

**Presentation by Terrance S. Carter to the Standing Senate
Committee on Human Rights in its
Study of Islamophobia
February 13, 2023**

Introduction

Honourable Senators and Members of the Standing Senate Committee on Human Rights, thank you for inviting me to speak today.

I understand that I have been asked to be a witness with regard to the audit of Muslim charities by the Canada Revenue Agency, or CRA. As such, it might be helpful for me to provide a brief explanation of my background.

I am a charity lawyer as well as the managing partner of Carters, a law firm of 15 lawyers with a focus on charity law. I am also a past member of the Advisory Committee on the Charitable Sector, and I have appeared as a witness on anti-terrorism law and charities before the Air India Inquiry and the House of Commons Standing Committee on Finance.

Comments on Charity Audits of Muslim Charities

I have been involved in 10 charity audits by the CRA of Muslim charities over the past 13 years, which have resulted in five revocations, one of which included a suspension of receipting privileges, one financial penalty that was vacated on internal appeal, three compliance agreements, and one audit still in progress.

Since the legal work I do for clients is confidential and subject to solicitor/client privilege, I cannot discuss the details of any client files. However, I can provide high-level observations in my personal capacity.

1. From my experience, the CRA audits of Muslim charities are invariably undertaken by the Review and Analysis Division of the Canada Revenue Agency, or (“RAD”), although not usually identified as such. These audits are unlike any other audits undertaken by the normal Compliance Division of the Charities Directorate, since the focus of RAD is to investigate and disrupt perceived involvement of charities with terrorist financing. This means that RAD audits are extremely detailed and complex, producing audit reports that are voluminous in length that analyze tens and sometimes hundreds of thousands of emails, as well as the charity’s online presence. The audits can extend over lengthy periods of time, sometimes lasting up to five years or more. The audits are very difficult for the charity to respond to because registered charities have the obligation to refute every allegation raised in an audit, including disproving every suggestion and innuendo about alleged involvement with possible terrorist financing. In essence, the charity is presumed to be guilty until it can prove that all of the allegations and suspicions raised by RAD are baseless, which is generally an impossible
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threshold to meet. In addition, many Muslim charities are subject to allegations that I rarely see with audits of other faith groups, such as alleging that religious festivals, as well as youth, sport and social programs are not sufficiently religious in content.

2. The reason I believe that these audits are problematic is because RAD is part of a “whole of government” national security approach that is driven by the requirements of the Financial Action Task Force (“FATF”) Recommendation #8, as reflected in Canada’s 2015 National Inherent Risk Assessment. This has, in turn, led to the implementation of a “risk-based assessment” model that has identified eleven groups that apparently pose the greatest threats of terrorist financing in Canada, 9 of whom (82%) are Muslim. This list of 11 groups has not been updated since 2015 and does not reflect more recently listed organizations, such as domestic white supremacist groups, including the Proud Boys.
3. If there were concerns that a Muslim charity was actually involved in terrorist financing, then RAD should be referring those matters to the RCMP to investigate and prosecute, since terrorist financing is a criminal offence outside the jurisdiction of RAD. Instead, RAD deals with suspicions about terrorism financing by utilizing powerful enforcement tools available to it under the *Income Tax Act* in conducting a charity audit. By doing so, RAD does not need to utilize the more onerous process of deregistration under the *Charities Registration (Security Information) Act*. Instead, RAD can achieve its objective of investigating and disrupting perceived involvement of Muslim charities with terrorist financing by simply relying on regular CRA compliance tools, such as the charity needing to maintain detailed books and records, as well as direction and control over operations, in addition to ensuring “correct, complete and current” information in their annual T3010 filings in order to justify revocation of charitable status on the pretext that RAD is conducting a regular charity compliance audit, when in fact it is attempting to address purported terrorist financing suspicions without having to prove any of those suspicions. The reality is that no charity in Canada has been charged, let alone convicted, of terrorist financing, nor has the CRA to my knowledge ever used the *Charities Registration (Security Information) Act* to either deny or revoke charitable status of a charity.

Possible Solutions

The solution to this systemic “whole of government” problem does not lie simply with examining how the CRA carries out its audits of Muslim charities, although that is obviously a factor. Instead, it must involve the Department of Finance, since Finance is responsible for establishing and continuing the risk-based approach that is reflected in Canada’s National Inherent Risk Assessment. This Assessment needs to be seriously reconsidered given the damage that it has done and continues to do by creating a presumption that the risk of terrorist financing is best addressed by focusing on Muslim charities in Canada. In addition, the recently created National Security and Intelligence Review Agency should be asked to review the mandate, training and procedures of RAD within the CRA, in particular with regard to its selection and processing of CRA audits of Muslim charities, including both past and

present audits, in order to determine whether RAD should continue to exist separate from the normal Compliance Division of the Charities Directorate.

In conclusion, I believe that Canada can and needs to do better in its treatment of Muslim charities. The Muslim community, like so many other vibrant minority groups in our country, is an essential part of the multi-cultural fabric of Canada and should be celebrated and respected rather than being undermined by our government. I sincerely hope that the work of this Senate Committee will help in achieving this goal. Thank you.

For the transcript of the balance of Mr. Carter's presentation and the Q and A session before the Standing Senate Committee, please click [here](#). The full video of the Standing Senate Committee is available [here](#).
