

## Classification and Collection of Terrorism Incident Data in Canada

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### Abstract

*Canada is far from immune from the pressing global terrorism threat. Despite low base rates for documented attacks, it would be inaccurate to measure terrorism simply by the number of incidents investigated by authorities. This caution exists for two reasons. First, there is good reason to question current statistics as the majority of incidents either go unreported or are categorized under other labels. Second, every act carries a disproportionate harm. Even foiled attacks increase the level of fear, heighten tension between different groups, and can fragment communities. Social harm can be greater than the crime because it can affect individuals, groups and even nations. For these broad reasons a vigorous response is warranted. Specialized units have been created in many law enforcement organizations, new legislation has emerged and the collection of terrorism-related information is well at hand. Or is it? This paper presents compelling arguments that acts of terrorism are far more prolific than Canadian statistics suggest. Furthermore, this situation will continue to exist because the true nature of terrorism is concealed by systemic failures strikingly similar to those which historically masked the problem of both partner abuse and hate crime.*

**Keywords:** policing terrorism; definition of terrorism; anti-terror legislation

### Legislation

The Anti-terrorism Act was passed into law in June 2015 and is arguably the most comprehensive reform of its kind since 2001.[1] According to the Act's official summary, Bill C-51 will ensure safer transportation services for Canadians. It allows law enforcement to step in and arrest, without question, a person they suspect is about to carry out a terrorist attack. As well, Bill C-51 increases the protection of witnesses who come forward with information on a potential terrorist attack. This Act amends the *Criminal Code* and over a dozen Canadian laws to change police powers, revise the mandate of the Canadian Security Intelligence Service, and allow security related information sharing on a scale not previously possible.

Despite Bill C-51, how terrorism is defined can and does vary in Canada. Legal definitions generally serve as the most formally recognized source by many governments and individuals.[2] Section 83.01 of Canada's *Criminal Code* defines terrorism as an act committed "in whole or in part for a political, religious or ideological purpose, objective or cause" with the intention of intimidating the public "...with regard to its security, including its economic security, or compelling a person, a government or a domestic or an international organization to do or to refrain from doing any act." [3] Activities recognized as criminal within this context include death and bodily harm with the use of violence; endangering a person's life; risks posed to the health and safety of the public; significant property damage; and interference or disruption of essential services, facilities or systems. The *Criminal Code* provides 33 subsections detailing specific and related terrorism offenses, several cross-referenced to other historically significant acts and conventions.

The abundance of anti-terrorism legislation, coupled with its exhaustive treatment within the *Criminal Code* can be challenging to navigate. This situation is further compounded by 260 definitions of terrorism [4] and a proliferation of companion terms within the literature.[5] Radicalization, extremism and terrorism are terms that are frequently used interchangeably yet can be misleading.[6] The profusion of definitions between nations also underscores the fluid and sometimes polarizing nature of what may or may not be

labeled terrorism.[7] Likewise the definitional process is itself part of a wider contestation over ideologies or political objectives.[8] On the one hand, it may be commonplace today for people to hear the word terrorism and immediately think of al-Qaeda or ISIL (the Islamic State of Iraq and the Levant, who are credited with the vast majority of attacks), yet there are many other emotionally and politically charged variables which can either broaden or narrow one's interpretation in regards to a wide array of extremist organizations (e.g., right wing-based, state-based, pathological-based, eco-based, cyber-based).[9] There are between 250 and 442 recognized terrorist organizations [10] demonstrating (at the very least) that terrorism is far from homogeneous. One consequence is that some front line service organizations (e.g., police, border services, corrections, and transit) have taken it upon themselves to create in house policies, procedures, definitions and labels (e.g., 'active killer', 'honor-based violence', or 'swatting'). While operationally convenient, such practices inhibit the comparison of meaningful data between agencies and may contribute to a miscounting of actual incident levels. Consequently, the purpose of this research was to better understand how incidents of terrorism are counted and tracked.

