

**A Guide to the Report of the Commission of Inquiry
Into the Investigation of the Bombing of Air India Flight 182**

VOLUME 1: THE OVERVIEW

- **Chapter I: Introduction** - explains the major findings in the Report and discusses the Commission's recommendation for an *ex gratia* payment to the families of the victims by the current Government, in light of the past treatment of the families (**1.9.3, 1.10**).
- **Chapter II: The Inquiry Process** – an overview of the process of the Inquiry and some of the problems encountered including:
 - The impact of the Government's over-redaction and slow production of documents (**2.3.2, 2.3.3, 2.3.5**);
 - The impact of attempts by Government agencies to influence Commission decisions about the relevance of issues and documents (**2.3.4, 2.3.5**), including a failure by the RCMP to reveal certain information to the Commission forthwith (**2.3.7**); and
 - The impact of the Government's decision to "speak with one voice" on behalf of different agencies with sometimes conflicting views and positions (**2.3.6**)
- **Chapters III - VI:** A thematic overview of the findings in volumes 2-5.
- **Chapter VII:** The Commission's 64 final recommendations.
 - Also includes four Observations relating to the RCMP structure, the *ex gratia* payment to the families, the establishment of an academic institute to study all aspects of terrorism (the "Kanishka Centre"), and the establishment of a mechanism for the Government to report on the decisions made respecting the implementation of the recommendations in the Report.

VOLUME 2: PART 1 – PRE-BOMBING

- **Chapter I: What was Known about the Threat** – details 12 episodes or "critical incidents" that shed light on what information was known about the threat before the bombing and illustrate operating weaknesses, poor recognition or transfer of intelligence, and missed opportunities in responding to the threat of Sikh extremism. Prominent recurring themes in these incidents include: failure to identify and share information; inability to piece together disparate information so as to understand the bigger picture; competition between organizations; complacency and human error.

The incidents are referred to throughout the report to illustrate weaknesses and deficiencies. They include:

- Warnings of the risk of time-delayed devices being placed on board (**June 1st Telex – 1.2**);
 - Observations made by CSIS agents of experiments involving a test explosion conducted by Sikh extremists in the woods in Duncan B.C. in June 1985 (**Duncan Blast –1.4**);
 - Information two weeks prior to the bombing that “something big” would happen in two weeks (**Khurana Information –1.6**);
 - The testimony of James Bartleman about a specific threat to the June 22 Flight 182 which was known prior to the bombing (**1.7**);
 - The unauthorized boarding of the Air India aircraft by then Air Canada summer employee, Brian Simpson, without challenge (**1.9**); and
 - Air India’s decision to clear Flight 182 for takeoff prior to the arrival of the dogmaster despite the identification of suspicious luggage, in part, due to cost-related concerns (**1.11**).
- **Chapter II: Threat Assessment and Response** - identifies and explains the role of the agencies that were responsible for assessing and responding to the threat and provides an overview of some of the challenges to their ability to carry out these functions including:
 - The failure to appreciate the nature and seriousness of the threat of Sikh extremism (**2.2**);
 - The reliance on anti-hijacking measures at airports, in spite of the Government’s knowledge of the threat of sabotage (**2.3.1**);
 - The lax security at Canadian airports (**2.4**); and
 - The Government’s failure to enact recommended regulations and measures, such as passenger-baggage reconciliation, that would address these and other known deficiencies (**2.3.2**).
 - **Chapter III: What Went Wrong?** – examines the impediments to the pre-bombing assessment of the threat, including:
 - Impediments that resulted from CSIS’ infancy, lack of resources, and lack of sophistication in its threat assessment process (**3.3**);
 - The RCMP’s creation of a counter-productive parallel threat assessment structure (**3.4**); and
 - Information-sharing failures that prevented any one agency from piecing together the mosaic of the threat information that would have pointed to the high risk of a bombing to Flight 182 (**3.5, 3.6**).

This Chapter also discusses information which, as the Commission learned after the close of the hearings, was in the possession of the Communications Security Establishment (CSE), and was

consistent with other information about the threats of sabotage and hijacking by Sikh extremists (3.6).

