>

### ***Red Tape and Defensiveness***

Though the Air India E Division investigation in the late 1980s and early 1990s was stagnating, suggestions for initiatives to further the Air India conspiracy investigation were not "...received very well." When they were not actively being discouraged, suggestions might be put forth and investigators "...never heard anything about them." What made the situation more discouraging was that there were investigators who were "...just sit[ting] around" with time available that could have been devoted to the Air India investigation, if not for management's active discouragement of these initiatives. According to Solvason, "...we did have resources available and there were people there that could have done it." Management was focused on "administrative things" and there was a "fixation" on details, such as proper titles and signatures.<sup>231</sup> A defensive attitude often prevailed at E Division and, in some cases, steps were even taken to cover up complaints.

The difficulty in accepting suggestions about how to improve the investigation was in some cases apparent in the way that the RCMP Task Force responded to internal file reviews. For example, in 1988/1989, Inspectors B.G. Watt and R.E. MacKay reviewed the files held in the divisions and at HQ, and in 1989 they produced a report that bears their names.<sup>232</sup> Insp. Ron Dicks, who was the Officer in Charge (OIC) of E Division NSIS from 1989 to 1993, explained that the purpose of the review was to go over the available material again, to ensure that "...if something had slipped through the cracks, it would get recognized", or that matters requiring additional follow-up would be identified. He added that such reviews were common.<sup>233</sup>

Overall, Watt and MacKay concluded that the Air India investigation, which was "...the largest case to date in the RCMP's history," was conducted "...in a

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<sup>230</sup> Testimony of Laurie MacDonell, vol. 76, November 15, 2007, p. 9646.

<sup>231</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11573, 11586, 11595-11596, 11621.

<sup>232</sup> See Exhibit P-101 CAF0343(i) and Testimony of Ron Dicks, vol. 62, October 16, 2007, p. 7566. Dicks felt that the two Inspectors were "quite qualified" to conduct the review: See Testimony of Ron Dicks, vol. 62, October 16, 2007, p. 7645.

<sup>233</sup> Testimony of Ron Dicks, vol. 62, October 16, 2007, pp. 7644-7645.

very thorough and professional manner.” They stated that they uncovered few outstanding issues during their review.<sup>234</sup> Nevertheless, their 80-page report contained “...a lengthy list of recommendations that they felt should be followed up on the investigation.”<sup>235</sup> While Solvason testified that the suggestions of the Watt and MacKay review were useful in helping to point out “...things that we could do better” or “...things we may have missed,” this was not the universal feeling. In some cases, suggestions by the reviewers were interpreted as “...a criticism that [had] to be countered.”<sup>236</sup>

The circumstances surrounding Maile’s retirement are also telling in terms of the climate at E Division in this period. Upon his retirement, Maile requested an “exit interview” with a member of the Staffing and Personnel unit at E Division HQ. He met with the officer on July 10, 1992, and outlined a number of areas of concern. Dicks explained that the exit interview was “...part of the RCMP process of reviewing with people who are leaving the Force, their experience and any comments they wish to make.”<sup>237</sup> Maile explained during his interview that, in addressing the situation at NSIS in his exit interview, he was fulfilling a promise made to a number of other members of the Section who had felt very dissatisfied and frustrated with the way things were being handled and who wanted to have the situation documented.<sup>238</sup>

Maile indicated that his retirement at that time was due to a work situation that had become “intolerable.” He said that he had initially planned on serving at least two more years, but felt he was not being allowed to do his job and was frustrated. He felt that retirement was the “only solution.” Maile explained that he had initially accepted the transfer to NSIS, as he was eager to get involved in the Air India file, and was told that his position would be of an “investigative nature.” Within a short time after his arrival, however, he became “...completely disillusioned with the manner in which a number of situations were being handled.” He felt that his “...dignity had been taken away” and that he was not “...allowed to conduct investigations or to supervise.” Maile had also raised his concerns with a member of the Staffing and Personnel branch in the past.<sup>239</sup> According to Solvason, Maile was “...very distressed, as were other members.” Maile told him that he retired because “...he just couldn’t take it anymore.”<sup>240</sup>

In the exit interview, Maile indicated concern about the “...direction the Air India investigation had taken” following what Maile described as a “major breakthrough,” only days before his retirement, when he had obtained a written

<sup>234</sup> Exhibit P-101 CAF0343(i), p. 8.

<sup>235</sup> Testimony of Bart Blachford, vol. 63, October 17, 2007, p. 7735. See Exhibit P-101 CAF0343(i). Two E Division members, Cpl. Rick Rautio and Cst. Bart Blachford, began this follow-up in July 1990. Over a year later, in November 1991, it was reported that the follow-up was “practically completed”: Exhibit P-101 CAF0407, p. 1. See Exhibit P-101 CAA0773, for the initial letter to CSIS as a result of the Watt MacKay report.

<sup>236</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11575.

<sup>237</sup> Testimony of Ron Dicks, vol. 62, October 16, 2007, pp. 7621-7622.

<sup>238</sup> Exhibit P-101 CAF0388, p. 3.

<sup>239</sup> Exhibit P-101 CAF0388, pp. 1-2.

<sup>240</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11584.



statement from Ms. E.<sup>241</sup> He expressed the view, at the time of his exit interview, that the Air India investigation was not currently receiving the "...priority it deserves."

The Staffing and Personnel officer responded to Maile's position, indicating that "...undoubtedly all avenues are being explored by investigators in an attempt to overcome any sensitive areas that surfaced with his departure", which "... unfortunately, may have been misconstrued by Maile as an indication the investigation was not being given the priority it deserved." The staffing officer then criticized Maile for not having taken another member along with him when he conducted his interview of Ms. E, as it would have provided an opportunity to make an appropriate introduction to other members of the Force. The officer went on to speculate that, with Maile's "...acknowledged weakness in administration, combined with the computer environment, it is possible this created problems for Maile[sic] when he encountered the high degree of accountability required on some very sensitive investigations," and that these factors may have led to some of the conflicts with NSIS management.<sup>242</sup>

Dicks then provided a written response to the report on Maile's exit interview. After dealing with and largely dismissing Maile's complaints about his personal treatment by management, Dicks addressed Maile's comments about the Air India investigation. Dicks stated that he was unaware that Maile had previously raised any concerns. He felt that Maile's comments were "...a little self-serving," inasmuch as Maile had been directly involved with the investigation since December 1991 and, as such, "...was part of the Planning process" and never raised concerns about the direction of the investigation at the time.<sup>243</sup>

Dicks explained in testimony that he did not have the sense that NSIS members were concerned that the Air India investigation was not following the proper direction. He did not receive complaints from the members about the overall direction of the investigation, though some members at times could have questioned decisions to pursue or not pursue specific initiatives. According to him, everyone was frustrated by the lack of evidence, but all had opportunities to make their suggestions about the steps to be taken, and these were incorporated in the operational plans.<sup>244</sup> According to Dicks, plans to acquire evidence had always been approved by all involved, including the "numerous senior people" under whose scrutiny the investigation fell at the divisional and HQ levels.<sup>245</sup>

Dicks also went on to deny that Maile's obtaining a statement from Ms. E was a breakthrough, since what this witness could say was "...known or suspected." Rather, he felt that the statement was taken in a "panic environment", due to Maile's "...untimely decision to take his pension."<sup>246</sup>

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<sup>241</sup> Exhibit P-101 CAF0388, p. 3.

<sup>242</sup> Exhibit P-101 CAF0388, p. 3.

<sup>243</sup> Exhibit P-101 CAF0388, p. 5.

<sup>244</sup> Testimony of Ron Dicks, vol. 62, October 16, 2007, pp. 7625-7626.

<sup>245</sup> Exhibit P-101 CAF0388, p. 5.

<sup>246</sup> Exhibit P-101 CAF0388, p. 5.

The response to Maile's exit interview was one of defensiveness. Maile's concerns about the investigation were dismissed and characterized as "self-serving." One wonders how Maile's engaging in a voluntary exit interview after he had already taken retirement and earned his pension could be self-serving, and what possible benefit Maile is alleged to have been seeking by his comments.

Though the behaviour of management at E Division became "stifling," and the work environment was later described as "poisoned,"<sup>247</sup> it was clearly not easy for officers to take steps to address these issues, as illustrated by the Maile exit interview and the response to it. Solvason explained that the culture of the RCMP was not one that welcomed these types of suggestions:

**S/SGT. SOLVASON:** ...the RCMP is not particularly fond of people who complain about their superiors ... you try to resolve them in an informal way ... if you have a conflict with a superior and if you can't, then I suppose you'll have to take other measures or you'll have to go to his superior ... it can have a lot of personal consequences for yourself, if you do that, in some cases.

**MR. SHORE:** Potentially a risk in terms of advancement.

**S/SGT. SOLVASON:** Oh, absolutely. You know ... that would be a last resort, those sort of things, you're always trying to make things ... work.<sup>248</sup>

Solvason was medically discharged from the RCMP as a result of his experience on the Task Force and ultimately received an apology for harassment that he suffered over the course of the investigation.<sup>249</sup> The fact that this poor climate at E Division was allowed to continue as long as it did testifies to the lack of oversight and to the relatively low priority the Air India operation had within the Force throughout this time period.

### **What Should Have Been Done: The 1995 Renewed Task Force**

In late 1991 or early 1992, there was a brief attempt to refocus the activities at E Division on the Air India investigation. Additional members at E Division NSIS were assigned to conduct a "...complete examination of [the] entire Air India investigation," and all were "...encouraged to provide a positive – enthusiastic approach to all tasks."<sup>250</sup> However, in spite of this enthusiasm, it appears that this climate of prioritization of the Air India investigation was short-lived and the Air India bombing became, once again, just one of a number of tasks the unit was responsible for.<sup>251</sup>

<sup>247</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, pp. 11573, 11595-11596.

<sup>248</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11595.

<sup>249</sup> Testimony of Robert Solvason, vol. 89, December 5, 2007, p. 11604.

<sup>250</sup> Exhibit P-101 CAF0411, p. 1.

<sup>251</sup> Testimony of Laurie MacDonell, vol. 76, November 15, 2007, pp. 9647-9649.

As the ten-year anniversary of the bombing approached, there were increasing calls for an inquiry.<sup>252</sup> E Division NSIS took the position that, in preparation for the anniversary, it was "...preferable to have the RCMP make a public statement beforehand, rather than reacting to media queries afterwards."<sup>253</sup> When RCMP senior management decided that a "...public plea for assistance" had to be a "...last resort after all other initiatives have failed," E Division NSIS noted that, aside from three proposed initiatives involving approaches to Reyat, Surjan Singh Gill and Ms. E,<sup>254</sup> the point where all initiatives had failed had, in fact, been reached.<sup>255</sup> In May 1995, the RCMP announced a one million dollar reward for information leading to the conviction of the perpetrators.<sup>256</sup>

A draft aide-memoire on Air India produced by the Solicitor General's office in October 1995, noted that, after the June 1995 RCMP "million dollar reward" offer for information leading to an arrest, the RCMP Commissioner had indicated that "...if new evidence is not forthcoming within a reasonable period of time, such as six months, resources will no longer be devoted to investigating the crash," though the file would stay open.<sup>257</sup> It was also reported that, based on current information at the time, the "...RCMP may soon announce that it has reached an impasse" in the investigation of Air India.<sup>258</sup>

In late 1995, when Gary Bass was the Officer in Charge of the provincial Major Crime Section in British Columbia, he was asked by Assistant Commissioner Dennis Brown, the Criminal Operations officer for the province (E Division), to assemble a team to take a look at the investigation that had been done to date and to give advice as to whether or not there was anything else that could be done in the investigation. Bass commented that the increasing number of calls for an inquiry was the likely impetus for Brown's request.<sup>259</sup>

Bass initially assigned a team of about six officers from the Major Crime section, all of whom had extensive experience in major criminal investigations, to the renewed Task Force. From late November 1995 to February 1996, Bass reviewed materials on file to see whether there was sufficient information to support a wiretap application. His team also conducted a thorough file review of the investigation. Bass concluded at the end of his review that a wiretap application could be successful, but that an account of the history of CSIS's wiretap on Parmar from 1985 would be a critical part of the new wiretap affidavit.<sup>260</sup>

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252 Testimony of Gary Bass, vol. 87, December 3, 2007, p. 11180.

253 Exhibit P-101 CAF0391, p. 2.

254 See Section 1.3 (Post-bombing), Ms. E.

255 Exhibit P-101 CAF0391, CAF0392, p. 4.

256 Exhibit P-101 CAA0335, p. 29.

257 Exhibit P-101 CAA0923, p. 4.

258 Exhibit P-101 CAA0923, p. 5; See Chapter V (Post-bombing), The Overall Government Response to the Air India Bombing.

259 Testimony of Gary Bass, vol. 87, December 3, 2007, pp. 11177, 11180.

260 Testimony of Gary Bass, vol. 87, December 3, 2007, pp. 11177-11178.

On February 16, 1996, Supt. Rick MacPhee, the OIC of the Air India Task Force at that time, wrote a memorandum providing an overview of the status of the Task Force's investigative initiatives at that time. In relation to the wiretap affidavit, he noted that:

This issue of perception and the fact that the "evidence" we are now using for the affidavit (with no new evidence gleaned in the past ten years) has always been there, will certainly be controversial and a major embarrassment to both agencies and the Government of Canada, but especially to the RCMP who have primary investigative responsibility.<sup>261</sup> [Emphasis in original]

Because most of the information used had been available all along, the Task Force could be open to criticism for not proceeding with the investigation until 10 years after the fact.<sup>262</sup>

In correspondence with CSIS on February 20, 1996, MacPhee noted that "to date" the announcement of the million dollar reward and release of two composite drawings had resulted in "100 tips," which were being followed up on, but that "...nothing new or of significance has developed."<sup>263</sup> Shortly after February 1996, MacPhee retired and Bass took over his role of oversight of the investigation.<sup>264</sup>

With his involvement came a change in the approach to the investigation and a "renewed vigour." A Task Force was again created and the members were to work on Air India only, with no interruptions. Blachford, the current lead Air India investigator, confirmed that it was "most definitely" helpful to have a dedicated task force or unit for large investigations like Air India in order to maintain continuity and corporate knowledge. He agreed that there was more progress after 1995 as a result of the dedicated unit.<sup>265</sup>

From the Bass review, the team felt that the most "appropriate approach" to the new investigation was a "...conspiracy investigation and a conspiracy prosecution," and that the conspiracy investigation would start from when CSIS began their intercepts in March 1985. Bass explained that the review of the pre-bombing intercepts seemed to present a "fairly clear picture" of a conspiracy.<sup>266</sup> He added that a conspiracy approach also offered "...a very valuable investigative and prosecution tool" in terms of the "co-conspirators' exception" to the hearsay

<sup>261</sup> Exhibit P-101 CAA0936(i), p. 2.

<sup>262</sup> Testimony of Gary Bass, vol. 87, December 3, 2007, p. 11213. Blachford agreed that this was a concern, adding "...but at my level probably not as much as theirs, but we are always subject to criticism": Testimony of Bart Blachford, vol. 63, October 17, 2007, p. 7814.

<sup>263</sup> Exhibit P-101 CAA0939, p. 1.

<sup>264</sup> Testimony of Gary Bass, vol. 87, December 3, 2007, p. 11178.

<sup>265</sup> Testimony of Bart Blachford, vol. 63, October 17, 2007, p. 7812, 7833.

<sup>266</sup> Testimony of Gary Bass, vol. 87, December 3, 2007, pp. 11183-11184.

rule. What this essentially means is that statements made by a person engaged in an unlawful conspiracy can be used as admissions against all those engaged in the conspiracy if made while the conspiracy was ongoing.<sup>267</sup>

Investigators felt that a conspiracy might be proven on the basis of the pre-bombing intercepts and surveillance information. If it could be proven that Flight 182 had been bombed, the incident could be linked to Reyat, who had already been proven to be the bomb maker in Narita. On this basis, in 1995, investigators were considering offering immunity to Reyat and Surjan Singh Gill.<sup>268</sup>

Bass and his team developed an operational plan to take the Air India conspiracy case forward. In his testimony, Bass explained that his operational plan had a number of steps. The first was to put in place a wiretap authorization on a number of targets. The next was to begin an interview program to try to locate new witnesses. A further step was an undercover operation planned to go along with the investigation, and a final element was an increased focus on trying to prove that Flight 182 was brought down by a bomb.<sup>269</sup> Bass noted that "...adequate resourcing is **paramount** to the success of the ongoing investigation, file review and these new initiatives."<sup>270</sup> In that vein, he noted that the Task Force currently had 15 full-time employees on a "secondment basis," and that to run the necessary initiatives would require 10 to 12 additional full-time employees.<sup>271</sup> By May 1996, there were 25 full-time employees at the E Division investigation – some working on the file review and others pursuing fresh initiatives.<sup>272</sup>

By November 1996, a decision was taken that the Force was going to "proceed to prosecution" whether or not there was "fresh evidence," and to "...leave the matter to the courts and a jury."<sup>273</sup> Bass noted that he was "...sure there will be much criticism over certain aspects of the RCMP investigation in the early years."<sup>274</sup>

The Task Force was aware of the abuse of process argument that the defence was developing regarding the erasure of the CSIS Parmar tapes, and the RCMP began to get "...a pretty good idea" that it would probably be successful. There came a point, after 2000, when the Crown suggested, and Bass agreed, that they would not attempt to enter CSIS intercept evidence because it was unlikely that

<sup>267</sup> See for example, the discussion in *R. v. Mapara*, 2005 SCC 23, [2005] 1 S.C.R. 358 at para. 8. Following the Supreme Court of Canada decision in *R. v. Carter*, [1982] 1 S.C.R. 938, co-conspirators' statements can be used against the accused if 1) the judge is satisfied beyond a reasonable doubt that a conspiracy existed and 2) if independent evidence, directly admissible against the accused, establishes on a balance of probabilities, which is a much lower standard, that the accused was a member of the conspiracy.

<sup>268</sup> Exhibit P-101 CAF0392, p. 4.

<sup>269</sup> Testimony of Gary Bass, vol. 87, December 3, 2007, p. 11181.

<sup>270</sup> Exhibit P-101 CAA0936(i), p. 3 [Emphasis in original].

<sup>271</sup> Exhibit P-101 CAA0936(i), p. 3.

<sup>272</sup> Exhibit P-101 CAA0952, p. 1.

<sup>273</sup> Exhibit P-101 CAA0958, p. 2; Testimony of Bart Blachford, vol. 63, October 17, 2007, pp. 7815-7816.

<sup>274</sup> Exhibit P-101 CAA0958, p. 2.

they would succeed. Thereafter, the matter was to go forward on the strength of the new interview program or on the strength of old “sources” (or potential witnesses like Ms. E) becoming new witnesses.<sup>275</sup>

### **Too Broad a Mandate?**

The RCMP is our national police force. If its mandate were limited to enforcing federal laws in a country as vast and diverse as Canada, it would be ambitious, but its mandate is much wider than that; it also acts as the police force of three territories and every province other than Quebec and Ontario. This much larger mandate arose as the effects of the economic depression of the 1930s made it difficult or impossible for many of the provinces to allocate sufficient resources to sustain their own police forces. Alberta, for example, which had its own police force previously, decided to accept the contract policing offer made by the Federal Government when diminishing provincial resources made the change an economic necessity.

The RCMP’s contract policing duties have continued to this day. The agreements with the Federal Government have been regularly renewed, generally for periods of twenty years; with the current contracts due to expire in 2012. In 2006-2007, in addition to its responsibilities as the national police force, the RCMP delivered policing services to eight provinces, three territories, 200 municipalities, and many Aboriginal communities.

The evidence heard and research conducted by this Commission lead to the conclusion that perhaps Canadians have come to expect too much of the RCMP. With such a large array of responsibilities, senior officers can be appointed only if they have at least some knowledge of each of the police force’s many functions. This creates the danger that junior officers, as they progress through the ranks, need to gain experience in too many diverse areas to become truly expert in any particular one of them.

This Commission learned that transfers to and from the Air India desk of the RCMP were frequent. This movement incurred considerable time educating newcomers, and reduced the RCMP’s overall effectiveness in investigating the tragedy. This was almost inevitable because it is difficult to imagine how the RCMP could ensure that its officers had both the varied positions required to provide attractive careers, and the considerable focussed experience and study required to become expert in National Security, or any other complex and pressing federal matter.

This Commission believes that, after nearly eighty years of contract policing arrangements, it would be appropriate for the Government to give serious consideration to the advantages and disadvantages of the present policing structure in Canada. It might well be an opportune moment to put the emphasis on a national police force that is more focussed on federal matters and less occupied with provincial policing.

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<sup>275</sup> Testimony of Gary Bass, vol. 87, December 3, 2007, pp. 11215, 11249.

## Conclusion

In its submissions to the Honourable Bob Rae, the RCMP, in reviewing the level of resources afforded to the Air India investigation over the years, stated:

Although, at first blush, it may appear that few resources were dedicated to the investigation, the reality was that prior to the announcement of the reward there were fewer leads to investigate. As a result of the reward, this all changed, and resourcing to the Air India Task Force was increased due to the volume of tips received.<sup>276</sup>

In fact, what the evidence shows is that resources for the Air India investigation were increased as a result of a concerted decision to reinvigorate the investigation – placing experienced members on the investigation, creating a dedicated task force, proceeding with a wiretap affidavit based exclusively on information that had been on file all along, and initiating new investigative strategies as a result of a reorientation of the investigation.

The information and suggestions for a reorientation of the approach to the investigation were all pre-existing. What changed in 1995, in the face of the ten-year anniversary, and calls for a public inquiry, was the political will to take the case forward.

## 2.3 The Usual Suspects versus “Alternate Theories”

### 2.3.1 November 1984 Plot

#### Introduction

Prior to the Air India bombing, the RCMP E Division learned from two sources of the existence of a plot to bomb an unspecified Air India plane in November 1984. The first source, Person 1, had reported the information to the RCMP in September 1984, while providing other information to police about local Sikh extremist activity. The second source, Person 2, provided the information first to the Vancouver Police Department (VPD), and then to the RCMP and to CSIS during an interview, while being held in custody on an unrelated charge.<sup>277</sup>

In the pre-bombing period, investigators were skeptical about the motivations of Person 1 and Person 2, leading them to doubt that there was an actual bomb plot at all. As a result, investigators were reluctant to follow up on the information. After the bombing, despite the striking similarities between the pre-bombing reports about the November 1984 Plot and the plot that was actually carried out on June 23, 1985, the skepticism about the November Plot

<sup>276</sup> Exhibit P-101 CAA0335, p. 30.