### ***Statistics and Labeling***

Statistics Canada currently tracks terrorism according to 13 Uniform Crime Reporting (UCR) violation codes. As evidenced in Table 1, a number of these categories show no reported activity. An argument could be made that if the statistics are correct, then the documented police reported rates do accurately reflect the true number of terrorist related crimes that are occurring. However, the more plausible explanation begins with an acknowledgment that all crime statistics can be misleading.[11] [12] The fact is that terrorism in Canada is a complex phenomenon that is difficult to track, and uniform training has not been provided on how to assess incidents. Unlike most crimes, which can be assessed without mention of motivation or ideology, terrorism cannot. For this reason, the vector of reported statistics should, at best, be treated with great caution or as an unreliable indicator of actual activity.

A further complicating factor revolves around understanding motivation. Many front line responders are trained to rely on what can be called *incident-based*—rather than *motivation-based*—response protocols.[13] Incident-based protocols are driven mainly by the long-established criteria of severity of injury and damage to property. Under this model the most serious injuries and loss receive the most attention. One's motive and the potential for community harm are not usually a factor in the incident-based model, yet this is a major component for acts of terrorism. Authorities who have no problem labeling behavior (e.g. such as robbery or damage to property) often struggle when they must deduce the underlying motivations.

### ***Methodology***

To determine if UCR codes are an accurate gauge of terrorist activity in Canada, it is important to understand how incidents are defined and documented. As a result, a questionnaire was forwarded to 33 municipal Canadian police agencies. Survey items were adapted from a Canadian Centre for Justice Statistics (CCJS) survey on organized cybercrime [14] and included a short introduction and six questions.

This afforded an opportunity to explore whether police agencies of different sizes follow fundamentally different approaches to documenting incidents. Provincial and federal police services were not considered because it was felt that their responses and resource commitments could reflect a much broader mandate, as opposed to a municipal perspective. However, this should be noted as a possible limitation of this study because police agencies such as the Royal Canadian Mounted Police (RCMP), the Sûreté du Québec (SQ), and the Ontario Provincial Police (OPP) also provide contract policing services in addition to their Federal

and Provincial duties. Consequently, these results might not be fully representative of a true cross-section of Canadian police agencies.

**Table 1:** Number of Terrorist Violations, by UCR Category in Canada from 2010 to 2014

| Violation  |                         | 2010 | 2011 | 2012 | 2013 | 2014 |
|--|-------------------------|------|------|------|------|------|
| Property or service for terrorist activity   | <i>Actual incidents</i> | 23   | 28   | 15   | 23   | 17   |
|  | <i>Persons charged</i>  | 0    | 0    | 1    | 1    | 0    |
| Participate in activity of terrorist group   | <i>Actual incidents</i> | 22   | 13   | 16   | 33   | 39   |
|  | <i>Persons charged</i>  | 0    | 0    | 0    | 2    | 0    |
| Facilitate terrorist activity  | <i>Actual incidents</i> | 6    | 2    | 3    | 5    | 16   |
|  | <i>Persons charged</i>  | 0    | 0    | 1    | 4    | 1    |
| Commission or instructing to carry out terrorist activity  | <i>Actual incidents</i> | 3    | 3    | 3    | 1    | 4    |
|  | <i>Persons charged</i>  | 1    | 1    | 0    | 2    | 0    |
| Harbour or conceal terrorist   | <i>Actual incidents</i> | 0    | 0    | 0    | 0    | 0    |
|  | <i>Persons charged</i>  | 1    | 1    | 1    | 0    | 0    |
| Hoax terrorism   | <i>Actual incidents</i> | 6    | 12   | 88   | 9    | 8    |
|  | <i>Persons charged</i>  | 5    | 8    | 5    | 7    | 2    |
| Leaving Canada to participate in activity of terrorist group   | <i>Actual incidents</i> |      |      | 0    | 0    | 14   |
|  | <i>Persons charged</i>  |      |      | 0    | 0    | 0    |
| Leaving Canada to facilitate terrorist activity  | <i>Actual incidents</i> |      |      | 0    | 0    | 1    |
|  | <i>Persons charged</i>  |      |      | 0    | 0    | 0    |
| Leaving Canada to commit offence for terrorist group   | <i>Actual incidents</i> |      |      | 0    | 0    | 0    |
|  | <i>Persons charged</i>  |      |      | 0    | 0    | 0    |
| Leaving Canada to commit offence that is terrorist activity  | <i>Actual incidents</i> |      |      | 0    | 0    | 1    |
|  | <i>Persons charged</i>  |      |      | 0    | 0    | 0    |
| Concealing person who carried out terrorist activity that is a terrorism offence for which that person is liable to imprisonment for life          | <i>Actual incidents</i> |      |      | 0    | 0    | 0    |
|  | <i>Persons charged</i>  |      |      | 0    | 0    | 0    |
| Concealing person who carried out terrorist activity that is a terrorism offence for which that person is liable to any punishment other than life | <i>Actual incidents</i> |      |      | 0    | 0    | 0    |
|  | <i>Persons charged</i>  |      |      | 0    | 0    | 0    |
| Concealing person who is likely to carry out terrorist activity  | <i>Actual incidents</i> |      |      | 0    | 0    | 0    |
|  | <i>Persons charged</i>  |      |      | 0    | 0    | 0    |

