

COALITION

for Gun Control / pour le contrôle des armes

www.guncontrol.ca

Discussion of Private Member's Bill C-391

Brief to the
Standing Committee on Public Safety and National Security

May, 2010

Summary

The Coalition for Gun Control is a non profit organization founded in the wake of the Montreal Massacre. Its position on firearms regulation has been supported by over 300 organizations. Canada's *Firearms Act* as an important piece of our national strategy to prevent gun crime and injury and to support law enforcement. While the regulation of firearms is not a panacea, it reduces the risk that firearms will be misused. Considerable research has shown that the availability of firearms increases the chances of lethal outcomes, whether in interpersonal violence or suicide. Non-restricted rifles and shotguns are used in homicides, suicides and unintentional injury and account for a substantial proportion of firearms recovered in crime, even in large urban centres. Consequently these firearms should be regulated. While efforts to regulate firearms are often presented as an urban issue, the evidence shows clearly that rates of firearm death and injury tend to be higher in areas with more firearms.

Bill C-391 proposes to end the requirement to register non-restricted firearms - including rifles and shotguns - which is key to the effectiveness of our gun control policy.

- Screening and licensing firearm owners reduces the risks that dangerous people will have access to weapons, and registration is essential to enforcing licensing because it holds gun owners accountable for their firearms and reduces the chances that their guns will be diverted to unlicensed owners.
- Registering all firearms assists police in removing guns from dangerous people and enforcing prohibition orders.
- The gun registry has aided police investigations.
- All illegal firearms begin as legal firearms. Controls over legal guns are essential to preventing diversion and choking off the illegal supply. The registration of firearms is the norm in most industrialized countries and helps Canada meet its international obligations.

The link between licensing of firearm owners and the registration of firearms was affirmed by the Supreme Court of Canada in a unanimous decision on the constitutionality of the *Firearms Act* (2000)

*"The registration provisions cannot be severed from the rest of the Act. The licensing provisions require everyone who possesses a gun to be licensed; the registration provisions require all guns to be registered. These portions of the Firearms Act are both tightly linked to Parliament's goal of promoting safety by reducing the misuse of any and all firearms. Both portions are integral and necessary to the operation of the scheme."*¹

In Canada, rates of firearm death and injury have fallen with successively stronger firearms regulation, particularly those focusing on rifles and shotguns, the firearms most often in Canadian homes. While considerable money was spent licensing firearm owners and registering firearms, the costs of maintaining the registration of rifles and shotguns are estimated at \$4.1 million per year², an investment that is dwarfed by the costs of gun death and injury. Without the access to the registry, the costs of police investigations will increase. Not only do most public safety experts in the country insist on the importance of the registration of rifles and shotguns but polls show most Canadians and a substantial proportion of those living in homes with firearms support the law. Finally, the licensing of gun owners and registration of firearms is important to meeting our international obligations to combat the illegal gun trade.

The amendments contained in Bill C-391 will put Canadians' lives at risk. Given the clearly stated objectives of Bill C-391, we see no way to amend the Bill to make it acceptable. It should be defeated.

- Bill C-391 proposes to repeal registration of unrestricted firearms. This category of guns includes rifles and shotguns such as the powerful semi-automatic Ruger Mini 14 used in the Montreal Massacre and sniper rifles, including .50 calibre sniper rifles.
- There are no provisions in this legislation to reinstate the requirement that businesses keep records of sales. This has been a requirement since 1977, and was removed when the *Firearms Act* passed in 1995 as the information would be in the registry. Without this information there is no way for police to investigate the source of rifles and shotguns used in crime.
- There is no mention of erasing data currently in the registry, yet the *Firearms Act* has provisions that could make it possible for this to happen through regulations, and it is also unlikely that the regulations on privacy and personal information would allow to RCMP to keep information they would no longer

be allowed to obtain. Even if the RCMP could retain the information, it would quickly become stale and its utility to law enforcement would be compromised.

Recommendations

Relaxing the controls on firearms will put Canadians at risk. The Coalition for Gun Control and its member organizations have publicly opposed the proposed changes in Bill C-391. The intent of this Bill is to eliminate the registration of rifles and shotguns and, as we read it, to end the recording of transactions of the sales or transfers of these firearms. We believe that if this law passes, it will be necessary to destroy the records on 7 million rifles and shotguns thereby putting lives at risk and dramatically increasing the costs and reducing the likelihood of success of police gun crime investigations. Given the clearly stated objectives of Bill C-391, we see no way to amend Bill C-391 to make it acceptable. Given the serious impact the proposed measures would have on public safety, we recommend that the Bill C-391 be defeated at the earliest opportunity. This legislation is not consistent with the Government's stated commitments to crime prevention³, injury prevention⁴ or suicide prevention⁵.

Background

1. All guns are lethal, and any gun in the wrong hands is dangerous.

All guns are potentially dangerous, and all guns should be regulated. Rifles and shotguns are the guns most likely to be used in domestic violence situations, accidents, and suicides, particularly among youth. They are also the guns most often used to kill police officers. In the last decade, 12 of the 16 police officers killed with firearms were killed with long guns rather than handguns.

