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Charity Begins with Fairness: More to Explore



Office of the
Taxpayers' Ombudsperson

CHARITY BEGINS WITH FAIRNESS

MORE TO EXPLORE

An examination into the fairness of the
audit process for registered charities in Canada

Publication Date: March 27, 2023

An examination into the fairness of the audit process for registered charities in Canada

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Foreword



When the Minister of National Revenue requested that I open this examination, I recognized the seriousness of the allegations being made by some charities. Registered charities touch the lives of Canadians in several ways. They advance education and religion, relieve poverty, and can benefit the public in many other areas.

From the beginning, my Office and I understood that many were very interested in hearing about our findings. We knew that there were specific concerns expressed by some Muslim-led charities about their treatment by the CRA, so we took the time to listen and deepen our knowledge.

To carry out a fair and impartial examination, we intended to validate all claims with facts. We met with stakeholders, including representatives of charities and the CRA, and we received procedural documents, employee training materials and many other relevant documents from the CRA.

Based on the information we examined related to unconscious bias training at the CRA, we found several areas that could be improved. For example, we found that much of the internal CRA training sessions on unconscious bias did not focus on decision making and that the available training was largely voluntary.

Therefore, I recommend to the Minister of National Revenue that the CRA create an unconscious bias training course for CRA employees of the Charities Directorate, focus the training on

those involved in the audit process, and make the course mandatory for all employees involved in the audit process, including decision makers.

Unfortunately, beyond unconscious bias training, we encountered several challenges that prevented us from accessing information. These challenges resulted from administrative decisions and legislative constraints preventing the CRA from sharing confidential and taxpayer information without the taxpayer's consent.

Because of the incomplete information available to my Office and the lack of authorities provided in the Taxpayers' Ombudsperson's Order in Council, our examination was not as comprehensive as hoped. We were able to make some observations but unfortunately could not examine the issues deeply enough to make any assessment of the existence of bias in how the CRA applies its processes.

It is clear that additional powers would have provided us with more access to the information we needed to conduct a comprehensive examination in this case. For example, we could have been given additional powers under section 6 of the *Inquiries Act*. While these powers may not have eliminated all of the constraints in this particular examination because of some of the limitations related to national security information, I am confident that there are solutions that will allow us to conduct future examinations more comprehensively. As this examination currently stands, although my Office used all available resources to carry out a complete and fair examination into this issue, there remains more to explore.



Mr. François Boileau

Taxpayers' Ombudsperson

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Examination approach

From the beginning, we were aware that this examination would be unlike any other examination we had done before.

We also recognized the importance of this examination not only to the Minister of National Revenue but also to Canadians, and we understood that many were very interested in hearing about our findings. Therefore, we created the Special Ombudsperson Response Team (SORT) to oversee the examination. The SORT consisted of key individuals from across our Office who met regularly to develop and implement the examination plan.

As is the case with all systemic examinations, this exercise was a fact-finding one, based on evidence.

The purpose of this report was not to lay blame on anyone, but to find, in our Office's own estimation based on facts, possible areas that could be improved or that warranted a recommendation on our part.

Structure of the report

First

We will identify the scope of the examination by reviewing the questions asked by the Minister of National Revenue.

Second

We will describe the examination process by outlining our mandate in the [Order in Council 2020-0703](#), the relevant legislation and the CRA's policies and procedures.

Third

We will explain our methodology; the Minister's request; our engagement with charities, other stakeholders and the CRA; and the challenges we faced.

Fourth

We will provide the findings of our analysis and present a recommendation and our observations to the Minister of National Revenue.

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Scope and mandate of the Taxpayers' Ombudsperson

Background

During the last decade, there have been countless acts of Islamophobia and antisemitism in Canada. On January 29, 2017, a terrorist attack in a Québec City mosque left 6 dead and 19 wounded. On June 6, 2021, another terrorist attack was carried out against a Muslim family in London, Ontario. It left four family members dead and another in serious condition.

Following these senseless attacks, a motion was put forth in Parliament to convene a National Action Summit on Islamophobia. It received unanimous consent. In July 2021, the Government of Canada held two National Anti-Racism Summits, one on antisemitism and the other on Islamophobia. They provided Canadians with national platforms to discuss ways to combat racism and discrimination.

On July 22, 2021, at the National Summit on Islamophobia, the government heard from members of the Muslim community about their experiences, including the sometimes-deadly impact of hate-fuelled violence. The Right Honourable Justin Trudeau, Prime Minister of Canada, also spoke to community members and expressed that institutions of the Government of Canada, from the CRA to national security agencies, should support Canadians, not target them.

The summit provided Muslim communities with the opportunity to "identify concrete ways to enhance federal efforts to combat Islamophobia."

Members of these communities presented recommendations, including calls for the government to review and amend legislation, provide additional support to victims, and examine some of the activities of national

security agencies. Some of those recommendations called for reform at the CRA, specifically at the Review and Analysis Division (RAD). The basis of these recommendations was laid out in two reports published months earlier, one from the International Civil Liberties Monitoring Group and the other from the University of Toronto Institute of Islamic Studies. Both reports allege that the CRA's audit process is biased against Muslim-led charities.

In the context of this report, Muslim-led charities will be defined as charities:

- operated or directed by Muslims
- carrying out activities that:
 - help Muslims
 - advance the religion of Islam

The Review and Analysis Division is a division within the CRA's Charities Directorate with a mandate to prevent the abuse of registered charities for the financing of terrorism.

The Honourable Diane Lebouthillier, Minister of National Revenue, was one of the speakers at the summit. The Minister of National Revenue is accountable to Parliament for all the CRA's activities. During her speech, she acknowledged that the CRA could do better and explained that she would ask the Taxpayers' Ombudsperson to conduct a systemic study addressing the concerns expressed by Muslim-led charities.

In a letter to the Taxpayer's Ombudsperson in August 2021, the Minister set clear expectations on what she wanted him to examine. She asked that the Ombudsperson carry out a study of the concerns raised by Muslim-led charities, paying particular attention to:

1. the selection of files for audit by the RAD
2. the quality of services provided to organizations that are audited by the RAD
3. the efforts made by the CRA to make its employees aware of the unconscious biases that they could foster and that would help perpetuate discriminatory behaviour toward charities run by racialized communities

She also asked the Ombudsperson to:

- meet with charities led by racialized communities
- clarify the CRA's role and responsibilities in relation to the other stakeholders involved in protecting national security, all while ensuring that a fair and impartial service is offered to Canadians

On August 5, 2021, the Ombudsperson opened the examination. Then on December 16, 2021, the Prime Minister reinforced his support in his mandate letter to the Minister. He asked that she support our Office's study to address the concerns of charitable organizations so that no equity-deserving organization is subject to bias.

Determining the scope

Soon after the Minister's request, and once the caretaker period ended after the federal election, we set up several preliminary meetings with:

- senior officials of the CRA's Charities Directorate
- Muslim-led organizations and charities as well as other racialized or faith-based organizations
- authorized representatives, including legal counsel for charities
- special interest groups

Many of the stakeholders we met with expressed concerns with different aspects of the CRA's audit process for charities. Some said there was not enough transparency on why a charity may be selected for audit, others expressed that the CRA did not do enough to ensure compliance, and many described a never-ending audit process. These preliminary meetings showed that the selection of a charity for audit was not the only concern. Most of the stakeholders we met with, including Muslim-led charities, felt the CRA employees they dealt with performed their audits professionally and courteously. They expressed that they didn't perceive any malice from CRA employees. However, some Muslim-led charities indicated that they felt they were treated more severely and differently at certain points in the audit process. We will explore this further in the report.

The scope

In February 2022, we announced that this examination would focus on the fairness of the audit process for charities as a whole and not on a specific demographic or faith based or cultural group. This approach would allow us to examine fairness, from how a charity is selected for an audit to how an audit is carried out, as well as the options that are available following an audit if a charity disagrees with the CRA's compliance outcome. That said, because of the vast amount of material

covering the audit process for charities, we focused our attention on specific areas of concern that were expressed by members of the Muslim community and other racialized groups.

Time period

This examination focused on the CRA's policies, procedures and guidance that were used between April 1, 2017, and March 31, 2021, along with the charities that had experiences with the audit process during this time. This allowed us to examine the CRA's current practices, identify any opportunities to improve the services it provides, and understand the previous information that may have guided its current processes.

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Operating environment

Taxpayers' Ombudsperson's mandate

The mandate of the Taxpayers' Ombudsperson is to assist, advise, and inform the Minister about any matter relating to services provided by the CRA. It is set out in Article 4 of the [Order in Council P.C. 2020-0703 \(OIC\)](#).

The OIC also states that the Ombudsperson must review any matter within this mandate at the request of the Minister and cannot refuse such a request.

That said, it is important to note that the OIC also specifies that any recommendations made by the Ombudsperson are not binding and that the Ombudsperson must comply with the relevant provisions of the *Access to Information Act*, the *Privacy Act* and any other applicable act of Parliament.

In addition, there are important limitations on the Ombudsperson's authority. Specifically, the Ombudsperson must not review:

- a service issue that happened before May 24, 2006, unless the Minister requests that the Ombudsperson do so
- the administration or enforcement of the program legislation unless the review relates to a service issue
- Government of Canada legislation or policy or CRA policy, unless the legislation or policy relates to a service issue
- a review request relating to a right outlined in the Taxpayer Bill of Rights that is not one of the eight rights we uphold
- an administrative interpretation provided by the CRA
- a decision of or proceeding before a court
- legal advice provided to the Government of Canada
- confidences of the King's Privy Council for Canada

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Our Office's principles

Our Office is guided by four principles, the last two of which will be explored in more detail in the context of this examination.

Independence

Our Office operates at arm's length from the CRA in the fulfilment of its mandate.

Objectivity

Our Office is neither an advocate for the complainant nor a defender of the CRA. We consider the position and perspective of both the taxpayer and the CRA when examining a complaint or issue.

Fairness

Our Office acts with equity and justice. We assess fairness by using the [Fairness Triangle \(PDF, 196 kB\)](#) from the Saskatchewan Ombudsman, and we agree that “fairness is not always simple and it does not always mean that everyone gets the exact same thing.”

The Fairness Triangle outlines three dimensions of fairness to be considered in an individual's experience:

- Relational Fairness addresses how one is treated (fair treatment).
- Substantive Fairness addresses the decision itself (fair outcome).

- Procedural Fairness addresses processes used in making the decision (fair process).

The Fairness Triangle can be a helpful tool to use in the decision making process.

For this examination, we were only able to look at some aspects of fairness. For example, we could assess whether procedures were fair and applicable to all charities. However, we could not assess whether or not they were followed by CRA employees or how they were applied in each individual case.



▼ Image Description

Fairness Triangle:

Procedural - How is it decided?

