

THE SOUFAN CENTER

ISSUE BRIEF 4

DETERRENCE AND DENIAL: THE IMPACT OF SANCTIONS AND DESIGNATIONS ON VIOLENT FAR RIGHT GROUPS

Lessons Learned from Listing Violent Far-Right Extremist Groups in Canada

Foreword from the Executive Director

This Issue Brief is part of a project undertaken by The Soufan Center, with the support of the Airey Neave Trust in London, United Kingdom, to deepen understanding about the impact of sanctions and proscriptions on terrorist groups, with a focus on violent far-right actors. Through research, interviews, and consultations with key stakeholders, TSC considered whether the measures taken by several states – in particular, the U.K., Canada, and other “Five Eyes” members – have had the desired impacts, whether on a legal, political, or operational level. Throughout the process, the team has had the opportunity to speak with government officials representing several countries, both “Five Eyes” states and others, who have grappled with the challenge of far-right terrorism, as well as UN officials, experts, and practitioners. To facilitate some discussions, TSC organized two roundtables, one in Washington D.C. and one engaging participants from the United Kingdom, and benefitted greatly from the insights shared. We are grateful to all these interlocutors for their time and feedback.

The Issue Briefs developed for this project each consider different aspects of the challenge – lessons learned from the sanctions measures developed to address Al-Qaeda and ISIS; how the violent far-right movement has evolved and what, if any elements may be amendable to sanctions; and lessons learned from proscriptions and designations taken to date in several states to designate violent far-right extremist groups as terrorists. Each contributes to informing a wider question on whether sanctions are an appropriate tool for the transnational dimensions of far-right terrorist groups, and whether there is a role for international actors like the U.N. in responding to these developments. We hope that the findings and policy recommendations will provide a useful basis for policymakers and practitioners as they consider how to address an increasingly diverse and complex terrorist threat.

Naureen Chowdhury Fink

SUPPORTED BY



ISSUE BRIEF 4

DETERRENCE AND DENIAL: THE IMPACT OF SANCTIONS AND DESIGNATIONS ON VIOLENT FAR RIGHT GROUPS

*Lessons Learned from Listing Violent Far-Right
Extremist Groups in Canada*

JESSICA DAVIS
JULY 2022

THE SOUFAN CENTER

thesoufancenter.org

KEY FINDINGS

- As of July 2022, Canada has listed nine entities in Canada as terrorists, all of which can be broadly categorized as belonging to the violent far-right movement.
- Canada's listings process has three levels of effect in Canada: operational effects (and largely financial); support effects (such as enabling investigations and analysis); and signaling effects that inform the Canadian public about shifts in terrorism threats.
- Canada's process also has potential unintended consequences, such as the possibility of individuals being "de-risked" by their bank and to serve as a catalyst for action for a radicalized individual suddenly cut off from the financial system.
- Canada's listings were unilateral, although some countries have subsequently listed, designated or proscribed similar groups.
- In Canada, as elsewhere, there is little concrete evidence of the effectiveness and outcomes of listing terrorist entities or information suggesting that these listings are useful for law enforcement.

IDENTIFYING CANADA'S EXTREME RIGHT THREAT

In June 2019, Canada listed two violent far-right extremist groups as terrorist entities: *Blood and Honour* and *Combat 18*, the first listings of their kind in Canada.¹ In February 2021, the government listed four more entities: *The Base*, *Atomwaffen Division*, *Russian Imperial Movement*, and the *Proud Boys*. As part of their rationale for listing, the government included the Proud Boys' participation and "pivotal role" at the US Capitol.² In June 2021, the government followed up these listings with three more: the *Three Percenters*, *James Mason* (author of neo-Nazi propaganda "Siege") and *Aryan Strikeforce*. These listings mark a departure for Canada from its usual listings fare: until 2019, the list was primarily composed of jihadist or ethno-nationalist groups. The inclusion of neo-Nazi, extreme right, and accelerationist groups and individuals signals to the Canadian public that the terrorism threat in Canada has shifted, and now includes a greater diversity of actors.