Bill S-7 resulting in new UCR violation codes being introduced in 2013.

Table 1 compiled from Statistics Canada Table 252-0051 Incident-based crime statistics, by detailed violation.

**Results**

Of the 33 agencies contacted 13 (39%) responded. To ensure anonymity police service names and representatives are not reported. The participating agencies serve populations that range from 35,000 to over one million residents, representing almost five million Canadians in total. As can be seen in Figure 1, the geographic distribution was also satisfactory.

Statistics Canada [15] data revealed that the number of sworn officers working in the 13 responding agencies totaled 8,201. Therefore, it is reasonable to conclude this preliminary investigation reflects a suitable sample of police agencies.

**Figure 1:** Geographical areas of 13 responding police agencies

Of the valid responses, 40% felt their members were unaware of the terrorist UCR codes, with four agencies also commenting that their front-line officers are not required to perform UCR coding. More than half of respondents indicated it was either ‘challenging’ or ‘sometimes challenging’ to decide which UCR terrorist violation code should be used. Respondents further indicated that a wide variety of positions within policing agencies are able to decide whether a violation should be deemed terrorist related, including front-line officers, records/reader/validator positions, auditors and quality control units, a variety of specialized crime sections (e.g., major crime, intelligence, extremism, missing persons) and officers linked to integrated security teams. In respect to how terrorism is defined, only one agency had crafted their own operational definition of terrorism [16], another indicated they did not have a definition, and the rest followed *Criminal Code* and/or the UCR reporting guidelines, which are the same. No agency has different UCR coding, although one agency was unaware that the codes they had been using were updated in 2013 (this could possibly reflect an outdated records management system). Another respondent indicated that their internal police agency tracking for unsubstantiated reports of terrorism are different from CCJS codes, and that “To date, we have not had a substantiated report of terrorism.” One municipal organization with well over a thousand sworn members wrote that terrorism offences “are the sole mandate of the RCMP to investigate, therefore from a municipal police service there should be no statistics.”

Responses to the open-ended question were thought-provoking. The sensitive nature of terrorist related information was cited as the pivotal factor inhibiting information sharing within and between organizations. One police organization reported that even crime analysts are not always able to access classified data, which they might otherwise use to identify patterns, trends or potential clues. In a similar vein, another reported that special projects that might be related to terrorism can go undocumented due to confidentiality of the information. Another agency reported that once an official counter terrorism organization (e.g., Canadian Security and Intelligence Service [CSIS], Integrated National Security Enforcement Teams [INSET], or Provincial Anti-Terrorism Section [PATS, which is led by the OPP]) receives information, the reporting agency can be restricted from further data sharing on their own issue, stating “information is not shared

exhaustively with the Police of Jurisdiction (POJ) thereby inhibiting the proper cataloguing and counting of such incidents.”