Suicides devastate families and communities - particularly where young people are involved. As Prime Minister Harper has stated: *"Each year, nearly 4,000 Canadians make this same choice [to commit suicide]. Mostly, the experts tell us, it is a decision to end their burden of depression... The science has progressed but we still don't know enough about depression, and less about suicide. But we know this much: depression can strike the sturdiest of souls. It cares not how much you have achieved nor how much you have to live for. Severe anxiety and depression are concentrated among men and women in their primary working years, and, most sadly, in their adolescent children."*⁶ Suicide attempted with firearm is almost always lethal (93% completion rate). Most firearm deaths in Canada are suicides (72% in 2005). In 1995, 911 Canadians committed suicide with firearms (rate of 3.1 per 100,000); in 2005 it was 593 (rate of 1.77 per 100,000). Suicide is the second most common cause of death in Canada for those aged 10–34.⁷ Consequently a critical dimension of a suicide prevention strategy is to keep firearms away from individual who represent a risk to themselves and this was explicitly built into Canada's *Firearms Act*. Experts dealing with suicide, including the Canadian Public Health Association, the Canadian Association of Emergency Physicians, the Canadian Association of Adolescent Health, the Association québécoise pour la prévention du suicide, as well as individuals including Dr Donald Wasylenki Chair of the Department of Psychiatry at the University of Toronto, Dr Louis Peltz Chief of the Department of Psychiatry at Credit Valley Hospital, Dr Abel Ickowicz Psychiatrist-in-Chief at the Hospital for Sick Children, rural BC psychiatrist Dr. Barbara Kane, Toronto psychiatrist Ron Charach have maintained that the licensing of gun owners and the registration of firearms, is an important part of an integrated suicide prevention strategy.

Risk factors for suicide and homicide are closely linked, consequently many homicides, including 50% of domestic homicides involving firearms, end in suicide. Access to firearms is the fifth highest risk factor that predicts whether a woman will die in domestic violence situations.⁸ For example, in Ontario, a province where only 15% of homes have firearms, 55% of the perpetrators in domestic homicides had access to guns. A firearm in the home dramatically increases the risk of death in domestic violence situations. Five public inquests (death of Jonathan Yeo who killed Nina deVilliers and Karen Marquis, murder of Kassonde children, murder of Arlene May, OC Transpo shooting, murder of Brian Smith) as well as the inquiry into the murder of Rajwar Gakhal and eight members of her family by her estranged husband in Vernon, BC on April 5, 1996 recommended the licensing of gun owners and registration of guns to reduce the risk of further tragedies.

All illegal firearms begin as legal firearms. Controls over legal guns are essential to preventing diversion and choking off the illegal supply. Rifles and shotguns are also frequently recovered in crime. In communities such as Surrey, York Region and Ottawa long guns outnumber handguns 2 to 1 in firearms recovered in crime. Non-restricted rifles and shotguns made up half of the crime guns reported to Firearms Operations and Enforcement Support (FOES) from January through September, 2009: 1006 non-restricted firearms or rifles and shotguns (46%), 514 restricted firearms (23%) and 674 prohibited firearms (31%), totalling 2194. Even in Canada's large cities, a substantial proportion of guns recovered in crimes are long-guns. Most firearms are not traced but among the firearms that are traced, we see that registered handguns are seldom used but about half of the rifles and shotguns used in homicides are registered. For example, about half of the rifles and shotguns used in homicides are registered. Of traceable firearms used in homicides, 48% of rifles and shotguns were registered (14) and 52% not registered (15).⁹

Referring to non-restricted firearms as “duck guns” or “family guns” minimizes the threat they can pose to public safety. Not only does the evidence show that this is not the case, but it is worth noting many powerful semi-automatic firearms are currently classified as non-restricted firearms including the Ruger Mini 14 used to shoot and kill 14 young women and injure 28 in 22 minutes in the Montreal Massacre as well as certain sniper rifles such as the L115A3 and the Steyr-Mannlicher HS50 which can pierce Kevlar vests and precisely hit a target almost 2 kilometres away.

2. While there are more guns in rural areas and the west, there are also more opposition to gun control, there are also higher rates of firearm death and injury, often involving rifles and shotguns.

Areas of Western and rural Canada where gun ownership rates are higher have higher rates of firearm death and injury (see Appendix 1 and 2). For example, Western provinces have higher percentages of gun ownership, and to go along with this, these provinces also have firearm death rates that are higher than the Canadian rate – the 2000-2005 Canadian average firearm death rate is 2.5 per 100,000, while Manitoba has 3 deaths per 100,000, Saskatchewan 3.76 deaths per 100,000 and Alberta 3.52 deaths per 100,000.¹⁰ Northern provinces firearm death rates per 100,000 are the highest: 7.84 in Yukon, 8.6 in the Northwest Territories and 19.76 in Nunavut. In 2008, RCMP in rural Alberta noted an increase in the number of gun-related calls.¹¹ In that province, 68% of suicides by firearms are in rural areas.¹²