Substantive - What was decided?

Relational - How was I treated?

The Fairness Triangle.

Source: Saskatchewan Ombudsman - Developed from the concept of the satisfaction triangle, in: Moore, Christopher (2003). The Mediation Process: Practical Strategies for Resolving Conflict (3rd ed.). San Francisco: Jossey-Bass Publishers

Confidentiality

Our Office holds all communications with those seeking assistance in strict confidence and generally discloses confidential communications only with the consent of the taxpayer. However, for the purposes of this systemic review, we conducted this examination with due regard to maintaining the confidentiality of the information provided by both the stakeholders and the CRA's employees by ensuring that their identities were not disclosed indirectly or directly.

Though article 16 of the Taxpayer Bill of Rights states that "you have the right to lodge a service complaint and request a formal review without fear of reprisal [from the CRA]," some charities perceived that if they expressed their concerns to us, it could lead to consequences for them with the CRA, as we are administratively linked.

Therefore, the examination was conducted with due regard to maintaining the confidentiality of both the stakeholders and the CRA's employees. As such, this report is written in a way to preserve the confidentiality of all who expressed their points of view, including CRA employees. We have done this by giving similar scenarios to what was reported and broad examples when specific ones were provided.

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Our role

We are here to improve the service the CRA provides to taxpayers by reviewing service complaints. We also look at issues that can affect more than one person.

A taxpayer is generally a person who may be liable to pay a tax, eligible for a benefit, or provided with a service by the CRA. This includes individuals, businesses, charities, and other legal entities that are subject to Canadian tax law.

We review unresolved service issues, namely those linked to eight of the service rights outlined in the Taxpayer Bill of Rights.

We can also facilitate contact from the CRA when a situation is compelling. Further, if a service issue affects more than one person or a segment of a population, we can review it to determine if there is an underlying issue so that we can provide recommendations to the Minister or to the Minister and the Chair of the Board of Management of the CRA to resolve it.

In addition, we reach out to organizations, listen to Canadians, and carry out research to give a voice to vulnerable populations who may not otherwise be heard. This gives us a better understanding of Canadians' interactions with the CRA and helps us focus our research on issues needing review.

How we operate

The Taxpayers' Ombudsperson reports directly to the Minister of National Revenue. While our Office does work independently from the CRA, we are administratively linked, notably when managing financial and human resources. In other words, we do not have direct access to taxpayer information in CRA databases but we do have processes in place, and with your consent, we exchange your information with the CRA to resolve your service complaint.

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Applicable laws

The *Income Tax Act*

The Office of the Taxpayers' Ombudsperson operates independently from the CRA, and because of our mandate we are not authorized, without the consent of the taxpayer or a specific exemption, to access taxpayers' information, which is considered protected information under section 241 of the *Income Tax Act*.

Registered charities are charitable organizations, public foundations, or private foundations that are created and resident in Canada. They must be established for exclusively charitable purposes, devote all of their resources to activities that further those purposes, and provide a public benefit. ¹ Additionally, its purposes must fall into one or more of the following categories:

- the relief of poverty
- the advancement of education
- the advancement of religion

- other purposes that benefit the community

Registered charities are considered taxpayers under the *Income Tax Act*. Because there is no specific exemption in section 241 of the Act authorizing our Office to access taxpayer information, the CRA was prohibited from disclosing without consent.

The *Income Tax Act* authorizes the CRA to disclose taxpayer information with the consent of the taxpayer. Therefore, we could only get a charity's taxpayer information from the CRA if we had the consent of the charity. Even then, the information received from the CRA was redacted when the CRA provided it to our Office. The CRA indicated that this was required to protect some information, such as third-party information, and that it used its discretion to exclude audit and review techniques that could jeopardize compliance efforts if released.

While we understand that the CRA must abide by legislation that safeguards taxpayer information and gives it the discretion to protect confidential information, there are options still available. We go into more detail about these options in the section proposing solutions to overcome these challenges.

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How charities are regulated

To help understand the purpose of the audit process for registered charities, we will look at how charities are regulated and the requirements for them to maintain their registration.

Laws and regulations

The relationship between tax and charities pre-dates the creation of Canada (PDF, 218 kB). Many of the advantages provided to registered charities, and those who donate to them, are what set them apart from businesses and non-profits.

There are many differences between a registered charity and a non-profit. For example, a registered charity can issue donation receipts while a non-profit cannot.

As “Canada’s tax incentives for charities are among the most generous in the world,” it is understandable why registered charities are regulated by law.

Regulatory body

The CRA carries out many responsibilities for the Government of Canada, including the administration of tax laws and regulations as well as the common law rules relating to charities. It does this through its Charities Directorate. This Directorate, in essence, acts as the gatekeeper, registering only the organizations that qualify, preventing the registration of those that do not, and revoking the registration of the ones that no longer qualify. The Charities Directorate is also responsible for:

- reviewing applications for registration as a charity, registered Canadian amateur athletic associations, registered national arts service organizations, registered journalism organizations and other qualified donees

- providing information, guidance and advice on maintaining registered status
- ensuring that registered organizations comply with registration requirements through a balanced program of education, service, and responsible enforcement
- developing policy and providing information, communication, and education programs
- engaging with the charitable sector, other government departments, and other levels of government
- supporting the CRA's role in combatting the financing of terrorism in support of the Charities Registration (Security Information) Act

Requirements

While there are many requirements for becoming registered as a charity and maintaining registration, it all starts with having exclusively charitable purposes. This means that each purpose of an organization must be connected to one of the following categories:

1. relief of poverty
2. advancement of education
3. advancement of religion
4. other purposes beneficial to the community in a way the law regards as charitable

Purposes, sometimes referred to as “objects of an organization,” are the objectives that the organization is created to achieve.

In addition to having exclusively charitable purposes, a charity must carry out activities to further those purposes. Activities such as those contrary to public policy as well as providing undue benefits to members or conducting illegal activities would prevent them from being registered as a charity.

Privileges, obligations, limitations

Once registered as a charity, an organization gains many privileges. These include being exempt from income tax and being able to issue tax-deductible donation receipts.

However, with privileges, come many obligations, including filing an annual information return.

There are also limitations imposed on charities once registered. These include not supporting or opposing a political party or candidate or carrying out activities that are illegal.

Compliance

If a charity does not continue to meet the requirements of registration, it could be considered non-compliant. The CRA addresses a charity's compliance through a range of compliance treatments, which could include non-audit or audit interventions.

The CRA's audit process starts with the screening team assessing the level of risk of a charity's non-compliance:

- A low risk of non-compliance may lead to a non-audit intervention, such as a Charities Education Program visit, letter, phone call, or request for information.
- A higher risk of non-compliance could lead to an audit.

There are multiple possible outcomes of an audit:

1. If an audit finds a charity to be compliant, then the audit is closed and the charity is informed.
2. If an audit identifies minor non-compliance, the CRA will send an education letter to the charity to provide guidance on how to make changes to ensure compliance.
3. If there is moderate non-compliance, the CRA may suggest entering into a compliance agreement with the charity to correct the non-compliance.
4. If there is serious or repeat non-compliance, the CRA may propose imposing a sanction (financial penalties, the temporary suspension of the charity's tax-receipting privileges, or both).
5. If there is serious non-compliance, the CRA may propose revoking the charity's registered status.
6. In rare cases, the CRA may also close an audit by proposing annulment or voluntary revocation of the charity's registered status.

If the CRA issues a penalty, a temporary suspension of a charity's receipting privileges, or a notice of intention to revoke, the charity has the right to recourse by filing an objection with the CRA. If the charity still disagrees with the CRA, they can appeal to the Federal Court of Appeal or the Tax Court of Canada.

In comparison with other jurisdictions

In Canada, the CRA is the federal regulator for income tax purposes for registered charities. In many other countries such as the United States, France, and Belgium, regulation of charities is largely undertaken by their tax administrations. However, some countries do not follow this model. For example, in the United Kingdom, Australia, and New Zealand, charities are

regulated by dedicated bodies that are independent from the tax administration, with their own administrative and operating considerations and resources. In some countries, legislation specific to charities has been put in place and has provided a legislative environment that may permit more data to be shared with the public.

An overview of the audit process for charities

The audit process for charities consists of four main stages:

1. Selection

In 2016, the CRA implemented a risk-based approach to identify charities with a potential higher risk of non compliance with the requirements set out by law. Before a charity is selected for audit, the CRA's Charities Directorate carries out a risk assessment to determine the severity of the risk of non compliance. However, the Charities Directorate must first identify charities that warrant a risk assessment. One way that this takes place is when the CRA receives a lead, which can come from a variety of sources including:

- another area of the CRA
- the public
- law enforcement and partner agencies

In addition, the CRA conducts its own research to identify high risk of non compliance by analyzing whether a charity is meeting its legal obligations and by reviewing information from various places, including:

- publicly available sources
- a charity's annual Form T3010, Registered Charity Information Return

- agreements made following a previous audit

2. Audit

After a charity is selected for audit, there are two types of audits that can happen:

1. Office audit: This type takes place remotely at CRA offices and examines information already in the charity's file.
2. Field audit: This type takes place at the charity's physical locations and examines its books and records.

3. Outcome

When the CRA has finished its audit, it will send the charity a letter outlining the results. If the charity's operations and all its activities are in line with the Income Tax Act, the CRA will confirm in writing that there will be **no change** to the charity's registered status. By contrast, if the audit uncovers that the charity is not following the Act, the CRA will send the charity a letter that:

- outlines in detail each of the CRA's concerns
- gives its **preliminary view** of whether the charity needs to take corrective actions or whether the non-compliance warrants imposing sanctions or annulling the charity's registration
- gives the charity the chance to make representations **before the CRA comes to a final decision**

The CRA generally provides the charity 30 days to respond to its concerns. If the response does not alleviate the CRA's concerns, it will decide on a compliance approach. This can range from providing an education letter to revoking a charity's registration.

4. Recourse

If the charity disagrees with the CRA's decision to impose a sanction or propose a revocation, it can object to the decision with the CRA's Appeals Branch. If the charity does not agree with the Appeals Branch's decision, it can appeal the decision to the Federal Court of Appeal or the Tax Court of Canada, depending on the type of appeal.