Lack of interoperability, deciding on jurisdiction and connectedness between police agencies was considered a challenge. Likewise the perceived infrequency of terrorist incidents and complicated definition meant that agencies had little experience in this regard. Some respondents saw this as contributing to a peacetime mindset among the police and public alike, which also contributes to the default practice of not classifying a crime as possibly terrorism related. One response that summed up this theme was, “The greatest obstacle is having the members alive to indicators of terrorism and extremism [. . .] our members do not necessarily look at suspicious incidents in and around critical infrastructure as being precursor activity to a terrorist event [. . .] The City is better prepared to respond to natural disaster, than [to] a terrorist event.”

### **Discussion**

Research has shown that expectations around handling ideological based crimes are unclear and unfamiliar to most law enforcement personnel, even to those who are very skilled and experienced investigators.[17] [18] For instance, police units with special mandates (e.g., gang, human trafficking, drug, street crime, major crime units) seldom label an incident as “organized crime” because they are resistant to assign specific motivation.[19] In a real world application, this means that whenever a radicalized individual commits a precipitating ‘minor’ offense to further their cause, the incident-based approach obscures the true significance. Thus, a vital opportunity to intercede in an attack-related incident is lost.

The findings from our survey of Canadian municipal police agencies are not intended to suggest that front line officers are failing to perform their duties adequately; they do so with bravery and distinction. Instead what can be deduced is that the official data that is being collected and used to measure the level and frequency of this problem is highly suspect. This in turn negatively effects policy development, legal proceedings, funding, perceptions about the scope and severity of terrorism, and so on.

At the same time Canadian officials have been forced to harden their defenses due to the evolution of terrorism against Western nations (e.g., September 11, 2001 attack on the United States, Canada’s Toronto-18, the November 2015 coordinated attacks in Paris, and the June 2016 Orlando massacre). The protean nature of terrorism (ranging from sole actor to complex attacks) has created the need for a common language for front-line services to uniformly track, understand, and ultimately combat this problem. Conventional models and data cannot be relied upon and our defense system is too porous. Responding to terrorism requires not only a new way of thinking, but a new set of skills and training for criminal justice professionals.[19] An effective criminal justice response to terrorism involves a number of important elements, including close police-community relations, public confidence in the effectiveness of the state’s response, and appropriate processing of reports within the criminal justice system. The quality of police response to terrorism is critical, and nothing is more important than having an accurate idea of the true nature and full extent of the problem. Effective recognition can occur once a greater effort is made to collect comprehensive data and statistics.

### **Dissonance Between Policy and Practice**

We contend that the complexity of section 83.01 and strict interpretation of this definition across Canadian policing (and possibly within corrections, border services and transit services) is also a derivative of another systemic flaw. Most police services rely on what can be deemed an *exclusive* definition of terrorism,[20] this being a crime in which an investigator’s conclusion is based *solely* upon the offender’s desire to commit an

ISIL-inspired terrorist act precisely like those coordinated throughout Paris, France on November 13, 2015. However, it could be argued that using an *inclusive* definition—one with a lower threshold—is both more appropriate and consistent with Bill C-51. Accordingly, this would include any crime motivated (in whole or part) towards a terrorist objective. The distinction is critical; if the exclusive definition is used, then a much smaller number of incidents pass the terrorist threshold, and only become evident once a tragedy has occurred. The debate after the Pulse nightclub attack in Orlando, Florida on June 12<sup>th</sup>, 2016, which killed at least 49, serves as example. Depending on one's perspective, this dark moment in history could be catalogued as a hate-crime, act of terror, mentally disturbed episode, deed of self-loathing, or mass murder.