<sup>277</sup> See Section 1.1 (Pre-bombing), November 1984 Plot.

lingered. In this post-bombing period, the skepticism was twofold: investigators doubted that the November 1984 Plot was real and they also doubted that the plot could have any connection to the June 23<sup>rd</sup> bombing. Investigators felt that the existence of any connection between the two plots was incompatible with their main theory of the Air India case, which was that at the root of the June 23<sup>rd</sup> bombings were Canadian members of the Babbar Khalsa, namely Parmar and his associates. It took many months before resources were invested in following this lead, and even then, the investigation into the potential November 1984 Plot connection proceeded in fits and starts for decades, leaving many questions about its significance still unanswered.

### **Post-Bombing: Possible Connection to the November 1984 Plot Discounted**

On June 23, 1985, when Sgt. Warren Sweeney of HQ NCIB learned of the Air India tragedy, he thought about the November Plot information and immediately asked that the E Division NCIS investigator in charge, Sgt. Wayne Douglas, be contacted to find out if Person 2 had any information about the bombing.<sup>278</sup> That morning, Cpl. Mike Curry from Headquarters in Ottawa phoned Douglas and requested that he speak to Person 2 about the crash.<sup>279</sup>

That same day, Douglas met with Person 2 who, on the advice of his lawyer, refused to speak with police unless they were willing to deal with his charge. Person 2's lawyer later phoned Douglas and stated that "...Person 2 didn't know anything about the Air India crash."<sup>280</sup> Despite the fact that Douglas had not actually spoken with Person 2 about the bombing, he contacted NCIB later that same day to advise that "...Person 2 knew nothing."<sup>281</sup> Sweeney testified that he was aware at the time about Person 2 not "...knowing anything and wanting to deal." When asked during his testimony about the significance of this interview, Sweeney simply said "...he was trying to bargain,"<sup>282</sup> a view that, at the time, appears to have put an end to the matter for quite some time.

Like Sweeney, Supt. Lyman Henschel, who was the OIC Support Services in E Division, was also concerned that the November 1984 Plot information might have had some bearing on the bombing of Air India Flight 182. Henschel, who noted that the November Plot investigation had begun with the VPD, spoke to Douglas and asked him to ensure that the Task Force received all relevant information about the November Plot. Douglas told Henschel that he had already done so and that he had also been back in touch with Person 2.<sup>283</sup>

<sup>278</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2615; Exhibit P-120(c), pp. 3-4 (entry for June 23, 1985: doc 526-3, p. 13).

<sup>279</sup> Exhibit P-120(c), p. 4 (entry for June 23, 1985: doc 526-3, p. 13).

<sup>280</sup> Exhibit P-120(c), p. 4 (entry for June 1985: doc 526-3, p. 59).

<sup>281</sup> Exhibit P-120(c), p. 4 (entry for June 1985: doc 526-3, p. 59).

<sup>282</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, pp. 2615-2616.

<sup>283</sup> Testimony of Lyman Henschel, vol. 46, September 17, 2007, pp. 5553-5555. However, if all steps had been taken to ensure that E Division had all relevant information, investigators almost certainly would have located the transcript of Person 2's interview with the VPD in which Person 2 revealed that the November Plot possibly involved the bombing of two planes, information that Douglas was unaware of to the date of his testimony: See Section 1.1 (Pre-bombing), November 1984 Plot.



On July 1, 1985, Henschel spoke with Douglas and Insp. John Hoadley about this matter. They indicated that they were:

...satisfied that the information provided by [Person 2] has no connection with Air India and CP Air disasters. All leads have been followed up on [redacted] info and have proven negative.<sup>284</sup>

E Division discounted any possible connection between the November Plot and the bombing early on, and then, perhaps not unexpectedly, failed to follow up on the lead.

On July 10, 1985, Detective Dave Randhawa from the VPD forwarded an occurrence report to E Division detailing information that he had learned during an interview that morning with Person 2.<sup>285</sup> The report indicated that Person 2 had named "Z" as responsible for having brought the bombing plot to Canada from India, and that another person, "W," was also likely connected to the plot.<sup>286</sup> Though E Division noted that the "...information contained in the report is similar to that reported by Person 1 in November 1984,"<sup>287</sup> it does not appear that E Division took further steps to investigate this information in light of this potential corroboration.

Meanwhile, HQ sent repeated, and often unanswered, correspondence to E Division, asking Douglas's group to update HQ on the November Plot information.<sup>288</sup> For example, prior to the bombing, in November 1984, Douglas and David Ayre of CSIS had met with Person 2, along with Person 2's lawyer, while Person 2 was in custody. Person 2 had indicated that the East Indian males who were involved in the plot resided in x town, y province.<sup>289</sup> A check of Person 2's associates identified three individuals with y province phone numbers. Douglas wrote to HQ stating that information about these subscribers would be obtained and forwarded upon receipt. However, despite numerous requests for this information,<sup>290</sup> it was not forthcoming, and HQ eventually had to approach CSIS directly for this information.<sup>291</sup>

However, at the same time that HQ was requesting updates on the November Plot information, throughout the late summer and the fall of 1985, it maintained

<sup>284</sup> Exhibit P-101 CAF0166, pp. 10-11.

<sup>285</sup> Exhibit P-120(c), p. 4 (entry for July 10, 1985: doc 493-3).

<sup>286</sup> Though, throughout, Person 1 and Person 2 had clarified that "...the main motive of the planned bombing and hijack was to let the Indian government know Sikhs meant business": Exhibit P-120(c), p. 4 (entry for July 10, 1985: doc 493-3); Testimony of Warren Sweeney, vol. 26, May 9, 2007, p. 2759. See also Exhibit P-120(c), p. 1 (entry for Oct. 1984: doc 231-3, pp. 2-4), where it was indicated that the "...purpose of the bombing was to discredit the Indian Government," and p. 6 (entry for February 19, 1986: doc 526-3, pp. 76-83), mentioning that "...radical Sikhs demanded revenge and wanted to retaliate – plan to bomb Air India plane was formulated...."

<sup>287</sup> Exhibit P-120(c), p. 4 (entry for July 12, 1985: doc 494-3).

<sup>288</sup> See Section 3.4 (Pre-bombing), Deficiencies in RCMP Threat Assessment Structure and Process.

<sup>289</sup> Exhibit P-120(c), p. 3 (entry for Nov. 26, 1984: doc 526-3 (254-3), p. 40).

<sup>290</sup> Exhibit P-120(c), p. 4 (entries for Sept. 9, Sept. 13, Sept. 24 and Oct. 2, 1985: doc 526-3, pp. 46-49).

<sup>291</sup> Exhibit P-120(c), p. 5 (entry for Dec. 6, 1985: doc 526-3, p. 56).

the view that there was no connection between the two plots, and that the June 23, 1985 bombings had been an act of the BK alone. Sweeney testified that, at the time, Person 2 was viewed only as a person of interest, and it was believed that his information had nothing to do with the Air India bombing. Requests for updates were made simply to "...tie up loose ends," because the RCMP was "onto Parmar" and efforts were concentrated on him. Follow-up was therefore simply to "...confirm that he was involved."<sup>292</sup>

On November 22, 1985, E Division reported to HQ that a shopkeeper in Duncan had been "...approached approximately a year prior looking for 2 stereo tuners able to fit into suitcases, explaining they were for [redacted] in India."<sup>293</sup> Because of the time frame, the HQ Task Force, at the request of the analyst who was interested in the November Plot information,<sup>294</sup> noted a possible connection between the new tuner information and Person 2, and asked once again for a response to its previous requests for updates.<sup>295</sup> In spite of the obvious significance of this information, given that the two June 23<sup>rd</sup> bombings were believed to have been executed through the use of bombs hidden in stereo tuners, HQ did nothing else to press the matter. According to Sweeney, the reason for pointing out to the Division the possible link between the tuner information and Person 2 was to confirm whether the individuals who had approached the shopkeeper were "...Reyat, Parmar or was it these other individuals?"<sup>296</sup>

Even after CSIS supplied the requested names and phone numbers of Person 2's associates to Sweeney in early December 1985, and it was learned that one associate was affiliated with the BK and a second person was possibly affiliated with another suspected Sikh extremist,<sup>297</sup> Sweeney still did not believe that there could be some connection between Person 2 and Sikh extremists.<sup>298</sup>

It was not until January 1986 that long distance tolls for Persons 1 and 2 were finally obtained by E Division.<sup>299</sup> At that time it was discovered that the November Plot sources and/or possible co-conspirators might have had a connection to Reyat<sup>300</sup> and, in particular, that calls had been made from Person 1's residence to Reyat on the day after Person 2 had been arrested in October 1984.<sup>301</sup> Sweeney indicated that, had he been aware of this information in the fall of 1985, he probably would have viewed the individual, who was ultimately discovered to have made the calls to Reyat, as worth pursuing.<sup>302</sup>

<sup>292</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, pp. 2617-2618.

<sup>293</sup> Exhibit P-120(c), p. 4 (entry for Nov. 22, 1985: doc 526-3, pp. 52-54).

<sup>294</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, pp. 2620-2621.

<sup>295</sup> Exhibit P-120(c), pp. 4-5 (entry for Nov. 25, 1985: doc 526-3, p. 55).

<sup>296</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2620.

<sup>297</sup> Exhibit P-120(c), p. 5 (entry for Dec. 6, 1985: doc 526-3, p. 56).

<sup>298</sup> See Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2622; Exhibit P-120(c), p. 5 (entry for Dec. 6, 1985: doc 526-3, p. 56).

<sup>299</sup> Exhibit P-120(c), pp. 8-9 (entry for May 1986: doc 23).

<sup>300</sup> Exhibit P-120(c), pp. 8-9 (entry for May 1986: doc 23); Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2633.

<sup>301</sup> Exhibit P-120(c), p. 7 (entry for April 6, 1986: doc 523-3).

<sup>302</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2633. For the earlier comment about tying up loose ends, see pp. 2617-2618.

The RCMP remained highly skeptical of the motivations of Person 1 and Person 2. In the case of Person 2, his information was approached early on with suspicion because he wanted to bargain away his unrelated charges in exchange for information he said he had in relation to the November Plot. After the bombing, in February 1986, it was learned that Person 2 was again attempting to bargain away his charges in exchange for giving information to the police. Person 2 stated that he believed that East Indians were responsible for the bombing of Air India Flight 182, but that he had no knowledge of whom. Douglas wrote that, in his opinion, if Person 2 did in fact have any information regarding the bombing of Flight 182, he "...would want charges stayed – something [Person 2] did not suggest to the writer."<sup>303</sup> Douglas maintained the opinion that "...the reliability of both subjects [was] questionable for specified reasons."<sup>304</sup> This time, it seems that Person 2's value was discounted precisely because he did not ask to bargain.

In the case of Person 1, when Douglas finally met with Person 1 after the bombing, he reported that "...Person 1 could offer up no further information, and advised that no names were ever mentioned." There is no indication that Person 1 was asked about whether he knew Person 2's identified associates, or that he was asked to provide descriptions of the other individuals who had participated in the meetings. Douglas then went on to note that "Information re: Person 1 financial status being gathered and will be forwarded."<sup>305</sup>

Sweeney explained that the RCMP was interested in Person 1's financial status because it wanted to verify "...whether he was maybe stringing us along to get money," since "...he was a source of the RCMP and, as such, the more information he gave, the more money he would get."<sup>306</sup> Given that the RCMP already had other indicators pointing to the likely veracity of the plot, including the fact that the information came from two independent sources, this investigative focus on Person 1's finances may have diverted resources away from more pressing endeavours, including actually following up on the substance of the information.

### **File Reviews and Follow-Up Investigation**

Between February 13 and 15, 1986, reports were published in the *Toronto Star* and the *Ottawa Citizen* indicating that, prior to the Air India disaster, the RCMP in Vancouver had been warned of the threat of a bomb being placed on an Air India plane. The VPD confirmed that they had received information relating to a threat to Air India several months before the crash and had passed the information to the RCMP at that time. The RCMP did not comment.<sup>307</sup>

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<sup>303</sup> Exhibit P-120(c), p. 6 (entry for Feb. 18, 1986: doc 526-3, pp. 74-75).

<sup>304</sup> Exhibit P-120(c), p. 6 (entry for Feb. 19, 1986: doc 526-3, pp. 76-83).

<sup>305</sup> Exhibit P-120(c), p. 5 (entry for Dec. 17, 1985: doc 29, doc 526-3, pp. 63-65).

<sup>306</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2626.

<sup>307</sup> Exhibit P-120(c), p. 5 (entry for Feb. 13-15, 1986: doc 526-3, pp. 71-73).

Shortly after, E Division, which had so far shown very little interest in the November Plot information, began to conduct numerous and extensive file reviews on the matter. HQ also conducted an in-depth review. Follow-up investigative steps were then taken, with some of the potential November Plot conspirators being interviewed for the first time in mid-1986 and 1987.

On February 17, 1986, Sgt. Robert Beitel of the E Division Task Force requested a thorough tip review of the November Plot information.<sup>308</sup> Cpl. Donald de Bruijn, an analyst at E Division, reported on his findings in a February 26, 1986 continuation report. He noted that Person 2 had been interviewed on a number of occasions by CSIS, RCMP and VPD and that, at the time, "...investigators did not believe Person 2's alleged involvement in the plot," and that there was "...suspicion and reluctance to act on this information," but that the matter should now be looked at again for a number of reasons. Included in the reasons were the facts that, after the November meeting with Person 2, his lawyer indicated to Douglas that Person 2 "...knows a lot more than is willing to discuss," and that Person 2 associated with a man from x town who had been linked by telephone with a suspected Sikh extremist.<sup>309</sup>

Cpl. Doug Wheler, of NCIB HQ, analyzed the information regarding the November 1984 conspiracy. In April 1986, he produced a detailed analysis of the file, and his conclusion was that it was "extremely unlikely" that both Person 1 and Person 2 had fabricated the November Plot information. He recommended that all information regarding the possible bombing should be obtained by Douglas of VIU and Ayre of CSIS, and suggested that Person 1 and Person 2 should then be questioned to identify the unknown Sikhs.<sup>310</sup> During the Inquiry hearings, Sweeney agreed that, at the very least, having two persons providing the same information would "...certainly cause [the RCMP] to investigate further."<sup>311</sup>

After the file reviews, local investigative initiatives began to be undertaken. On March 5, 1986, E Division reported to HQ that, though investigators believed Person 2 had concocted the story of the possible bombing in order to obtain release from custody,<sup>312</sup> Person 1 and Person 2 would be re-interviewed, and attempts would be made to obtain consent for polygraphs.<sup>313</sup> In relation to the plan to re-interview Person 1, it was noted that one of the objectives should be to establish the remarks that he made in September 1984 in relation to an unknown man in x town and to another unknown man in Duncan who, it was said, "...can manufacture 'nitro' for blowing up an AI flight...."<sup>314</sup>

E Division investigators met with Person 1 again in March, and de Bruijn met again with Person 1 in early April. Person 1 stated that he had never met Parmar or Reyat, and agreed to submit to a polygraph examination on his information in relation to the November Plot.<sup>315</sup>

<sup>308</sup> Exhibit P-120(c), p. 6 (entry for Feb. 17, 1986: doc 3).

<sup>309</sup> Exhibit P-120(c), p. 6 (entry for Feb. 26, 1986: doc 518-3).

<sup>310</sup> Exhibit P-120(c), p. 8 (entry for April 15, 1986: doc 526-3, pp. 1-22).

<sup>311</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2632.

<sup>312</sup> Exhibit P-120(c), p. 6 (entry for March 5, 1986: doc 526-3, p. 86).

<sup>313</sup> Exhibit P-120(c), p. 6 (entry for March 9, 1986: doc 520-3).

<sup>314</sup> Exhibit P-120(c), p. 6 (entry for March 10, 1986: doc 521-3).

<sup>315</sup> Exhibit P-120(c), p. 7 (entry for April 1986: doc 17).

In his polygraph examination, he was asked a number of questions, including whether he had been involved in any discussions regarding the bombing of the Air India flight, if he had been offered money, and who was present at the meetings.<sup>316</sup> He passed the test on his information, and subsequently, in a photo lineup,<sup>317</sup> identified Z, the individual who had been named by Person 2 in his July 1985 interview with Randhawa of the VPD.<sup>318</sup> In an earlier interview, Person 1 had suggested that Z could have been involved. Donald de Bruijn stated that it "...appears that information provided by Person 1 and Person 2 has been substantiated." Donald de Bruijn speculated that Person 2 and Z were recruited in 1984 by unknown militant Sikhs within the Khalistan movement to carry out these bombings. After Person 2's arrest, the conspirators may have found an alternate supplier and participants to complete the bomb plot.<sup>319</sup>

The day after the polygraph exoneration, de Bruijn met again with Person 1 to ask him further questions that had not been covered in the test. In particular, de Bruijn showed Person 1 copies of long distance toll records of calls made from his residence, and asked Person 1 about the two calls that had been made from his home to Inderjit Singh Reyat in October 1984. Person 1 said that he did not know anyone in Duncan and that the calls to Reyat could have been made by W or by the associate who had both stayed with Person 1 after Person 2's arrest. Person 1 reported that in October 1984, W and the associate intended to travel to Vancouver Island to visit someone.<sup>320</sup>

### **Conspirator "W"**

At this point, the RCMP began to look into W and to explore the possibility of an x town connection to the main suspects in the Air India Flight 182 bombing.

In follow-up research, it was discovered that Parmar had visited x town a number of times since April 1983.<sup>321</sup> Person 2 also confirmed that W had had contact with Gill, Parmar and Reyat.<sup>322</sup> Further information about connections between possible conspirators was received in early April 1986 from x town NCIS. This information indicated that W, believed to be associated with the International Sikh Youth Federation (ISYF), had been in contact with Person 1 in September, October and November 1984.<sup>323</sup> Members of the ISYF were involved in the meeting two weeks prior to the bombing, during which the statement by an alleged Sikh extremist that "something would be done" in two weeks was reported to have been made.<sup>324</sup> Lakhbir Singh Brar, a member of the ISYF who had also attended the meeting, was later identified as having played a major role in the bombing in the purported Parmar confession.<sup>325</sup>

<sup>316</sup> Testimony of Person 1, vol. 20, April 30, 2007, p. 1954. Sweeney testified that, if Person 1 had taken and passed the polygraph earlier, it would probably have elevated the Person 2 issue to something more than tying up loose ends: Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2634.

<sup>317</sup> Exhibit P-120(c), p. 7 (entry for April 1986: doc 17).

<sup>318</sup> Exhibit P-120(c), p. 7 (entry for March 1986: doc 16).

<sup>319</sup> Exhibit P-120(c), p. 7 (entry for April 1986: doc 17).

<sup>320</sup> Exhibit P-120(c), p. 8 (entry for April 25, 1986: doc 2).

<sup>321</sup> Exhibit P-120(c), p. 9 (entry for June 4, 1986: doc 530-3).

<sup>322</sup> Exhibit P-120(c), p. 9 (entry for May 26, 1986: doc 529-3).

<sup>323</sup> Exhibit P-120(c), p. 8 (entry for May 1986: doc 23).

<sup>324</sup> See Section 1.6 (Pre-bombing), Khurana Information.

<sup>325</sup> See Section 2.3.3 (Post-bombing), The Purported Parmar Confession.

Donald de Bruijn met with W. W stated that, some time ago, he, Parmar, Gill and an unnamed Sikh from x town were planning on “doing something” in India. W said that he was “totally committed” to the Khalistan cause and would do anything within his power to avenge the deaths of his relatives in the Punjab.<sup>326</sup>

In fact, that same year, the RCMP learned that W had independently provided information to another police force that two individuals had approached Person 2, along with two unknown white males, and had offered Person 2 a sum of money to put a bomb on an Air India plane.<sup>327</sup>

### **Conspirator “Z”**

In the spring of 1986, the RCMP also began to pursue information about Z and focused on finding information linking Z and Parmar.<sup>328</sup>

In April 1986, de Bruijn visited x town NCIS and obtained phone records for Z. It was learned that Z had departed for India in June 1985, and that there were indications that he would not return to Canada.<sup>329</sup> Donald de Bruijn met with x town local police, who were familiar with the VPD investigation of Z and Person 2, and who had conducted inquiries on behalf of the VPD. These inquiries were unable to link Z with any militant Sikh organization. However, in May 1986, the RCMP concluded that it was “imperative” that Z be interviewed.<sup>330</sup>

In 1987, Z was arrested in x town and was awaiting charges. Z offered to provide information in relation to Air India in exchange for the current potential charges against him being dropped.<sup>331</sup> Z’s demands also included a promise of confidentiality and an agreement that he would not have to testify in court about his information.<sup>332</sup>

The x town Attorney General’s Department was prepared to negotiate Z’s prison sentence, if his information was useful and pertinent to the Task Force’s investigation, and to have the extent of Z’s cooperation reflected in the prosecutor’s remarks on sentencing. Investigators noted that Z was displaying “...all the classic telltale signs of nervousness,” and that this was “most evident” when he was confronted with “...information pertaining to the 1984 conspiracies.” It was noted that the 15-month investigation of Z and his unknown associates had reached a “pivotal point,” and that the “conspirator” was on the “...verge of revealing involvement in these conspiracies.”<sup>333</sup>

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<sup>326</sup> Exhibit P-120(c), pp. 7-8 (entry for April 10, 1986: doc 525-3).

<sup>327</sup> Testimony of Bart Blachford, vol. 63, October 17, 2007, pp. 7822-7823. This would appear to be a third independent source corroborating the existence of the November 1984 Plot.

<sup>328</sup> Exhibit P-120(c), p. 9 (entry for May 26, 1986: doc 529-3).

<sup>329</sup> Exhibit P-120(c), pp. 7-8 (entry for April 10, 1986: doc 525-3).

<sup>330</sup> Exhibit P-120(c), p. 9 (entry for May 26, 1986: doc 529-3).