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Methodology



How the examination was carried out

With our Office's principle of independence in mind, we took the time to listen to all sides, deepen our knowledge, look at the facts, and identify any potential opportunities for the CRA to improve its service to Canadians. To make our examination comprehensive, we:

- met with stakeholders, including individuals, academics, donors, lawyers, and representatives of organizations;

- met with CRA employees, including executives, who had experience with the audit process for charities;
- heard from charities who responded to our questionnaire;
- made comprehensive requests for information to the CRA;
- consulted with our Department of Justice Canada lawyers, who also represent the CRA, namely to:
 - understand if we were being provided with appropriate access to CRA records and if there were any avenues that could provide us with additional access; and
 - help us understand the legal framework of section 241 of the *Income Tax Act* and its constraints as well as obligations with respect to disclosure of taxpayer information
- contracted leading experts to provide advice on:
 - how to examine the scope effectively
 - interview techniques
 - bias, including:
 - how to deal with bias
 - if there were actions that we took that could have been biased
 - the effects that bias can have on an examination
 - appropriate ways to address bias

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What access we sought

To analyze the fairness of the CRA's audit process for charities effectively, we knew we would need access to charities' records from the CRA. We needed these records to validate the vast amounts of information we received from multiple sources in order to reach sound and independent evidence-based conclusions. Therefore, we proposed to the CRA that it provide access to a random sample of charity files where taxpayer information would be redacted to respect section 241 of the *Income Tax Act*.

Reaching out to charities

We reached out to charities to get a demographically diverse sample of the ones who experienced the audit process. We did so by publishing a news release and sending a questionnaire. After contact, we requested consent from the charities in order to access their CRA files.

Questionnaire

In February 2022, when we announced the scope of the examination, we issued a news release and created a [dedicated web page](#). We also launched an online questionnaire, which we shared through a public news release, our social media platforms, and stakeholders, as well as with individuals who reached out to our Office following the opening of the examination. This non-scientific questionnaire was available on the examination's dedicated web page from February 9 to March 31, 2022.

Through the questionnaire, we heard from 270 respondents, including currently registered charities, formerly registered charities, donors, and non-profits, which provided us with initial feedback and valuable data.

The initiative was a means to engage with registered charities to see whether they would want to meet with our examination team to discuss any service-related concerns or issues they may have experienced with the audit process of the CRA's Charities Directorate. Of the 270 respondents, 33 indicated that they wanted to speak with our Office about their experiences with the Charities Directorate. Meetings took place in the summer of 2022.

Consent to access files

We knew that accessing CRA records for charities that were involved in the audit process would be important for us to be able to sufficiently address the Minister's request. Therefore, we sought consent from those we interviewed. However, some that we spoke to indicated that they were officially appealing the CRA's decision or that their audit fell outside of our examination period. We also heard that our access to charity records would not be complete enough for us to understand their concerns fully. By contrast, the CRA indicated to us it is possible that some charities may have purposefully not wanted to provide consent as doing so would have opened their allegations to critical review.

Additionally, many Canadians we met with told us that we would face resistance from charities when asking for their consent because our Office is not well known and that we would need to build trust with the charities and their communities first.

Challenges

In addition to the confidentiality provisions of the *Income Tax Act* that prevented the CRA from providing us with taxpayer information, we faced challenges related to legislative safeguards in place to protect the tax system.

For example, we asked the CRA to identify why specific charities, those advancing religion or operating outside Canada, were selected for audit and how they were audited as well as if it could confirm and provide what resources Charities Directorate employees reference in the audit selection process and if it cross-references individuals or organizations associated with registered charities. The CRA indicated that it would not provide this information to us because it would be sensitive information that details:

- how it assesses risk
- its audit techniques

Audit techniques and how the CRA assesses risk are recognized exemptions under the *Access to Information Act*, as they could provide insight into how to circumvent its compliance activities and in turn undermine and potentially jeopardize the CRA's compliance efforts. In addition, the CRA indicated that information included in a charity's risk assessment may include national security information, which the CRA could not disclose without partner permission.

The CRA also pointed to the exemptions in the *Access to Information Act* that allow it to refuse to disclose this information. While the CRA did provide its policies, procedures and templates that inform its audit selection, including

its risk indicators for charities and examples of them, it did not demonstrate how it applies them to assess whether or not a charity should be audited. Even when we had received consent from a charity to access their taxpayer information, the CRA redacted information that detailed why this charity was screened for audit and how it planned to carry out the audit.

Without access to specific charity risk assessments, our Office was unable to see examples of how these considerations would have applied to a real file or examples of information that would have informed the selection of an audit in particular.

The CRA elaborated that it considered our Office to be independent, providing us with the same access that a director of a charity would have.

The CRA also advised that, even with consent, it would be inappropriate to review files where an active appeal was underway because of the risk of influencing the recourse decision.

Consequences

Due to these challenges, it was simply not possible to conduct a comprehensive examination that could fully examine the fairness of the CRA's audit process for charities. **As a result, we have not been able to sufficiently address two of the areas that the Minister asked us to pay special attention to, particularly regarding the RAD's activities, including:**

- 1. the selection of files for audit**
- 2. the quality of services provided to organizations that are audited**

While we thank the CRA for providing us with comprehensive information detailing the policies, procedures, templates and processes its employees use to make decisions, we were not able to access file-specific information that would have allowed us to analyse and validate how the processes were applied in practice.

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What we could access

While there were many challenges that prevented us from carrying out a complete examination, there were areas that we could assess, draw conclusions from, and ultimately make recommendations about. Our access included:

- CRA policies, procedures, and risk indicators
- redacted copies of notices of intention to revoke, sanction, or penalty
- charity records available to the public
- some charity records when we had permission from the charity
- the CRA's intranet site
- CRA employees
- CRA presentations and briefings

A risk indicator is a metric used to identify something that could raise potential concerns in a charity's operations. For example, high fundraising or administration costs could be an indicator of risk for a charity because a charity's resources should be used to further its purposes. If a charity devotes a substantial portion of its resources to fundraising, it may be considered non-compliant with the requirements for registration.

Cooperation from the CRA

We met with the CRA to express the need to access a random selection of charity files. Specifically, we explained that we needed this access not only to validate the application of the policies and procedures but also to reach sound, fact-based conclusions. However, no solutions were found that would both protect taxpayer privacy per all applicable Canadian laws and support the integrity of the examination process by providing the information we needed.


Support that helped our examination

However, the CRA made efforts to assist us with our examination. In addition to the access that we had, the CRA provided a substantial amount of documents and resources:

- over 2000 documents totalling 2.5GB
- 12 presentations on its processes and training
- employee interviews
- access to senior executives and subject-matter experts
- opportunities for open dialogue

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Analysis



With more than 86,000 registered charities, Canada's charitable and non-profit sector is substantial. According to Statistics Canada, in 2021 the sector represented 8.7% of Canada's Gross Domestic Product in 2019 and

the first quarter to fourth quarter 2020.

Charities represent the backbone of Canadian society. Canadians have been relying on the charitable sector to address the needs ([PDF, 372 kB](#)), of its diverse population. The contribution of charities to the social well-being of Canadians is undeniable. Canadians from all backgrounds rely on services such as:

- healthcare
- education
- research
- religious services
- social services
- assistance to seniors
- child care
- youth services
- assistance to persons with disabilities
- performance arts
- protection of the environment
- food and shelter to people experiencing poverty
- humanitarian relief

Canadians recognize the value charities provide. This is likely the reason that Canadians are among the most charitable people in the world, helping strangers, donating money, and volunteering their time. Canadians give more than \$14 billion annually ([PDF, 412 kB](#)).

Issue #1: Selection of files for audit by the Review and Analysis Division

One of the areas the Minister of National Revenue asked us to pay special attention to was the selection of files for audit by the Review and Analysis Division (RAD). Although we look closely at how the RAD selects charities for audit, to make the analysis more comprehensive, we expanded it to how the CRA receives leads and the audit activities of the Compliance Division.

Our findings stem from what we have heard from stakeholders and the CRA, what we have found in the public domain about the selection of charities for audit by the CRA, and some internal information provided by the CRA.

What we heard from organizations

Reports

Two highly publicized reports were released in the spring of 2021, alleging bias by the CRA against Muslim-led charities.

The first report, entitled *Under Layered Suspicions: A Review of CRA Audits of Muslim-Led Charities* (PDF, 1.3 MB), was published by the University of Toronto Institute of Islamic Studies in partnership with the National Council for Canadian Muslims. The report looks at the whole-of-

government approach to Canada's anti-terrorism financing framework and how it could bias the CRA's selection of charities for audit. The report alleges this approach has resulted in a structural bias that labels Muslim and other racialized communities as outsiders.

The second report, entitled *The CRA's Prejudiced Audits: Counter-Terrorism and the Targeting of Muslim Charities in Canada* (PDF, 2.4 MB), was published by the International Civil Liberties Monitoring Group (ICLMG). This report highlighted a lack of transparency from the RAD, how the RAD performs audits, and what the ICLMG referred to as "little to no accountability and no independent review." The report also took issue with the Government of Canada's National Inherent Risk Assessment on terrorism financing, which it indicated causes the search for terrorism financing in the charitable sector to focus almost exclusively on Muslim-led and other racialized charities.

While we will not go into detail about either of these reports, we thoroughly examined each of them to better understand the concerns being brought forward.

Interviews

Soon after opening this examination, we met with charities, legal representatives, and other stakeholders. Then we carried out interviews, during which we heard the following:

- There is a lack of transparency about why the CRA selects charities for audit. For example, some stated that although the CRA provides

some information on Canada.ca, many suspect there are other reasons that are not listed.

- The reports that allege bias at the CRA did not present the whole picture.
- There is limited publicly available information about the RAD, its responsibilities, the purpose of the division, and the support it should offer to charities.
- The reports unfairly characterized the CRA as discriminatory.
- Charities fear that if they expand their activities to help more people, they will trigger an audit. For example, some wanted to expand their activities to provide support in humanitarian crises, but they chose not to out of fear that they would be audited.
- Charities feel that politics can play a role in who gets audited.
- It is logical that charities carrying out activities outside Canada would be audited more because they must maintain direction and control over their resources and the CRA must review this.

Questionnaire responses

78% of respondents disagreed with the statement that the CRA's Charities Directorate is transparent about how it selects registered charities for audit.

What we found and heard from the CRA

Information provided to Canadians

The CRA details on its [audit process for charities](#) web page that a charity can be selected for audit for various reasons, some of which include:

- random selection
- referral from another area of the CRA
- complaints from the public
- articles in the media or other publicly available sources
- review of specific legal obligations under the *Income Tax Act*
- information from their Form T3010, Registered Charity Information Return
- follow-up on a previous compliance agreement

The CRA informed us that the information on its web page is outdated and inaccurate. For example, the CRA no longer selects charities for audit based on random selection. However, it also indicated that it is working to publish new content

In addition, the current web page does not identify that it is high-risk non-compliance that could result in selection for an audit. This may be why some charities expressed reluctance to expand their activities because of the increased exposure; the CRA's web page indicates that they can be selected for audit based on "articles in the media or other publicly available sources."

The CRA has assured us that charities should not be apprehensive about being in the media. Although reassuring our Office is reasonable, the CRA should do the same for Canadians when it updates its web page. Further, there might be some value in implementing educational initiatives to advise charities that expanding their operations, including outside Canada, or being featured in the media will not make them subject to an audit when concerns are not present.