As with most human behavior, terrorism may well be multiply determined. What might appear to be a random crime could be linked to a more sinister and opaque objective. It is therefore reasonable to conclude that a terrorist attack is not the first—nor only—crime linked to a tragic event. For instance, a 15-year-old Montreal youth was arrested in 2014 after stealing \$2,000 at knife-point to finance his own terrorist objectives, which included travelling to Syria.[21] Consider also Abu Bilel al Faransi, who “committed a number of small crimes, from theft to armed robbery” [22] on the road to radicalism and becoming the right-hand man of Abu Bakr al-Baghdadi, the self-proclaimed caliph of ISIL.

Let us think through apparent contradictions with the data starting with the number of radicalized individuals joining terrorist groups. An estimated “15,000 foreign fighters have joined [ISIL's] ranks since 2010. They come from eighty different countries.”[22] According to an official Canadian government public report, as of early 2014 the government was aware that at least 130 people with connections to Canada were abroad and believed to be supporting terrorism-related activities.[23] Yet, UCR Table 1, which represents Canada's official measure, reveals only 15 incidents for the same period. Furthermore, the ‘hoax terrorism’ category has documented 123 incidents over the past five years (more than half were related to protests in Montreal in 2012). And while a spate of ‘swatting’, bomb threats and anthrax scares could also fit within the hoax terrorism definition, such calls are typically considered to be nuisance calls.

Language is much more than mere semantic games. It would seem that officials, of all ranks, are resistant to classify any event as ‘terrorist-related’ without overwhelming and irrefutable corroborating evidence. Consider the initial level of debate as to whether the death of Canadian Warrant Officer Patrice Vincent (who was deliberately run over by a radicalized Martin Couture-Rouleau) was simply a traffic accident versus an act of terrorism.[25]

Couture-Rouleau's passport had already been revoked, and he was on an RCMP watch list for months as a possible Islamic extremist. Couture-Rouleau even called officials while being pursued to boast of his responsibility in the attack. Likewise, it took days for United States authorities to conclude that the San Bernardino California attack on December 2<sup>nd</sup>, 2015, which killed 14 and wounded 21, was an act of terrorism.

There are several reasons to believe that the percentage of offences that are not classified by the police as terrorist-related may be particularly high. For example, in the first week of November 2015, more than 70 schools in Quebec and in the Ottawa region were evacuated, closed or searched after receiving a threatening email from an anonymous person.[26] Teens were later charged with mischief, although some might question whether the charges would be different if the teens were linked to a radical cause or someone had been injured as first responders rushed to these calls.

The practice of being overly conservative in classifying incidents means that files will still get processed and officials can avoid being called alarmist. One could argue that mental health calls have become ubiquitous

[27] partly because they are an easy way for police to categorize an abundance of atypical behavior. However, there are real world implications. Consider the spike in shooting incidents in Ottawa, since 2014, widely reported to be linked to gangs and battles over the drug trade.[28] Dig deeper and there could also be an underlying terrorism connection. For instance, in January 2016, Ayyub Arab was the victim of what appeared to be a gang shooting in Ottawa's west end. The victim was linked to Awso Peshdary, a high profile terrorist who had been charged with recruiting, financing and facilitating terrorism in 2015.[29] Shortly afterwards, the Ottawa Sun reported that a vehicle belonging to one of Peshdary's associates was found at the scene of another homicide.[29] The owners of the vehicle, Ashton and Carlos Larmond, were arrested in January 2015 during an RCMP terror investigation dubbed "Project Servant." [30]

It can be argued that if the accused's desire was to ultimately commit an act of terrorism and/or a substantial motivator for any lesser, but related crimes, then such crimes need to be counted and tracked differently. This connection would allow the true magnitude of the problem to be better appreciated with appropriate sentencing. In accordance with the *Criminal Code of Canada* "A sentence must be proportionate to the gravity of the offence and the degree of responsibility of that offender." [31] Gravity can be considered the harm threatened or intended. Determining motivation is however, problematic.