<sup>331</sup> Exhibit P-120(b), p. 1 (entry for Sept. 21, 1987).

<sup>332</sup> Exhibit P-120(b), p. 1 (entry for June 5, 1987: Wall Notes).

<sup>333</sup> Exhibit P-120(b), p. 1 (entry for June 10, 1987).

During the September 1987 negotiations with Z and his lawyer, nothing specific was revealed. Z indicated that he had knowledge of a discussion regarding weapons and explosives from a meeting in 1984, but said he had no direct knowledge of the 1985 disaster. Z agreed to give his information under polygraph.<sup>334</sup> It appears that, ultimately, a deal was not reached, and that Z's trial went ahead and he was convicted.

In March 1988, Z again offered to provide information in exchange for a reduction in his sentence, in addition to secrecy and protection of his family. A deal was reached and Z's sentence was reduced in exchange for providing information.<sup>335</sup> The next month, Z provided his information under polygraph. He provided an exculpatory statement, telling police that he knew Person 1 and Person 2 and that, at the time, Person 2 had been upset about the 1984 storming of the Golden Temple. In anger, Person 2 proclaimed that he would procure weapons for the Sikh cause and contemplated bombing an Air India plane. However, Z stated that he did not take Person 2 seriously.<sup>336</sup> According to the RCMP's briefing to the Honourable Bob Rae, Z's polygraph test "verified his information."<sup>337</sup>

However, a notation about Z's polygraph results was located by this Commission in Robert Wall's notes:

Z – Polygraph – Boyarski concluded. Inconclusive on portion. Everyone telling the truth including Person 1. However, different stories. Polygraph is a big question mark.

When asked about this notation, Wall explained that the results from Z's polygraph test were "inconclusive," and that in his view "...there's a margin for error with polygraphs, and I think that's well known. They're not the end-all, it's merely an investigative tool."<sup>338</sup>

Nevertheless, despite the known limitations associated with polygraphs, the inconclusiveness of Z's test, and the fact that Z's version of events was incompatible with that provided by Person 1 (who had passed his polygraph test), as well as with that provided by Person 2, the RCMP "eliminated" Z "...as a suspect in the AI investigation" on the basis of his polygraph test.<sup>339</sup>

### **Subsequent File Reviews and Follow-Up**

Investigators continued to investigate or review portions of the November Plot every few years. In 1990, new information about Person 2 surfaced and the

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<sup>334</sup> Exhibit P-120(b), p. 1 (entry for Sept. 21, 1987).

<sup>335</sup> Exhibit P-120(b), p. 1 (entry for March 15, 1988: Wall Notes).

<sup>336</sup> Exhibit P-120(b), p. 2 (entry for doc CAA1099, p. 2).

<sup>337</sup> Exhibit P-120(b), p. 2 (entry for doc CAA1099, p. 2).

<sup>338</sup> Testimony of Robert Wall, vol. 77, November 16, 2007, p. 9734.

<sup>339</sup> Exhibit P-120(b), p. 1 (entry for June 1991).

RCMP undertook to investigate.<sup>340</sup> A continuation report by Cpl. Rick Rautio in May 1990 concluded that the significance of the new information was that it "... corroborates the discussion of a bombing plot in 1984, but also indicates that the plot of 1984 differed from the plot to bomb Air India in June 1985."<sup>341</sup>

In June 1991, Cpl. R.A. Boyarski reported that he would review the file on the November 1984 Bomb Plot and provide a report on his findings to Wall.<sup>342</sup>

In a 1992 briefing to the SIRC review panel, the RCMP referenced the November Plot information stating that:

During 1984, the RCMP received information to the effect that a bomb was to be placed on an Air India flight in Montreal. This information was not connected to the June 1985 disasters and our investigation failed to substantiate an actual plot.<sup>343</sup>

Notwithstanding this conclusion, investigators once again began to research the November Plot in March 1997. RCMP members travelled to x town to meet with Person 1. Person 1 indicated that he thought the calls to Reyat that were made from his home had been made by W. Person 1 had reported this fact when he was questioned about the phone charges in 1986. According to Person 1, W had told him that a "...guy on the island wanted to do some experiments" which W had also referred to as a "test explosion."<sup>344</sup>

In May 1997, Cst. Ray Watson did yet another file review on the November Plot. He wrote that:

There is no doubt that in the mid 80's Person 1 could have been very useful in the intelligence field dealing with the east Indians however [redacted] at this time has no useful intelligence, therefore tip to be concluded at this time.<sup>345</sup>

Another two years later, however, in February 1999, Cpl. Robert Ginn was tasked to contact Person 1. By this point, the November Plot was being investigated as an "alternate theory,"<sup>346</sup> while the file was being reviewed by the Crown who was to make a decision on whether to approve charges. Throughout the period of February to November 1999, there was extensive contact between Ginn and Person 1. Ginn attempted to set up a meeting with Person 1 to discuss his information about the November Plot. It was through these investigations

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340 Exhibit P-120(c), p. 10 (entry for May, 1990: doc 11).

341 Exhibit P-120(c), p. 10 (entry for May, 1990: doc 12).

342 Exhibit P-120(c), p. 10 (entry for June 1991: doc 13).

343 Exhibit P-101 CAA0881, p. 7.

344 Exhibit P-120(c), p. 10 (entry for March 1997: doc 10).

345 Exhibit P-120(c), p. 10 (entry for May 2, 1997: doc 31).

346 Exhibit P-120(c), p. 11 (entry for Nov. 24, 1999: doc RCMP.SUPERTEXT.0002).



that the RCMP recognized that there were important connections between conspirators involved in the November Plot and those involved in the June 23, 1985 bombings.

Ginn informed Person 1 that "...one of the problems with [his] information" was that the RCMP "...have a theory and we have suspects and we do not have any direct links between Person 1's information and the current suspects." Ginn was of the view that W did, in fact, meet Reyat in the fall of 1984, and that this was corroborated by Person 1 in terms of the long distance phone charges from Person's 1 home while W was staying with Person 1 in the fall of 1984 and by the information about W knowing someone in Duncan who could make nitro.<sup>347</sup>

Ginn concluded that:

Although Person 1 cannot provide information which directly links our suspects to the plan of making and placing bombs on Air India and that Reyat was experimenting with dynamite before the disaster happened, [redacted] certainly is connected with [redacted] individuals who are very likely to have been involved with one or more of our suspects in the early planning stages of placing bombs on Air India planes. These individuals are Person 2 and W. The connections that Person 1 can supply information about are Person 2 [to] Talwinder Parmar and W [to] Inderjit Reyat.<sup>348</sup>

Ginn wrote that another approach to Z should be considered, since the last interview with him was in 1988. Ginn went on to write that:

...if Person 1 was being truthful about Z being at all 3-4 meetings with Person 2 and Z actually carried the briefcase full of money to the second meeting and departed with it, then Z certainly was not totally forthcoming during his 1988 interview. From discussing Person 1's initial information provided to at least Brian Sommerville, way back in 1984 before Person 2's arrest, it would appear that Person 1, would not be fabricating any of this information and in fact later passed a polygraph on the truthfulness of this information.<sup>349</sup>

It was further reported that if "...we wish to find additional evidence on our current conspiracy that efforts should be made to secure further information from Z, W and Person 2."<sup>350</sup>

It is not clear what, if anything, occurred on this file after Ginn produced this report.

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<sup>347</sup> Exhibit P-120(c), p. 10 (entry for Feb. 12, 1999: doc RCMP.SUPERTEXT.0001).

<sup>348</sup> Exhibit P-120(c), p. 10 (entry for Feb. 12, 1999: doc RCMP.SUPERTEXT.0001).

<sup>349</sup> Exhibit P-120(c), pp. 10-11 (entry for Feb. 12, 1999: doc RCMP.SUPERTEXT.0001).

<sup>350</sup> Exhibit P-120(c), p. 11 (entry for Feb. 12, 1999: doc RCMP.SUPERTEXT.0001).

## Conclusion

According to the submissions of the Attorney General of Canada:

...this matter was extensively investigated pre-bombing. However, the RCMP also followed up on this matter post-bombing to ensure that this plot had no connection with the events of June 23, 1985.<sup>351</sup>

Early on, prior to the initiation of any follow-up investigation, the RCMP had already concluded that the November Plot had no connection to the bombing. It was not until media reports began surfacing about the November Plot that a follow-up began in earnest.

Leads in relation to this plot were at times discounted prematurely, with the result that issues had to be continually revisited at a later date. It appears that – as was the case in relation to the purported Parmar confession and the Khurana tapes – since the individuals believed to be involved in the November Plot were not the RCMP's main suspects, the November Plot was viewed as "alternate" to the main theory of the case. By clinging to a narrow and exclusive theory of the case, the RCMP missed early opportunities to conduct thorough follow-up investigative initiatives – while the memories of potential witnesses were fresh and there was a greater likelihood of useful evidence being found intact.

### 2.3.2 Mr. Z

#### Introduction

In 1986, Mr. Z provided, to both CSIS and the RCMP, information that he had learned from another individual about the identity of the two Sikhs who may have been responsible for checking in the luggage that contained the bombs at Vancouver International Airport.<sup>352</sup> CSIS was ultimately forced to terminate its relationship with Mr. Z, and the investigation of this lead was to be followed up solely by the RCMP. Despite CSIS's assessment that there was a "... high probability that this information [was] accurate,"<sup>353</sup> the RCMP ultimately concluded that the individuals identified had no connection to the bombing.<sup>354</sup>

#### RCMP Follows Up on the Mr. Z Information

The first follow-up investigative action the RCMP took in relation to this tip was in early 1987.<sup>355</sup>

Cpl. Les Hammett and Sgt. Robert Wall, the NCO I/C of E Division NSOTF, wrote a report detailing their follow-up on the Mr. Z information. Investigators made

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<sup>351</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 246.

<sup>352</sup> See Section 1.4 (Post-bombing), Mr. Z.

<sup>353</sup> Exhibit P-101 CAF0499, p. 1.

<sup>354</sup> Testimony of Robert Wall, vol. 77, November 16, 2007, pp. 9744-9745.

<sup>355</sup> Exhibit P-101 CAF0450, p. 1.

inquiries in relation to the individuals named by Mr. Z as having checked in the suspect luggage on June 22, 1985, or associated with them. Suspects were observed and compared to the composite drawing done by the RCMP on the basis of information about "M. Singh" provided by Jeanne ("Jeannie") Adams, the CP check-in agent.<sup>356</sup>

The composite drawing was produced on the basis of the description provided by Adams in an interview with the RCMP on June 24, 1985.<sup>357</sup> During this interview she told police that the suspect was an East Indian male, 35 to 45 years of age, about 5'7" to 5'9", with wavy black hair covering the ears, a western-style hair cut, dark brown eyes, and no beard. According to Adams, he had an East Indian accent, but it was not so pronounced that she could not understand his English. The suspect was also neatly dressed in western clothes – possibly a suit.<sup>358</sup>

When re-interviewed on July 19, 1985, Adams was shown the composite that had been done and she felt it was wrong. She indicated that "M. Singh" had a "...softer looking face, eyes lowered and a rounder cuter face."<sup>359</sup> She clarified that "M. Singh" had an "average build" and believed that he had been wearing a "...conservative westernized suit" and "possibly" a tie.<sup>360</sup> Adams described him as having "...softly waved hair slightly over [his] ears." She also put him at a slightly taller, 5'8" to 5'10" and at 150 pounds. She told investigators that he was "...kind of sparkly eyed" as well.<sup>361</sup> On July 24, 1985, RCMP HQ sent an update to O and C Divisions based on information reported by the E Division Task Force. C/Supt. Norman Belanger instructed the regions that the composites that had been completed, including the one based on Adams's description, were to be used as "...an investigative aid only," and that "...[d]istribution of the composite at this stage to the Sikh community ... would be premature."<sup>362</sup>

Adams was subsequently interviewed twice under hypnosis, as it was hoped that she could provide further details about the description of "M. Singh."<sup>363</sup> Indeed, the description that had been provided thus far would not have provided investigators with much to go on in the way of distinguishing features of "M. Singh". Results of an initial attempt at hypnosis were unsatisfactory and a further attempt was made on August 6, 1985.<sup>364</sup> The description provided by Adams at this time put "M. Singh" at a shorter 5'5"-5'6", and at the lower end of the age range she had initially provided – i.e. 35 years old.<sup>365</sup>

Adams participated in three photographic lineups – the first on June 25, 1985, the second in 1987 and the third in 1988. In the course of those lineups, she

<sup>356</sup> Exhibit P-101 CAF0450, p. 4.

<sup>357</sup> Exhibit P-456, p. 2.

<sup>358</sup> Exhibit P-101 CAF0667; Exhibit P-456, p. 1.

<sup>359</sup> Exhibit P-456, p. 1.

<sup>360</sup> Exhibit P-101 CAF0667.

<sup>361</sup> Exhibit P-456, p. 3.

<sup>362</sup> Exhibit P-391, document 86 (Public Production # 3206), p. 7.

<sup>363</sup> Exhibit P-101 CAA0290(i), p. 7; Exhibit P-456, p. 2.

<sup>364</sup> Exhibit P-101 CAB0460.

<sup>365</sup> Exhibit P-456, p. 2.

identified various individuals as “similar” or “very similar,” but did not definitively identify anyone as the man she had dealt with at the baggage counter, “M. Singh”. On the form she completed during the first photographic lineup, she indicated that: “This is not a definite identification as I cannot remember the passenger’s face – as much as the incident, which I remember more clearly.”<sup>366</sup>

Despite the fact that the flight manifest for CP003 Vancouver to Narita showed that “L. Singh” had checked in through Adams, when she was interviewed Adams was unable to recall “L. Singh” checking in through her.<sup>367</sup> Unfortunately, there is no known description of “L. Singh”.

Mr. Z always indicated that two Sikhs had been tasked with checking in the luggage, and always indicated that the two individuals had come from two different families – which will be referred to here as Family 1 and Family 2. However, he named different individuals from these two families at different times.<sup>368</sup> He had identified two individuals, who were members of Family 1, as the first individual responsible for checking in the luggage (and who for the purpose of this account will be referred to as the purported L. Singh “A” and L. Singh “B”). He also named three persons, who were all members of Family 2 and had a connection to Ajaib Singh Bagri, as the second individual responsible for checking in the luggage (who for present purposes will be referred to as the “purported M. Singh”). These three individuals will be referred to here as M. Singh “A”, M. Singh “B”, and M. Singh “C”. For clarity, it should be noted that Mr. Z did not specify which of the individuals he named was the purported “L” or “M” Singh. They are being designated as such for the purposes of convenient reference in this narrative.<sup>369</sup>

In relation to M. Singh “A”, it was concluded by investigators Wall and Hammett that, “[i]t’s possible this person could have been in Vancouver the next morning, but there is nothing to indicate his whereabouts. He doesn’t look like our suspect composites.”<sup>370</sup>

In relation to M. Singh “B”, this individual’s photograph was obtained and compared to the composite drawings done by Adams. There was no match to the photos.<sup>371</sup>

To verify or reject the identity of the purported L. Singh “A”, a plan was formulated to observe this individual “at close range” and then to compare the physical observations of this person with the descriptions that had been provided by Adams. It was felt that “...if this information was accurate,” then it would “set the tone” for further investigation of Mr. Z’s information.<sup>372</sup> Cpl. Donald de Buijn was able to observe this individual, now over a year and a half post-bombing, and found that in relation to Adams composite:

<sup>366</sup> Exhibit P-456, p. 2 [Emphasis in original].

<sup>367</sup> Exhibit P-101 CAF0667, p. 4.

<sup>368</sup> Exhibit P-454, p. 1.

<sup>369</sup> See Exhibit P-454.

<sup>370</sup> Exhibit P-101 CAF0450, pp. 2-3; Exhibit P-455.

<sup>371</sup> Exhibit P-101 CAF0450, p. 4; Exhibit P-455.

<sup>372</sup> Exhibit P-101 CAF0450, p. 4; Exhibit P-455.

...he was similar in height and build, East Indian complexion, round face. However he was different by his hair, it was combed straight back, not wavy and not parted on the left side. He did not fit the composite done by the witness.<sup>373</sup>

At the end of the RCMP report, the officers noted that research in the debriefing reports indicated that "...all of this information, ours and CSIS [*sic*], seems to centre around [Mr. Z]," and that there had not been a "hard link" but rather only "...speculation on somebody's part." In the investigators' opinion, for "...Mr. Warren (James Warren, OIC of Counter Terrorism) [to] come out and say that they have identified the two Sikhs" is "...not to say the least premature." They added that it seemed "...somewhere along the lines their information has been taken out of context."<sup>374</sup>

The report concludes that there would be "...no further investigation on this tip unless we receive substantive information from CSIS or our own sources."<sup>375</sup> Given that CSIS had been ordered to stop its investigation of this lead, it would seem unlikely that the RCMP would be receiving further information from CSIS about this situation. It must be noted that, as the RCMP only had a composite drawing and identification information about one of the two individuals believed to have checked in the bags, the elimination of potential suspects on the basis of information about the identification of "M. Singh" only would seem to have been a questionable practice.

On March 18, 1987, RCMP Headquarters sent a letter to CSIS asking for confirmation that there was no longer a bar to conducting "...overt enquiries and interviews in the [redacted] area" in furtherance of the Mr. Z information. RCMP HQ indicated that it would be advising E Division to proceed with its efforts to develop this aspect of the investigation.<sup>376</sup> This consent was confirmed by CSIS on March 26, 1987.<sup>377</sup>

On June 12, 1987, Wall's notes contain an entry stating:

There is a lengthy review of the scenarios. Both have potential for disaster due in part to inaction by senior management, i.e. Acting Ops Officer.<sup>378</sup>

When asked about this entry, Wall indicated that it related to his attempts to have an operational plan approved in relation to the Mr. Z situation. His unit had submitted the plan, which "...didn't appear to be going up the chain rapidly enough to suit [him]."<sup>379</sup>

<sup>373</sup> Exhibit P-101 CAF0450, pp. 4-5; Exhibit P-455.

<sup>374</sup> Exhibit P-101 CAF0450, p. 5; Exhibit P-455.

<sup>375</sup> Exhibit P-101 CAF0450, p. 5; Exhibit P-455.

<sup>376</sup> Exhibit P-101 CAA0538.

<sup>377</sup> Exhibit P-101 CAB0720.

<sup>378</sup> Exhibit P-101 CAF0508; Exhibit P-455.

<sup>379</sup> Testimony of Robert Wall, vol. 77, November 16, 2007, p. 9730.

### 1988: RCMP Conducts Photo Lineup and Interviews Suspects

On February 5, 1988, Adams was contacted at Vancouver International Airport and viewed a photo lineup in relation to the Mr. Z investigation. She was unable to indicate anyone as a positive match to the suspect at the airport. She did, however, point out several photos as “look-alikes” – all those she pointed out had the round face and either wavy or curly hair. One of the photos she did select was the purported L. Singh “A”. However, it was noted that “...no preference was given to him over the others selected.”<sup>380</sup>

In early February 1988, Cst. McRae and Cpl. R.A. Boyarski conducted interviews with regard to the Mr. Z issue in conjunction with the arrest of Inderjit Singh Reyat. Those interviewed were the purported M. Singhs “A”, “B”, and “C”, and the purported L. Singh “A”. There was no mention of the RCMP interviewing L. Singh “B” at this time, and efforts by the RCMP to locate information on file about any such interview turned up negative.<sup>381</sup>

The officers concluded that the purported M. Singhs “A” and “C” did not fit the descriptions for the possible suspect nor did they speak fluent enough English. Both denied any involvement in the occurrence. M. Singh “B” was very cooperative and denied any involvement. He advised that he would take a polygraph and would submit to a lineup if necessary. As the interview continued, he became more uneasy when the officers put to him that he had been involved in the plot. However, the officers concluded that his reaction was not that of someone trying to hide something, but rather that he seemed angered by the officers’ statement.<sup>382</sup>

L. Singh “A” denied any involvement.<sup>383</sup> While this individual admitted to having associations with Bagri and had a good command of English, his description “... was not totally consistent” with the description provided by Adams. According to RCMP records, “...the investigation was unable to eliminate this individual or confirm him as a suspect for having checked in the suspect bag.”<sup>384</sup> Nevertheless, the officers concluded that there was nothing further to do with respect to the investigation of this individual at that time.<sup>385</sup>

Investigators concluded that, at this point in time, there was nothing to indicate that any further investigation was necessary. The results of source information, photo lineups, factual information, and interviews conducted were all “negative.”<sup>386</sup>

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380 Exhibit P-454.

381 Exhibit P-454.

382 Exhibit P-454.

383 Exhibit P-454.

384 Agreed statement read into testimony by agreement with the Attorney General of Canada during Testimony of Robert Wall, vol. 77, November 16, 2007, p. 9729.

385 Exhibit P-454.

386 Exhibit P-454.

Officers sent a telex to Ottawa HQ indicating that discussions would be held about the future direction of the file, and that it was likely that they would be "...concluding this scenario."<sup>387</sup>

The RCMP taped the interview of L. Singh "A", along with the interviews of the three purported "M. Singh" suspects. However, the "...tapes were destroyed for unknown reasons during the investigation. There were no copies of the tapes made and none were transcribed."<sup>388</sup> The RCMP second-in-charge of the investigation, Wall, had no recall of this incident.<sup>389</sup>

### 1997: RCMP Interviews Suspects

It does not appear that there was any further RCMP discussion of this matter until early in 1995, when members of the E Division National Security Investigations Section (ENSIS) met for the purpose of conducting a review of the Air India file and generating new leads. In the course of that discussion, the topic of the various individuals who had been identified by Mr. Z as the two Sikhs who had checked in the luggage arose. It was suggested that the individuals be re-interviewed and polygraphed if this had not already been done.

The next action by the RCMP on this file was two years later, in 1997 – over ten years after this information first surfaced.