Leads

An assessment to see whether a charity should be audited can start when the CRA receives or finds information of concern. This is referred to as a lead. There are three ways the CRA's Charities Directorate receives leads:

- internally, from another area of the CRA
- from the public, through the Leads Program
- from law enforcement and partner agencies

The CRA indicates that all leads come through the CRA's Leads Program, which is separate from the Charities Directorate, with the exception of the RAD, which maintains some leads outside of the Leads Program. Therefore, we determined that it would be prudent to examine if there were any steps within this process that could impact the fairness of the audit process.

To examine the Leads Program, we looked at what the CRA provided us and relied heavily on the information given by the employees we interviewed. The employees we met with understood the operations of the program, and some had direct experience with it. They generally told us that there is not significant research done in the program on charity leads at intake. The leads are reviewed by Leads intake officers, who then route them to the Charities Directorate. This directorate would then review them more thoroughly.

The Leads intake officers explained that they primarily check whether organizations are registered as a charity and, if so, generally send the lead to the Charities Directorate. However, the Charities Directorate also provides officers with a procedural document that outlines guidelines about what types of allegations can be received by the Charities Directorate. This procedure features a list of standard probing questions to

guide the officers to gather relevant information from the member of the public who is calling to report suspected non-compliance by registered charities.

The lead information gathered by the officer is captured and forwarded to the Charities Directorate, where a screener assesses whether a non-charitable activity has occurred against the charity requirements for registration and the provisions of the *Income Tax Act*.

We found the information was not detailed enough to assist Leads intake officers with gathering detailed information on the alleged non-compliance activity being reported by the public. The information includes examples of what would be considered a lead, such as “undertaking non-charitable activities.” However, the information provided to Leads intake officers does not include what is and what is not a charitable activity. In addition, although Leads intake officers told us that they generally only check whether a charity is registered before forwarding the lead to the Charities Directorate, there appears to be some discretion provided to them, as we were informed that any lead that is not forwarded to a specific division is placed in a searchable inventory ².

In addition, we found the information provided by the Charities Directorate to the Leads Program was challenging because it identifies “activities outside Canada” as an example of a lead. This could potentially mislead the Leads intake officer. Further, many charities carry out activities outside Canada to provide vital humanitarian aid to people around the world. Identifying this as an example of a lead is concerning because engaging in activities outside Canada does not necessarily indicate non-compliance. The CRA should take this observation as an **opportunity for it to review and update the information it provides to Leads intake officers as guidance to make it accurate and informative.**

The Charities Directorate indicates that if a lead contains information that shows that non-compliance may have occurred, it will further risk-assess the case to determine the risk level and the required compliance treatment. A case that is determined to be high risk will advance to the next level, which is audit. The decision to audit is made by the Charities Directorate as a result of an analysis of available documents and information. This decision is recorded in the screening sheet that is used to inform the auditor of the concerns and indicators leading to the selection of the case or file for audit. Although this process is useful for effectively managing resources, there is the possibility that bias could be formed. Because the officer identifies potential non-compliance on the screening sheet, the auditor could be biased from the onset. However, it may not impact how an audit is carried out because the CRA indicates that there are many reviews that would mitigate potential bias. In addition, auditors we interviewed indicated that, while they need to address the concerns on the screening sheet, they must always perform a thorough audit. Therefore, the process may not impact how an audit is carried out. **Without access to the full picture, we were unable to assess the impact the screening sheet had on an audit.**

Regular workload

Outside of the information about the CRA's risk assessments on the leads it receives, we were provided with very little information on how the CRA determines which charities should undergo a risk assessment when a lead is not involved. However, we were advised that there are some routine activities that could lead to a charity undergoing a risk assessment, such as a follow-up on a compliance agreement; a review of Form T3010, Registered Charity Information Return; or a post-registration review when concerns were identified at registration.

Special projects

In addition, beyond leads and its regular workload, the CRA did not give many details outside of identifying some special projects. While the CRA did not explain how charities are chosen for a risk assessment for these projects, it identified themes of concern. In the past, the CRA has been public about some of its enforcement projects, such as what it detailed in Project Trident. However, this does not appear to be the case anymore, as special projects are not identified as a reason for selection on its audit process for charities web page. We only became aware of this because we were provided with access to internal statistics for certain special projects. The CRA did not provide much detail on the projects or how charities are selected for audit for these projects.

Assessing risk

It is important to note that to determine whether a charity should be audited, the CRA's screening teams assess the risk of the charity being non-compliant. The two divisions that audit charities assess risk in different ways. Specifically, the RAD looks for indicators that are linked to the risk of terrorism financing and abuse. If there are indicators, the RAD will be within its mandate to review. All other issues would be reviewed by the Compliance Division. This division carries out the majority of the audits for the CRA's Charities Directorate through the tax services offices across Canada, while the RAD carries out very few audits because of its unique mandate and specialized workload.

Compliance Division

In the Compliance Division, screeners are assigned charities to review. They then look for indicators of non-compliance by analyzing internal and external information on the charity.

We reviewed the indicators of non-compliance the CRA uses to determine if there are potential non-compliance issues and the screening criteria that informs the compliance action. At face value, they seem reasonable. We found no indicator or criterium that stood out as problematic or could unfairly affect certain charities. That said, those indicators tell screeners to “draw upon [their] professional judgment, experience, objectivity, impartiality and sometimes **intuition** [emphasis added].” While intuition may assist in sound decision making, we caution that intuition can be incorrect and could affect the fairness of the process; therefore, intuition should not be given too much weight. That said, we were informed that there are safeguards in place, in that the screener’s manager reviews the information to make sure the screener’s decision is sound. The managers also make the final decision about whether a charity should be audited or not. After this decision, there is a clear segregation of duties; the auditor who is assigned the file does not communicate with the team that chose the charity for audit.

While during our review we could see the Compliance Division’s procedures, we were unable to validate how they were applied.

Review and Analysis Division

Similar to the Compliance Division, the RAD screeners are assigned charities to review based on leads and to determine if there are potential non-compliance issues related to the risk of terrorist

financing. Similar to the Compliance Division, the indicators the RAD uses to assess risk seem reasonable and would not, at face value, unfairly affect certain charities.

That said, the process of determining which charity is selected for audit appears to be different. The team that screens a file for audit does not determine if a charity should be audited; it can only make a recommendation. The RAD's Applications and Monitoring Section screens a file for audit by performing a comprehensive risk assessment based on leads and other information to determine if a charity is at high risk of abuse and non-compliance and should be audited. The section sends these recommendations to managers of the Tactical Intelligence Section (the section that carries out audits), who would then decide which registered charities or applicants applying for registration to audit.

We were informed that audit selection is based on factors such as priorities, complexity and resources available. It is possible that Tactical Intelligence managers may choose not to audit an organization that was recommended for audit by Applications and Monitoring Section, if supported by the conclusions of their initial desk review of the file before initiating the audit. The RAD's Tactical Intelligence managers engage their director in audit planning to ensure accountability and awareness of which organizations will be scheduled for audit in a given period as well as to ensure that division resources will be available to support audit work.

This process does not segregate the duties as much as the Compliance Division does because the Tactical Intelligence Section would also have an opportunity to weigh in on whether the charity should be audited. The RAD could segregate the duties more so that those who choose a file for audit are not the same as those who are

leading the audit. If the Charities Directorate sees value in this practice in the Compliance Division, there may be opportunities to review the procedures in the RAD.

While in our review we could see most of the RAD's procedures, much like with the Compliance Division, we were unable to validate how they were applied.

Our findings

To examine this issue, we had access to many of the procedures used by the Compliance Division and the RAD. This gave us a broad understanding of their processes and allowed us to review some of the factors that lead to a charity being selected for audit. Although the processes appeared to be standard and applicable to all charities, we were unable to validate how they were applied.

In addition, we have not been able to assess how the triaging carried out by the Leads Program impacts audits in terms of file selection. Further, outside of the CRA carrying out risk assessments on the leads it receives, we did not have access to information about which charity should undergo a risk assessment when a lead is not involved. Similarly, as the CRA itself confirmed, the information about the audit process for charities that it makes publicly available on its web page is out of date. **Therefore, the CRA should make sure that the content on its web pages is consistently updated with current information for Canadians.**

What we heard and found was not enough to provide us with a full picture of how the RAD and the Compliance Division select charities for audit.

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Issue #2: Quality of services

The Minister also requested that we review the quality of services provided to registered charities audited by the Review and Analysis Division (RAD). We took a broader approach and examined the quality of services provided to registered charities that are audited by both the RAD and the Compliance Division.

What we heard from organizations

When we met with organizations, they expressed the following:

- The CRA uses unreliable public information to inform its audits. Some said that the CRA relied on one-sided media outlets.
- Auditors would not let interviewees record interviews, and some charities found the information that the auditor had documented had been interpreted differently than what the interviewee had provided to the auditor verbally.
- CRA decisions are sound.
- Audits can last for years and feel like a never-ending process.

- Auditors go beyond checking books and records, and in some cases it feels like they are trying to find something, no matter how small, to pin on the charity.
- Certain charities are being treated more severely and differently at certain points in the audit process. Some said that they know there are charities that only receive a compliance agreement while there are others whose status is revoked for similar non-compliance.
- The CRA does not do enough to ensure compliance. Some feel the CRA takes a weak approach and allows egregious non-compliance to continue, putting Canadians at risk.
- The CRA employees they dealt with performed audits professionally and courteously.
- Directors may only bring in legal representatives after the field audit has occurred, and this restriction can complicate the process.

What we heard from the respondents to our questionnaire

63% of respondents disagreed with the statement that the Charities Directorate completes its audits of registered charities in a timely manner.

52% of the respondents disagreed with the statement that the Charities Directorate's client service representatives provide timely information.

48% of respondents disagreed with the statement that the Charities Directorate's client service representatives provided accurate information.

What we heard from the CRA

Audit activities

Screeners' comments

Once a charity is selected for audit, an auditor will review the comments from the screening teams. The screeners' comments guide an audit because they are mandatory to use as they explain why the charity was selected for audit and specific concerns. While we understand that the screeners' comments may help ensure audits address certain concerns, it is unclear why they are needed when the auditor is expected to conduct a thorough audit. We examined this further during our interviews with CRA auditors. They indicated that auditors needed to address the comments when carrying out an audit, but some also told us that there was little value in reviewing them because they were going to be conducting an audit.

This process could potentially lead to an unconscious bias during audits. Since we were never provided access to files demonstrating how the screeners' comments were conveyed or used, we are unable to determine if the comments could make the auditor infer that there is a concern and if they would be more likely than not to further scrutinize the charity to address the specific concerns. However, the CRA indicates that the screeners' comments are reviewed to ensure they are sound and objective.