These listings were reactive rather than proactive, for Canada is no stranger to extreme right, anti-government, and anti-Islamic violence. For instance, in June 2014, Justin Bourque killed three Royal Canadian Mounted Police (RCMP) officers in an act of anti-government and anti-police violence,³ and in January 2017, Alexandre Bissonnette killed six men at a mosque in Quebec City.⁴ There have also been a series of other attacks including a June 2021 attack on a Muslim family in London, Ontario, that resulted in the perpetrator being charged with murder, with a terrorism enhancement.⁵ These listings essentially tell Canadians what they already know: that Canada has a problem with violent far-right extremism, or as the Canadian government calls it, ideologically-motivated violent extremism.

¹ Speakers at a virtual roundtable organized by The Soufan Center with the Airey Neave Trust highlighted the importance of the different implications of designations and proscriptions, with the latter making mere membership in the group a criminal offense; many designations processes, such as that under 1267, for example, did not make mere membership in Al-Qaeda or ISIS illegal. For more see: <https://thesoufancenter.org/projects/deterrence-and-denial-the-impact-of-sanctions-and-designations-on-violent-far-right-groups/>

² "Currently Listed Entities," Public Safety Canada, Government of Canada, updated on February 3, 2021, <https://www.publicsafety.gc.ca/cnt/ntnl-scrtr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx#511>.

³ Jane Taber, "Justin Bourque Targeted Mounties, Hearing Told," *The Globe and Mail*, October 27, 2014, <https://www.theglobeandmail.com/news/national/justin-bourque-faces-sentencing-hearing-for-killing-mounties/article21311962/>.

⁴ "Deadly 2017 Quebec City Mosque Shooting: Timeline of Events," *CityNews Montreal*, January 29, 2022, sec. Canada, <https://montreal.citynews.ca/2022/01/29/timeline-quebec-mosque-shooting/>.

⁵ Matthew Trevithick, "September 2023 Trial Date Set in London, Ont. Attack on Muslim Family," *Global News*, April 12, 2022, <https://globalnews.ca/news/8754373/london-nathaniel-veltman-van-attack-trial-date/>.

CANADA'S LISTING OF TERRORIST ENTITIES

Under Canadian law, individuals and entities (groups, organizations or companies) can be listed as terrorist entities. The decision to list an entity is made by the Governor in Council (effectively the federal Cabinet) on the recommendation of the Minister of Public Safety. In order to provide the Minister information upon which to base this recommendation, members of the Canadian security and intelligence community provide information as part of a listings package. That information can be classified or unclassified, although the public rationale for listing is often very brief and based on unclassified information. The process of creating listings packages is usually led by the Canadian Security Intelligence Service (CSIS) or the RCMP, who are the 'lead pen' on criminal or security intelligence reports. In some cases, they might draft the listings package based entirely on their own information, or might request or incorporate information from other departments and agencies in Canada, including Canada's financial intelligence unit, the Financial Transactions and Reports Analysis Centre of Canada (FINTRAC), as well as other members of the security and intelligence community in Canada.⁶

The legal threshold for listing is that reasonable grounds to believe (an evidence-based belief that something is probable)⁷

have to be established that an entity (or individual) has:

- A. knowingly carried out, attempted to carry out, participated in or facilitated a terrorist activity; or
- B. that the entity has knowingly acted on behalf of, at the direction of or in association with an entity referenced in A.

Terrorist activity is further defined under Canadian law as an act committed in whole or in part for a political, religious, or ideological purpose or cause that intentionally causes serious bodily harm to a person through violence, endangers a person's life, causes serious risk to the health or safety of the public or a segment of the public, causes substantial property damage, or causes serious interference or disruption to an essential service.⁸

In practice, the listings threshold is relatively light. A single terrorism incident can qualify a group or entity for inclusion on the list, and there is no requirement for any of the criteria to have been carried out in Canada. In essence, terrorism anywhere in the world can result in a listing. This has resulted in a great deal of variation of the entities listed, ranging from groups with an extensive list of terrorist attacks to their name (such as Al Qaeda, or Islamic State), to a single individual (James

⁶ Jessica Davis, "Consequences of Terrorist Listings in Canada," *Insight Intelligence* (blog), September 7, 2021, <https://insightintel.substack.com/p/consequences-of-terrorist-listings>.

⁷ Craig Forcece and Leah West, *National Security Law, Second Edition* (Toronto: Irwin Law Inc., 2020), 217, <https://irwinlaw.com/product/national-security-law-2-e/>.