In January of 1997, Cpl. Bart Blachford and S/Sgt. John Schneider went to the residence of M. Singh "A" and "B". M. Singh "A" appeared to be "...very nervous at the start when it was explained we were there regarding the Air India investigation." Apparently, he "...started breathing very deeply" and this continued until M. Singh "B" joined in. M. Singh "A" denied staying with Ajaib Singh Bagri in Kamloops,<sup>390</sup> and denied the allegation that he may have checked in the suspect bags at Vancouver airport or that he had ever been asked to do this. Both M. Singh "A" and "B" admitted having a connection to Bagri.<sup>391</sup> When investigators suggested to them that perhaps the person who had checked in the bag was "duped" and was "unaware of the contents," both still maintained their lack of involvement.<sup>392</sup>

While M. Singh "A" agreed to take a polygraph test, M. Singh "B" refused, saying that "...whoever made those allegations should take the test first." Attempts to persuade him failed.<sup>393</sup>

On March 12, 1997, Blachford went to the residence of M. Singh "A" and brought him to the Surrey detachment to conduct the test.<sup>394</sup> He was found to be

<sup>387</sup> Exhibit P-454.

<sup>388</sup> Agreed statement read into testimony by agreement with the Attorney General of Canada during Testimony of Robert Wall, vol. 77, November 16, 2007, p. 9729.

<sup>389</sup> Testimony of Robert Wall, vol. 77, November 16, 2007, p. 9729.

<sup>390</sup> Exhibit P-101 CAF0451; Exhibit P-455.

<sup>391</sup> Exhibit P-290, Admission F; Exhibit P-455.

<sup>392</sup> Exhibit P-101 CAF0451; Exhibit P-455.

<sup>393</sup> Exhibit P-101 CAF0451; Exhibit P-290, Admission F; Exhibit P-455.

<sup>394</sup> Exhibit P-101 CAF0453; Exhibit P-455.

telling the truth when he denied aiding the BK by delivering the luggage to the Vancouver Airport or checking in the luggage.<sup>395</sup> It was concluded that this should "...resolve our concern" that he was involved with the movement of the luggage on June 22, 1985. That M. Singh "A" was not involved is "...supported by [redacted] where he was documented as having worked the 21<sup>st</sup> of June completing the shift at 2400hrs. [Redacted] maintains that [redacted] then he would not be able to leave on the bus ... [and] be in Vancouver in time to check the luggage and this was borne out by the polygraph." No further action regarding this individual was deemed to be required at the time.<sup>396</sup>

During this period, Schneider also went to the residence of the purported L. Singh "A". In an interview on February 17, 1997, Schneider found him "...very relaxed and cooperative" and he stated that he never saw much of Bagri once Bagri became militant and a member of the Babbar Khalsa. He said that he was not associated with any Sikh religious group and was not a devout religious believer. He denied transporting any luggage or bags for Bagri or his associates to the Vancouver airport and said he was never asked to check in any bags for Parmar or their associates. He did not know Bagri's associates such as Parmar, Gill or Johal. He stated that in 1985 he had "...fairly short hair, combed back, no mustache or beard and never wore a turban." It does not appear that Schneider requested to see a photo of the purported L. Singh "A" from that period. Schneider concluded that he did not "...resemble the composite from Jeanie [sic] Adams." The purported L. Singh "A" told Schneider that he had never been asked in the past about the luggage carrying the bombs and said that he did not know why anyone would suspect him. This was not accurate, as investigators McRae and Boyarski had interviewed L. Singh "A" in 1988. It is unclear whether Schneider was aware of this inconsistency, as he concluded that the purported L. Singh "A" appeared to be truthful, and that he did not feel it was necessary to consider a polygraph examination of this individual. The tip on this individual was "concluded."<sup>397</sup>

M. Singh "C" was polygraphed during this period and was found to have been truthful about his lack of involvement.<sup>398</sup>

In a March 14, 2002 memorandum from Blachford to Cpl. Baltej Singh Dhillon, on the subject of "Alternate Theories," it was noted that M. Singh "A" and "C" passed polygraph tests and that the purported L. Singh "A" had been cleared after an interview.<sup>399</sup> There was no conclusion in relation to M. Singh "B", the individual who had refused to submit to a polygraph test.

Wall was asked about the follow-up conducted by the RCMP in relation to the Mr. Z information. He testified that the follow-up investigation, including

<sup>395</sup> Exhibit P-101 CAF0453, CAF0454, CAF0456; Exhibit P-455.

<sup>396</sup> Exhibit P-101 CAF0453; Exhibit P-455.

<sup>397</sup> Exhibit P-101 CAF0452, pp. 1-2; Exhibit P-455.

<sup>398</sup> Exhibit P-101 CAF0457; Exhibit P-455.

<sup>399</sup> Exhibit P-101 CAF0457; Exhibit P-455.



interviews and polygraphs of suspects and associates, led the RCMP to the ultimate conclusion that the individuals implicated had no involvement in the bombing of Air India Flight 182.<sup>400</sup>

### Conclusion

The RCMP, once it began to make inquiries in relation to the Mr. Z information, following soon after CSIS's positive reporting on the Mr. Z information to the Solicitor General, appeared eager to dismiss the lead on the basis of questionable identification comparisons to the composite by Jeanne Adams, and then decided it would make no further inquiries until CSIS provided more solid evidence of the connection.

The Attorney General of Canada submitted that:

When the RCMP took the lead on the Mr. Z information, they followed up and investigated thoroughly, on occasion with the assistance of CSIS, including the use of polygraphs. The police were unable to verify the information provided by Mr. Z, and the lead dissolved into another dead end.<sup>401</sup>

However, the documents used by the AGC to support the assertion that the RCMP followed up "thoroughly" relate to the "observations" of certain suspects that were made by the RCMP in 1987 and the polygraphs and interviews that were conducted in 1997 – over ten years after the Mr. Z information first surfaced. Also not referenced in their submissions is the information that indicated that the interview of one suspect in 1988 was neither able to exclude nor confirm this individual's involvement.

While the RCMP relegated the Mr. Z information to another "alternate theory,"<sup>402</sup> the manner in which the RCMP followed up on this information raises questions about whether this lead was really a "dead end," as reported.

To this day, the individuals who were responsible for checking in the luggage carrying the bombs have never been identified.

### 2.3.3 The Purported Parmar Confession

#### Introduction

In September 2007, representatives of the Punjabi Human Rights Organization (PHRO) testified at the Commission hearings about their belief that in 1992, Talwinder Singh Parmar was captured, tortured and killed by the Indian police,

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<sup>400</sup> Testimony of Robert Wall, vol. 77, November 16, 2007, pp. 9744-9745.

<sup>401</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 259.

<sup>402</sup> Exhibit P-101 CAF0457; Exhibit P-436.

and that prior to his death he provided a “confession” regarding his role in the Air India bombing. This section will explore how the Inquiry came to obtain this information, what the information was, how the RCMP came into possession of the information and what was ultimately done with it.

The mandate of this Commission includes the question of how institutions in Canada can better utilize intelligence as evidence in court. Apart from its inherent historical interest in terms of the Air India narrative, the “Parmar confession” illustrates the challenges that arise from intelligence originating in foreign jurisdictions, and, in particular, from foreign jurisdictions which may follow rules and procedures which differ vastly from ours, or whose values are significantly different from our own.<sup>403</sup>

### **Parmar’s Death – The Official Version**

In May 1991, Indian Prime Minister Rajiv Gandhi was assassinated. Soon after, the Government of India set up an inquiry, known as the Jain Commission, to look into the conspiracy that led to the assassination of Gandhi. The Jain Commission produced a massive report in April 1993. One small part of the report<sup>404</sup> focuses on the alleged police encounter in which Parmar was killed, which took place on October 15, 1992, at the village of Kang Araian, in the Jalandhar District of the Punjab state in India. The official version of how Parmar died is contained in this report. The volume includes sworn statements by eyewitnesses and the police involved, as well as a copy of the post-mortem report.<sup>405</sup>

According to the report, on October 10, 1992, Shri S.K. Sharma, the Senior Superintendent of Police (SSP) in Jalandhar was informed by a reliable source that “...suspected terrorists armed with lethal weapons”<sup>406</sup> were in the Phillaur sub-division of Jalandhar district. On October 14th, the source further informed the police that the leader of the gang was Talwinder Singh Parmar, “...a hard core Sikh terrorist who had been evading arrest since 1982.”<sup>407</sup> The gang also included two Muslims and three other terrorists who were all travelling in two Suzuki Maruti cars.<sup>408</sup> The police made plans for a night patrol in order to catch the group:

On going through the old police records it was established that Talwinder Singh Parmar had been a front ranking leader of Sikh terrorist movement right from its inception. He had been involved in large number of cases of terrorist violence

<sup>403</sup> Comment by Commission Lead Counsel regarding the Attorney General of Canada’s Final Submissions on Phase One, Transcript, vol. 51, September 24, 2007, p. 6279.

<sup>404</sup> Entitled “Report of the Enquiry on the police encounter at Village Kang Araian, P.S. Phillaur, District Jalandhar on October 15, 1992 conducted by Shri V.K. Jain, Special Secretary, Government of India, Ministry of Home Affairs, New Delhi.”

<sup>405</sup> Exhibit P-101 CAF0326, pp. 2-3.

<sup>406</sup> Exhibit P-101 CAF0326, p. 4.

<sup>407</sup> Exhibit P-101 CAF0325, p. 45.

<sup>408</sup> Exhibit P-101 CAF0326, p. 4.

in India and abroad which included hijacking, murder, shoot-outs, gun-running etc. He was also a prime suspect in Kanishka air crash of June 23, 1985.... Keeping in view the background and desperate character of Parmar and his gang, SSP Jalandhar made elaborate operational plan to apprehend the gang.<sup>409</sup>

On the morning of October 15, 1992, at 5:30 AM, two Maruti cars were observed approaching a bridge near the village of Kang Araian. The police, who were there waiting, signalled for the two cars to stop. The cars "...screached to a halt" and the occupants rushed out "...indiscriminately firing towards the police post with automatic weapons."<sup>410</sup> The police returned fire. Two of the terrorists were killed immediately. One terrorist armed with an AK-47 took cover nearby and continued firing on the police. One group of police provided cover fire so that SSP Jalandhar could approach the terrorist. At this point the terrorist threw two hand grenades at the police, but the police took cover and suffered no injuries. Then SSP Jalandhar killed the terrorist:

SSP Jalandhar climbed up on the roof and from there fired at the extremist instantaneously killing him on the spot. This extremist was subsequently identified as Talwinder Singh Parmar.<sup>411</sup>

Close by, another group of three terrorists began firing on the police.<sup>412</sup> That encounter resulted in the death of the final three terrorists. After the gunfight the police recovered the bodies of the six terrorists, guns and ammunition, documents, vehicles and currency.<sup>413</sup>

The facts determined by the report (and indeed the entire police encounter) were brought into question by the information provided to this Inquiry by the PHRO.

### **The Punjabi Human Rights Organization**

The Punjabi Human Rights Organization (PHRO) is an organization that investigates human rights violations in the state of Punjab in India.<sup>414</sup> Two members of the PHRO approached the Commission with information regarding the death of Parmar.

In the early 1990s, their lead investigator, Sarabjit Singh, heard about an alternate version of how Parmar died. He was approached by two reporters from the *Indian Express*, an Indian newspaper, who wanted his help in investigating the

<sup>409</sup> Exhibit P-101 CAF0325, p. 46.

<sup>410</sup> Exhibit P-101 CAF0325, p. 47.

<sup>411</sup> Exhibit P-101 CAF0325, p. 51.

<sup>412</sup> Exhibit P-101 CAF0325, p. 51.

<sup>413</sup> Exhibit P-101 CAF0326, pp. 6-8.

<sup>414</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6281.

death of Parmar. Singh investigated the story, but the *Indian Express* chose not to print it.<sup>415</sup> Singh did not pursue the matter further. However, in 2005, news of the acquittal of Ripudaman Singh Malik and Bagri reached India. At the time, Singh was travelling in a car and the news of the acquittals came on the radio. The person Singh was travelling with revealed that he knew all about the case.

The story Singh was told was that Parmar was captured by the police and held in custody for a number of days prior to being killed in a staged shootout. The story was similar to what he had heard in the 1990s when he had first tried to investigate the death of Parmar.

His interest rekindled, Singh set out once more to uncover what he could about Parmar's death, as part of a PHRO-sanctioned investigation. He tracked down persons alleged to have knowledge of the incident and interviewed them. Based on interviews of persons allegedly with Parmar in his final days, he determined that Parmar had been interrogated by the police prior to his death and that between four and twelve persons had been present during that interrogation.<sup>416</sup>

In the process of interviewing and investigating the story, Singh came into possession of a number of documents, including an alleged transcript of the interrogations. Singh also heard recordings of some of the events which led to Parmar's capture.<sup>417</sup>

### **The Capture of Parmar**

Singh uncovered a great deal of information relating to the story of Parmar's capture. The story begins with the arrest of two men in the Punjab. One of the men had a 50 rupee bill that had been torn in two. The two men were interrogated and, eventually, one of them revealed that they had been expecting to pick up a number of arms and weapons and that the delivery person was to identify himself by presenting the other half of the torn rupee note. However, by the time that this information was revealed, the scheduled meeting time had passed. Further questioning revealed the name of a contact whose alias was "Tank." Tank was then apprehended and, under questioning, disclosed that he was in contact with Talwinder Singh Parmar.<sup>418</sup>

Tank stated that he contacted Parmar through another person known as "Major." Tank knew the phone number for Major, so the police had Tank call Major to set up a trap to lure Parmar from Pakistan to the Punjab.<sup>419</sup> In addition, the police taped the phone calls between Tank and Major, and the PHRO had the benefit of listening to tapes of those conversations, which corroborated much of the capture story.

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<sup>415</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6287.

<sup>416</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, pp. 6287-6289.

<sup>417</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, pp. 6289-6290.

<sup>418</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6291.

<sup>419</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6292.

It was understood that Parmar was going to make his way to the Punjab. Parmar first made his way to Jammu, a northern state in India. Coincidentally, when he arrived in the capital of Jammu, a bomb blast occurred. As a response to the blast, the Jammu police rounded up individuals roaming the streets at night and, without knowing his identity, captured Parmar.<sup>420</sup>

Parmar contacted Major to let him know that he had been apprehended. He told Major that the Jammu police believed he was a person called "Professor Sahib." Major contacted Tank and told him of Parmar's capture. This information was obtained by the Punjab police through their intercept of phone conversations between Tank and Major.<sup>421</sup>

The Punjabi police then contacted the Jammu police, but did not tell them the true identity of Parmar. Instead, they said his name was "Saroop Singh" and that he was a police informant. As a result, the Jammu police handed him over into the custody of the Punjabi police without ever knowing who it was they had really captured.<sup>422</sup>

Once Parmar was in the hands of the Punjabi police, he was brought back to their police station and interrogated. They extracted biographical information from Parmar as well as information about his activities, including some information about the Air India bombing. The information was handwritten in the Punjabi language.<sup>423</sup> The PHRO obtained a copy of the document and provided the Inquiry with a translation, which they called "The Life Story of Talwinder Singh Parmar (Translated by R.S. Bains)."<sup>424</sup>

The document purports to tell the story of who Parmar was, and certain crimes he was allegedly involved in, as well as those who assisted him in his endeavours. He discusses the Air India bombing and does not deny his involvement with it. However, the main focus of the document was not the bombing itself but, rather, crimes committed in India.<sup>425</sup>

### **Highlights of "The Life Story of Talwinder Singh Parmar"**

The key document provided to the Inquiry by the PHRO is a translation of the handwritten documents the PHRO obtained.<sup>426</sup> The document, entitled "The Life Story of Talwinder Singh Pamar,"<sup>427</sup> begins by providing biographical information about Parmar, including his birthdate, the names of his immediate family and a short biography about Parmar's youth. The document then details how Parmar became influenced by Sikh preachers and was baptized as a Sikh. The document

420 Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6292.

421 Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, pp. 6293-6294.

422 Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6294.

423 Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6294.

424 See Exhibit P-216.

425 Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6297.

426 Exhibit P-216.

427 The title was not on the original document but was given to the document by the PHRO. See Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6296.

also states that Parmar met Sant Jarnail Singh Bhindranwale in the late 1970s.<sup>428</sup> The document details Parmar's rise to the leadership of the BK and his various trips back and forth between India and Canada.

A short two-page section of the document concentrates on the Air India bombing. This section is bolded in the document, an emphasis the PHRO added.<sup>429</sup> The information implicates Lakhbir Singh Brar, head of the International Sikh Youth Federation, as the mastermind behind the bombings:

Around May 1985, one activist of ISYF came to me and disclosed his name as Lakhbir Singh and told me that he had come from Winnipeg, and he asked some help from me, for doing some intense activities. I told him the way of conducting a [sic] explosion/bomb blast with dynamite.<sup>430</sup>

The document also names Lakhbir Singh Brar as Mr. X who attended the Duncan Blast:

Around 4 days later since I don't remember the date, the same Lakhbir Sinh [sic] Winnipeg [sic] and one Youngman [sic] Inderjit Singh Ryat [sic] came to me. I was ready and the same three went in the car to the forest. There a blast was done with the help of small piece of dynamite after connecting it to the battery through wire from afar, which exploded with powerful blast.... The fact is that at that time itself they had in mind a plan to explode an aircraft with such explosion. They disclosed this plan to me while talking on return journey.... They on the same day took dynamite sticks from me and went away.<sup>431</sup>

It also names Lal Singh (also known as Manjit Singh)<sup>432</sup> as the person who purchased the tickets:

No doubt thereafter Lakhbir Singh, Inderjit Singh and one of their associates Manjit Sinjh prepared a plan to blast two air craft flights.... Lakhbir Singh booked the tickets from Vancouver to Tokyo through local flight [and] then from Tokyo to Bangkok and Manjit Singh booked the tickets from Vancouver to Toronto and again from Toronto to New Delhi through Air India.<sup>433</sup>

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428 Exhibit P-216, pp. 2-3.

429 Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6296.

430 Exhibit P-216, pp. 6-7.

431 Exhibit P-216, p. 7.

432 Exhibit P-101 CAF0334, p. 2.

433 Exhibit P-216, p. 7.

Throughout the document, Inderjit Singh Reyat's well-known role is maintained:

And Inderjit wanted for this purpose ... transistor fitted with battery which, at the appointed time, automatically connects with the battery and the battery by creating sparks then shall explode dynamite.... They made such arrangements that Inderjit fitted dynamite bomb along with batteries in the transistor and then fitted them in the bags filled with luggage.<sup>434</sup>

In the thirteen-page document, only two pages are dedicated to the Air India bombing. The rest focuses on Parmar's terrorist activities in India.

### **Efforts to Bring the Purported Confession to the Attention of the Canadian Authorities**

At the completion of their investigation, the PHRO attempted to contact Canadian authorities in an effort to advise them of the information they had uncovered. They believed that the information consisted of a confession by Parmar and the revelation of the identity of Mr. X which could further assist Canadian authorities in their ongoing investigation.<sup>435</sup>

The PHRO first tried to contact the RCMP directly in December 2005. However, the RCMP did not respond. Then, in January 2006, the PHRO contacted Gurjinderjit Singh Sahota, an Indian resident living in Canada, who had been a lawyer in Amritsar and so was known to the PHRO. The PHRO asked Sahota to contact the RCMP on its behalf. Sahota emailed Dan Bond of the RCMP. Bond did reply to Sahota, but the impression the PHRO got was that the RCMP was not really interested in obtaining the information.<sup>436</sup>

On August 18, 2006, Sahota contacted the Attorney General of British Columbia. On September 1, 2006, Geoffrey Gaul, Director of Legal Services, referred the PHRO to the Air India Inquiry, and in particular, Mark Freiman, lead Commission Counsel.<sup>437</sup>

In June 2007, with the PHRO scheduled to testify, the RCMP finally appeared interested in the PHRO information and a meeting was scheduled. Prior to that meeting the RCMP had no knowledge of what the PHRO had to offer.

The PHRO representatives did not testify in June 2007, in part for reasons that cannot be discussed in this Report. Following intensive discussions and negotiations, the PHRO representatives returned to Canada in September.

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<sup>434</sup> Exhibit P-216, p. 7.

<sup>435</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6299.

<sup>436</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, pp. 6298-6299, 6303, 6305-6307.

<sup>437</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6307.

It was only in September of 2007, just prior to their testimony, that PHRO representatives, at the urging of this Commission, once more attempted to meet with the RCMP. This time the meeting was successful and a great deal of information was passed. In fact, the PHRO gave the RCMP all of the information they had collected. Rajvinder (Singh) Bains (also known as R.S. Bains) felt that the RCMP was pleased with the information provided by the PHRO.<sup>438</sup>

The fact that it took the efforts of a Commission of Inquiry to transmit the information to the RCMP is troubling. As Jacques Shore, counsel for the families, stated:

[A]ttempts were made to bring it to the attention of the authorities back in 2005 and some of that ... may have assisted in the investigation a lot earlier than having to wait for a Commission of Inquiry to provide the setting in which this information ultimately finds its way in the hands of the RCMP, that's where my concern is.<sup>439</sup>

However, according to Insp. Lorne Schwartz, the information provided by the PHRO did not contain any new details, though, at the outset, the RCMP did not know the details of what the PHRO had to offer and whether or not it could have led to new revelations for the case.<sup>440</sup>

The PHRO was correct to believe that these matters should be aired at the Inquiry. The circumstances that prevented the PHRO from testifying as originally scheduled in June 2007 cannot be discussed with any specificity. It is sufficient to note that no blame can be attached to the PHRO representatives for their initial reluctance. The ensuing negotiations through the Attorney General of Canada, and others with various interested parties, led to evidentiary compromises that allowed the essence of the testimony to be heard. It is unfortunate that so much effort was required to allow this to happen.

## **The RCMP's Knowledge of the Parmar Information**

### **The RCMP First Learns of the Purported Parmar Confession**

In May of 1997, the RCMP received information about a purported Parmar confession from a number of sources,<sup>441</sup> and was advised that the purported confession disclosed the identity of Mr. X, the third person who was present with Parmar and Reyat at the test blast site in Duncan.<sup>442</sup>

<sup>438</sup> Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6309.

<sup>439</sup> See Statement of Jacques Shore during Testimony of Rajvinder (Singh) Bains and Sarabjit Singh, vol. 51, September 24, 2007, p. 6313.

<sup>440</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6371.

<sup>441</sup> Exhibit P-101 CAF0334, p. 1: This document was prepared to summarize the steps that were taken by the RCMP once they received this information in May of 1997; Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6318.

<sup>442</sup> Exhibit P-101 CAF0334, p. 1.