- **Chapter IV: Responding to the Threat** - examines the deficiencies that prevented the implementation of effective protective measures in response to the threat to Air India Flight 182, including:
 - Excessive secrecy in information sharing (4.2);
 - The misuse of the concept of “specific threat” by airport officials to deny additional protective resources (4.3); and
 - The use of the concept of “specific threat” today as an excuse to explain why more was not done to prevent the bombing on June 22, 1985 (4.3).

- **Chapter V: The Day of the Bombing** – details some of the key mistakes and security lapses that occurred on the day of the bombing, which prevented the detection of the luggage containing the bomb, including:
 - The decision to allow the RCMP dogmasters to go on training during a period of very high risk (5.2);
 - Air India’s use of the PD4 sniffer when the X-ray machine broke down, in spite of its demonstrated ineffectiveness (5.5); and
 - Air India’s decision to clear the flight for takeoff prior to the arrival of the dogmaster, in spite of the identification of suspicious bags (5.6)

VOLUME 2: PART 2 – POST-BOMBING: INVESTIGATION AND RESPONSE

- **Chapter I: Human Sources: Approach to Sources and Witness Protection** - examines how CSIS’s rigid adherence to the mantra that “CSIS doesn’t collect evidence,” and RCMP’s insistence on the supremacy of its mandate and need for ready “evidence,” impacted on their cooperation, with CSIS destroying raw materials and contaminating potential evidence, and the RCMP approaching CSIS sources in a manner that in some cases permanently alienated the sources, which in turn made CSIS even more reluctant to share its sources or information. The chapter also outlines the RCMP’s failures to protect sources and witnesses and details how, of the three individuals who were to be the key witnesses at the Air India trial:
 - One was murdered in his garage before the trial began, with the RCMP-installed surveillance in his home malfunctioning and failing to capture any images from the night he was killed (**Tara Singh Hayer -1.2**);
 - One feigned memory loss as she was too scared to testify (**Ms. E -1.3**); and
 - One was forced to enter Witness Protection two years earlier than planned due to the RCMP’s inadvertent disclosure of her identity (**Ms. D -1.5**).

- **Chapter II: RCMP Post-Bombing:** examines the structural and cultural impediments to the RCMP’s effective investigation of the bombing, including:
 - The failure to implement an intelligence-led approach to the investigation (2.2);
 - The poor communications with Headquarters (2.1); and
 - The diminishing resources assigned to the investigation until a review was conducted and the investigation was reoriented to avoid a public admission that the investigation was at an impasse (2.2).

Section 2.3, entitled “The Usual Suspects versus ‘Alternate Theories’”, reviews instances where the RCMP failed to follow up on intelligence leads, or prematurely discounted information contrary to its primary theory of the case, including:

- Information received before the bombing about the possibility that one, and possibly two Air India planes would be bombed, and the potential connections between those involved in this plot and other main Air India suspects (**The November Plot – 2.3.1**);
 - Information received from a source who purported to identify those responsible for bringing the bags to the airport, which was discounted years later in part on the basis of the physical appearance and changed hairstyle of suspects in comparison to a composite drawing of the person who checked in one of the bags (**Mr. Z – 2.3.2**);
 - A purported confession by Talwinder Singh Parmar, believed to have been the mastermind behind the bombing, implicating other individuals (2.3.3); and
 - Information about the comment made prior to the bombing by the leader of another Sikh extremist group that “something big” would happen (**The Khurana Tape – 2.3.4**).
- **Chapters III & IV: The CSIS Investigation & CSIS/RCMP Information Sharing:** examine the investigation conducted by CSIS and its impact on the criminal investigation (3.0), and discuss how CSIS’s insistence on operating as a civilian agency and not becoming a surrogate police agency led it to adopt policies and practices that hindered the use of intelligence as eventual evidence in criminal proceedings, such as the destruction of the Parmar tapes and other evidence (4.3). The effect of these practices on the Reyat Trial and at the Air India Trial is discussed in detail (4.4).
 - **Chapter V: The Overall Government Response to the Air India Bombing:** examines how the Government has historically responded to the families, the media, and to external review, generally denying any mistakes, attempting to downplay problems in inter-agency cooperation, seeking to limit funds expended to respond to the concerns of the families, and restricting the amount of information disclosed. The chapter also discusses how this defensiveness, secretiveness, and resistance to change have impacted on the agencies’ cooperation with the

present Inquiry, and details one instance where the RCMP withheld information from the Commission (5.7).