⁸ *Criminal Code*, RSC 1985, c-C46 s 83.01 (1), available from <https://laws-lois.justice.gc.ca/eng/acts/c-46/page-14.html#docCont>.

Criminal Code Section	Number of Counts Charged	Number of Counts Convicted	Average Sentence
Participation (s. 83.18)	43	22	6.09 years
Leaving Canada to participate (s. 83.181)	6	3	7.5 years
Facilitation (s. 83.19)	10	3	6 years
Commission of an indictable offense for the benefit of a terrorist group (s. 83.2)	41	13	18.18 years
Instructing (s. 83.21)	4	3	11 years

Figure 1: Terrorism Convictions in Canada; source: *Nesbitt & Hagg*

Mason, a “life-long American neo-Nazi”) who has not perpetrated a terrorist attack but is listed for his provision of tactical direction for the operation of a terrorist group, and ideological and propaganda support for neo-Nazi groups like Atomwaffen Division.⁹

WHAT THE LISTINGS ACHIEVE

When a group becomes a listed entity in Canada, the group *itself* is not outlawed, and it is not a crime to be a member of the group.¹⁰ However, if an individual contributes

to a terrorist group, either directly or indirectly, this does become a criminal offence if the purpose of that contribution is to enhance the ability of the terrorist group to facilitate or carry out terrorist activity. Essentially, any contribution to a group, either through money or activity, could be a criminal offence. For example, Prapaharan Thambathurai pled guilty to charges of providing or making available property or services for a terrorist group (the Liberation Tigers of Tamil Elam or LTTE).¹¹ Conceivably, the listing of terrorist entities and associated criminal code provisions could also criminalize other activities, such as driving a prospective bomber to a target, or perhaps hosting a

⁹ “Currently Listed Entities,” Public Safety Canada, Government of Canada, updated on February 3, 2021, <https://www.publicsafety.gc.ca/cnt/ntnl-scr/cntr-trrrsm/lstd-ntts/crrnt-lstd-ntts-en.aspx>.

¹⁰ Craig Forcece and Kent Roach, “Yesterday’s Law: Terrorist Group Listing in Canada,” *Terrorism and Political Violence* 30, no. 2 (March 4, 2018): 259–77, <https://doi.org/10.1080/09546553.2018.1432211>.

¹¹ Michael Nesbitt and Dana Hagg, “An Empirical Study of Terrorism Prosecutions in Canada: Elucidating the Elements of the Offences,” *Alberta Law Review Society* 57, no. 3 (2020), <https://doi.org/10.29173/alr2590>.

terrorist website. At the moment, there is little case law in Canada around activities other than attack planning or leaving Canada to participate in a terrorist group or terrorist activity, illustrated in *Figure 1*.

It also becomes a criminal offence to provide property or financial services to the benefit of a terrorist entity. In short, this means that you cannot finance a terrorist group (or terrorist activity), but you might be able to provide a listed entity (such as a person) with funds for non-terrorist purposes. Of course, the nuances of these distinctions are easy to obscure, and a lack of case law on this issue means there is little clarity in terms of the contours of how this law could, or should, be applied. In practice, it is likely that an individual listed as an entity could obtain an exemption to the prohibition on receiving funds, since individuals undertake many activities and have many requirements for food, shelter, etc., that would not constitute terrorist activity. However, the same argument would be difficult to make for a listed group, organization, or company.

Beyond these primary impacts of listings, there are also secondary impacts. Like many of their global counterparts, Canadian banks, credit unions, and other financial entities have a strong aversion to risk, real or

perceived. In practice, this means that if individuals are publicly identified as members or associates of a listed terrorist entity, banks and financial entities are likely to take action to “de-risk” the client. This tends to result in closing of accounts and difficulty for the individual in finding other banks that will accept them as a client.