Preliminary review

After being assigned, an auditor carries out a preliminary review of the charity. This review includes many tasks, such as analyzing the data that is available in CRA databases and the public domain as well as reconciling Form T3010, Registered Charity Information Return.

Initial contact

Following the preliminary review, the auditor contacts the charity. The auditors we interviewed described a process of setting clear expectations with the charity and making it aware of who would be coming to carry out the audit, when the audit would take place, and the consequences of non-compliance, if found. However, we found that the CRA directs auditors to contact a director of a charity, not the authorized representative, even if the authorized representative previously informed the CRA to contact them for all financial matters. The manual informs auditors to contact the authorized representative after speaking with a director, but auditors we interviewed indicated that the authorized representative would be contacted only if requested by the director.

Article 15 of the Taxpayer Bill of Rights provides every taxpayer, including charities, with “the right to be represented by a person of your choice.” Therefore, if a charity provides the CRA with direction to deal with a specific authorized representative, the CRA should contact them when initiating an audit.

We understand there will always be cases when contacting an authorized representative may not be the most efficient way for the CRA to operate, such as when it is collecting a debt that is not in dispute. However, if a charity currently designates an authorized

representative be contacted first regarding all financial matters and they still have authorized access to the appropriate accounts at the CRA, then the CRA should respect this choice and contact the authorized representative first when initiating an audit. We understand that directors are unique in that they govern the registered charity. However, while they may govern a charity, they may not always be aware of the nuances of the laws and regulations applicable to charities. In addition, as audits can have severe consequences for a charity, including the loss of all of its assets if its status is revoked, there may be no better time to be represented.

The CRA indicates that it follows this procedure so that it can inform the controlling person of a charity of the audit. It also indicates that the scope of an audit is not limited to financial matters and that it would not contact a representative who is not authorized to speak on other matters; therefore, the CRA consults with the charity to request the contact information and authorization for the people who are most suitable to speak to about the specifics of the issues under consideration. However, at Authorize or manage representatives, the CRA indicates you can authorize a representative for “charity-related matters.” This statement leads the visitor to believe authorization would include audits and, as a result, that the representative would be contacted first if an audit was initiated.

We heard that this process has created problems for charities because sometimes representatives are only made aware of an audit after the auditor conducts the interview. While directors should be aware of the seriousness of an audit and involve the appropriate

people, this process could be problematic. For example, if a director provides information that the CRA misinterprets, the representative may need to make additional efforts to clarify the charity's position. That said, the Charities Directorate does provide information in the initial audit engagement letter that informs charities of the steps to authorize a representative and to speak on behalf of the charity during the audit process. Ultimately, it is the charity's decision whether they will seek representation.

A director may be familiar with an activity the charity carries out to further one of its charitable purposes. However, they may not be able to describe the activity in the way that is necessary for the CRA to consider it as furthering a charitable purpose. Additionally, the CRA may be concerned, not about compliance with the requirements for registration, but about whether the activity is furthering an unstated non-charitable purpose. The authorized representative's experience with the CRA may make them more aware of charity law, making it easier for them to describe the activity and demonstrate how it is furthering the charity's purposes.

For example, the CRA could have concerns with one of the charity's activities because it may appear social in nature, not charitable. When the director is interviewed, they may describe the activity as providing food to members of the charity who are not experiencing poverty. To the CRA, this information could identify a concern, because the activity appears neither to advance religion nor to relieve poverty and appears social in nature, which are all potential non-compliance issues. However, if the authorized representative explained to the CRA that the food is being provided to adherents as part of a religious ceremony, the CRA would likely have no concerns.

The interview

Following the initial contact, the auditor will meet with charity officials for an interview. During this interview, the auditor will ask probing questions to better understand the charity's activities. Although the interview is an information-gathering exercise for the CRA, we found that the CRA conducts these interviews without letting the interviewees or their authorized representatives record the conversation and without providing the interviewee with a transcript following the interview so that it has an accurate record of what was said. This process is guided by a manual that instructs auditors to terminate the interview as soon as they become aware that they are being recorded. It is not clear what informs this CRA process. While the CRA is not required to record interviews, if it were to do so, the CRA and the charity would have an accurate account of what was discussed in the interview. Further, if the CRA were to provide interviewees with a copy of what was recorded, it would give the charity an opportunity to clarify any information that was discussed. Additionally, if the charity were allowed to record the interview, then it would have an accurate account of what was discussed.

The CRA also does not proactively provide a copy of the interview notes. When we asked auditors if charities could get a copy of the notes, some auditors told us that they would need to submit an informal request for the information. Others informed us that they would need to make an Access to Information request. It is not clear why this process is overly complicated or why the charity cannot get immediate access to the information it provided to the CRA. As indicated earlier, we heard concerns about the CRA's records

relating to interview responses. The CRA indicates its audits are based on facts. Therefore, every effort should be made to get the facts right.

That said, we have been made aware that the CRA is considering changes to this policy and that it may soon allow charities to make an audio recording of the interview. This change would enhance the process, as it would allow charities to retain a copy of their responses.

Review of charity's premises

One of the steps to a field audit is to look at the charity's assets and expenses and determine if they reconcile. Many times this review will include property. During our interviews with CRA auditors, they repeated that their audits are based on facts. However, the audit procedure allows auditors to use certain methods that could lead to a biased analysis of the facts. Specifically, the Charities Audit Manual is a resource that guides auditors on how to conduct an audit, and it informs the auditor that it is important for them to identify potential gaps such as:

- “offices with large amounts of empty wall or shelf space (had something been there?)
- sizeable amounts of empty floor space that does not appear to be actively used by the organization”

The use of such approaches and questions such as “had something been there?” could lead auditors to look for something that might not be present and could create a bias. In the course of our

interviews with charities, the CRA audit process was described as a “fishing expedition” with the purpose of finding incriminating information on the charity.

A fishing expedition refers to someone overly investigating or demanding information from an individual or organization.

In law, it is a pejorative term for a non-specific search for information, especially incriminating information. It is mostly “used to describe using the discovery phase of a lawsuit to demand too much information based on hunches and accusations.” ³

We also heard from the CRA that auditors in the Compliance Division and the RAD conduct their field audits in mostly the same way but with minor differences. They generally only have one auditor, but this auditor may attend an audit with an additional CRA employee with specialized technical knowledge. However, beyond the notes generally taken by Compliance Division auditors, a RAD audit may capture a greater amount of data from the charity, including photos to address concerns particular to their mandate.

Audit findings

Following an audit, there are many possible outcomes:

1. Clean letter: The CRA sends this when an audit finds a charity to be compliant.
2. Education letter: The CRA sends this when an audit finds a charity is mostly compliant, but there are areas of concern that the CRA could educate the charity on to be compliant.

3. Compliance agreement: The CRA sends this when it finds non-compliance, but the charity is willing to take specific actions to remain compliant.
 4. Sanctions (financial penalties, the temporary suspension of the charity's tax-receipting privileges, or both): The CRA can take this action when it finds there is serious or repeat non-compliance.
 5. Revocation of charitable registration: The CRA can take this action when it finds there is serious non-compliance.
 6. Annulment or voluntary revocation of the charity's registered status: The CRA may close an audit with this action in rare cases.
-

Generally, we heard from charities that the CRA's audit findings were sound. However, some charities expressed that there was a double standard, where certain charities may have their status revoked while others may just enter a compliance agreement. CRA officers must use judgment when making decisions because no two cases are alike and there are different types and levels of non-compliance; therefore, without access to files, it is difficult to assess if these claims have a basis in fact. **While we did have access to compliance action approach letters for charities who were penalized, suspended, or had their registration revoked, they were redacted, and we did not have access to the supporting documents that informed the decisions in the letters.** We were limited to the same access that any member of the public would have.

Length of the audit process

During our examination, we heard from charities that, once an audit was started, it could take years to conclude. This was confirmed after reviewing compliance action letters for charities that had their registration revoked in

the period we examined. However, to more fully understand this we needed to review the files individually.

In Canada, there is no statutory time limit for when an audit must conclude after it is started. Audits can last several years. The length can be problematic when the organization's activities are fundamentally illegal and contrary to Canadian public policy or when the public wants the CRA to take action immediately. In addition, if an audit takes years to conclude, it can interfere with the charity and can divert its attention from its charitable activities.

That said, **the Charities Directorate should consider including the aging of its files in its regular reporting to ensure there is appropriate visibility on files that are taking too long. While delays can happen on both sides, efforts need to be made to make sure that audits are carried out in an appropriate time period so they can be an effective means of ensuring compliance in the charitable sector while also considering the costs and disruption an audit can have on a charity.**

Charitable category codes and public data

We are mindful that the CRA makes significant efforts to collect data and report on it for many of its programs. However, it appears that with registered charities, the CRA has certain information but does not make full use of it. For example, at initial registration, the CRA analyses the applicant's purposes and activities, among other information, and assigns a category code and sub-category code. The codes reflect the most prevalent

category of charitable purposes that the charity is furthering, but it also goes one step further. For example, for a charity that is advancing religion, the CRA may identify the religion that is being advanced, and for a charity that is advancing education, it can identify the method, such as research or teaching. If a charity changes its purposes or activities over time, its category code is not automatically updated; the CRA will only change the category code at the request of the organization or when an error occurs.

That said, this presents challenges because the two codes may not reflect all of a charity's activities. For example, a charity may predominately relieve poverty by providing food to people in need, but it may also advance religion by teaching religious tenets. In this example, the CRA would only categorize the charity based on the most prevalent activity; it would assign the category code for organizations relieving poverty.

The CRA indicates that the category codes are not used in the analysis of the file but may be useful for donors and other stakeholders because category codes allow the public to search for an organization to donate to by category.

The Standing Senate Committee on Human Rights asked the CRA questions to understand what information the CRA could collect. The CRA is provided with all of the information about a charity's purposes when it is registered and sometimes throughout its existence. The CRA could consider using additional information, provided by the charity, to develop and maintain aggregated data that could be used to expand the type of information that is shared publicly.

This change would increase transparency and could help focus the Charities Directorate's outreach efforts to educate the charitable sector on how to be compliant.

Impact of audits

Because an audit's outcome can have severe consequences, audits are not something many would want to be subjected to. This is especially true for charities, whose ability to carry out many of their activities is heavily tied to the tax privileges that registered charitable status provides. Stakeholders we interviewed repeatedly expressed the anxiety, stress and sometimes frustration they experienced during the audit process, even when they perceived themselves to be compliant. Some were obviously exasperated and others displayed strong emotions in the course of the interviews.

