



**COMMISSION OF INQUIRY INTO THE
INVESTIGATION OF THE BOMBING OF AIR INDIA FLIGHT 182**

**SUPPLEMENTAL SUBMISSIONS OF
THE ATTORNEY GENERAL OF CANADA**

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1. Tara Singh Hayer (“Hayer”) was an individual who became known to both CSIS and the RCMP and provided information to both of them. As testified to by former S/Sgt Bob Solvason (“Solvason”) and Sgt. Laurie McDonnell (“McDonnell”), Hayer was speaking to the RCMP from about January of 1986.¹ But in the spring of 1986, CSIS reported information that was ultimately revealed to have come from Hayer as well². When Hayer spoke to CSIS, he told them he did not want to speak to the RCMP.³ It did not become clear for some time that in fact the originator of the CSIS information was also an RCMP contact. Once that did become clear in May 1986, the RCMP requested that CSIS withdraw⁴. This was agreed to at senior levels of both agencies.⁵
2. There was evidence before the Inquiry that there were some concerns within the RCMP about Hayer’s reliability. Solvason disagreed with these concerns⁶, as did McDonnell⁷. As well, Solvason testified that he did not receive approval to travel to England with Hayer in a timely fashion⁸.
3. As noted in the Attorney General of Canada’s Final Submissions, subsequent to Solvason’s testimony, the RCMP located documents relevant to his evidence about Hayer and the trip to England⁹. These documents have now been reviewed by the Government for privilege, provided to Commission Counsel, and filed as exhibits.¹⁰
4. These documents, which were not reviewed by Solvason or McDonnell before they testified, clarify certain aspects of their testimony. Most notably, the documents

¹ Evidence of Bob Solvason, Transcript, Vol. 89, p. 11559; Evidence of Laurie McDonnell, Transcript, Vol. 76, p. 9617.

² Exhibit P-101, CAA0424; Exhibit P-290, p. 4, Hayer Admission 2.

³ Exhibit P-290, p. 2, Admission 1.

⁴ Exhibit P-101, CAA0443(i); Exhibit P-290, p. 4, Hayer Admission 2.

⁵ Exhibit P-101, CAA0443(i); Exhibit P-290, p. 4, Hayer Admission 2; Eshleman, Vol. 75, p. 9409.

⁶ Exhibit P-290, p. 9, Hayer Admission 7 – see Evidence of Bob Solvason, Transcript, Vol. 89, p. 11563; Exhibit P-290, p. 6, Hayer Admission 4 – see Evidence of Bob Solvason, Transcript, Vol. 89, p. 11564.

⁷ Evidence of Laurie McDonnell, Transcript, Vol. 76, p. 9623.

⁸ Evidence of Bob Solvason, Transcript, Vol. 89, pp. 11562.

⁹ Attorney General of Canada, Final Submissions, page 108, paras. 248-251.

¹⁰ Exhibits P-101, CAF0726, CAF0728-CAF0750 and CAF0755.

reveal that the approval for Solvason to travel to England was in fact granted within days¹¹. Other documents show that it was Hayer's decision to travel to England for reasons of his own, not solely to assist the RCMP¹²; and that it was Hayer's own decision not to travel to England and not to assist the RCMP.¹³ Finally, some of the documents provide further context to the concerns expressed regarding Hayer's credibility in para. 2, *supra*¹⁴.

5. The story of Hayer's involvement with both CSIS and the RCMP has another element which raises issues of cooperation between the agencies. By the fall of 1986, the RCMP was discussing with Hayer the possibility of his travelling to England and obtaining evidence by recording his conversations with Tarsem Singh Purwall. The RCMP discussed this informally with CSIS at a meeting between RCMP member "Phelan", Chris Scowen and Mike Gareau on October 17, 1986.¹⁵ However, when CSIS Headquarters became aware of the proposal, they had some concerns which they raised with the RCMP.¹⁶ Their concerns were twofold: first, that the RCMP's actions could be dangerous for Hayer and might damage his future potential to the

¹¹ Exhibits P-101, CAF0714, CAF0733.

¹² Exhibit P-101, CAF0728 and CAF0739.

¹³ Exhibit P-101, CAF0727, CAF0743.

¹⁴ Exhibit P-101, CAF0755: This Dec. 16, 1986, telex from E Division reports to Headquarters that Hayer is planning another trip to England in January and is offering his assistance to the RCMP while there. E Division states "[Hayer] has to be considered of questionable reliability. Therefore, we have no intention of re-activating our original operation plan. However, we would suggest that the L.O. London be advised of the foregoing". It appears from references in P-101, CAF0748 at page 2 that Hayer did travel to London in January on his own and was debriefed by RCMP afterwards, but provided no new information. That same reference notes that Hayer would be returning to England in April 1987. Exhibit P-101, CAF0746: On April 13, 1987, this telex from E Div to Headquarters requests authority for Solvason to travel to England with Hayer. The document notes that a "similar proposal received your authorization in Oct 86, however because of scheduling difficulties it was not discharged." Exhibit P-101, CAF0748: This is an internal Headquarters document, dated April 14, 1987 which considers the authorization request for Solvason in light of the previous issues with Hayer's trips to England. The document refers to Exhibit P-101, CAF0755 and the reference to Hayer as being of "questionable reliability", and queries why E Division now considers him reliable enough for this operation.