There are few concrete and public examples of entities being de-risked by their banks in Canada. However, some charities have reported difficulties in establishing bank accounts and conducting transactions, particularly when those charities or non-profit organizations operated in high risk or conflict zones.¹² Individuals de-risked by their banks are rarely reported; however, in the case of these more recent listings, the likelihood of banks having identified individuals as being associated with a listed terrorist entity such as the Proud Boys is much higher due to the domestic nature of some of these entities.¹³ On the other hand, the lack of court cases challenging the listing of some of these newer entities suggests that the de-risking issue has had little impact. Canadians de-risked by their banks would have greater incentive to challenge a Canadian anti-terrorism law than a foreign entity might, as it would impact them to a far greater extent than a foreign entity that

¹² Anver M. Emon and Nadia Z. Nasan, “Under Layered Suspicion: A Review of CRA Audits of Muslim-Led Charities,” April 2021, https://uploads-ssl.webflow.com/6014cdeca65f7f2af7e18187/605eb346393ed260c23713e2_Under_Layered_Suspicion_Report_Mar2021.pdf.

¹³ Jessica Davis, “Proud Boys Financing,” Substack newsletter, *Insight Intelligence* (blog), June 10, 2021, <https://insightintel.substack.com/p/proud-boys-financing>.

rarely, if ever, does business in Canada. In some cases, such as the Proud Boys, the very listing of them as a group has been contentious.¹⁴ In contrast, there has been little media attention or concern with the listing of other terrorist entities, with a few notable exceptions.¹⁵

The listings themselves also have secondary effects in Canada. For instance, the listings might facilitate the arrest and disruption of other terrorist activities, including the arrest of one individual in May of 2022 on “alleged links” to the group.¹⁶ The RCMP noted in their press release that the individual was associated with a listed terrorist entity, placing emphasis on that listing. Yet, operationally-speaking, the listing process has no bearing on law enforcement’s evidentiary requirements. To prove a terrorism charge, law enforcement and prosecutors will need to “prove” the terrorist group or terrorist activity, and are not able to rely on the listing process as sufficient. Nevertheless, other security and intelligence agencies might find the listings useful for their operations and analysis. For example, FINTRAC, Canada’s financial intelligence unit, likely uses the list

of designated entities to guide their analytic work, and banks and other financial entities use the list to facilitate reporting suspicious transactions to FINTRAC.¹⁷

Listings also have a tertiary effect in Canada. Listings facilitate a discussion in Canada between the government and civil society, and serve as a tool for the Government of Canada to signal to the public changes in the threat landscape and to a certain extent, soft prioritization. The listing process, combined with other communications tools used by the security and intelligence community in Canada (such as annual threat reports)¹⁸, is an important way that the government shares information about terrorism threats.

The listings process does have some unintended negative consequences for individuals on the periphery of the process and for the process itself. For instance, it is possible for individuals unaffiliated with the listed terrorist entities to be caught up in responses to listings, such as de-risking if banks or financial entities rely on dated information from social media or risk advisory companies for their risk assessment

¹⁴ Leah West, “The Complicated Consequences of Canada’s Proud Boys Terrorist Listing,” *Lawfare* (blog), February 9, 2021, <https://www.lawfareblog.com/complicated-consequences-canadas-proud-boys-terrorist-listing>.

¹⁵ Bernie M. Farber and Hasan Alam, “The Saturday Debate: Was It Right to Declare the Proud Boys a Terrorist Group?,” *Toronto Star*, February 20, 2021, sec. Opinion, <https://www.thestar.com/opinion/contributors/the-saturday-debate/2021/02/20/the-saturday-debate-was-it-right-to-declare-the-proud-boys-a-terrorist-group.html>.

¹⁶ Steve Rukavina, “RCMP Conduct Raids in Central Quebec Targeting Atomwaffen Division Neo-Nazi Group | CBC News,” *CBC News*, June 16, 2022, <https://www.cbc.ca/news/canada/montreal/quebec-raid-atomwaffen-division-neo-nazi-group-1.6491005>.

¹⁷ FINTRAC, “Terrorist Financing Assessment: 2018,” 2018, 29, <https://www.fintrac-canafe.gc.ca/intel/assess/tfa-2018-eng.pdf>; FINTRAC, “Special Bulletin on Ideologically Motivated Violent Extremism: A Terrorist Activity Financing Profile,” 2021, <https://www.fintrac-canafe.gc.ca/intel/bulletins/imve-eng.pdf>.