### **Conclusion**

Although special software, such as ViCLAS (Violent Crime Linkage System) Powercase, and Evidence and Reporting 3 (E&R3) has been developed to track sex and serial offenders, a literature search did not reveal any formal measures for tracking ideologically-based crimes. The potential benefits of a common software platform for tracking these crimes are considerable: better situational awareness, improved patrol deployment, integration between federal and provincial justice systems, predictive policing, enhanced management of disparate information sources, and significant cost savings from both prevention and a reduction of data entry duplication. Advancements with criminal harassment and stalking laws [32] [33] suggest there is a potential to shift from a reactive to a preventative approach. That said, it is important to understand and discriminate between ideologically-based offending and non-ideological offending typologies. Innovative approaches for identifying and tracking (as opposed to just assessing) those with a predilection to ideological violence are greatly needed. Understanding and exploring pathways of ideas and behaviors that may lead to violent action should become the priority and be anchored to clinical, front-line and actuarial models.

In order to provide an effective response, the criminal justice system needs adequate data. Data are important from two perspectives. First, the general public and law enforcement are largely unaware of the scope and complexity of the problem because non-sensational terrorism-related crimes remain hidden from view until something devastating occurs. Low base rates for documented attacks should not, at this time, be taken at face value. This perception of sporadic and random incidents only negates the potential for a community-powered response.[34] The situation is exacerbated by the fact that some targets may be immigrants with pre-existing negative experiences with police and the criminal justice system from their countries of origin.[35] This additional hurdle further drives the problem underground [36] and in many ways is strikingly similar to the early days of partner abuse reporting. Once seldom reported and little understood, partner abuse was largely invisible.[37] Although it was difficult to overcome, 20-30 years later partner abuse reporting is less stigmatized and more prevalent. Partner abuse sections are among the busiest in police organizations and are buttressed by an array of public and private support networks. Elder abuse, human trafficking and hate crimes share a similar historical trajectory. Like terrorism, hate crimes also carry an element of disproportionate harm.[38] Ultimately it would be grossly deficient to measure terrorism only by reported

incidents; today's statistics are not reflective of the true insidious nature of this phenomenon. As Mark Twain said, "It ain't what you don't know that gets you into trouble. It's what you know for sure that just ain't so."

On a final note, more needs to be known about the nature and distribution of terrorism-related crimes so that criminal justice and community resources can be effectively harnessed. It would permit the allocation of criminal justice resources in an efficient and effective manner, and make it possible to accurately evaluate the efficacy of the justice system (and community-based) response. Sufficient variability exists at the present time in terms of the capture of terrorism-related crimes to warrant a unified national response.

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*Author Note:* Responsibility for the information and views expressed in this document lies entirely with the authors.

## Notes

[1] An Act to enact the Security of Canada Information Sharing Act and the Secure Air Travel Act, to amend the Criminal Code, the Canadian Security Intelligence Service Act and the Immigration and Refugee Protection Act and to make related and consequential amendments to other Acts. Other significant reforms since 2001 include: The Anti-terrorism Act (Bill C-36, enacted Dec. 24, 2001); Public Safety Act (Bill C-42, enacted May 6, 2004); S-215, An Act to amend the Criminal Code, suicide bombings (Bill S-215, enacted Nov. 30, 2011); C-10, Justice for Victims of Terrorism Act (Bill C-10, enacted March 13, 2012); Combating Terrorism Act (Bill S-7, enacted July 15, 2013); Nuclear Terrorism Act (Bill S-9, enacted Nov. 1, 2013); Strengthening Canadian Citizenship Act (Bill C-24, Royal Assent received June 19, 2014); and Protection of Canada from Terrorists Act (Bill C-44).

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- [20] Following several complex, multi-jurisdictional serial homicide investigations that included Clifford Olsen, it became apparent to Canadian law enforcement officials that a system was required to identify and track the modus operandi of serial violent crime/criminals; 'Powercase' is another UK-based software with potential for identifying apparently random or benign ('nominal') clues useful in solving major case crimes that may span several jurisdictions (Paul Bernardo being a relevant example). E&R3 is used by the RCMP for investigating terrorism, however it does not have the correlation and notification abilities found in Powercase, nor is it centralized (Brooks, 2014).
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