Phone calls by the RCMP to India confirmed that the individuals from whom this information came believed they knew the identity of Mr. X, the names of the people who checked in the baggage in Vancouver, as well as the identity of the person who interlined the bags to Toronto. The RCMP was told that it could obtain much more information if it met the individuals in person, but that the meeting should not take place in India as it would draw attention to the individuals and possibly put them at risk.<sup>443</sup>

Insp. Lorne Schwartz was on the Air India Task Force when this information was received, and had had some role in the RCMP's follow-up investigation in relation to the purported Parmar confession. Prior to his testimony before the Commission, he also had the opportunity to review the RCMP records in relation to the follow-up of this issue by the Task Force.<sup>444</sup>

According to Schwartz, it took several months for the RCMP to obtain the information, due to complications with diplomatic protocol and due to concern for the safety of sources.<sup>445</sup> Throughout June and into August 1997, the RCMP had contact with the individuals, attempting to set up a meeting – possibly in a third country.<sup>446</sup>

In September 1997, a letter was received from the individuals indicating that they would not travel to a third country, as per the RCMP's suggestion, and preferred that the RCMP travel to India at that point. The letter also advised that Mr. X was Lakhbir Singh Brar, a member of the ISYF; that he had also booked one of the Air India tickets under the name of "L. Singh"; and that Manjit Singh had purchased the other. The RCMP called India and confirmed that the individuals believed Brar to be Mr. X, as well as their belief that he was from Winnipeg. On November 7, 1997, documents were received from India which had been sent through the RCMP Liaison Officer in New Delhi by diplomatic bag. The documents provided further information about the facts contained in the alleged Parmar confession.<sup>447</sup>

Then, in 1999, one of the individuals met with the RCMP and indicated that Parmar had apparently admitted his involvement in the bombing of Air India, among other terrorist plots. At two further meetings in 1999, this individual also advised that three people took the luggage containing the bombs to the airport, obtained boarding passes, but did not get on the plane. Additional information was provided which indicated that Manjit Singh and Lal Singh were in fact the same person, and that Parmar had indicated that the Narita bomb had exploded prematurely.<sup>448</sup>

Whether or not the information in the confession is accurate, the information itself, how it came to be obtained by the RCMP and what the RCMP did with

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<sup>443</sup> Exhibit P-101 CAF0334, p. 1.

<sup>444</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6317.

<sup>445</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6320-6321.

<sup>446</sup> Exhibit P-101 CAF0334, pp. 1-2.

<sup>447</sup> Exhibit P-101 CAF0334, p. 2.

<sup>448</sup> Exhibit P-101 CAF0334, p. 2.

the information, all raise questions. As well, the details of the RCMP's follow-up investigation illustrate difficulties and complexities inherent in investigations that take the RCMP away from the ground rules and assumptions of the Canadian domestic context.

### **The RCMP Follow-Up on Information**

Schwartz explained the process used to follow up on new information. An investigator furnishes the new information to the file coordinator who, together with the lead investigators, compares it to information already on file and identifies the need, if any, for follow-up. Any one lead is not necessarily dealt with by the same investigator, but rather follow-up initiatives are farmed out as required. Schwartz explained that, while investigators would be interested in following up on new information received, the investigation was already 12 years old by that time, and there were "volumes of information," some of which "...was confirmed and would later be entered as evidence ... to compare this new information with, for its validation."<sup>449</sup>

According to Schwartz, at the time the RCMP received this information, it already knew the points of contact for the booking and the purchasing of the tickets for the flights, and had descriptions on file of the individuals who had picked up the tickets and, to a degree, of those who had delivered the luggage to the airport. There was also a physical description of Mr. X and an understanding of the roles carried out by Mr. X, Parmar and Reyat. Some of the information in the alleged Parmar confession "...on its face appeared to be problematic" to the RCMP, as it "...didn't really match with evidence that [the RCMP] knew to be factual." For example, the information in the purported Parmar confession was that both Lakhbir Singh Brar and Lal Singh had a role in booking the tickets. This information did not accord with the information the RCMP had gathered from witnesses involved in those transactions – that the same individual was responsible for the booking of both tickets. It was felt that while the information "...was of interest" and "...worthy of following up," these factors "...tended to minimize the importance of it to a degree."<sup>450</sup> The RCMP was also aware of the possibility that this purported confession might have resulted from physical or mental torture.<sup>451</sup>

The information related to the Parmar confession raised obvious questions about the alleged involvement of two named individuals, Lal (Manjit) Singh and Lakhbir Singh Brar. According to the RCMP, in terms of its follow-up of this information, it conducted overseas interviews of Lal Singh and Lakhbir Singh Brar, interviewed various people "...in Canada and elsewhere" about these individuals, and reviewed police files for additional information.<sup>452</sup>

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<sup>449</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6325, 6330.

<sup>450</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6341, 6346, 6368-6369.

<sup>451</sup> Exhibit P-101 CAF0334, p. 3.

<sup>452</sup> Exhibit P-101 CAF0334, p. 3.

### The RCMP Follow-Up on Allegations in Relation to Lakhbir Singh Brar

During the course of the RCMP Air India investigation, and up until 2001, Brar was never interviewed as a potential witness or as a suspect regarding the Air India and Narita bombings,<sup>453</sup> despite the fact that he was reported to have been present at the June 12, 1985, Khurana meeting, where Pushpinder Singh was alleged to have vowed that something big would happen in two weeks,<sup>454</sup> and although he had frequently been in the company of the Babbar Khalsa and Akhand Kirtani Jatha (AKJ) suspects, and had been present at various meetings and Sikh temple fundraisers with suspects in the bombings prior to and after the offences. He was also reported to have been a terrorist.<sup>455</sup> In June 1985, the RCMP began conducting extensive surveillance of Brar, and this continued for several weeks before the RCMP discontinued all coverage.<sup>456</sup> After expending considerable time and resources "...following Lakhbir Singh [Brar] across the country,"<sup>457</sup> the RCMP noted that Brar's activities "...had not indicated a touch of criminality"<sup>458</sup> and no further action was taken. Brar left Canada in 1991 and moved to Lahore, Pakistan, while his family remained in Canada. He remained the leader of the ISYF.<sup>459</sup>

The allegation that Lakhbir Singh Brar, a member of the ISYF, was Mr. X did not accord with the RCMP's primary theory – that the bombing was an act of the Babbar Khalsa alone.<sup>460</sup> The RCMP also believed that they had "pertinent information" about Brar for the period of time around the bombing that substantially did not match with the Parmar confession. In addition, the RCMP also had knowledge of Lakhbir Singh Brar's travels and information that he had not spent extensive time in Winnipeg, though he may have been there at different times.<sup>461</sup>

Significant emphasis was placed on the fact that, according to Schwartz, the known physical descriptions of Lakhbir Singh Brar did not match with those on file for Mr. X. The RCMP believed that Brar would have been too old at the time of the incident to fit the known descriptions of Mr. X. CSIS surveillance had described Mr. X as being in his late teens, whereas Brar, according to the information in the file, was thought to have been 33 years old at the time of the blast. The information on which the RCMP based its understanding of the age of Brar, who was not born in Canada, was from CSIS intelligence reports, though Schwartz was "...not privy exactly to what documentation would have been used." The RCMP's understanding of the appearance of Mr. X was based on reports by a number of CSIS surveillance officers involved in surveillance on the day of the Duncan Blast.<sup>462</sup> However, there were no photos taken of Mr. X.<sup>463</sup>

453 Exhibit P-101 CAF0332, p. 1.

454 Exhibit P-101 CAC0487, p. 5; See Section 1.6 (Pre-bombing), Khurana Information.

455 Exhibit P-101 CAC0487, p. 5.

456 This coverage is discussed in more detail in Section 2.3.4 (Post-bombing), The Khurana Tape.

457 Exhibit P-101 CAA0303.

458 Exhibit P-101 CAA0303.

459 Exhibit P-101 CAF0332.

460 See, for example, Exhibit P-101 CAA0582, pp. 2-3, CAA0601, p. 1.

461 Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6341, 6347-6348.

462 Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6331-6332, 6341, 6346-6349.

463 See Section 1.4 (Pre-bombing), Duncan Blast and Section 1.5 (Pre-bombing), Mr. X.

Moreover, through a search of information available to the Inquiry, the 1952 date of birth for Brar was called into question. An Interpol report from India's Central Bureau of Investigation (CBI) states Brar's date of birth to be 1960, a date much more in line with the description of Mr. X.<sup>464</sup> The RCMP had not previously been aware of this conflicting information.<sup>465</sup>

Schwartz stated that the RCMP also relied on its 2001 interview of Brar to confirm his age,<sup>466</sup> though, based on the record of the information gleaned from this interview of Brar, it does not appear that he was asked about his date of birth.<sup>467</sup> It seems that the RCMP relied on Brar's appearance to conclude that he looked to have been born in the early 1950s. However, Schwartz did concede that, as police officers, he and the rest of the Air India Task Force would have been aware of the frailties of eyewitness identification, including the difficulty of gauging a person's age as well as the difficulty with cross-race identifications.<sup>468</sup>

In 1998 the RCMP conducted approximately 12 interviews in Winnipeg, during which they attempted to determine whether Lakhbir Singh Brar had in fact spent time in, or originated from, Winnipeg. However these interviews were not conducted as a result of the confession and the RCMP likely already had plans to conduct these interviews in furtherance of other aspects of the Air India investigation there when the confession surfaced.<sup>469</sup>

After learning of the information about the purported Parmar confession in 1997, attempts were made to locate Brar in Pakistan, but it was not until he surfaced in Pakistan as a Canadian immigration applicant in 2000 that he was located by the RCMP. At this time, his wife, who had remained in Canada and possessed a Canadian passport, sponsored him for Canadian immigration.<sup>470</sup>

Lakhbir Singh Brar was eventually interviewed in 2001. According to Schwartz, by 2001 the RCMP was "quite heavy" into the disclosure phase of Air India and the investigation was "curtailing," though aspects of the investigation considered to be of "considerable importance" would be looked at for "continuance." Information about the purported confession was being discussed with Crown counsel, to be eventually disclosed to defence counsel, along with material in relation to other "alternate" theories. According to Schwartz, "...for most intents and purposes," Brar was "...well on his way to elimination before these interviews took place" and, while the fact that he had been named in the purported Parmar confession was "...a portion of the reason for conducting the interview," there were "...numerous reasons to interview" Brar prior to, and unrelated to, this confession.<sup>471</sup>

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<sup>464</sup> Exhibit P-217.

<sup>465</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6336.

<sup>466</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6350.

<sup>467</sup> Exhibit P-101 CAF0333.

<sup>468</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6349, 6350-6352.

<sup>469</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6330-6331.

<sup>470</sup> Exhibit P-101 CAF0332, p. 2.

<sup>471</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6359-6360, 6363.

A prosecutor was not consulted for advice, prior to the interview of Lakhbir Singh Brar, about the best approach to maximize any potential evidence that could come from the interview. Brar was not cautioned prior to his interview.<sup>472</sup> CSIS had advised the RCMP that Brar's English was "basic," and that he could understand more than he could speak. The RCMP, however, did not use a Punjabi-speaking officer to conduct the interview and the interview was conducted in Punjabi through the use of an interpreter. The interview of Brar started out being recorded and, at a certain point, Brar refused to have the recording continue.<sup>473</sup>

During the interview, Brar was asked about the bombing. He provided some information about others who might have been involved, but denied his own involvement. He specifically stated that he had no knowledge of who Mr. X was. He also denied being present at the Khurana meeting in mid-June 1985,<sup>474</sup> which was contrary to information the RCMP had in relation to this meeting.<sup>475</sup>

The RCMP appears to have placed considerable reliance on the fact that, during Brar's interview, he denied any involvement in the Air India bombing.<sup>476</sup> By the second day of the interview, it appears that the main objective of the RCMP was to obtain investigative leads that Lakhbir Singh Brar might provide, rather than to pursue information that might implicate him in the Air India bombing. As Schwartz admitted, the interview team did conclude that Lakhbir Singh Brar was likely lying at times during his interview, but it seems they felt satisfied enough with the information that he had provided in relation to his own involvement to move on to other areas in which he might provide useful information.<sup>477</sup>

The interview was to be translated and transcribed and reviewed to assess the potential of developing Brar as a witness. Investigators commented that "... Brar may recall more details if he is interviewed again by a Punjabi speaking member."<sup>478</sup> It is not clear that this was ever done.

### **The RCMP Follow-Up on Allegations in Relation to Lal (Manjit) Singh**

Lal Singh first came to the attention of the RCMP when, immediately following the tragedy of Air India Flight 182, an article was published in the Toronto *Globe and Mail* reporting that FBI fugitives, Lal and Amand Singh, were the "L. Singh" and "A. Singh" in whose names the tickets for the Air India flights had been issued.<sup>479</sup>

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<sup>472</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6342, 6356.

<sup>473</sup> Exhibit P-101 CAF0333, p. 3.

<sup>474</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6337.

<sup>475</sup> See, for example, Exhibit P-101 CAC0487, p. 5; Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6337.

<sup>476</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6336; See also Exhibit P-101 CAF0333, for the interview continuation report.

<sup>477</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6340, 6359-6360.

<sup>478</sup> Exhibit P-101 CAF0333, p. 5.

<sup>479</sup> Testimony of Jim Cunningham, vol. 52, September 25, 2007, p. 6380.

The RCMP conducted three interviews with Lal Singh in India. The first two interviews, in 1992 and in 1997, were conducted prior to the receipt of information about the purported Parmar confession.

An examination of the entire history of the RCMP's investigation of Lal Singh is instructive in terms of the difficulties Canadian authorities face in conducting sensitive investigations in foreign countries. It is also important in terms of understanding the RCMP's approach to the follow-up of the purported Parmar confession, as the earlier interviews of Lal Singh shaped the approach and evaluation of the final interview of Lal Singh that was conducted in 2000, after receipt of the Parmar information.

### **The 1992 Interview of Lal Singh**

Lal Singh had evaded RCMP questioning for seven years and was a person of interest. Then, in 1992, word was received from India that Lal Singh had been arrested and detained in India,<sup>480</sup> and, soon after, media reports began to surface that Lal Singh had been questioned by Indian police and had "admitted complicity" in the June 1985 bombing.<sup>481</sup> Suspicions were that he had checked in the luggage carrying the bombs.<sup>482</sup> The RCMP Liaison Officer in New Delhi attempted to confirm the information in the media articles and was apparently told "the exact opposite" by his contacts in India.<sup>483</sup> However, no attempts were made to contact the journalist, Mr. Salim Jiwa, to try to find out further information to help corroborate the information in the media articles or to find further sources of information that could be of use to the investigation.<sup>484</sup>

Upon receipt of the Lal Singh information, steps were taken by the RCMP to arrange an interview of Lal Singh. Along with an interview of Lal Singh, officers planned to conduct a physical lineup in India to attempt to identify Lal Singh as the individual who had checked in the luggage. Jeanne ("Jeannie") Adams, the ticket agent at the Vancouver Airport on the morning of the check-in of the luggage, would participate by viewing the physical lineup. There was no mutual legal assistance treaty with India until 1995.<sup>485</sup>

To complicate matters, there had been reports, both in the media and from the RCMP Liaison Officer, that Lal Singh had tried to swallow a cyanide capsule when he was arrested, and had bitten off his tongue during police interrogations.<sup>486</sup> The media articles also suggested that there may have been "...tactics used in interrogations" of Lal Singh that would not meet the standards of the Canadian courts. For example, Lal Singh's confession was reported to have been the result

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480 Testimony of Jim Cunningham, vol. 52, September 25, 2007, pp. 6380-6381.

481 Exhibit P-101 CAF0317.

482 Exhibit P-101 CAF0318.

483 Testimony of Jim Cunningham, vol. 52, September 25, 2007, p. 6383; Exhibit P-101 CAF0321.

484 Testimony of Jim Cunningham, vol. 52, September 25, 2007, pp. 6428-6429.

485 Testimony of Jim Cunningham, vol. 52, September 25, 2007, pp. 6385, 6392, 6451.

486 Testimony of Jim Cunningham, vol. 52, September 25, 2007, p. 6386; Exhibit P-101 CAF0318.

of "...virtually non-stop questioning over six days." In light of these concerns, the RCMP discussed the media reports with its counsel and sought advice about its planned interview.<sup>487</sup>

In August 1992, Jim Cunningham, an investigator on the RCMP E Division Sikh Desk, flew to India, along with his colleagues Bob Stubbings and Ron Dicks, and met with Indian police. At the time, Cunningham was not aware of any policies about how to handle a situation such as this, in which there was suspicion that someone might have been mistreated in custody.<sup>488</sup> Upon arrival in Delhi, the officers were informed that due to security concerns, it would be necessary for them to travel to Bombay to conduct the interview. Upon arrival in Bombay, the officers were provided with heavy police security protection. When the RCMP officers questioned Indian authorities about the allegations of mistreatment, they were told that "...with the exception of a lengthy period without sleep," Lal Singh had been well taken care of and well treated.<sup>489</sup> The Indian authorities claimed that after Lal Singh attempted to bite off his tongue, a portion of his tongue had to be cut away to prevent the spread of infection. They also indicated that Lal Singh had tried to swallow his tongue and had "...attempted suicide by hitting his head against a wall."<sup>490</sup> Cunningham was skeptical about the truth of this story, although he had nothing to show that this was untrue. In any event, this situation raised questions about Lal Singh's frame of mind going into the RCMP's interrogations.<sup>491</sup>

The conditions under which the interview took place were "less than ideal." Officers were told that, in conducting the interview of Lal Singh, they would only be allowed to discuss his activities in Canada. As for regulating who would be present during the interview, as this was a prisoner of foreign law enforcement, the RCMP was not able to fully control who would be present or how the interview would be conducted. In the same interview room as the two RCMP officers and Lal Singh were two officers from the Indian Central Bureau of Investigation, the officer who had effected the arrest of Lal Singh, and an armed police officer. The room was cramped and humid, and was not soundproofed. There was significant noise from the outside that could be heard in the interview room. As the officers "...didn't know if it would be practical" and understood that "...there may, in fact, be problems in admissibility of any statement at any rate," they did not tape-record the interview or even request permission to do so. As a result, there was no tape recording.<sup>492</sup>

In spite of the difficult conditions and the concerns that Lal Singh was not in a position to speak freely, prior to the commencement of the interview the officers informed him of his *Charter* rights and provided the secondary police warning or caution.<sup>493</sup>

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487 Testimony of Jim Cunningham, vol. 52, September 25, 2007, pp. 6385, 6388-6389.

488 Testimony of Jim Cunningham, vol. 52, September 25, 2007, p. 6389.

489 Testimony of Jim Cunningham, vol. 52, September 25, 2007, pp. 6392, 6395, 6400.

490 Exhibit P-101 CAF0319, p. 5.

491 Testimony of Jim Cunningham, vol. 52, September 25, 2007, p. 6398.

492 Testimony of Jim Cunningham, vol. 52, September 25, 2007, pp. 6398-6400, 6402, 6406, 6449-6450.

493 Testimony of Jim Cunningham, vol. 52, September 25, 2007, p. 6419.

Over the course of the interview, Lal Singh told officers about statements that he had heard Ajaib Singh Bagri make about boycotting Air India. He was also familiar with Bagri's speech at Madison Square Gardens where Bagri had asserted that 50,000 Hindus would be killed. The interview went on over three days and the officers spent approximately twelve and a half hours with him. They covered issues such as his alleged involvement in the Air India bombings as well as other leads that he could provide about the investigation. On the last day, the lineup with Jeannie Adams took place. The Indian police found people off the street to participate, along with other police officers who matched Lal Singh's appearance. There was no two-way glass through which Adams could view the lineup. She came into the room and was able to view the lineup face-on. She was unable to identify anyone from the lineup.<sup>494</sup>

Throughout, Lal Singh remained "...steadfast that he was not involved in the Air India bombing" and stated that he would "...welcome the opportunity to return to Canada to prove his innocence." He also indicated that he would "...sign the extradition papers." Lal Singh felt that he was no longer trusted by his former associates, having been in police custody for so long, and that, if he was released, he would be killed.<sup>495</sup>

At the end of the interview, the officers did not feel that they had any more evidence with which to prosecute Lal Singh than when they went in. From Cunningham's perspective, Lal Singh "...had nothing to lose by admitting to it if he had been involved in Air India." Cunningham was of the view that Lal Singh had not played a part in the disaster.<sup>496</sup>

### **The 1997 Interview of Lal Singh**

Again in June of 1997, a group of investigators and prosecutors travelled to India to find out whether Lal Singh had information that could assist the investigation. He was not approached as a suspect, and this was indicated to him a number of times in the course of the interview.<sup>497</sup> There was "...not a strong thought" of him being a suspect because the investigators "...already had the benefit of a prior interview and investigative techniques done in regards to Lal Singh back in 1992," and there was "...no information to substantiate that he was tied in any way to the conspiracy."<sup>498</sup>

Again, the circumstances of the interview were not ideal. The RCMP provided a list of proposed interview questions to Indian authorities, at their request, three days in advance of its interview with him. The interview was held in the presence of a member of the Indian police. The interview proceeded in English and was not formally recorded.<sup>499</sup>

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<sup>494</sup> Testimony of Jim Cunningham, vol. 52, September 25, 2007, pp. 6405-6406, 6415, 6418-6419.

<sup>495</sup> Testimony of Jim Cunningham, vol. 52, September 25, 2007, p. 6414.

<sup>496</sup> Testimony of Jim Cunningham, vol. 52, September 25, 2007, p. 6422.

<sup>497</sup> Exhibit P-101 CAF0329, pp. 1, 3.

<sup>498</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6333-6334.

<sup>499</sup> Exhibit P-101 CAF0329.