¹⁸ CSIS, “CSIS Public Report 2020,” n.d., <https://www.canada.ca/en/security-intelligence-service/corporate/publications/2020-public-report.html>.

processes. Further, the financial exclusion inherent in being associated with a listed terrorist entity could in and of itself spur an individual (in combination with other factors) to take action on their extremist ideas and mobilize to violence, potentially including a spontaneous attack.¹⁹ In some listings cases, particularly those where there is little evidence of Canada-based activity (not a criteria for listing, but one that Canadians might expect to be prioritized), critics of the government have argued that particular listings were politicized. While the decision to list a group is indeed a political decision (given that it is made by elected officials), this does not necessarily mean that it is politicized. Unfortunately, given the limited information released by the government in support of its listings, and the lack of transparency around the prioritization of groups for listing, this critique has gained some traction.

Canada's listings process involves a number of actors with different interests, and results in three different types of effects. While the primary effects are largely financial in nature and target the listed entities directly, the secondary effects likely enable other aspects of government response such as investigation and analysis. The tertiary effects of listing terrorist entities allow the government to share information with Canadians, and essentially signal threat and soft

prioritization. However, the practical effects and outcomes of the listings process lack concrete information and metrics, making it difficult to assess the intended and unintended effects and consequences of the process.

MISSING THE MARK

Despite Canada's listing of a number of extreme right groups as terrorist entities, to date, the practical implications for many of these groups appears limited. In part, this is due to the unilateral nature of many of these listings. Only recently did New Zealand designate the "American Proud Boys" as a terrorist entity under their laws. While other groups are listed in other Five Eyes (FVEY) countries, the lack of listings or designation in the United States, where many of these groups have organizational and operational bases and support, means that there are few practical implications for these groups.

Take, for example, the case of a Proud Boys fundraising site. One such site, owned and operated by Enrique Tarrio,²⁰ was fully accessible in Canada for many months after the listing of the group as a terrorist entity, and it appeared as though a Canadian cryptocurrency exchange was providing the

¹⁹ Canadian Security Intelligence Service, "Mobilization To Violence (Terrorism) Research - Key Findings" (Ottawa: Canadian Security Intelligence Service, May 3, 2018), <https://www.canada.ca/en/security-intelligence-service/corporate/publications/mobilization-to-violence-terrorism-research-key-findings.html>.

²⁰ April Glaser, "The Swag Shop of the Far Right," *Slate Magazine*, February 7, 2019, <https://slate.com/technology/2019/02/proud-boys-1776-shop-paypal-square-chase-removed.html>.

website with payment processing services.²¹ Only in July 2022 was the website suspended, presumably by the hosting provider, and it's unclear whether the Canadian listing of the group had any impact on their decision to suspend the account.

To date, Canada has listed many groups that fall into the ideologically-motivated violent extremism category, and all of those are what could broadly be conceived of as violent far-right extremists. There have also been a handful of arrests and charges relating to these groups and this type of extremist violence over the last few years. The Canadian listings (and other legal designations) are also used by the terrorism content analytics platform to define terrorist content that member companies should remove from their platforms.²² As with many other aspects of listings and designations, there is little concrete information on the operational impact of listings on far-right groups and content removal.

RECOMMENDATIONS

1. **Canada should work with partner countries to coordinate the designation or listing of entities.** While unilateral listings have some desired outcomes (such as signaling) that will be of interest to policy makers, they should work with partner countries to coordinate proscription for greater impact. This will help prevent groups, movements, individuals, and entities from engaging in jurisdictional arbitrage, essentially taking advantage of states with weaker or non-existent proscriptions.²³
2. **Canada should share information on Canadian listed entities with partner states,** and in particular the United States, to facilitate the designation process. Canada should be open to supporting the United States, should it choose to designate foreign branches of US-domiciled terrorist entities, such as the “Canadian Proud Boys” or the “Canadian Three Percenters”.²⁴

²¹ Jessica Davis, “Proud Boys Financing,” Substack newsletter, *Insight Intelligence* (blog), June 10, 2021, <https://insightintel.substack.com/p/proud-boys-financing>.

²² “Inclusion Policy | Terrorist Content Analytics Platform,” Terrorism Content Analytics Platform, accessed July 11, 2022, https://www.terrorismanalytics.org/policies/inclusion-policy?utm_source=Tech+Against+Terrorism&utm_campaign=967c52a44e-EMAIL_CAMPAIGN_2022_05_27&utm_medium=email&utm_term=0_cb464fdb7d-967c52a44e-141408947.