On one side, the Canadian charitable sector provides essential services to the many equity-deserving groups. On the other, the CRA in its role as the regulator works to protect the integrity of the sector by ensuring charities are not abusing the system. That said, a charity's non-compliance can lead to serious consequences for the charity, such as financial penalties, suspensions and, most severe of all, revocation. These consequences can put the affected charity in a precarious financial position and prevent it from being able to operate properly to support its beneficiaries. Some organizations we interviewed expressed how seriously their charity's operations were affected after their registration status was revoked as a result of an audit.

Financial penalties and suspensions

For example, a charity can be suspended or subject to penalties for the following non-compliance:

- It does not keep proper books or provide them when requested by the CRA. This infraction can lead to a suspension of its tax-receipting privileges.
- It issues receipts when there is no gift or when the receipt contains false information (when the total penalties exceed \$25,000). This is punishable with a 125% penalty on the eligible amount stated on the receipt and a suspension of tax-receipting privileges.

Revocations

As the most serious consequence for non-compliance, the revocation of a charity's registered status has a drastic impact on the charity's operation, as it will no longer qualify for exemption from income tax and will not be able to issue official donation receipts. In addition, the charity name as well as the reason for revocation will be published in the Canada Gazette and in the list of charities publicly available on Canada.ca, it will no longer be a charity for GST/HST purposes, and it will have to pay a revocation tax. The tax is equal to 100% of the value of all assets remaining after the charity has paid all its debts. Charities can reduce the amount of the revocation tax if their assets are used for charitable activities or paying debts, or if they transfer them to an eligible donee during the revocation period. The revocation period starts the day after the CRA issues Form T2051A, Notice of Intention to Revoke a Charity's Registration, and ends one year later.

Loss of provincial and territorial tax benefits

Revocation also results in the charity losing provincial tax benefits. For example, in Ontario registered charities can get a tax rebate of 40% of the provincial and territorial land tax and education tax payable on an eligible

property they occupy in one of the commercial or industrial classes. A revoked charity in Ontario will not be able to benefit from that tax rebate. One organization we interviewed shared how their organization was affected when they lost the tax rebate following their revocation and how they continue to struggle to survive and meet the needs of the people who rely on them.

Loss of credibility

The operation of charities relies essentially on the generosity of donors. Even though Canadians are among the most generous people in the world, knowing that an organization's registration has been revoked would discourage donations to that organization because donors would no longer get a tax-deductible receipt. One donor we interviewed confirmed they research the CRA's list of charities before choosing which charity to donate to. They also explained that they stop donating to charities whose registration is revoked.

Impact on beneficiaries

As pointed out in the section on the importance of charities, charities represent the backbone of Canadian society. The charitable sector impacts the lives of Canadians in general and the most vulnerable populations in particular. That said, although the median after-tax income of Canadian households increased in 2020, low income is still persistent across the country, and equity-deserving individuals are the most affected. In that regard, the charitable sector plays a key role in the Government of Canada's strategy to reduce or even eradicate poverty in Canada. A survey conducted by Statistics Canada from December 4, 2020, to January 18, 2021, confirmed that charities and non-profit organizations engage in a range of activities that serve population groups, including youth; persons in poverty or with low income; newcomers or visible minorities; persons with

disabilities; First Nations, Métis and Inuit; 2SLGBTQI+ individuals; and seniors. Currently, 11% of Canadians rely on charities for food, shelter and other basic needs.

Following the revocation of a charity's registration, it will experience a significant drop in income or a loss of assets that they operate with, which will affect its ability to operate effectively. Consequently, populations who rely on the charity's activities for their basic needs could find themselves in a precarious situation, which could affect their physical and mental health.

If serious non-compliance is found, an audit can have a major impact on charities and consequently the beneficiaries of the vital services they provide. For example, charities advancing religion can be involved in manifesting, promoting, sustaining, or increasing belief in a religion. Charities that experience revocation may no longer be able to operate, and as a result, their beneficiaries can experience a loss of spiritual teachings and maintenance of the spirit of the religion's doctrines and observances.

Religion is important for more than half of Canadians. In 2019, 68% of Canadians reported having a religious affiliation and 54% indicated their religious or spiritual beliefs are important to the way they live their lives. In addition, with almost 1.8 million or 1 in 20 people, Islam was the second-most commonly reported religion in Canada after Christianity in 2021.

Our findings

Overall we heard that CRA auditors carried out audits professionally and courteously. We also found that most of the processes they follow are fair. However, much like with audit selection, we could only see part of the picture. While we could see the processes that

inform an audit, we did not have access to how the CRA carries out an audit, how the screening team communicates their areas of concern, or how auditors address those concerns.

What we heard and found was not enough to provide us with a full picture of how the RAD and the Compliance Division carry out an audit.

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Issue #3: Unconscious bias

The Minister's request

The Minister's request for us to open this examination included direction to look at the CRA's efforts to make its employees aware of the unconscious biases that they could foster and that could perpetuate discriminatory behaviour toward charities run by racialized communities. Such behaviour could affect registered charities and diminish the public's confidence in charity-related compliance activities.

In this section we will look at what we heard from stakeholders and the efforts of the CRA, and specifically the Charities Directorate, to make its employees aware of their unconscious biases.

There are two types of biases:

1. conscious biases, also known as explicit biases, which happen when someone is aware that they are being biased and they take biased

action intentionally

2. unconscious biases, also known as implicit biases, which happen when someone unknowingly holds unfair beliefs, assumptions or generalizations about an individual or group of people based on personal characteristics ⁴

What we heard from organizations

In our interviews with charities, legal representatives, and other stakeholders, we were told unconscious biases may influence some of the actions taken by CRA employees. We were also told that when the CRA identifies its concerns in administrative fairness letters, these letters appear to be drafted carefully to avoid overtly biased statements, but charities and authorized representatives allege bias regardless. It was also expressed that there should be no discriminatory behaviour from the CRA towards any racialized community.

What we heard and found from the CRA

The Canada School of Public Service offers courses on unconscious bias that are available to all CRA employees. Starting in July 2021, the CRA began offering an unconscious bias workshop. The workshop builds awareness and supports the creation of a safer space for employees to have conversations about racism and discrimination. This includes supporting employees in learning more about their own unconscious biases and challenging their own assumptions.

Compliance Division and tax services offices

The Compliance Division employees and tax services office auditors we spoke with largely felt that the unconscious bias training available to them was sufficient to perform their duties. In addition, we heard from an employee who received cultural awareness training before starting an audit of a charity linked to an equity-deserving population, and they saw value in this approach.

One of the more recent developments we heard about in our interviews with auditors was training forums called “learning circles.” These are quarterly events organized by a subcommittee made up of representatives from different Charities Directorate teams. The subcommittee develops and leads training driven by the continuing needs identified for the Charities Directorate’s auditors, including unconscious bias.

For the Compliance Division, we also looked at completion rates of other unconscious bias training and found that participation was low.

When we interviewed employees, they indicated that knowledge about unconscious bias was important for their work. However, they expressed that they either did not hold unconscious biases or were otherwise unaware of their own unconscious biases. This frame of mind could have a negative effect on an audit and could carry over to subsequent stages, leading to a form of invisible systemic discrimination.

Further, while most employees we spoke with had taken unconscious bias training in the weeks leading up to our interviews, most told us that they had not changed their practices to mitigate the potential for unconscious bias in their work. We heard that many auditors relied on the processes already in place to eliminate unconscious bias without introducing new practices to their own work after their unconscious bias training.

Review and Analysis Division

We spoke with employees from the Review and Analysis Division (RAD), who confirmed that the unconscious bias training available is vital to the performance of their work and has largely been found through external training opportunities. We were told that the audit teams within the RAD most recently took specialized training on overcoming bias in audits in addition to specialized training provided by the Privy Council Office. The RAD also informed us that it had employees attend other learning events on the subject of diversity, inclusion and bias.

Similar to the Compliance Division, the CRA provided us with statistics identifying that the completion rates for unconscious bias training taken by RAD employees was low.

While many RAD employees have taken a variety of courses that deal with bias, there were obvious ways to limit bias in the workplace referenced in their training that were not being considered. For example, given that RAD employees' responsibilities are administrative in nature, the current names assigned to the RAD's two audit teams—Tactical Intelligence I and Tactical Intelligence II—are not reflective of the activities undertaken by these teams. As a result, they could contribute to a perception by stakeholders and themselves that they are instead intelligence officers or members of law enforcement. According to the training the RAD employees have taken, there is the possibility that something as simple as their audit team names could form a bias.

Workshop

One of the main ways the CRA makes its employees aware of unconscious biases is through its workshop. However, we discovered that the workshop's value was limited in the context of this examination because the content focuses on employee-employee relationships, rather than on how employees can address unconscious bias in decision making. Specifically, the workshop focuses on interpersonal workplace interactions and teaches participants how to recognize, identify and mitigate some of their own unconscious biases to better foster a respectful and inclusive workplace.

The CRA informed us that approximately 5,000 of roughly 42,000 of its employees, including 4 from the RAD and the Compliance Division, have completed this workshop. This number is low partly because the training is optional for the large majority of employees and is difficult to attend; spaces are limited, it is infrequently available, it is not a learn-at-your-own pace course, and it requires employees to book a virtual session.

While we understand that there are advantages to having training take place in a classroom setting, virtual or otherwise, the CRA has to be more creative and flexible in how it provides training on unconscious bias. When employees are not aware that they have unconscious biases, their judgment when making decisions can be affected.

Further, we learned that all of the CRA's unconscious bias training was optional, leaving senior management or individual employees to decide whether or not to take the training. The only exception is "Selection of

Candidate Using an Objective Eye” offered by the Canada School of Public Service, which the CRA requires for members of staffing boards. The CRA’s rationale is that unconscious bias training for its employees should not be mandatory because “research demonstrates that mandatory training for inclusivity, that is not compliance based learning, can cause harm to the targeted equity deserving groups, triggering resistance and micro-aggressions against these employees. Promotion, engagement and encouragement towards greater self-awareness appears to be more impactful.” However, not making training on unconscious bias mandatory could result in some employees not understanding that they have unconscious biases and, as a result, they may not know how to overcome them. The impact of unconscious biases is not limited to equity-deserving groups; they can affect anyone. Biases can impact judgment, which is used in all decision making.

Our findings

The CRA employees we interviewed indicated that they felt the CRA provides exemplary training that was suitable for their duties. In our analysis, however, we found that much of the internal CRA training sessions on unconscious bias did not focus on decision making. However, we heard there is also less formal internal “training” by way of review functions, which assist employees in questioning assumptions and identifying speculative statements and personal biases.

We found that the unconscious bias training available was largely voluntary and that the registration and completion numbers for both the Compliance Division and the RAD indicated that employee

engagement in CRA-level training could improve.