The interview took place over two days. On the first day, Lal Singh was questioned for about one and a half hours about his knowledge of various suspects, about his knowledge of statements that various individuals might have made about Air India and about explosives. On the second day, he was questioned for about 45 minutes, again to see if he could recall any more details pertinent to the case and to determine whether he had given any further consideration to testifying. Lal Singh was not pressed on details about his whereabouts on the night of the bombing, or asked for details in relation to the theory that he might have been involved in checking in the luggage.<sup>500</sup>

Lal Singh was not willing to provide a tape-recorded statement and was not interested in being a witness in Canada in this case. He cited the safety of his family in the Punjab as a primary reason for this position. On the basis of this interview, according to the internal RCMP report, the file was concluded.<sup>501</sup>

### **The 2000 Interview of Lal Singh**

S/Sgt. John Schneider, Cpl. Lorne Schwartz, and Cst. Baltej Dhillon arrived in New Delhi in February 2000 to pursue yet another interview with Lal Singh, who was still in custody in relation to terrorist offences in India. This time, however, the officers were in receipt of information about the purported Parmar confession. It was thought that, as it was three years since the last interview, perhaps his custody and family situation could be changing, and if he was near a point of getting out of jail, he might be willing to share information which he had chosen not to share earlier. Again, investigators felt that there was “no strong indication” that he was involved in any way as a suspect.<sup>502</sup>

The interview was conducted by officers Schneider and Schwartz. This time Lal Singh was asked particularly about his whereabouts at the time of the Air India crash. He stated that he had been working on a farm in Abbotsford at the time of the crash. He denied that either he or Dalbir (aka Amand) Singh had taken the bombs to the airport check-in. He admitted that he had been involved with extremist groups in Pakistan and that he had met Parmar a few times while in Pakistan as well. He again discussed his recall of Ajaib Singh Bagri’s speech at Madison Square Gardens, and recalled meeting Bagri in Pakistan – when Bagri would talk about doing “something big”, referring to India. He said that Bagri never mentioned Air India.<sup>503</sup>

The report by Schwartz concludes that “Lal comes across quite sincere. He likely does possess knowledge concerning Air India from his time in Pakistan, but is not going to divulge same. He was not interested in providing a statement, saying that media publicity could make matters hard if it ever came out.”<sup>504</sup>

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500 Exhibit P-101 CAF0329.

501 Exhibit P-101 CAF0329, p. 5.

502 Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6335.

503 Exhibit P-101 CAF0331, pp. 1-3.

504 Exhibit P-101 CAF0331, p. 4.

### The Question of Torture

Overhanging this entire episode, and the information and allegations coming to the RCMP in connection with the Parmar confession, was the difficult issue of torture. This matter was made even more difficult for investigators because, in the period 1992 to 2001, the RCMP did not have policies in place with respect to how they should follow up on information that could be the product of torture.<sup>505</sup>

The RCMP's involvement and approach to the follow-up interviews, in particular in relation to Lal Singh, raise questions about the RCMP's sensitivity to issues of torture. Such issues are bound to confront police again and again in modern terrorism investigations, which will often lead investigators into jurisdictions where the observance of human rights is less robust than in our own. Through their actions, well-meaning investigators may, by virtue of their lack of training or sensitivity, unwittingly further human rights violations of those detained abroad. At the same time, a lack of sensitivity to human rights issues may also prevent investigators from utilizing the tools needed to best ensure any information that is gathered in foreign jurisdictions will meet Canadian standards for admissibility.

The problematic issue of cooperation with countries with poor human rights records surfaced numerous times in the Air India Investigation. One important episode was that of the alleged shooting death of Canadian citizen Balbir Singh Kaloe. In July 1986, an article appeared in the *Ottawa Citizen* with information that Balbir Singh Kaloe had been shot by officials of the Indian government in India following the passing of information to the Government of India by either the RCMP or CSIS.<sup>506</sup> Balbir Singh Kaloe and his brother, Tejinder Pal Singh Kaloe, were both members of the Babbar Khalsa.<sup>507</sup> In internal CSIS correspondence, James ("Jim") Warren, Director General, Counter Terrorism, reported that his understanding was that information about Balbir Singh Kaloe and his brother had been passed to Indian police by RCMP C/Supt. Norman Belanger during his June visit to New Delhi.<sup>508</sup> Tejinder Pal Singh Kaloe had been charged in Canada in relation to a terrorist plot, and the RCMP investigation revealed that these individuals, along with others, were planning to execute criminal acts in India.<sup>509</sup>

On August 12, 1986, CSIS was advised about some of the details surrounding the demise of Balbir Singh Kaloe. Information was provided that he had been arrested by the Indian police and then tortured while in custody. He was apparently killed in a fake encounter with the police.<sup>510</sup> The perception in the

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<sup>505</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6364.

<sup>506</sup> Exhibit P-101 CAA0462(i).

<sup>507</sup> Exhibit P-101 CAF0336, p. 1.

<sup>508</sup> Exhibit P-101 CAA0462(i).

<sup>509</sup> Exhibit P-101 CAF0336, p. 1.

<sup>510</sup> Exhibit P-101 CAF0337, p. 2.

Sikh community that the death of Balbir Singh Kaloe at the hands of Indian authorities was a result of information supplied to India by Canadian authorities had a significant impact on the Sikh community and their trust of Canadian authorities.<sup>511</sup>

The fact that certain countries have poor human rights records does not mean that the RCMP should never interact with these countries. In its attempt to verify compromised information independently, the RCMP will sometimes require direct access to the source of information to conduct its own investigation. A sensible approach to the engagement of foreign authorities and individuals detained abroad must, at a minimum, consider the human rights record of the police in that jurisdiction, the value of the information that the source could provide, the risk of further compromise or abuse to the individual as a result of RCMP questioning and any measures that could be put in place to avoid this risk. Further, where the foreign agency has no independent interest in obtaining information from the individual, it would stand to reason that the risk of abuse to the individual as a result of RCMP questioning is lessened.<sup>512</sup>

### Conclusion

The RCMP came upon the information related to the Parmar confession very late in the day.<sup>513</sup> Parmar died seven years after the Air India bombing, at a time when memories would have already faded. It was another five years before the RCMP obtained information about the confession and another two years before the RCMP interviewed Lakhbir Singh Brar. At this point, any viable leads arising from this information would likely have already been tenuous. The follow-up of the Parmar information posed many challenges for the RCMP, many of which were beyond its own control. The RCMP's classification of the Parmar information as "alternate" to the main theory, and initial and quick discounting of the information – in the case of Lakhbir Singh Brar, seemingly mostly on the basis of shaky identification information – appears to have impacted on the vigour with which this lead was pursued.

However the alleged Parmar confession may, in the final analysis, be more instructive in terms of spotlighting the vexing investigative problems it illustrates, rather than in terms of any substantive light it sheds with respect to the perpetrators of the Air India bombing. There were clearly many challenges innate to the Air India investigation, quite apart from any problems of communication or cooperation with CSIS. Terrorism investigations, like the Air India investigation, will often lead investigators into situations in which they are required to interact with foreign police forces with questionable human rights records or to attempt to gather evidence or assess credibility in sub-optimal circumstances. There is a balance that must be achieved by investigators who find themselves in possession of information that may have come from torture.

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<sup>511</sup> Exhibit P-101 CAF0338, p. 3; Testimony of Manjit Singh Sahota, vol. 52, September 25, 2007, pp. 6517-6519.

<sup>512</sup> For discussion of these issues see, generally, Testimony of Rick Reynolds, vol. 52, September 25, 2007.

<sup>513</sup> CSIS was never in possession of the Parmar confession but knew that some police encounters occurring in India at the time of Parmar's death were in fact staged.

On the one hand is the need to vigorously pursue each important criminal lead and to minimize the risk to the Canadian public; on the other is the need to ensure that the RCMP does not condone or aggravate human rights violations. This is by no means an easy problem. The formulation of policies, protocols and other investigative tools in this regard is best left to those with intimate operational understanding of policing and human rights issues. It should be pointed out, however, that it was not until May 15, 2007, as part of an effort towards centralization and in response to the recommendations of Justice O'Connor in the Arar Commission of Inquiry,<sup>514</sup> that the RCMP developed a Force-wide Policy on National Security Investigations, dealing in part with the sharing of information with countries with "...questionable human rights records,"<sup>515</sup> with important supporting protocols apparently still in the process of "being developed."<sup>516</sup> This state of affairs raises questions about the RCMP's preparedness to deal with these issues in a sound, balanced and sensitive manner.

### 2.3.4 The Khurana Tape

#### Introduction

Approximately two weeks before the Air India bombing, on June 12, 1985, a meeting involving Sikh extremists was held at the residence of Sarbjit Khurana and was recorded by the Vancouver Police Department (VPD).<sup>517</sup> Pushpinder Singh, one of the leaders of the Sikh extremist organization the International Sikh Youth Federation (ISYF), was present at the meeting. Immediately after the meeting, Khurana reported that he witnessed the following exchange during the meeting:

Manmohan Singh pressured Pushpinder Singh at the meeting by pointing an accusing finger at him and telling him —

"No counsels have been killed, no Ambassadors have been killed!! What are you doing? Nothing!!"

Pushpinder Singh replied back —

"You will see! Something will be done in two weeks!"<sup>518</sup>

This information was available to the RCMP as of June 13, 1985, but the Force only started investigating it after the bombing, when the possible connection between the "wait two weeks" comment and the bombing became clear, given the time frame.<sup>519</sup> Once the RCMP began investigating, the VPD member who

<sup>514</sup> Testimony of Rick Reynolds, vol. 52, September 25, 2007, pp. 6481-6482.

<sup>515</sup> See Exhibit P-101 CAF0335, pp. 17-18.

<sup>516</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, p. 6365.

<sup>517</sup> See Section 1.6 (Pre-bombing), Khurana Information.

<sup>518</sup> Exhibit P-101 CAC0487, p. 4.

<sup>519</sup> See Section 1.6 (Pre-bombing), Khurana Information.

had originally received the Khurana information was not kept informed about, or involved in, the investigation. The RCMP focused on obtaining a translation of the tape recording of the meeting to corroborate Khurana's information. In the initial stages, the RCMP also investigated some of the players present at the Khurana meeting, but the Air India investigation was soon "re-oriented" away from the Sikh extremist organization involved in the meeting. The Khurana information was then no longer part of the main focus of the RCMP's efforts. In the end, the RCMP claimed that, after extensive investigation, no link between the Khurana information and the Air India bombing had ever been substantiated.

### **The RCMP Takes Over the Investigation**

Shortly after the Air India bombing, on June 25, 1985, the RCMP Richmond Detachment (initially in charge of the Air India investigation in BC) reported the Khurana information to RCMP HQ in a telex, and indicated that local factions of the ISYF and the Babbar Khalsa (BK) were being investigated by E Division NCIS. The Khurana information was described as "...intelligence provided by NCEU/NCIS/VIIU," indicating the ISYF to be responsible for the bombing.<sup>520</sup> The ISYF historically was a violent organization that had been proscribed in India because of its bombing assassinations of Sikhs and Hindus.<sup>521</sup> It was one of the three organizations (along with the Dashmesh Regiment and the Kashmir Liberation Front) that had claimed responsibility for the attack on Air India Flight 182.<sup>522</sup>

The RCMP telex reporting the Khurana information stated that Cst. Don McLean of the VPD had learned about the "wait two weeks" comment on June 12<sup>th</sup> from a taped conversation, during which ISYF member Manmohan Singh said "...you have not killed an ambassador or counsel yet" and Pushpinder Singh responded "...you will see in two weeks we'll show the community." The contact persons listed for the NCIS probe into the ISYF and the BK were RCMP Sgt. Wayne Douglas and VPD Cst. McLean.<sup>523</sup>

However, McLean testified that he was not involved in a joint investigation of the Khurana information with the RCMP members investigating Air India.<sup>524</sup> In fact, he was never informed about any follow-up investigation conducted by the RCMP before or after the bombing, and he remained unaware to the date of his testimony whether anyone was ever tasked to follow up on the Khurana information.<sup>525</sup>

McLean had in-depth knowledge of the Sikh extremist leaders in the Lower Mainland and had access to many sources in the community.<sup>526</sup> He was the

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<sup>520</sup> Exhibit P-101 CAA0249, p. 2.

<sup>521</sup> Exhibit P-101 CAB0851, p. 14. The Sikh Student Federation (SSF) is the same organization as the ISYF. See also Exhibit P-101 CAB0360, p. 5.

<sup>522</sup> Exhibit P-101 CAB0851, p. 14, CAC0492, CAF0057, p. 35.

<sup>523</sup> Exhibit P-101 CAA0249, p. 2.

<sup>524</sup> Testimony of Don McLean, vol. 35, May 29, 2007, pp. 4145-4146.

<sup>525</sup> Testimony of Don McLean, vol. 21, May 1, 2007, pp. 2027-2028.

<sup>526</sup> See Section 3.5.4 (Pre-bombing), RCMP Failures in Sharing with Local Forces.

person Khurana went to when the meeting with the ISYF was first proposed, and he made the arrangements to have the meeting recorded. He had developed a relationship with Khurana as a source, and he received Khurana's information about the "wait two weeks" comment immediately after the meeting. He had even begun his own follow-up investigation prior to the bombing, albeit without the RCMP's assistance or involvement.<sup>527</sup> McLean could have contributed significantly to the investigation and could have been an important resource for the RCMP. Yet, the RCMP chose not to involve him in its post-bombing investigation of the Khurana information, requesting his assistance only to help its members in identifying individuals in photographs.<sup>528</sup>

After the bombing, McLean received information indicating that one of the individuals believed to have participated in the Khurana meeting, Jaspal Singh Atwal, was bragging that he had known before the crash that Air India was about to be blown up. This information was passed on to the RCMP by the VPD.<sup>529</sup> It is not known what follow-up investigation, if any, was conducted by the RCMP in this respect.

### Translating the Khurana Tape

During the Khurana meeting, a Punjabi-speaking VPD member, Cst. Jas Ram, was listening and translating as the conversations were being recorded. He indicated that he had not heard the "wait two weeks" comment reported by Khurana.<sup>530</sup> McLean and his other VPD colleagues from the Vancouver Integrated Intelligence Unit (VIU) still had no doubt about the veracity of Khurana's information and were prepared to rely on his word, since he had always proved to be a credible and reliable source in the past.<sup>531</sup> For the RCMP, the exact translation of the Khurana tape became an important focus in the early months of the investigation.

Shortly after the bombing, CSIS's assistance was sought to translate and transcribe the VPD tape which contained the recording of the Khurana meeting.<sup>532</sup> A Punjabi-speaking RCMP member at E Division, Cst. Manjit ("Sandy") Sandhu, was also asked to review the tape and to provide his interpretation.<sup>533</sup> In the days immediately following the bombing, the E Division Air Disaster Task Force reported to HQ that Sandhu had translated the conversation on the tape as follows:

[redacted] it may take two weeks, a few months, or a few weeks and then we will do something (undecipherable) [redacted].<sup>534</sup>

<sup>527</sup> See Section 1.6 (Pre-bombing), Khurana Information.

<sup>528</sup> Testimony of Don McLean, vol. 35, May 29, 2007, pp. 4129, 4144-4146.

<sup>529</sup> Exhibit P-101 CAA1108, pp. 1-2.

<sup>530</sup> See Testimony of Don McLean, vol. 21, May 1, 2007, pp. 2024, 2035; Exhibit P-391, document 208 (Public Production # 3341), p. 6.

<sup>531</sup> See Section 1.6 (Pre-bombing), Khurana Information.

<sup>532</sup> Exhibit P-101 CAF0166, p. 1, CAF0208, p. 2. See also Exhibit P-101 CAA0295, p. 6.

<sup>533</sup> Testimony of Warren Sweeney, vol. 25, May 8, 2007, p. 2647.

<sup>534</sup> Exhibit P-101 CAA0267, p. 2.

In a different version of the translation, dated June 27, 1985 and described as Cst. Sandhu's interpretation of a conversation between Sukhdev ("Sukhi") Sandhu (SS) and Pushpinder Singh (P), the conversation was reported as follows:

- S.S. Government of India is very powerful and they are trying to infiltrate us.
- P. They are infiltrating us we are infiltrating them.
- S.S. They don't have all the people of that level that can't be sold and we also have people who would be ready to sell themselves, understand. So this is their policy to cause problem and division among Sikhs so they won't get ahead.
- P. To achieve this we will not take more than couple weeks, three months is little longer. Think it will take us a few weeks before we achieve this. Once we achieve this I am still thinking we can do better on this level than that. Once we do this our next step is to get rid of ... (undecipherable) railway. And I mean we will destroy those plants.<sup>535</sup>

On July 22, 1985, RCMP HQ noted in a telex to the E Division Task Force that no response had been received to its previous request for a translated transcript of the Khurana tape.<sup>536</sup> On July 25<sup>th</sup>, the Task Force learned that the CSIS translation had not been completed.<sup>537</sup>

On August 28, 1985, Cst. Sandhu wrote to the HQ Task Force about the Khurana meeting transcript in response to an HQ telex dated August 6<sup>th</sup>. He indicated that he had contacted the transcriber (presumably from CSIS), and had learned that she had attempted to identify the Unidentified Males (U/Ms) who participated in the meeting by number, but in the end could not because there were too many persons present. She advised that approximately 15 to 20 individuals were in attendance. The transcriber reported that most of the conversations during the meeting were attempts to convince Khurana to drop assault charges he had filed against ISYF members. She informed Cst. Sandhu that the only conversation "of any value" occurred between Pushpinder Singh and Sukhi Sandhu, immediately after Khurana had said that he wanted "...to know how many groups are there, how many leaders are there." At that time, Pushpinder Singh provided an answer which related to bringing various Sikh groups on the North American continent under one group. Sukhi Sandhu added: "...they are not the people that, who are most ready to sell themselves. There are people among us who are ready to sell themselves."<sup>538</sup>

<sup>535</sup> Exhibit P-391, document 202 (Public Production # 3335), p. 2.

<sup>536</sup> Exhibit P-101 CAA0286, p. 2.

<sup>537</sup> Exhibit P-101 CAA0295, p. 6.

<sup>538</sup> Exhibit P-101 CAC0501, p. 2.

Cst. Sandhu advised HQ that the E Division Task Force had contacted Khurana “again” to find out who was present when he asked the question which began the conversation. Khurana stated that the persons present were his wife and children, Manmohan Singh and his wife, Sukhi Sandhu and Pushpinder Singh. Cst. Sandhu indicated that, having listened to the tape himself, he was of the view that the goal Pushpinder Singh was discussing was to bring Sikh groups together under one group.<sup>539</sup> Though this did not confirm Khurana’s information about the “wait two weeks” comment, it did confirm some of the other information he had provided immediately after the meeting, when he had stated that Pushpinder Singh had said that he was using Parmar to bring all Sikhs in the Lower Mainland together.<sup>540</sup>

In a transcript of the Khurana tape prepared at an unknown date, this conversation about bringing Sikh groups together was also reported, with a specific mention that this involved “...mainly this Talwinder Singh from Babbar Khalsa,” as well as other leaders from the Akhand Kirtani Jatha, the ISYF and other organizations.<sup>541</sup> This transcript also mentioned Parmar’s recent presence in Toronto, and agreement to participate in the “common platform” which they were trying to create:

Talwinder Singh has been convinced; discussion about in Toronto there being two organizations working together, in there Talwinder Singh came and addressed the religious gathering and said, we are one and we are working on [t]his together, so this is a very good step on one level.<sup>542</sup>

This transcript did not identify any of the individuals who spoke in the meeting (referring to them as U/M or U/F), except Khurana, and often simply reported the topic of the conversation in a general manner, without setting out the words spoken by each individual.<sup>543</sup> The transcript mentioned that a portion of the tape was blank.<sup>544</sup> Among the conversations which were reported, the following was of interest:

U/M says we can do a big job with the support of all you big guys, another U/M says we should start with small jobs, and God willing we can do something big later on; we have been doing a big job all along, but there was a set back.<sup>545</sup>

There was also a conversation about the Punjab situation where an U/M said that “...instructions were given not to do anything, but just to accumulate your

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<sup>539</sup> Exhibit P-101 CAC0501, p. 2.

<sup>540</sup> Exhibit P-101 CAC0487, p. 4.

<sup>541</sup> Exhibit P-391, document 200 (Public Production # 3333), p. 13.

<sup>542</sup> Exhibit P-391, document 200 (Public Production # 3333), p. 13.

<sup>543</sup> Exhibit P-391, document 200 (Public Production # 3333). “U/F” means “unidentified female.”

<sup>544</sup> Exhibit P-391, document 200 (Public Production # 3333), p. 13.

<sup>545</sup> Exhibit P-391, document 200 (Public Production # 3333), p. 3.



sources, and wait for instructions,” and an U/M discussed the capability for chemical warfare and said “...we can do anything, and everything, but there are specific instructions for us, after that the thing is to kill the ambassadors.” This was followed by an explanation of “...clear cut instructions on an international level,” which would have been given in a lecture by Jasvir Singh, that no person or no embassies be harmed. However, it was added that “...if in any way there is [sic] men ready to sacrifice themselves [sic], we can...” A conversation about complaints over the delay in taking action since the storming of the Golden Temple was also described. Finally, when Khurana began to complain about not being informed of the plans of the various groups, he was told that this was “for security reasons” and the following comments were made: “...another U/M says, you would be surprised, there are so many people who are close; U/M says, I am so close, even I don’t know 90% of it, and the 10% I know, I think I know too much.”<sup>546</sup>

The conversation about infiltrating the Government of India, which was reported in the second version of the June 1985 Sandhu translation, was also reported in the undated transcript in a modified and much abridged form, without the mention of the plans to get rid of railways or destroy plants.<sup>547</sup>

In his August 1985 update to HQ, Cst. Sandhu made no mention of his earlier interpretation of the Khurana tape which included a comment about waiting weeks or months, but appeared to accept the statement of the CSIS transcriber that the only conversation of interest was about the goal of bringing Sikhs together.

In a 1996 affidavit in support of an authorization to intercept private communications, the RCMP indicated that Cst. Sandhu had reviewed the tape for the Khurana meeting and had been unable to discern the conversation reported by Khurana about doing something in two weeks. The RCMP noted that “...this portion was not clearly recorded,” and again made no mention of the initial Sandhu interpretation in June 1985 which indicated that a comment was heard about waiting weeks or months to “do something.”<sup>548</sup>

Years later, in a chronology prepared in support of its briefing to the Hon. Bob Rae, the RCMP simply stated that the “wait two weeks” comment reported by Khurana was not recorded on the VPD intercept of the meeting.<sup>549</sup> Given the early Sandhu translation and the discrepancies in the various translations, this seems like an overstatement. However, even if it were the case that the comment reported by Khurana could not be heard on the tape, this fact cannot be taken as an indication that the comment was not made during the meeting.