²³ See Recommendation 3 in Mollie Saltskog, “Deterrence and Denial: Trends in Violent Far-Right Extremism,” The Soufan Center, 2022, <https://thesoufancenter.org/projects/deterrence-and-denial-the-impact-of-sanctions-and-designations-on-violent-far-right-groups/>; and Recommendation 3 in Colin P. Clarke, “Deterrence and Denial: Lessons Learned from the 1267 Sanctions Regime against Al-Qaeda and Islamic State in Iraq and Syria (ISIS),” The Soufan Center, 2022, <https://thesoufancenter.org/projects/deterrence-and-denial-the-impact-of-sanctions-and-designations-on-violent-far-right-groups/>.

²⁴ See Recommendation 2 in Jason M. Blazakis and Megan Rennebaum, “Deterrence and Denial: Comparing Violent Far-Right Terrorist Designations among Five Eyes Countries,” The Soufan Center, 2022, <https://thesoufancenter.org/projects/deterrence-and-denial-the-impact-of-sanctions-and-designations-on-violent-far-right-groups/>.

3. **Canada should increase transparency around how it chooses groups for listing,** how it prioritizes them within its listing process, and share more information in the public designation. These improvements would help reduce the appearance of politicization of these decisions and enhance the signaling effects of the listings regime.
4. **All states should establish metrics** to assess the implementation and impact of sanctions or designations and encourage international sanctions regimes to also establish these metrics.²⁵
5. **When financial entities in Canada continue to provide financial services to listed terrorist entities,** or websites providing services to terrorist entities, Canadian law enforcement should liaise with the companies in question, consider terrorist financing criminal charges, and if or when those services are disrupted by these initiatives, issue a public statement to encourage greater adoption and compliance with the law.

²⁵ See Recommendation 2 in Colin P. Clarke, "Deterrence and Denial: Lessons Learned from the 1267 Sanctions Regime against Al-Qaeda and Islamic State in Iraq and Syria (ISIS)," The Soufan Center, 2022, <https://thesoufancenter.org/projects/deterrence-and-denial-the-impact-of-sanctions-and-designations-on-violent-far-right-groups/>.

Project Team

- **Naureen Chowdhury Fink** | Executive Director, The Soufan Center
- **Colin P. Clarke** | Senior Research Fellow, The Soufan Center
- **Jason Blazakis** | Senior Research Fellow, The Soufan Center
- **Mollie Saltskog** | Research Fellow, The Soufan Center
- **Amanda Schmitt** | Sanctions Project Coordinator, The Soufan Center
- **Michaela Millender** | Program and Communications Officer, The Soufan Center
- **Joseph Shelzi** | Research Associate, The Soufan Center
- **Stephanie Foggett** | Research Fellow, The Soufan Center
- **Mohammed El Shawesh** | Multimedia Coordinator, The Soufan Center

Project Advisors

- **Jessica Davis** | Visiting Senior Fellow, The Soufan Center; President and Principal Consultant, Insight Threat Intelligence; and President, Canadian Association for Security and Intelligence Studies
- **Sue Eckert** | Non-Resident Senior Adviser on Sanctions and Humanitarian Action, International Peace Institute

Acknowledgements

The Soufan Center (TSC) would like to thank the Airey Neave Trust for their generous support of this project and gratefully acknowledge the many UN officials, government representatives, and experts who spoke with the project team to share their experiences and expertise.

Project Resources, Publications, and Events

For all materials relating to this project, including events summaries, publications, and related resources, please visit the TSC website at www.soufancenter.org:





THE SOUFAN CENTER

ABOUT TSC:

The Soufan Center (TSC) is an independent non-profit center offering research, analysis, and strategic dialogue on global security challenges and foreign policy issues, with a particular focus on counterterrorism, violent extremism, armed conflict, and the rule of law. Our work is underpinned by a recognition that human rights and human security perspectives are critical to developing credible, effective, and sustainable solutions. TSC fills a niche role by producing objective and innovative reports and analyses, and fostering dynamic dialogue and exchanges, to effectively equip governments, international organizations, the private sector, and civil society with key resources to inform policies and practice.