



The Threat of Terrorism - How Charities can Protect Themselves

Alastair Bland, Director, Review and Analysis Division
Charities Directorate, Canada Revenue Agency
Being Good at Doing Good : Safeguarding Yourself and Your Charity in a Complex World
February 13, 2012

Canada Revenue Agency Agence du revenu du Canada **Canada**

FATF – Special Recommendation VIII

- **VIII. Non-profit organisations**
 - Countries should review the adequacy of laws and regulations that relate to entities that can be abused for the financing of terrorism. Non-profit organisations are particularly vulnerable, and countries should ensure that they cannot be misused:
 - (i) by terrorist organisations posing as legitimate entities;
 - (ii) to exploit legitimate entities as conduits for terrorist financing, including for the purpose of escaping asset freezing measures; and
 - (iii) to conceal or obscure the clandestine diversion of funds intended for legitimate purposes to terrorist organisations.

Presentation Outline

- Why are Charities and Terrorism used in the same sentence?
- Case Studies
- CRA's Role in Countering Terrorism
- How Charities can Protect Themselves

Interpretive Note - SRVIII

There is a diverse range of approaches in identifying, preventing and combating terrorist misuse of NPOs. An effective approach, however, is one that involves all four of the following elements:

- (a) Outreach to the sector,
- (b) Supervision or monitoring,
- (c) Effective investigation and information gathering and
- (d) Effective mechanisms for international co-operation.

Areas of NPO Sector Vulnerability

- FATF has noted that the misuse of the NPO sector for terrorist financing is a weak spot
- Challenges regulating the Charitable sector

Areas of Charity Sector Vulnerability

- If terrorist groups are abusing the Charitable sector, where are the **doorways** into the sector?
 - 1) Finances
 - 2) Operations
 - 3) Material Resources
 - 4) Personnel
- Important to understand how the Charitable sector is exploited in order to develop and use appropriate regulatory tools to combat its abuse

1) Finances

- Financial activities of Charities are vulnerable to terrorist support operations and money laundering activities
- Diversion of funds towards militant or criminal entities can happen at
 - a) the macro level (through Board of Directors, advisors, etc)
 - b) the micro level (through regional offices with or without the consent of the head office, cash couriers, etc)

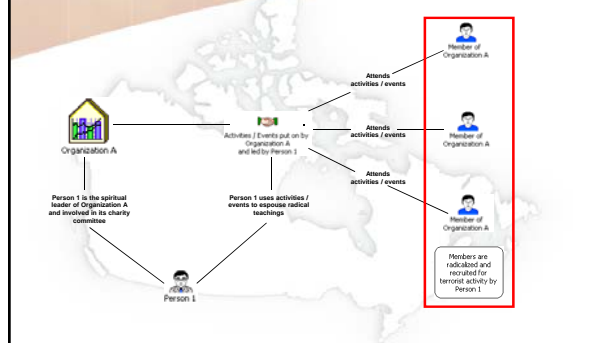
2) Operations

- A Charity's operations are the activities that they carry out or to which they financially contribute and oversee
- Terrorist organizations can:
 - a) infiltrate existing Charities, or
 - b) create 'front' Charities in order to promote a certain ideological cause
- In both cases, radical organizations or individuals can, through Charities, recruit and indoctrinate youth, encourage radical activities, etc.

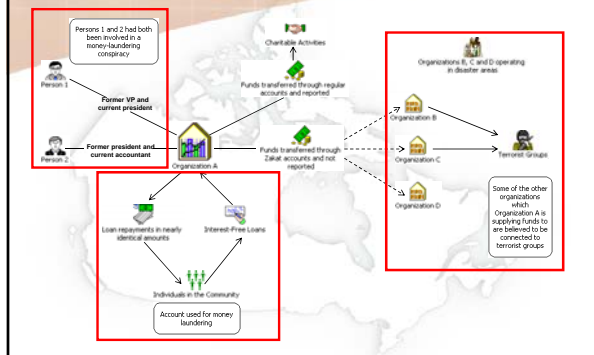
Finances: Case Study 1



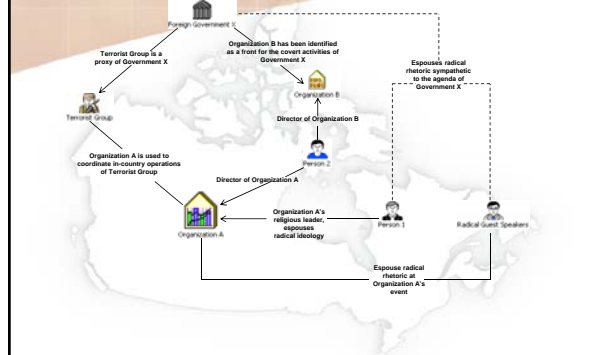
Operations: Case Study 3



Finances: Case Study 2



Operations: Case Study 4



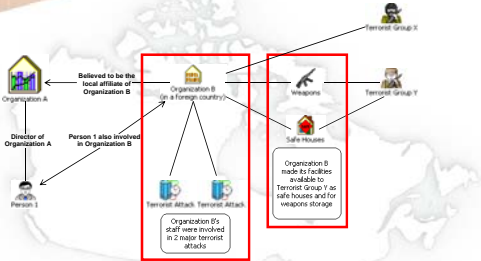
3) Material Resources

- Charities can knowingly (or unknowingly) divert material resources towards militant activity
- Material resources can include clothing, equipment, documentation, property, shelter, etc.
- Another risk is the 'taxing' of Charities by militant organizations, resulting in passive extortion
 - In these cases, Charities forced to pay militant orgs to guarantee protection of their goods, personal, or access to areas controlled by the militants