The overall quality of the tape was described by McLean as average. He explained that, depending on their location in the room, some participants could be heard better than others.<sup>550</sup> Ram, who was interpreting the meeting

<sup>546</sup> Exhibit P-391, document 200 (Public Production # 3333), pp. 7-8, 11-12.

<sup>547</sup> Exhibit P-391, document 200 (Public Production # 3333), p. 14.

<sup>548</sup> Exhibit P-101 CAD0180a, p. 2.

<sup>549</sup> Exhibit P-101 CAA1099, p. 3.

<sup>550</sup> Testimony of Don McLean, vol. 21, May 1, 2007, p. 2008.

as it was taking place, said that he did not hear anything unusual, but that he was having trouble understanding everything that was being said because of the slang and the speed of the conversation.<sup>551</sup> Portions of the tape were unintelligible and, significantly, the initial conversations in the meeting were not recorded because the VPD members were not aware that the meeting had actually started.<sup>552</sup> The numerous participants present during the meeting were often speaking at the same time and, as a result, could not be heard clearly.<sup>553</sup> For these reasons, it is entirely possible that the “wait two weeks” comment was made during the meeting but was simply not recorded or could not be heard clearly on the recording. In fact, the RCMP recently obtained another translation of the Khurana tape and the transcript prepared contains numerous mentions that the recording “goes on and off” and that the conversations cannot be heard clearly.<sup>554</sup> The 2008 transcript contains none of the references to the conversations of interest which were found in previous transcripts. It ends with a note that the conversation was still in progress when the end of the tape was reached.<sup>555</sup>

Khurana was a reliable source and he was adamant that the conversation occurred as he stated.<sup>556</sup> He reported this information immediately after the meeting, before he could know that the Air India bombing would occur within the time frame mentioned. While corroborating Khurana’s information by means of the recording could have been helpful to police, the absence of a decipherable recording would certainly not have been cause to refrain from investigating the information Khurana reported. Indeed, while the RCMP was waiting for the translation of the tape to be completed by CSIS during the early weeks of the Air India investigation, the Force did investigate some of the participants in the Khurana meeting.

### Early Surveillance and Investigation

In the days immediately following the bombing, three of the five targets that CSIS had under surveillance, in conjunction with the RCMP Air Disaster Task Force (CSIS and the RCMP coordinated some of their surveillance activities during the Air India investigation), were participants in the Khurana meeting: Manmohan Singh, Sukhi Sandhu and Harjit Singh Atwal.<sup>557</sup> This coverage continued through to the end of June, with CSIS conducting surveillance on Manmohan Singh’s business as well.<sup>558</sup> However, the CSIS surveillance team watching Sukhi

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551 Exhibit P-391, document 429 (Public Production # 3811), p. 7; Exhibit P-391, document 208 (Public Production # 3341), p. 6.

552 Exhibit P-101 CAD0180a, pp. 1-2; Exhibit P-391, document 208 (Public Production # 3341), p. 6.

553 Testimony of Axel Hovbrender, vol. 33, May 24, 2007, pp. 3910, 3921.

554 Exhibit P-101 CAF0884.

555 Exhibit P-101 CAF0884, p. 172.

556 Testimony of Don McLean, vol. 21, May 1, 2007, p. 2014. Khurana also subsequently recounted the same information in a police statement provided to an RCMP officer in connection with the Air India investigation: See Exhibit P-101 CAD0180a.

557 Exhibit P-101 CAA0242, p. 2, CAC0487, p. 5.

558 Exhibit P-101 CAA0261, p. 3.

Sandhu had to back off when he complained to the RCMP about being under surveillance.<sup>559</sup> During the following month, CSIS surveillance of Manmohan Singh and Harjit Atwal continued.<sup>560</sup>

In late June 1985, the RCMP began extensive coverage of Lakhbir Singh, which was to continue for the following weeks.<sup>561</sup> Lakhbir Singh, also known as Lakhbir Singh Brar, was a leader of the ISYF who had many contacts and was well respected in the Sikh community.<sup>562</sup> He was present at the Khurana meeting. At the time, like Pushpinder Singh, he had recently arrived from India and was described by McLean as a terrorist.<sup>563</sup> According to McLean's information, both Pushpinder Singh and Lakhbir Singh had entered Canada illegally after the assassination of Indian Prime Minister Gandhi in the fall of 1984.<sup>564</sup> Years later, Lakhbir Singh Brar was identified in the purported Parmar confession as having been the unidentified person present during the Duncan Blast (Mr. X) and as having been the one conspiring with Reyat to plan the Air India and Narita bombings.<sup>565</sup> Both before and after the bombing, Lakhbir Singh was frequently seen in the company of the Babbar Khalsa suspects and was present at various meetings and Sikh temple fundraisers with Air India suspects.<sup>566</sup>

As of July 1, 1985, the RCMP had identified Pushpinder Singh and had him under surveillance.<sup>567</sup>

The RCMP HQ Coordination Center for the Air India investigation also showed interest in the Khurana information during the early weeks of the investigation. In a July 22, 1985 request to the E Division Task Force for an immediate update, HQ asked to be informed about how many of those attending the Khurana meeting were under surveillance or investigation. HQ wanted to know what was learned by the divisional Task Force about the movements and contacts of those who attended the meeting, and also asked whether the suspected illegals who were present (Lakhbir Singh and Pushpinder Singh) had been the subject of RCMP actions, such as surveillance, source cultivation or investigation.<sup>568</sup>

However, the intensive interest in the Khurana information was short-lived. Soon after the HQ request, the information began to be viewed as a red herring, diverting the Force's attention away from more promising suspects.

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559 Exhibit P-101 CAB0371, p. 2.

560 Exhibit P-101 CAA0295, p. 5.

561 Exhibit P-101 CAA0303, CAB0360, p. 5, CAB0371, p. 2.

562 See Section 2.3.3 (Post-bombing), The Purported Parmar Confession; Exhibit P-101 CAA0303, CAA0307, p. 8.

563 Exhibit P-101 CAC0487, p. 5.

564 Exhibit P-101 CAB0306, pp. 1-2.

565 See Section 2.3.3 (Post-bombing), The Purported Parmar Confession; Section 1.4 (Pre-bombing), Duncan Blast; and Section 1.5 (Pre-bombing), Mr. X.

566 Exhibit P-101 CAF0332, p. 1.

567 Exhibit P-101 CAA0269(i), p. 7.

568 Exhibit P-101 CAA0286, p. 1; Testimony of Warren Sweeney, vol. 25, May 8, 2007, pp. 2649-2650.

### Re-Orientation of the RCMP Investigation

On August 12, 1985, a member of the HQ Task Force wrote a memorandum to the Officer in Charge, C/Supt. Norman Belanger, indicating that the RCMP Air India investigation was “getting off track.” The memorandum explained that the Force had “...expended numerous resources following Lakhbir Singh around the country,” and had observed him visiting various locations to mobilize Sikh communities against the Longowal Accord, a peace agreement recently signed by the leader of the moderate Sikh party, Akali Dal, and the Indian Prime Minister.<sup>569</sup> The memorandum noted:

Lakhbir’s activities have not indicated a touch of criminality but are of great interest to CSIS because of his association with the International Sikh Youth Federation (I.S.Y.F.).<sup>570</sup>

The memorandum went on to state that, in contrast to the Lakhbir Singh situation, the RCMP had “definite evidence” of criminal activity by Talwinder Singh Parmar and his associates. Criminality was said to be apparent simply by examining Parmar’s contacts. The Duncan Blast and Parmar’s association with Reyat were mentioned, and it was concluded that Parmar’s activities and those of his associates demanded closer scrutiny from the RCMP.<sup>571</sup>

On the same day, Belanger had a telephone conversation with the Officer in Charge of the E Division Task Force, Supt. Les Holmes. In accordance with the HQ memorandum, the divisional investigators were re-assessing their investigation. The E Division Task Force was conducting an intensive investigation of Reyat and resolved to focus on the luggage, the tuners and the “major individuals” as its priorities.<sup>572</sup>

From then on, the RCMP Air India investigation focused mostly on Parmar and his associates, all members of the Babbar Khalsa (BK).<sup>573</sup> Charges were brought against Parmar and Reyat in connection with the Duncan Blast in November 1985 (only to be dropped the following spring in Parmar’s case),<sup>574</sup> and manslaughter charges were eventually brought against Reyat for the Narita bombing in the late 1980s, with Reyat being convicted in 1991.<sup>575</sup> Meanwhile, Lakhbir Singh Brar, who had been the object of so much RCMP attention in the early weeks of the investigation, was never interviewed as a potential witness or suspect in the Air India investigation until 2001, as part of the follow-up investigation of the purported Parmar confession.<sup>576</sup>

<sup>569</sup> Exhibit P-101 CAA0303.

<sup>570</sup> Exhibit P-101 CAA0303.

<sup>571</sup> Exhibit P-101 CAA0303.

<sup>572</sup> Exhibit P-101 CAA0304, p. 1.

<sup>573</sup> See generally the narratives within Section 2.3 (Post-bombing), The Usual Suspects versus “Alternate Theories”.

<sup>574</sup> See Section 1.4 (Pre-bombing), Duncan Blast.

<sup>575</sup> See *R. v. Reyat*, 1991 CanLII 1371 (BC S.C.).

<sup>576</sup> Exhibit P-101 CAF0332, p. 1; See, generally, Section 2.3.3 (Post-bombing), The Purported Parmar Confession.

Pushpinder Singh, for his part, was only interviewed once during the early stages of the investigation. This interview was part of a series of “perimeter interviews” conducted by the RCMP.<sup>577</sup> In October 1985, VPD Cst. Axel Hovbrender, who was working with the RCMP Task Force at the time, and who had extensive knowledge of Sikh extremist organizations in Vancouver through his work at the VIU,<sup>578</sup> interviewed Pushpinder Singh along with another Constable. Pushpinder told the officers that he was involved in the ISYF, which he described as a charitable organization, and in lobbying governments to support the Sikh cause and the eventual state of Khalistan. He stated that Sikhs would not blow up an Air India plane but would only “...damage the Indian government on Indian soil.” He added that his brother worked at the Indian nuclear plant and that, as a result, if Sikhs wanted to take some action, they had “...more than ample opportunity to do it on Indian soil.” He said they could also, if necessary, disrupt the Indian government by “...placing or corrupting a few people in key places within the bureaucracy.” At the time Pushpinder Singh was not asked about statements he had made at the Khurana meeting, most likely because it was not yet known that Khurana had allowed the meeting to be recorded by police. Asked about newspaper reports that Sikhs from Toronto had attended combat training, Pushpinder Singh dismissed the story as “vicious propaganda,” denied that any such training had taken place and said that the Sikhs were attending a wedding ceremony.<sup>579</sup>

After the perimeter interview, Hovbrender noted that his general impression about Pushpinder Singh was that he was “...very charismatic, articulate and dangerous.” The investigator added that Pushpinder Singh had expressed contradictory views on violence, at times claiming to be non-violent and only lobbying, and at other times appearing to support and glorify violence. Hovbrender believed that Pushpinder Singh had been “...trained in police interrogation techniques” and had attempted to use such techniques during the interview. He concluded his interview report by stating that he felt that Pushpinder Singh was “...a significant danger in the ISYF and may in the near future go to the forefront of that organization.”<sup>580</sup> Nevertheless, no further follow-up to determine Pushpinder Singh’s possible involvement in the Air India bombing was done by the RCMP for over a year.

Beginning in August 1985, it appears that the RCMP’s primary theory of the case – that the Air India bombing was an act of the Babbar Khalsa alone<sup>581</sup> – began to crystallize. From then on, information implicating other groups – like the Khurana information – became part of the “alternate theories” which were not pursued as intensively.<sup>582</sup> As submitted by the Attorney General of Canada:

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<sup>577</sup> Exhibit P-101 CAF0883, p. 2.

<sup>578</sup> See Section 3.5.4 (Pre-bombing), RCMP Failures in Sharing with Local Forces.

<sup>579</sup> Exhibit P-101 CAF0883, pp. 3-5.

<sup>580</sup> Exhibit P-101 CAF0883, pp. 5-6.

<sup>581</sup> See, generally, Exhibit P-101 CAA0582, pp. 2-3, CAA0601, p. 1.

<sup>582</sup> See also Section 2.3.3 (Post-bombing), The Purported Parmar Confession.

It was learned that Pushpinder Singh was a member of the ISYF and not the BK (Parmar's group). Parmar and the BK became the focus of the investigation at a comparatively early stage.<sup>583</sup>

This focus was unfortunate as far as the Khurana information was concerned, precisely because the information itself revealed important connections between the BK and the ISYF. Pushpinder Singh was reported to have praised Parmar during the Khurana meeting and to have said that he had met with him in Toronto the previous week. CSIS surveillance confirmed that Parmar and ISYF types from BC, possibly including Pushpinder Singh, were in Toronto at the time.<sup>584</sup> Further, Khurana had reported that Pushpinder Singh claimed that he was using Parmar to bring all Sikhs in the Lower Mainland together, and this was confirmed in many of the various translations and interpretations of the Khurana tape.

There was also other information pointing to possible links between the BK and the ISYF, as well as to links between specific Air India suspects and the ISYF. In June 1985, the VIU had received information from CSIS about an alleged meeting at Surjan Singh Gill's residence on June 3rd, which involved both BK and ISYF representatives.<sup>585</sup> On June 10th, the RCMP had received information about Reyat's involvement with a new temple whose leader advocated cutting off travel with Air India. At the time, it was also learned that some of the associates of the new temple leader were believed to be ISYF members.<sup>586</sup> The RCMP was also aware that Bagri, one of only three individuals who were ever prosecuted in connection with Air India, had travelled to Toronto with Lakhbir Singh in August 1985.<sup>587</sup>

In 1986, the RCMP conducted two investigations into terrorist plots involving the Babbar Khalsa. The Project Scope investigation related to a plot by Montreal BK members to blow up an Air India plane flying out of New York, and the Project Outcrop investigation related to a plot hatched in Hamilton by Parmar and other BK members to blow up Parliament buildings in India and to kidnap the children of Indian MPs.<sup>588</sup> During the Outcrop investigation, the RCMP obtained information which indicated that Parmar had requested assistance from an ISYF member, asking that he provide "...ten men ready to die" and a sum of money.<sup>589</sup> In June 1986, RCMP HQ was seriously concerned about the plots, and sent a message to all divisions setting out measures which had to be implemented in response.<sup>590</sup> HQ stated:

<sup>583</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 177.

<sup>584</sup> See Section 1.6 (Pre-bombing), Khurana Information.

<sup>585</sup> Exhibit P-101 CAA0196, p. 2.

<sup>586</sup> Exhibit P-101 CAA0276, p. 2.

<sup>587</sup> Exhibit P-101 CAA0307, p. 8.

<sup>588</sup> See generally Exhibit P-102: Dossier 2, "Terrorism, Intelligence and Law Enforcement – Canada's Response to Sikh Terrorism," pp. 45-46; Exhibit P-101 CAF0504.

<sup>589</sup> Exhibit P-391, document 429 (Public Production # 3811), p. 8.

<sup>590</sup> Exhibit P-101 CAF0504.

Until recently it would have been an overstatement to claim that there was a serious extremist presence in Canada. Emphatically this is no longer true. There are growing indications that the Babbar Khalsa and the International Sikh Youth Federation are to some extent consolidating their efforts within Canada in their increasingly – violent fight for an independent Khalistan.<sup>591</sup>

In fact, indications that the BK and the ISYF were consolidating their efforts had existed since before the bombing of Air India Flight 182. Yet, the investigation of the possible BK/ISYF connections did not form a central part of the RCMP Air India investigation, and the ISYF suspects received limited attention after the investigation was re-oriented in August 1985.

### Subsequent Investigation

Although the ISYF players involved in the Khurana meeting were no longer important targets for the RCMP Task Force, and the Khurana information was no longer a primary focus of the investigation, an HQ analyst, Cpl. Doug Wheler, nevertheless showed interest in the matter in 1987. He prepared a report raising questions about several aspects of the investigation. In the report, he recounted the Khurana information and noted that, if it was factual, it was significant because it clearly indicated that Pushpinder Singh had definite knowledge that something serious was going to happen within two weeks, "...exactly on schedule for Air India crash/Narita bombing." Wheler noted that "...the problem that exists with this intelligence is that the above-mentioned portions of the conversation were not recorded, as the tape ran out one hour to 45 minutes prior to this portion of the conversation taking place" (this was the recollection of some of the VPD members involved, but not of others). However, he also indicated that the source, Khurana, was adamant that the conversation took place.<sup>592</sup>

Wheler noted that the Khurana information might not be completely in line with the RCMP's main theory of the case, but he did not feel that it should be discounted for that reason:

I realize we have two different groups operating here, ie: ISYF and Babbar Khalsa, however the possibility exists that both these groups have combined their efforts to bring about certain effects which would benefit their cause.<sup>593</sup>

Wheler noted that such cooperation between the BK and the ISYF had been suspected in the Outcrop investigation and could have existed in the Air India conspiracy. He added that the conversations at the Khurana meeting indicated

<sup>591</sup> Exhibit P-101 CAF0504, p. 1.

<sup>592</sup> Exhibit P-391, document 429 (Public Production # 3811), pp. 6-7.

<sup>593</sup> Exhibit P-391, document 429 (Public Production # 3811), p. 7.

that Pushpinder Singh had strong ties to Parmar, "...even if [Pushpinder] is ISYF and Parmar is B.K."<sup>594</sup> As a result, Wheler concluded his report by suggesting that the Khurana situation be completely re-examined. He suggested a number of investigative initiatives, including: meeting with Khurana to find out if he was still adamant about the conversation he had heard and to ask him more questions about Pushpinder Singh's other comments; interviewing the VPD members involved in the investigation; and re-examining any notes made by the VPD member who was monitoring the meeting<sup>595</sup> (in fact, the RCMP learned in 1996 when the live-monitor was contacted that it was his first day on the job and that he did not make notes but simply listened as the meeting was taking place).<sup>596</sup>

Wheler's report was forwarded to the E Division Task Force on February 9, 1987, for its information and consideration.<sup>597</sup> On February 18, 1987, E Division wrote to the HQ Task Force in response to the questions raised in the Wheler report. About the Khurana information, the Division focused on the recording and reported that Cst. Sandhu had reviewed the original tape and that he was unable to detect any conversation where Manmohan Singh would have said that "...no consuls have been killed, no ambassadors have been killed, what are you doing, nothing?" and Pushpinder Singh would have replied "...you will see, something will be done in two weeks." The Division advised that the tape had been recorded on both sides and that Cst. Sandhu had heard the end of the conversation and the participants going home. The only time when there was a break in the tape was when it was changed over to the other side. Again, mysteriously, no mention was made of the first translation by Cst. Sandhu which referred to a conversation about waiting weeks or months to do something. The only information which was added was that "...Cst. Sandhu was in contact with Cst. Don McLean and found McLean unable to back up the claim that [redacted]." The Division concluded its message by saying that the information it provided "...should answer all your questions,"<sup>598</sup> and apparently conducted no further follow-up on the Khurana information in response to Wheler's questions and recommendations. The Division also did not discuss the possibility of cooperation between the BK and ISYF.

In March 1987, shortly after the Division provided this response, the RCMP learned that Pushpinder Singh had been arrested in India. At this time, the RCMP decided not to attempt an interview with Pushpinder Singh because, on the one hand, it would reveal the Canadian police interest which could be relayed to other extremists and, on the other hand, it was believed that Pushpinder Singh was attempting to put himself in a bargaining position, "...the cost of which is not known." The Force was aware that Pushpinder Singh had admitted having met Parmar in 1985, though it was not known whether this was before or after the bombing. Pushpinder Singh also possessed some general knowledge

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<sup>594</sup> Exhibit P-101 CAF0885, p. 3.

<sup>595</sup> Exhibit P-391, document 429 (Public Production # 3811), pp. 8-10.

<sup>596</sup> Exhibit P-391, document 208 (Public Production # 3341), p. 6.

<sup>597</sup> Exhibit P-391, document 429 (Public Production # 3811), p. 1.

<sup>598</sup> Exhibit P-101 CAA0528, pp. 2-3.



about the BK, though he claimed that he did not get involved in any of the BK's problems. He had recounted that Parmar had had a falling out with Surjan Singh Gill because he had spoken to Gill's wife about something personal and had upset her and that, after that, Bagri had replaced Gill as Parmar's confidant. At the time, however, attempts to conduct an RCMP interview were deemed premature by the Force.

On May 20, 1987, Wheler wrote another memorandum, pursuant to his February analysis and the response received from E Division. He indicated that "...efforts should still be made" to establish whether Pushpinder Singh had knowledge of, or was involved in, the Air India bombing. He provided additional reasons for not abandoning the investigation of Pushpinder Singh's possible involvement, reproduced some of his earlier analysis and responded to some of the points raised by the Division in response to his February suggestions. In particular, Wheler noted that, though Cst. Sandhu did not hear the conversation on the tape and did hear participants in the meeting going home, this probably related to the majority leaving and the fact that some could have stayed behind, given that there were 15 to 20 persons originally present. He added that the "wait two weeks" comment was reported to have been made during a conversation involving a small group only, and reiterated his belief that the conversation occurred over an hour after the recording stopped, noting that some of the VPD members involved had indicated in May 1986 that the tape stopped before the conversations of interest. Wheler again concluded with a number of recommendations, including the suggestion that Pushpinder Singh, who was still in custody in India, be interviewed by RCMP Air India investigators once "outstanding questions" were clarified. Wheler also recommended once more that the Khurana situation be re-examined and that the questions outlined in his previous analysis about this issue be answered. In particular, he suggested the possible use of a polygraph test as an avenue the Division could take to "...clarify this situation."<sup>599</sup>

On June 24, 1987, the E Division Task Force provided HQ with a report which contained detailed comments on the points raised in Wheler's message. The report noted that the facts and hypotheses relied on by Wheler were not confirmed by "substantive data." About the Khurana meeting, the Division noted that the conversation was reported by the VPD's human source (Khurana) before the tape was translated, and that subsequent follow-up by VPD Cst. Hovbrenner had revealed that the "...source was 'obviously excited and nervous because of the nature of the meeting' and may have misinterpreted parts of the conversation." E Division admitted that VPD Cst. Ram, who was monitoring the Khurana meeting, had indicated that he had had difficulty in distinguishing and interpreting the conversations when the "...full contingent of ISYF members were present and talking at the Khurana residence (some 17 individuals plus Khurana)," but felt that, had the conversation described by Khurana taken place, Ram would have been able to hear and interpret it since the number of participants was "significantly reduced" at that time.<sup>600</sup> It seems that the E

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<sup>599</sup> Exhibit P-101 CAF0885, pp. 1, 4-5, 7.