VOLUME 3: THE RELATIONSHIP BETWEEN INTELLIGENCE AND EVIDENCE AND THE CHALLENGES OF TERRORISM PROSECUTIONS

- **Chapter I: Introduction** – discusses the tension between secrecy and openness and the manner in which the Commission proposes to resolve it in matters relating to terrorism investigations and prosecutions.
- **Chapter II: Coordinating the Intelligence/Evidence Relationship** - explores how the management of information by CSIS and RCMP in their own interests impacts on national security interests.
 - The Commission considers how the National Security Advisor could be used to better coordinate and direct investigations in the public interest.
- **Chapter III: Coordinating Terrorism Prosecutions** - discusses the nature of terrorism prosecutions and proposes that ultimate decisions about whether and how to proceed with terrorism prosecutions should be made by the Attorney General of Canada.
 - It is recommended that a new position of Director of Terrorism Prosecutions be created. This person would serve under the AG and create and manage a dedicated counsel team for terrorism prosecutions.
 - The Director of Terrorism Prosecutions would also be well placed to manage the relationship and information flow between CSIS and the RCMP for purposes of the criminal prosecution.
- **Chapter IV: The Collection and Retention of Intelligence: Modernizing the *CSIS Act*** – explores the need for legislative, policy, and cultural changes that will ensure that CSIS collects, retains, and shares intelligence in counterterrorism investigations in a manner that will not compromise the admissibility of the information as evidence in a criminal trial.
- **Chapters V & VI: The Disclosure and Production of Intelligence & The Role of Privileges in Preventing the Disclosure of Intelligence:** discuss the legal requirement for disclosure to the defense in criminal trials, its impact on CSIS-RCMP information-sharing, and the privileges that can prevent disclosure. The chapters examine possible measures aimed at improving the workings and interactions of these mechanisms.

- **Chapter VII: Judicial Procedures to Obtain Non-Disclosure Orders in Individual Cases** - examines the problems with the current bifurcated process used to adjudicate national security privilege claims under section 38 of the *Canada Evidence Act* (7.2).
 - Examines how the process would be improved by having the trial judge adjudicate these claims as part of the criminal proceedings (7.3-7.4);
 - Discusses the potential for security-cleared “special advocates” to represent the interests of the accused in relation to claims of national security (7.6);
 - Explores the problems associated with overstated claims of the need for secrecy and recommends vesting ultimate responsibility in the AG with respect to disclosure of intelligence (7.9); and
 - Canvasses strategies to better manage national security concerns.

- **Chapter VIII: Managing the Consequences of Disclosure: Witness and Source Protection** – explores the problem of witness intimidation and its impact on terrorism prosecutions and canvasses potential mechanisms for protecting source and witness identity.
 - Recommends the creation of a position of “National Security Witness Protection Coordinator” to deal with witness protection issues in terrorism matters.

- **Chapter IX: Managing the Consequences of Disclosure: The Air India Trial and the Management of other Complex Terrorism Prosecutions** – provides an overview of the challenges of managing complex terrorism prosecutions and explores potential solutions to reduce delays and costs without compromising the fairness of the process.
 - Concludes that the use of three-judge panels for terrorism prosecutions is impractical and inadvisable.

- **Chapter X: Recommendations:** the Commission’s 35 recommendations on the subjects of the relationship of intelligence and evidence and managing the trial process for terrorism prosecutions.

VOLUME 4: AVIATION SECURITY

- **Chapter I: Introduction** – describes the widespread and interdependent deficiencies in aviation security that led to the bombing of Air India Flight 182, the strides that have been made since 1985 and the significant gaps that remain.

- **Chapter II: Responses to the Bombing of Air India Flight 182** – discusses the reviews that were conducted and security changes made in the immediate aftermath of the Air India bombing. The most familiar of these is passenger and baggage reconciliation – the process of matching

passengers and their baggage in order to prevent unauthorized bags from being placed on board aircraft.