Exhibit P-101, CAF0747: This document, also dated April 14, 1987, is a telex from the E Division Intelligence Officer to Headquarters. There is reference to a conference call which must have discussed the issues raised in P-101, CAF0748. The author explains the use of the phrase "questionable reliability" in reference to Hayer and says it was a "a poor choice of words", and was used to describe Hayer's reluctance to become involved as an agent under the RCMP's direction.

¹⁵ P-101, CAF0753.

¹⁶ Exhibit P-101, CAA0504; Exhibit P-290, p. 8, Hayer Admission 6; Exhibit P-101, CAB0680.

CSIS and the RCMP; and second, that the RCMP had had direct contact with the intelligence authorities in the UK, when they should have gone through CSIS.¹⁷

6. With respect to the issue of contacting the intelligence authorities in the UK (specifically the British Secret Service, or BSS), the RCMP's response to this was outlined in a separate memo. Essentially, the RCMP had contacted the Metropolitan Police, Special Branch (MPSB), also referred to in the documents as New Scotland Yard (NSY), and passed on several questions to them. MPSB then passed some of these questions on to the BSS¹⁸.
7. On the matter of Hayer's security, as noted in the documents, the police would endeavour to protect him, and they felt Hayer was aware of the risks and could make his own decisions¹⁹. As, ultimately, he did, when he decided he no longer wished to participate in this operation.
8. The broader issue of Hayer's protection is a theme which recurs throughout the piece, in light of the manner in which he died: murdered by a gunman. As was made clear by David and Isabelle Hayer, Tara Singh Hayer was not interested in being silenced or coddled:

MR. KAPOOR:I understand also that you were urging in those days, "Maybe you shouldn't be writing these things. We can't live with the kind of threats that we're encountering."

MR. HAYER: Well, I think I can tell you right up to almost a week before his assassination attempt in 1988 -- August 26th, '88, just a week before that, I was at my dad's home. I had to attend some meeting close by, so I went to have some tea and my mom was there, and she said it and I also ended up saying it, that "Maybe it's time to move on, let somebody else deal with this issue because you

¹⁷ Ibid.

¹⁸ Exhibit P-101, CAB0680

¹⁹ Ibid.

have paid a heavy price and the family has paid a heavy price. We should let somebody else deal with it.” His answer was, “My stand is to say terrorism is wrong and I stand to say killing innocent people is wrong. Bringing problems from other countries here is wrong. If I don’t speak, I can’t ask anybody else to risk it.” So I understood.²⁰

9. Sgt. Laurie McDonnell knew Tara Singh Hayer well and understood that while he was certainly security conscious and would take steps to protect himself and his family, he equally would not be silenced and would not be confined:

We always discussed, in a sense, his protection. It was always an issue, his security. He did not want hands-on protection. He wanted to be free to publish his articles and run his newspaper and carry on his life as close to as any normal person could. There was always a constant threat to him, but just on the basis of what he did and his articles and the attention that it drew from these groups, negatively, toward him. So I may have discussed with him on occasions maybe his articles and things were maybe drawing too much attention to himself and he may want to consider maybe not pushing these groups as much as they perceived. So he carried on. It wasn’t something he was interested in. And I know he had a video camera at his house and video cameras and things and security alarms at his business as well as Surrey Detachment had him as a priority. In the event a call came in from either the business or the thing, he would receive a priority response....In an ideal world or in another situation, somebody might decide to stop what they’re doing that is causing someone else to be upset with you, and maybe cause you harm; maybe even move away or take some action like that. He was not interested in that whatsoever.²¹

²⁰ Evidence of David Hayer and Isabelle Martinez-Hayer, Transcript, Vol. 76, p. 9531.

²¹ Evidence of Laurie McDonnell, Transcript, Vol. 76, pp. 9653-54.

10. The RCMP did, in fact, provide protection and assistance to Hayer and his family on numerous occasions. After the first shooting, the RCMP provided protection at the hospital where Hayer was receiving treatment.²² As Sgt. McDonnell testified, in August 1992 the RCMP dispatched a unit to provide protective coverage after what appeared to be an imminent threat was received. Sgt. McDonnell himself spent a late shift at the Hayer residence.²³ In 1998, after receiving information that Hayer was on a “hit list”²⁴, the RCMP installed a security camera at the Hayer residence.²⁵
11. While Hayer was speaking to the RCMP, and afterwards, the RCMP took all reasonable steps to ensure that the fact that Hayer was providing information to them remained confidential²⁶.

ALL OF WHICH IS RESPECTFULLY SUBMITTED THIS 29TH DAY OF OCTOBER,
2008.

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²² Exhibits P-101, CAF0465 and CAF0467 to CAF0478.

²³ Evidence of Laurie McDonnell, Transcript, Vol. 76, pp. 9639-40.

²⁴ Exhibit P-101, CAF0485

²⁵ Exhibits P-101, CAF0461, CAF0462 and CAF0480. As noted in these documents, the RCMP equipment failed and did not record any image on the day of Hayer’s murder. Aside from there being no evidence of tampering, it is not known when or how the problem causing the failure happened.

²⁶ Exhibit P-101, CAF0751.