<sup>600</sup> Exhibit P-101 CAF0886, pp. 3-4 [Emphasis in original].

Division Air India Task Force doubted that the conversation reported by Khurana even took place, though Khurana had reported this information immediately after the meeting, before the Air India bombing.

Sgt. Robert Wall, in charge of the E Division Task Force, indicated in the memorandum forwarding the divisional report which was responding to Wheler's analysis, that he felt "...compelled to further comment," in light of the "...amount of time consumed by our analysts in their review of this material and the results thereof." He explained that the E Division analysis led to the conclusion that much of what was suggested in the Wheler report could not be supported "...by facts known or available to us." He requested that if the HQ Task Force was in possession of "...additional factual material," that this material be forwarded to the Division.<sup>601</sup> Wall concluded:

Given "E" Division's current undertakings and resources available to us, we must of necessity prioritize our workload. Having so stated, reports of this nature will not be subject of lengthy examination by us in the foreseeable future. Mutual cooperation in the pursuit of our common goal is invited.<sup>602</sup>

It should be noted that by mid-1987, the "slow degeneration" of the E Division Air India investigation had already begun. Wall's comments about prioritizing the workload should be understood in the context of the time. When they were written, the Division's priorities focused increasingly on forensics, wreckage recovery, and on the Reyat prosecution in connection with the Narita bombing, as opposed to solving the bombing of Air India Flight 182.<sup>603</sup>

Despite its demonstrated annoyance at being forced to look into the issue by RCMP HQ, the E Division Task Force nevertheless appeared to agree with the suggestion that Pushpinder Singh be questioned about his knowledge of the Air India bombing. In an additional response to Wheler's report, which was forwarded to HQ on June 25, 1987, the Division pointed out that the questions should be posed to Pushpinder Singh "...in general or broad terms i.e. what do you know about the Air India/Narita incidents etc.," because since there was "...no concrete information" to illustrate his role, if any, alluding to specifics would leave the door open for Pushpinder "...to manipulate the interrogator(s)," who would then "...have no recourse for verifying any of his admissions or denials."<sup>604</sup>

On June 29, 1987, Cpl. Greg Bell of the HQ Task Force wrote a memorandum to his OIC about the possibility of conducting an interview with Pushpinder Singh. He indicated that, when the RCMP had learned about Pushpinder's arrest in March, HQ had forwarded the information to the divisions, along with Wheler's analysis of his possible role in the Air India/Narita investigation, hoping that the

<sup>601</sup> Exhibit P-101 CAF0886, p. 1.

<sup>602</sup> Exhibit P-101 CAF0886, p. 1.

<sup>603</sup> See Section 2.2 (Post-bombing), The RCMP Investigation: Red Tape and Yellow Tape.

<sup>604</sup> Exhibit P-101 CAF0887.

divisions would raise issues where further clarification or details were required. Bell noted that the divisions had outlined different areas where additional information from Pushpinder Singh was needed, but had generally seemed "... particularly unresponsive and slow in providing in-depth thought regarding a second crack at Pushpinder." Now that the responses had been received, Bell saw a dilemma in deciding who would interview Pushpinder Singh on the RCMP's behalf. He set out various options, including to "...do nothing to pursue this avenue of investigation," and noted that all options except the last had advantages and disadvantages. He suggested that a decision be made as to whether the RCMP LO could conduct the interview, and that the divisions be notified of this decision and asked to provide more information.<sup>605</sup>

The OIC of the HQ Task Force responded that he had requested an update some time ago in anticipation of sending someone to India to interview Pushpinder Singh. He suggested that one RCMP investigator and the LO attempt to conduct an interview, but felt that conditions would have to improve before someone would be sent to India. The OIC noted that the last thing he wanted was to send a member "...all the way to India on speculation" and then to find out that nothing Pushpinder Singh said – assuming he said anything – was available as evidence.<sup>606</sup> In a subsequent note, the OIC also indicated that he shared Bell's concerns about the length of time necessary to obtain responses from the divisions. He noted that, having read the report submitted by E Division in June, he doubted that Division would even submit questions it would want posed to Pushpinder Singh. The OIC added that it appeared that the people at HQ were "...the only ones interested in Pushpinder" and that this was because HQ supported Wheler's hypothesis about his involvement in the bombing. The OIC asked that a message be sent to the divisions to request responses about the proposed interview by mid-August, and that the divisions be told that "...if we hold off any longer we run the risk of losing the interview opportunity," since Indian authorities could probably not hold Pushpinder Singh forever.<sup>607</sup>

In November 1987, Wheler wrote another memorandum about Pushpinder Singh. He noted that his previous reports were aimed at showing that Pushpinder "...could have knowledge of, or was actually involved in, the Air India/Narita investigation and that he should be interviewed by the RCMP." He reviewed some of the responses provided by the divisions, including the O Division response concurring that questions were raised and that Pushpinder should be interviewed "...by experienced, knowledgeable Air India/Narita investigators." About the rather less enthusiastic E Division response indicating that there was not enough information to support Wheler's theory or to warrant an investigation about Pushpinder's potential involvement, Wheler noted that, though nothing could be confirmed, enough questions and theories existed which pointed strongly to Pushpinder's involvement to make the matter worthy of further investigation. He wrote that, obviously, if no effort was made to investigate, then "...we can be assured that we will never uncover any factual/

<sup>605</sup> Exhibit P-101 CAF0888, pp. 1-3.

<sup>606</sup> Exhibit P-101 CAF0888, pp. 3-4.

<sup>607</sup> Exhibit P-101 CAF0889.

substantive information to either prove/disprove this theory." He provided a summary of some of the points he had raised in his earlier reports, and concluded that Pushpinder Singh should be considered "...as a prime suspect in the Air India/Narita bombings," and that "...every effort should be made to have this individual interviewed by the RCMP." He added that enquiries still needed to be made by the Division, noting in particular that the Khurana issue was "...still not satisfactorily concluded" and that Khurana needed to be asked for additional information and possibly given a polygraph test.<sup>608</sup>

Finally, in January 1988, an RCMP team travelled to India to interview a number of individuals incarcerated there. The OIC of the HQ Task Force, Supt. Pat Cummins, attended, accompanied by one E Division investigator and two O Division investigators. The E Division member, Cpl. Solvason, noted that E Division interest rested primarily on Pushpinder Singh, who was suspected of possible complicity in the Air India bombing. When the interview was attempted, Pushpinder Singh was told that the RCMP was interested in his knowledge of and/or responsibility for the Air India bombing. He presented "...an apprehensive and very defensive attitude." According to the RCMP investigator, he was "...very evasive and non-committal" and he denied certain points that were known to the RCMP to be true. Pushpinder Singh stated that he was not in a position to inform on his friends in Canada, and generally denied any involvement or responsibility in the Air India bombing, indicating that he was willing to take a polygraph on this issue. He was also adamant that he had no contact with Reyat and was not present for any test explosion in Duncan.

Solvason noted that as the interview progressed, it became clear that Pushpinder was "...attempting to entertain himself with the presence of the Canadian officials in an effort to have conversation designed to enlighten himself on the Canadian situation and the circumstances of his friends and associates in Canada." According to the investigator, Pushpinder prided himself "...on being able to outsmart persons and gain intelligence from his interviewers." After an O Division investigator took over the interview, the officers concluded that Pushpinder was simply attempting to obtain information without providing any. Solvason noted that Pushpinder had "certainly lied" during the interview, as well as refusing to answer questions and providing extremely general answers. He concluded that Pushpinder was untruthful and "...far from candid" and that it was clear that further discussions were "...not likely to be fruitful." The investigators put an end to the interview by telling Pushpinder that they would not continue speaking to him unless he was prepared to be more candid and truthful. Pushpinder simply reiterated his denials of responsibility. Interestingly, Solvason reported that Pushpinder Singh "...appeared to be extremely upset at the possibility of his voice being recorded."

On January 5, 1988, Cummins, who was still in India, wrote a telex indicating that nothing further could be gained from Pushpinder Singh and that "...any further action will come from Canada." Later in the month, HQ followed up

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<sup>608</sup> Exhibit P-101 CAF0890, pp. 1, 9, 11-12.

on Pushpinder Singh's offer to take a polygraph test about his involvement in Air India. The RCMP LO in Delhi, however, was not enthusiastic. He wrote on January 20<sup>th</sup> that Indian authorities likely did not have the proper equipment, which meant that conducting the examination would require specific logistical requirements from Canada. He indicated that he would only be prepared to entertain the suggestion "...with the input of E Div investigators," as it was his view "...that Pushpinder would in all likelihood pass/pass this examination."<sup>609</sup>

In its Final Submissions, the Attorney General of Canada indicated that, in spite of the RCMP focus on Parmar and the BK, "...the RCMP also continued to investigate those present at the meeting and conducted interviews with many people on this point over the years."<sup>610</sup> In fact, after the January 1988 attempt to interview Pushpinder Singh – which had received limited support from the E Division Task Force in any event – the documents produced in this Inquiry show that very little follow-up took place for the next seven years.

Wheler continued to push for the issue to be investigated, and E Division continued to resist. In August 1988, Wheler wrote yet another memorandum suggesting that "...enquiries be made in order to prove/disprove the theories of [Pushpinder Singh]'s possible involvement in Air India/Narita." He asked that E Division be requested to conduct a series of additional enquiries, including some about the Khurana meeting. He noted that many of these suggestions had been made previously, but that there had been "...no indication that they were acted upon or pursued."<sup>611</sup> HQ forwarded Wheler's memorandum to the Division and an E Division analyst, Cpl. Ed Drozda, prepared a report in response. Drozda researched the Division files and concluded that Wheler's suggestions had either already been addressed or that further follow-up was not warranted in light of existing information. He felt that only two out of Wheler's ten suggestions needed to be pursued.<sup>612</sup> Further action relating specifically to the Khurana information was not included on the list.

Wall also wrote another memorandum complaining about Wheler's questions, this time to the Division's OIC of Federal Operations. Wall indicated that his Section intended to proceed as suggested in Drozda's report, "...given we have appropriately in our view, responded to all other issues raised by Sgt. Wheler." He wrote that he again felt compelled to make observations about Wheler's most recent memorandum and "...previous like submissions." He noted that comparing Drozda's report with Wheler's "scenario" led him to conclude that Wheler was "...not fully informed of all the details of a rather complex investigation being conducted by this Division" and that, as a consequence of Wheler's "...scenarios which are too numerous to list, an unnecessary work load is placed on our already limited resources."<sup>613</sup> Wall added:

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<sup>609</sup> Exhibit P-101 CAF0895.

<sup>610</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 177.

<sup>611</sup> Exhibit P-101 CAF0891, pp. 1, 7, 9.

<sup>612</sup> Exhibit P-101 CAF0892, pp. 1, 3, 5.

<sup>613</sup> Exhibit P-101 CAF0893.

For the record we are not reluctant to undertake any viable endeavour which might bring this investigation to a successful conclusion, however, we do take issue with direction from Sgt. Wheler on how to accomplish this task i.e. "questioning should be done in a manner which would indicate that surveillance followed Parmar" etc. etc.<sup>614</sup>

Wall concluded his memorandum by noting that he was "appalled" that Wheler's report had been distributed by HQ to three other divisions of the Force and to CSIS, "an outside agency."<sup>615</sup>

The OIC Federal Operations for E Division also wrote to HQ about the matter, attaching Wall's memorandum and indicating that he largely agreed with Wall's concerns. He stated that, while he did not like to "point fingers," he was "...cognizant that the approach taken by [Wheler] on this occasion creates an unnecessary and unreasonable workload on my N.S.O.S. personnel."<sup>616</sup> He added that, since every investigative step taken or rejected at the divisional level was not the subject of a written report to HQ, it was "inconceivable" to him that any HQ member "...could, with the file material available to him, presume to be in a position to provide reasonable investigative oversight on the most intricate of details."<sup>617</sup> He wrote:

While I applaud the apparent motivation of the author of the critique, I find the result to be labour intensive, unproductive and not in good taste. In my view, such probing questions can only be of assistance and not detrimental if the questioner is on site (here) acting with the support of this office and cognizant of all relevant facts.<sup>618</sup>

Like Wall, he expressed concern that the HQ correspondence was distributed outside the Force before it was received by the Division. He concluded that the Division welcomed "...constructive suggestions and criticisms," but expected such queries "...to be considerate of existing effective investigative competence and control mechanisms at this point and mindful of information already in H.Q. N.S.O.T.F. possession." He asked that in the future "...the effect of posing questions of the quantity and quality of those alluded to above, be given due consideration" by HQ.<sup>619</sup>

This response from the Division apparently put an end to Wheler's attempts to advance the Pushpinder Singh investigation, at least insofar as can be determined

<sup>614</sup> Exhibit P-101 CAF0893.

<sup>615</sup> Exhibit P-101 CAF0893.

<sup>616</sup> Exhibit P-101 CAF0894, p. 1. N.S.O.S. was the National Security Offences Section, at the time, in charge of the Air India investigation in E Division.

<sup>617</sup> Exhibit P-101 CAF0894, p. 1 [Emphasis in original].

<sup>618</sup> Exhibit P-101 CAF0894, p. 2 [Emphasis in original].

<sup>619</sup> Exhibit P-101 CAF0894, p. 2.

from the documentary record made available to this Commission. During the following years, it appears that the only concrete step taken in pursuit of this avenue of investigation was to obtain a formal statement from Khurana on July 30, 1990.<sup>620</sup> Khurana was asked about what he had heard in the meeting, and indicated that they were talking about politics in India when Manmohan Singh asked Pushpinder Singh “What are you guys doing – nothing?” and Pushpinder responded “Just wait two weeks and then you will see something happen.” Khurana indicated that he believed that Pushpinder Singh was talking about what he and “...the groups in India” were doing.

It was not until 1995, when the file was reviewed in preparation for the 10-year anniversary of the bombing and a revived Task Force was eventually constituted,<sup>621</sup> that further investigation of Pushpinder Singh’s possible role took place. An RCMP member who conducted a review of the Pushpinder Singh file in early 1995 noted that “...there still appears to be a lot of controversy as to what Pushpinder Singh did or did not say at Khurana’s house” and that “... further work should be done to try and verify just what statements did occur at the Khurana residence.”<sup>622</sup>

Later in 1995, requests were made by E Division for the RCMP LO in Delhi to approach Pushpinder Singh again. The E Division Task Force noted at the time that Pushpinder Singh had been described “...as being one of the most important Sikh terrorists in the world.” In fact, immediately prior to his arrival in Canada in 1985, CSIS information had suggested that someone important would be coming from India and that this visit had “something to do” with Parmar, who would eventually become the main suspect in the Air India investigation. Solvason of the E Division Task Force felt that Pushpinder was a major player in 1985, but a lesser player in the actual Air India bombing. Though he was not viewed as one of the main conspirators, Solvason believed that Pushpinder would “...have definite knowledge/evidence to contribute” and could be a “... very important Crown witness” in any conspiracy prosecution.

Ultimately, Solvason interviewed Pushpinder Singh again during a trip to India, this time with Cpl. Jim Cunningham. Pushpinder was reluctant to speak to the investigators. He adamantly refused to have the conversation recorded and attempted to leave when the officers tried to record it. He indicated that he had no contact with Reyat or Parmar prior to the bombing, that he had no prior knowledge of the bombing and that he did not participate in the planning or commission of the crime, nor did he hear conversations about it ahead of time, “...e.g., Denied any of the statements attributed to him on the Khurana tapes.” Pushpinder Singh indicated that he was not willing to testify about any matters of which he might have knowledge. Overall, the investigators noted that Pushpinder was very vague in his statements and was believed to be “less than forthright,” and that interviewing him was of little value since he was unwilling

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620 See Exhibit P-101 CAD0180a.

621 See Chapter V (Post-bombing), The Overall Government Response to the Air India Bombing.

622 Exhibit P-101 CAF0882.

to testify.<sup>623</sup> They also felt that attempting to obtain a statement from him would be of little use since the statement "...would be totally exculpatory." For the time being, they noted that no further action was being taken.

Generally, the RCMP members involved in the investigation felt that Pushpinder Singh had more information than he admitted, but that, under the circumstances, the Force had "...nothing really to hang over him in an attempt to illicit [*sic*] his cooperation." Should the Force gather significant new information on their main suspects at the time (Bagri and his associates), it was noted that another interview, this time with the use of a polygraph, could be considered.<sup>624</sup> However, the project was not carried out at the time. E Division investigators cautioned that Pushpinder Singh might attempt "to manipulate things," and that he was clearly not forthcoming about information known to the RCMP, such as the statements he had made during the Khurana meeting.

In March 1996, Cpl. Bart Blachford of the Air India Task Force contacted many of the VPD members involved with the Khurana meeting and made various inquiries, mostly about their recollection of the recording and about locating the relevant VPD file. Blachford also requested yet another translation of the Khurana tape, asking an RCMP member to review it and to compare it with a pre-existing transcript and to look specifically for the conversation which Khurana had reported.<sup>625</sup> The Khurana information was then included in a 1996 affidavit in support of an authorization to intercept private communications. The affidavit recounted the manner in which the recording of the meeting was made, Khurana's statement about the conversation he had heard and the unsuccessful efforts to identify the conversation on the recording.<sup>626</sup> The affidavit did not seek to link this information with the intended targets of the intercept or to use it to support the application.<sup>627</sup> It appears that the information was included only for the purpose of making full disclosure.

In testimony before the Inquiry, Insp. Lorne Schwartz, who was an investigator with the renewed Air India Task Force in the late 1990s, discussed the investigation of Lakhbir Singh Brar which followed the receipt of information about the purported Parmar confession in 1997. Schwartz stated that he believed that, even before 1997, there had been "...lots of investigation done in relation to Mr. Brar to the ISYF, to any potential involvement that they may have had or contributed to the Air India conspiracy and bombing." He did not, however, provide details of the investigative steps that had been taken. Schwartz was also under the impression that there had been a lengthy investigation by the RCMP to identify those who were present at the Khurana meeting, but again could provide no details and was not aware whether Lakhbir Singh was "...purported to have been there or not."<sup>628</sup>

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<sup>623</sup> Exhibit P-101 CAF0883, p. 1.

<sup>624</sup> Exhibit P-101 CAF0883, p. 1.

<sup>625</sup> Exhibit P-391, document 208 (Public Production # 3341), p. 4.

<sup>626</sup> Exhibit P-101 CAD0180a.

<sup>627</sup> See, generally, Exhibit P-101 CAD0180.

<sup>628</sup> Testimony of Lorne Schwartz, vol. 51, September 24, 2007, pp. 6345-6346, 6359.



In June 1997, Schwartz and Cpl. Doug Best had interviewed Pushpinder Singh to ask about the Khurana information. Pushpinder Singh explained that he had been taken to Khurana's residence by Lakhbir Singh Brar, and that one of the reasons he was invited was because Khurana had two daughters and Pushpinder Singh was an eligible bachelor at the time. Pushpinder recalled that Manmohan Singh was present at the meeting. He acknowledged that he might have made a comment during the meeting about waiting two weeks to see something happen, but was adamant that he was not referring to Air India. He explained that he would have been referring to the state of affairs in India and the Punjab and that, as this was an emotional time, he might have simply made the comment in an incensed state of emotion. The investigators noted that the description of the meeting provided by Pushpinder Singh was consistent with the description Manmohan Singh had previously provided to the RCMP.<sup>629</sup>

During a subsequent interview with the RCMP, Pushpinder Singh indicated that he may have met Reyat at a gurdwara in Duncan at some point. He reiterated that the ISYF was not involved in the Air India bombing. He also continued to deny having had any prior knowledge of the conspiracy.

In 2005, the RCMP advised the Hon. Bob Rae that, despite having extensively investigated the Khurana information, the Force had not been able to corroborate the "wait two weeks" statement made by Pushpinder Singh, or his association with Parmar or other Air India bombing associates.<sup>630</sup> In 2008, the Attorney General of Canada, acting on behalf of the RCMP (as well as all other government agencies involved), advised in its Final Submissions to the Inquiry that the Khurana information had been "...thoroughly investigated over the years" and that no connection to the Air India bombing "...has in any way been substantiated."<sup>631</sup>

## Conclusion

The Khurana information, signalling as it did that the leader of an important Sikh extremist organization had indicated two weeks before the bombing that something would be done in two weeks, was clearly a matter that had to be investigated once the bombing occurred, as was recognized by all of the actors involved at the time. The information was especially significant in light of the possible connections between the organization it implicated – the ISYF – and the main Air India suspects – Parmar and the BK, including Reyat and Bagri. Yet, the follow-up investigation conducted by the RCMP was plagued by an exaggerated focus on the recording of the meeting (despite the availability of a reliable source who had reported the information before the bombing); by a lack of meaningful cooperation with the police force that had originally obtained the information; by an early re-orientation away from the ISYF members present at the meeting; and by a strong resistance at E Division to HQ suggestions that the matter be pursued further.

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<sup>629</sup> Exhibit P-391, document 209 (Public Production # 3342), p. 3.

<sup>630</sup> Exhibit P-101 CAA1099, p. 3.

<sup>631</sup> Final Submissions of the Attorney General of Canada, Vol. I, para. 177.

The failure to pursue interviews with Lakhbir Singh Brar as a witness or suspect in the Air India investigation until 2001, and the fact that this was only done in response to the purported Parmar confession information, provides an indication of the comparatively low priority which was accorded to the follow-up investigation of the Khurana information after the focus of the investigation was re-assessed in August 1985. Information that did not directly implicate the known BK member suspects was viewed as "alternate" to the main theory of the case. This may have impacted the vigour with which the Khurana information was pursued, in the same manner as it may have impacted the follow-up investigation of the purported Parmar confession.