- **Chapter III: Civil Aviation Security in the Present Day** – evaluates the state of aviation security today – which has been profoundly influenced by the events of September 11, 2001 – but nonetheless points out that many of the deficiencies from 1985 continue to be urgent concerns today. Issues discussed include:
 - The need to meet and exceed our international obligations and embrace international best practices, while maintaining Transport Canada as the designated authority responsible for Canada’s civil aviation security program **(3.2)**;
 - The need for a coordinated, system-wide risk management strategy in this “intensely dynamic” risk environment **(3.3)**;
 - The potential of behavioral analysis as part of pre-board screening and the problems associated with the current “no-fly list” program **(3.5)**;
 - Ongoing concerns regarding the current limitations of screening technology, which should never be seen as the final or only answer to threats to aviation security **(3.6)**;
 - The difficulties CATSA has encountered in recruiting and retaining screening personnel **(3.7)**;
 - The danger posed by the lack of regular screening of air cargo, a danger recognized decades ago and which was the single most disturbing revelation about the remaining gaps in Canada’s civil aviation security regime **(3.8.1)**;
 - The poor access control to airside and restricted areas in airports, making aircraft and passengers vulnerable to attack by terrorists **(3.8.2)**; and
 - The potential merits of a mechanism to warn the public of terrorist threats **(3.9)**.

The report concludes that currently, resources are disproportionately weighted towards passenger and baggage screening, leaving aircraft and airports vulnerable to other means of sabotage.

- **Chapter IV: Recommendations** – The Commission’s 29 recommendations on this part of its mandate, which are designed to:
 - Improve oversight of civil aviation security **(Recommendations 1 through 5)**;
 - Ensure that all areas of risk pertinent to aviation security are managed such that the level of risk they present is as low as reasonably achievable **(Recommendations 6 through 8)**;
 - Ensure that Transport Canada provides timely, relevant and actionable intelligence to all stakeholders **(Recommendation 9)**;
 - Improve security at Canada’s airports **(Recommendations 10 through 17 and 26)**;
 - Improve methods for screening passengers and their baggage **(Recommendations 18 and 19)**;

- Ensure that reliable and effective screening technology is deployed, both now and in the future (**Recommendations 20 and 21**);
- Address difficulties in recruiting and retaining screening personnel (**Recommendation 22**);
- Address the long-standing risk presented by air cargo by implementing a system of Regulated Agents that will meet and, optimally, exceed Canada's international obligations (**Recommendations 23 through 25**);
- Foster greater transparency in aviation security and encourage an examination of the potential merits of a public warning system (**Recommendations 26 and 27**); and
- Provide for sustained funding for civil aviation security in Canada (**Recommendation 29**).

VOLUME 5: TERRORIST FINANCING

- **Chapter I: Terrorist Financing – An Overview** – examines the nature of terrorism and terrorist financing and the utility of Canada's initiatives to combat terrorist financing which are based on an anti-money laundering model.
- **Chapters II-V:** reviews the legislation governing terrorist financing, the responsible departments and agencies and their interaction, external reviews that have been conducted of the anti-terrorist financing program and the response to such reviews.
- **Chapter VI: The Links Between the Charitable Sector and Terrorist Financing** – examines the vulnerability of the Canadian charitable sector to being used for terrorist financing and the mechanisms in place to regulate charities and not-for-profit organizations.
- **Chapter VII: Resolving the Challenges of Terrorist Financing** - addresses the need for FINTRAC and the CRA to be better integrated into the intelligence cycle to more effectively detect terrorist financing and to provide intelligence to CSIS and the RCMP. Reviews potential solutions to resolve issues relating to charities and not-for-profit organizations, including a better use of penalties by the CRA and federal-provincial cooperation to address the potential for abuse of such organizations. Discusses the contribution that could be made by the proposed academic institute for the study of terrorism (the "Kanishka Centre") in terms of developing additional strategies and human capital in support of anti-terrorist financing efforts.

Recommendations and observations in regard to strengthening Canada's anti-terrorist financing measures are set out in various parts of the above chapters dealing with terrorism financing.

ADDITIONAL PUBLICATIONS

The Commission published four volumes of academic studies addressing various aspects of the Commission's work. These can be accessed in print or at www.majorcomm.ca.

In December 2007, the Commission published a report on the personal stories of the victims of the Air India bombing and their families, as well as stories of the rescuers and Canadian officials who were in Ireland immediately after the bombing. The Report, entitled **The Families Remember**, is also available in print or at www.majorcomm.ca.