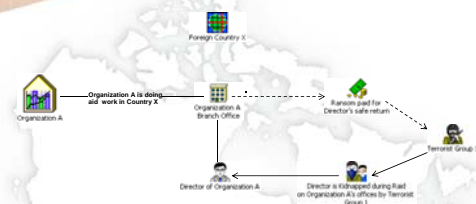
4) Personnel

- Charity Personnel can be exploited by active extortion
 - Charity employees kidnapped and ransomed to fund activities
- Members of terrorist or criminal organizations have assumed the credentials of Charity personnel
 - Tactical strategy to avoid security measures and facilitate their activities

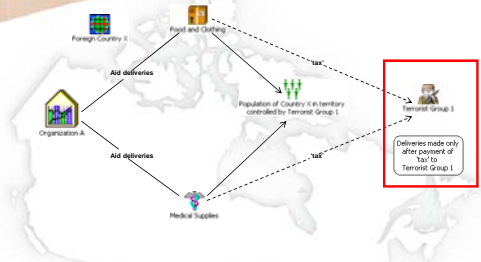
Material Resources: Case Study 5



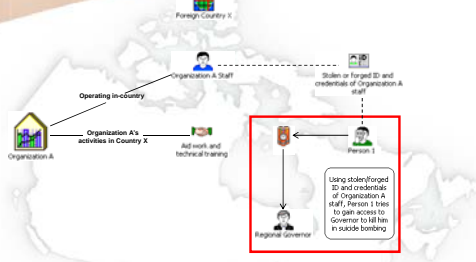
Personnel: Case Study 7



Material Resources: Case Study 6



Personnel: Case Study 8



CRA's Role in Countering Terrorism

- Focus is on administration of the ITA provisions related to charities
- Regulatory responsibility provides opportunities to detect and deter support for terrorism at application and post registration
- Contributes to the administration and enforcement of the Charities Registration (Security Information) Act (CRSIA)

Direction, control and charitable activities

- Direction and control ensures that resources transferred to an intermediary are used **only** for the registered charity's own charitable activities.
- Even if an intermediary's programs were charitable at common law, without retaining direction and control, the charity would not meet the *Income Tax Act's* "own activities" requirement.

"Own charitable activities"

- Typically, charities carry out activities through volunteers or paid staff.
- In some cases, charities rely on an **intermediary** to carry out their charitable activities.
- In order to meet the "own activities" requirement of the *Income Tax Act*, a charity must **direct and control** the use of its resources by an intermediary.
- Resources is **all** resources, not just money.

What is direction and control?

- The charity must be the entity that makes the decisions and sets parameters on significant issues related to any activity undertaken on its behalf.
- The charity must be the "guiding mind" on issues such as:
 - the activity's overall goals
 - how the activity will be carried out
 - the area or region where it will be carried out
 - who benefits from the activity
 - what goods and services the charity's money will buy
 - when the activity will begin and end
- CRA strongly recommends the use and monitoring of a written agreement to achieve this.

Canada's Income Tax Act and a charity's resources

- The Canadian *Income Tax Act* allows a charity to do one of two things with its resources:
 - Devote them to the charity's **own charitable activities**
 - Gift them to a **qualified donee** (typically another Canadian registered charity)
- This applies to activities in Canada and abroad. A charity that uses its resources in any other way may be sanctioned or lose its charitable registration.
- Funding the activities of a non-qualified donee is always grounds for revocation of charitable status.

Combating Terrorist Financing using the *Income Tax Act*

- Combating terrorist financing using the "own activities" test and "direction and control" to determine that a Canadian charity:
 - was controlled, funded and directed by a foreign body (parent organization) to transfer funds through Canada to specific groups and individuals
 - failed to maintain control and direction over its resources by placing its funds at the disposal of another entity - which formed part of support network for a listed entity
 - failed to maintain control and direction of resources (gifts-in-kind) by gifting to organizations associated with a listed entity

How Charities can Protect Themselves

- Canada Revenue Agency
<http://www.cra-arc.gc.ca/chrts-qvng/chrts/chcklsts/vtb-eng.html>
- Charity Commission of England and Wales
http://www.charity-commission.gov.uk/Our_regulatory_activity/Counter_terrorism_work/Compliance_toolkit_index.aspx
- Mark Blumberg "Working in Difficult Areas: 16 Steps to Avoiding Direct or Indirect Involvement with Terrorism"
<https://ocsa.webex.com/ocsa/sr.php?AT=pb&SP=TC&rlD=506162&Key=030166e88da95ab7&act=pb>
- Terrance Carter "The Impact Of Anti-terrorism Legislation On Charities In Canada: The Need For An Appropriate Balance"

Questions?

Alastair Stewart Bland
Director – Review and Analysis Division
Charities Directorate - Canada Revenue Agency
320 Queen Street, Place de Ville, Tower 'A'
Ottawa, Ontario K1A 0L5
alastair.bland@cra-arc.gc.ca
(613) 954-2056