The CRA also indicated that mandatory unconscious bias training, as proposed in its anti-racism strategy, is beneficial for reducing the potential manifestation of racism and profiling in its selection of charities for audit.

We also found that there was a stigma associated with employees expressing that they have known biases. This could explain why employees we interviewed said they had none. We believe that destigmatizing unconscious bias through open communication or other methods will help to make efforts to address unconscious bias at the CRA more effective.

The Taxpayers' Ombudsperson recommends to the Minister of National Revenue that the CRA create an unconscious bias training course for CRA employees of the Charities Directorate, focus the training on those involved in the audit process, and make the course mandatory for all employees involved in the audit process, including decision makers.

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Issue #4: Clarify the CRA's roles and responsibilities in preventing the abuse of registered charities from financing terrorism



In the Minister's request to open this examination, she asked us to clarify the CRA's role and responsibilities in relation to the other stakeholders involved in protecting national security, all while ensuring that a fair and impartial service is offered to Canadians.

In this section, we will discuss what we heard from stakeholders and look at the pivotal events that led to the CRA's involvement with national security, how it fulfils this role and the importance of these factors. We did not reach out to many government organizations responsible for protecting national security beyond the CRA for information, so this section only provides an overview and relies primarily on publicly available information.

What we heard from organizations

Based on our questionnaire responses, the majority of respondents were aware the CRA has a responsibility to prevent the abuse of registered charities for the financing of terrorism.

As part of our examination, we spoke with charities, legal representatives, and other stakeholders. One organization indicated that it is not always clear when the CRA may be relying on intelligence from the national security community. Others also told us that, because of the CRA's involvement with national security, charities may fear an audit is part of a larger national security or law enforcement investigation.

Events that shaped the CRA's role

On May 25, 2015, a former Director General of the Charities Directorate, told the Standing Senate Committee on National Security and Defence that “the risk of terrorist exploitation in the non-profit and charitable sector has been recognized by the international community since the late 1990s.” However, the CRA has not always been a part of Canada’s national security framework, even though, according to Air India Flight 182, A Canadian Tragedy, Volume Five, Terrorist Financing (PDF, 2.1 MB), “some charitable organizations in Canada and elsewhere have long been suspected of helping terrorists by raising and helping to move funds.”

It was certain events that shook Canadian communities, and those of our allies, that lead to the evolution of our security and intelligence systems.

On June 23, 1985, Canada suffered the worst terrorist attack in our nation’s history, the bombing of Air India Flight 182. This attack killed 329 innocent people, including 280 Canadians. In Air India Flight 182, A Canadian Tragedy, Volume Five, Terrorist Financing (PDF, 2.1 MB), allegations were put forward that some Canadian charities were implicated in the bombing by improperly diverting money for terrorist purposes. ⁵ At this time, the CRA’s Charities Directorate mandate did not contain a counterterrorism function.

On June 25, 1996, an attack was orchestrated against a “residential building occupied by US military personnel near Dhahra, Saudi Arabia,” it “killed 19 US citizens and wounded over 500 persons.”

Two days later, member countries of the G7 rededicated themselves and sought the support of the international community “to thwart the activities of terrorists and their supporters, including fund-raising, the planning of terrorist acts, procurement of weapons, calling for violence, and incitements to commit terrorist acts.” This led to a pilot program within the Charities Directorate looking at terrorism financing.

After the events of September 11, 2001, the United Nations Security Council quickly approved a resolution on September 28, 2001, to suppress and prevent terrorist acts and their financing (PDF, 105 kB). Subsequently, the Government of Canada introduced Bill C-36, also known as the *Anti-terrorism Act*, which led to amendments to the *Criminal Code*, the *Canada Evidence Act*, and the *Proceeds of Crime (Money Laundering) Act*, among other acts. This bill received royal assent on December 18, 2001. Part 6 of the *Anti-terrorism Act* led to the enactment of the *Charities Registration (Security Information) Act*, which came into force on December 24, 2001. Through the *Anti-terrorism Act*, the CRA became a partner “in the government’s Anti-Money Laundering and Anti-Terrorist Financing Regime.”

The Charities Registration (Security Information) Act’s purpose is to “demonstrate [the Government of] Canada’s commitment to participating in concerted international efforts to deny support to those who engage in terrorist activities, to protect the integrity of the registration system for charities under the Income Tax Act and to maintain the confidence of Canadian taxpayers that the benefits of charitable registration are made available only to organizations that operate exclusively for charitable purposes.”

This led to the creation of a dedicated team (PDF, 5.5 MB), within the Charities Directorate that was conducting intensive screening and reviews of applications for charitable registration and providing information disclosures to the Canadian Security Intelligence Service (CSIS) and the Royal Canadian Mounted Police (RCMP).

In 2003, the Charities Directorate established the RAD to assist in the Government of Canada's anti-terrorism efforts.

In 2012, the Financial Action Task Force releases *International Standards on Combating Money Laundering and the financing of Terrorism & Proliferation* (PDF), which recommends that countries review "the adequacy of laws and regulations that relate to non-profit organisations which the country has identified as being vulnerable to terrorist financing abuse."

On June 18, 2015, the *Security of Canada Information Disclosure Act* was passed. Section 241 of the *Income Tax Act* authorizes the CRA to provide taxpayer information to national security partners with greater ease and regularity.

The CRA's role today

The RAD assists and receives information from national security partners, mainly the RCMP and CSIS. It contributes through working groups to the Government of Canada's national security and intelligence policies and also provides technical support to international bodies that combat terrorism financing, such as the United Nations and the Financial Action Task Force.

That said, the CRA does not work alone. It is part of Canada's anti-money laundering and anti-terrorist financing regime, which includes 13 federal departments and agencies:

Department of Finance Canada

Department of Justice Canada

Public Prosecution Service of Canada

Financial Transactions and Reports Analysis Centre

Canada Border Services Agency

Canada Revenue Agency

Royal Canadian Mounted Police

Canadian Security Intelligence Service

Public Safety Canada

Office of the Superintendent of Financial Institutions

Global Affairs Canada, Innovation

Science and Economic Development Canada

Public Services and Procurement Canada

The CRA indicates that the anti-money laundering and anti-terrorist financing regime is administratively managed by the Department of Finance Canada, but its policy and legislative framework, including its committee structure, is co-led with Public Safety Canada, which is the

legislative lead for national security policy and specifically terrorism. As part of the regime, the CRA may receive information from CSIS, the Financial Transactions and Reports Analysis Centre, the RCMP, and other national security partners. If potential terrorism financing risk could affect a registered charity, or if there are concerns with an application to become registered as a charity, then the RAD becomes involved. The RAD then independently assesses this information to inform decisions about whether additional actions need to be taken.

If the RAD becomes involved, a risk assessment is performed to determine what action will be taken. If there is significant evidence of a terrorism financing risk, the RAD will conduct an audit. If the RAD's audit uncovers an issue, it may take compliance action against the implicated charity. The CRA indicates that the severity of the compliance action is directly related to the degree of non-compliance by the charity with respect to Canada's laws and regulations. Compliance actions carried out by the CRA stop charities from being used to funnel funds to terrorist entities domestically or abroad.

While the RAD does not perform criminal investigations when administering the *Income Tax Act* to protect the charitable sector from abuse, it can share information with law enforcement and national security partners to prevent threats to national security beyond its charity-focused mandate.

What guides the CRA on terrorism financing risk

How the CRA identifies and evaluates terrorism financing risks is related to international accords, such as those outlined by the Financial Action Task Force (FATF).

The FATF “leads global action to tackle money laundering, terrorist and proliferation financing.” More than 200 countries and jurisdictions, including Canada, one of the many founding members, “have committed to implement the FATF’s Standards as part of a co-ordinated global response to preventing organised crime, corruption and terrorism.”

In July 2015, to be consistent with international standards outlined by the FATF, the Department of Finance “led a whole-of-government initiative to develop the Assessment of Inherent Risks of Money Laundering and Terrorist Financing in Canada report to better identify, assess and understand inherent money laundering and terrorist financing risks in Canada on an ongoing basis.”

One of the assessment’s identified risks was the high risk of abuse for registered charities operating in proximity to terrorist threats. This also extended to registered charities operating abroad and in Canada “within a population that is actively targeted by a terrorist movement for support.”

The report explains how funds from a registered charity intended for legitimate purposes could be abused. For example, a charity could raise funds for a legitimate charitable purpose, such as humanitarian relief. These funds could then be redirected away from the intended purpose toward terrorist entities.

In the report, the “T[errorism] F[inancing] threat was assessed for the groups and actors that are of greatest concern to Canada,” and “actors associated with 10 terrorist groups and foreign fighters” were identified.

Opinions in the public domain express that this leads to audits of specific racialized charities more than others, in particular Muslim-led ones. While the CRA has not confirmed that Muslim-led charities are audited more frequently, it did indicate during an appearance before the Standing Senate Committee on Human Rights on November 28, 2022, that “you could reach the conclusion that many of the organizations that are listed in the National Inherent Risk Assessment do come from racialized communities.” The CRA further indicated during this appearance that “in [the CRA’s] specialized program in [the] RAD, we are driving off of the National Inherent Risk Assessment” and that “if we see a charity that is linked to a threat actor, as outlined in the National Inherent Risk Assessment, that will be a flag for us and something we will look into further.” That said, the CRA indicated to us that it looks into all threat actors as they arise, rather than exclusively choosing those outlined in the National Inherent Risk Assessment, as threat evaluations change as needed.

The importance of the CRA’s role in eliminating terrorism financing and abuse


While we are aware of and understand the concerns that have been brought forward from some racialized communities, the importance of eliminating terrorism financing or abuse is also of critical importance. The international community must know that Canada can be relied on to do its part. In this regard, the CRA’s role is to protect the integrity of its charitable registration system by preventing the abuse of charities to finance terrorism.

We have been advised that due diligence is done to ensure that the CRA is addressing the current threats. However, we also understand the impact its actions can have on charities from racialized communities, as they could be more vulnerable to being abused.

Canadians, including racialized communities, as well as the CRA and charities share a common goal: to keep Canadians and communities around the world safe. The CRA does this by ensuring compliance in Canada's charitable sector so that Canadians' funds are not being used to finance terrorism. National security is an important mandate of the CRA; therefore, it must ensure compliance to maintain trust in the tax system. By carrying out appropriate compliance actions, the CRA can make sure not only that Canadians pay their fair share of taxes but also that charities are using their resources to carry out charitable purposes, while at the same time preventing charitable resources from being used for malicious actions.

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Consideration



We tried to conduct a comprehensive examination into the areas identified by the Minister; however, we faced many legislative and administrative challenges. These prevented us from receiving key information and from comprehensively examining:

- the selection of files for audit by the RAD

- the quality of services provided to organizations that are audited by the RAD

For example, we did not have access to the information the CRA uses to inform its charity audit decisions, such as the selection of charities for audit. Within the existing framework that is outlined in the Order in Council, the CRA is never compelled to provide us with any information, and we need consent to access any taxpayer information. We do not have any authority to issue summonses, require evidence, or inspect properties.

For us to have comprehensively examined all the areas identified by the Minister, we would have needed authorities not specified in the Order in Council. For example, one option for a more in-depth examination could have been to temporarily appoint the Taxpayers' Ombudsperson as a Commissioner under section 6 of the *Inquiries Act*. With this appointment, our Office could have expanded authority, which may increase our access to information. While this option would take time to implement, it could assist us in navigating around many of the constraints, both legislative and administrative, that are in place.

However, parts of this examination were linked to national security, which our Office generally does not touch on. Therefore, for this examination, additional authorities may not have eliminated all of the constraints. Nevertheless, for future examinations into issues related to our Office's mandate, it would be beneficial if we had increased access to CRA information, including taxpayer information, when warranted.

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Conclusion

We know many Canadians have been waiting for this report. Although it does not provide all the answers that many are seeking, it is what we can provide under our Office's authorities. That said, we believe it is a significant first step towards addressing the questions posed by the Minister and towards raising awareness of opportunities to improve the CRA's services to both charities in general and Muslim-led charities in particular.

The obvious question that many might ask is whether there is a workable solution to conduct a deeper examination regarding the concerns at stake. Although we have finished our examination, we are open to collaborating with anyone who wants to improve the service the CRA provides to charities.

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Glossary

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A

Access to Information Act

An Act to extend the present laws of Canada that provide access to information under the control of the Government of Canada and to provide for the proactive publication of certain information.

Source: laws-lois.justice.gc.ca/eng/acts/a-1/page-1.html

antisemitism

Prejudice, hostility, discrimination and hatred towards Jewish people.

Source: btb.termiumplus.gc.ca/tpv2alpha/alpha-eng.html?lang=eng&i=1&srchtxt=antisemitism&codom2nd_wet=1#resultrecs

Anti-terrorism Act

An Act to amend the *Criminal Code*, the *Official Secrets Act*, the *Canada Evidence Act*, the *Proceeds of Crime (Money Laundering) Act* and other Acts, and to enact measures respecting the registration of charities, in order to combat terrorism.

Source: laws-lois.justice.gc.ca/eng/acts/a-11.7/page-1.html

Appeals Branch

The Appeals Branch mandate is to deliver high quality, timely, and impartial recourse services for disputes and relief requests, and to promote the prevention and earliest resolution of tax and benefit issues in the client experience.

Source: canada.ca/cra-publication-p148

audit

Audits are an important part of the CRA's range of activities aimed at making sure the tax system is fair for everyone. During an audit, the CRA closely examines the books and records of a taxpayer to confirm whether they are fulfilling their tax obligations, following tax laws correctly, and receiving the benefits and refunds to which they are entitled.

Source: canada.ca/en/revenue-agency/services/forms-publications/publications/rc4188

C

Canada Revenue Agency (CRA)

The Canada Revenue Agency (CRA) administers tax laws for the Government of Canada and for most provinces and territories as well as social and economic benefit and incentive programs delivered through the tax system.

Source: canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra

Canada School of Public Service

The Canada School of Public Service leads the government's enterprise-wide approach to learning by providing a common, standardized curriculum that supports public servants through key career transitions, ensuring that they are equipped to serve Canadians with excellence.

Source: csps-efpc.gc.ca/index-eng.aspx

CRA Board of Management

The Board of Management consists of 15 members appointed by the Governor in Council. Eleven of these members are nominated by the provinces and territories. The Board has the responsibility of overseeing the organization and management of the CRA, including the development of the Corporate Business Plan, and the management of policies related to resources, services, property and personnel.

Source: canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/canada-revenue-agency-structure-operational-framework

Charities Directorate

The Charities Directorate is responsible for all program activities related to the provisions of the *Income Tax Act* regarding qualified donees, including registered charities, registered Canadian amateur athletic associations, registered national arts service organizations, registered journalism organizations, and federal political parties (contributions to registered political parties or to a candidate at a federal election).

Source: canada.ca/en/revenue-agency/services/charities-giving/charities/about-charities-directorate/who-we

D

Department of Justice Canada

The Department of Justice has the mandate to support the dual roles of the Minister of Justice and the Attorney General of Canada. The Department also works to ensure the federal government is supported by high-quality legal services, and the justice system is fair, relevant, accessible, and reflective of Canadian values.

Source: justice.gc.ca/eng

F

Federal Court of Appeal

The Federal Court of Appeal has jurisdiction to hear appeals from judgments of the Federal Court and the Tax Court of Canada. Among other things, the Court has jurisdiction to hear disputes regarding tax law.

Source: fca-caf.gc.ca/fca-caf_eng.html

I

Income Tax Act

An Act respecting income taxes.

Source: laws-lois.justice.gc.ca/eng/acts/I-3.3/page-1.html

Inquiries Act

An Act respecting public and departmental inquiries.

Source: laws-lois.justice.gc.ca/eng/acts/i-11/page-1.html

Islamophobia

The fear or hatred of the religion of Islam or of Muslims that leads to discrimination, prejudice or hostility towards Muslims.

Source: btb.termiumplus.gc.ca/tpv2alpha/alpha-eng.html?lang=eng&i=1&srchtxt=islamophobia&codom2nd_wet=1#resultrecs

L

Leads Program

The primary role of the Leads Program is to coordinate and review all domestic leads received from the public to assist the CRA in identifying taxpayers who are not complying with their tax obligations. The Leads Program gives the public the opportunity to come forward and anonymously report suspected cases of non-compliance with the tax laws administered by the CRA.

Source: canada.ca/en/revenue-agency/services/about-canada-revenue-agency-cra/protecting-your-privacy/privacy-impact-assessment/leads-program-v2

M

Minister of National Revenue

The Minister is accountable to Parliament for all CRA activities and exercises powers relating to regulation-making and providing reports to Parliament or the Governor in Council (Cabinet).

Source: canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/canada-revenue-agency-ministerial-transition-documents-november-2015/section-3-introduction-canada-revenue-agency-cra-1, canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/canada-revenue-agency-structure-operational-framework

O

Office of the Taxpayers' Ombudsperson

The Office of the Taxpayers' Ombudsperson (OTO) works independently from the Canada Revenue Agency (CRA). The OTO is here to improve the service that the CRA provides to Canadians by reviewing service-related complaints. The OTO also looks at issues that can affect more than one person or a segment of the population.

Source: canada.ca/en/taxpayers-ombudsperson

P

Project Trident

Project Trident is a CRA-wide enforcement project that helps protect the tax-base by prosecuting key players in fraudulent tax schemes and reassessing related tax returns. Project Trident targets three types of fraud: tax preparer fraud, charity-related fraud, and identity theft.

Source: canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/project-trident

R

registered charity

A registered charity refers to a charitable organization, public foundation, or private foundation registered with the CRA. It is exempt from paying income tax, and can issue tax receipts for donations it receives. It must be established and resident in Canada, operate for charitable purposes, and devote its resources to charitable activities.

Source: canada.ca/en/revenue-agency/services/charities-giving/charities/charities-giving-glossary

Review and Analysis Division

The Review and Analysis Division is responsible for delivering the CRA's mandate under the *Anti-Terrorism Act* to prevent the abuse of registered charities for the financing of terrorism.

Source: canada.ca/en/revenue-agency/services/about-canada-revenue-agency-cra/protecting-your-privacy/privacy-impact-assessment/charities-public-safety-anti-terrorism-privacy-impact-assessment-summary-review-analysis-division

T

Tax Court of Canada

The Tax Court of Canada is a Superior Court of Record established pursuant to the *Tax Court of Canada Act*, before which individuals and companies may litigate against the Government of Canada on matters arising under legislation wherein the Court has exclusive original jurisdiction. The majority of the appeals to the Court relate to Income Tax under the federal *Income Tax Act* and Goods and Services Tax under the *Excise Tax Act*.

Source: tcc-cci.gc.ca/en/pages/frequently-asked-questions

Tax services office

Tax services offices deliver excise (GST/HST) and income tax programs through fully integrated offices that usually provide all aspects of [the CRA's] program delivery such as audit, collections, payroll compliance, and appeals.

Source: canada.ca/en/revenue-agency/corporate/about-canada-revenue-agency-cra/canada-revenue-agency-ministerial-transition-documents-november-2015/section-3-introduction-canada-revenue-agency-cra-1

Taxpayer Bill of Rights

The Taxpayer Bill of Rights describes and defines 16 rights and builds upon the CRA's corporate values of professionalism, respect, integrity, and collaboration. It describes the treatment [Canadians] are entitled to when dealing with the CRA.

Source: canada.ca/en/revenue-agency/services/forms-publications/publications/rc17/taxpayer-bill-rights-guide-understanding-your-rights-a-taxpayer

U

unconscious bias

A bias a person has without realizing it.

Source: btb.termiumplus.gc.ca/tpv2alpha/alpha-eng.html?lang=eng&i=1&srchtxt=unconscious+bias&codom2nd_wet=1#resultrecs

V

vulnerable population

[A population that has] a greater probability than the population as a whole of being harmed and experiencing an impaired quality of life because of social, environmental, health, or economic conditions or policies.

Source: btb.termiumplus.gc.ca/tpv2alpha/alpha-eng.html?lang=eng&i=1&srchtxt=vulnerable+population&codom2nd_wet=1#resultrecs

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Footnotes

- 1 Canada Revenue Agency. (2016, June 23). *What is the difference between a registered charity and a non-profit organization?* Canada.ca. <https://www.canada.ca/en/revenue-agency/services/charities-giving/giving-charity-information-donors/about-registered-charities/what-difference-between-a-registered-charity-a-non-profit-organization.html>
- 2 The searchable inventory in the Leads Program is a database of all leads that are not forwarded to arease such as the Charities Directorate of conduct a risk assessment.
- 3 Cornell Law School. (2021, July). *fishing expedition*. https://www.law.cornell.edu/wex/fishing_expedition
- 4 Immigration, Refugees and Citizenship Canada. (2022, November 7). *Unconscious Bias Training Module for Panel Members and Their Clinic Staff*. Canada.ca. <https://www.canada.ca/en/immigration-refugees-citizenship/news/video/unconconscious-bias-training.html>
- 5 Privy Council Office. (2010). Air India Flight 182 A Canadian Tragedy: Volume Five Terrorist Financing (Cat. No: CP32-89/2-2010E). Minister of Public Works and Government Services. Retrieved March 21, 2023, from https://publications.gc.ca/collections/collection_2010/bcp-pco/CP32-89-2-2010-5-eng.pdf (PDF, 2.1 MB).

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