A study done in the provinces of New Brunswick and PEI on family violence in rural settings found that two thirds of the women indicated there were firearms in their home, and said knowing about the firearms made them more fearful for their safety and well-being. Women were more likely to express concern for their safety when the firearms owners were not licensed, and the firearms not registered or safely stored.¹³ An Alberta shelter worker estimated that at least 40% of her clients had been threatened with a gun.¹⁴ The Alberta Centre for Injury Control & Research wrote “*We recognize that women in situations of domestic violence are at particular risk of injury or death by long guns in hands of spouses. Saving women from death at the hands of their intimate partner is a key benefit of the long gun registry.*”¹⁵

Because of the prominence of firearms, particularly rifles and shotguns, in violence against women and children in rural areas, women's groups from the west and rural areas including the Alberta Council of Women's Shelter, Ontario Coalition of Rape Crisis Centres, Manitoba Association of Women's Shelters, Provincial Association of Transition Houses and Services of Saskatchewan, Regroupement des maisons pour femmes victimes de violence conjugale, Canadian Federation of University Women, the Coalition of Provincial and Territorial Advisory Councils on the Status of Women, the National Council of Women of Canada, the National Association of Women and the Law, and the YWCA Canada have expressed their support for the licensing of all firearm owners and registration of all firearms.

3. Registration is essential to enforcing licensing

First, it is important to clarify several points. In 1977, changes to the *Criminal Law Amendment Act* required a Firearms Acquisition Certificate (FAC) to acquire firearms and for records of sale to be kept in by businesses, subject to inspection by police. In 1991, C-17 strengthened screening and safe storage requirements. No licence was required to possess any firearm and only approximately 1/3 of Canadian firearm owners had a valid FAC. As well, police testimony before the committee noted, that without registering firearms it was difficult to enforce the FAC or safe storage provisions of the law. They called for

renewable licenses to possess firearms and registration of all firearms owned to increase accountability and reduce diversion. Under the old system, an individual could buy as many guns as he or she wanted over a five year period, with little or no accountability because no record was kept of the firearms owned by that individual. These loopholes created a huge potential for straw purchases and for illegal trading. It also gave little incentive for reporting firearm thefts. Firearm registration allows firearms to be traced to their legal owners. As a consequence it increases accountability and discourages legal gun owners from giving their guns to unlicensed individuals or storing them carelessly. We license drivers but we also register automobiles to encourage drivers to conduct themselves responsibly in their cars, to allow police to enforce the law and combat car theft. The same principles apply to firearms.

With information now available on what guns are owned by whom, existing safe storage regulations are easier to enforce. Registration also discourages straw purchases and reduces the chances licensed gun owners will give or sell their firearms to unlicensed or prohibited owners. If they do, they are more likely to be caught and held accountable.

Police officers across Canada consult the gun registry 13,320 times a day¹⁶ to take preventative action and enforce prohibition orders. While it is difficult to measure prevention, the police have cited a number of examples where they have used the registry to take preventative action. For example, shortly after the Dawson College shooting, the registry allowed police to remove firearms from a potential copycat. It also helps police enforce prohibition orders by providing information about the firearms that they should remove. Physicians, crisis workers and police have also provided anecdotal evidence of specific cases where the registry was useful in removing firearms from potentially deadly situations. Without information about who owns guns and what guns they own, we cannot prevent dangerous people from getting access to guns.

Through the procedure of registering firearms, police are in a position to differentiate between legal and illegal firearms. Without information about who owns firearms legally and the firearms they own, police cannot charge individuals with illegal possession. Registry information is also critical in the investigation and prosecution of firearms offences. The gun registry has provided over 7,000 sworn statements to support the prosecution of firearms-related crime.¹⁷ Two men were identified and convicted as accessories to the murder of 4 RCMP officers in Mayerthorpe, Alberta, in part because a registered gun was left at the scene of the crime.

The “amnesty” for firearm owners that have failed to register their firearms (or renew their licenses) has already hampered police investigations and prosecutions, and should not be renewed. For example, a couple had been charged with 21 counts each of possession of illegal firearms (11 hunting rifles), charges that were dropped after the accused countered that hunting rifles didn't have to be included in the gun registry because of the amnesty.¹⁸

Firearms registration helps reduce the diversion of legal guns into illegal markets and combat the illegal gun trade. Almost 3000 guns are stolen annually in Canada, by definition ending up in the hands of criminals. All illegal firearms begin as legal guns. Registration allows police to trace firearms easily to their rightful owner. Between 1974 and 2008, 40,000 long guns and 33,000 prohibited weapons were stolen from Canadian residences. At this time, there are more than 111,000 firearms in police custody for public safety reasons or after criminal use. Of these, 87,000 are long guns.¹⁹

In most cases, the firearm used was easily accessible in the home. Firearm registration increases accountability, therefore helping enforce the legal obligation to report lost or stolen guns, and encouraging safe storage, which will help reduce gun theft.

4. There is evidence that stronger regulations on firearms contribute to public safety.

Establishing causal relationships between complex factors is difficult. However, firearm deaths in Canada have declined with stricter controls on firearms, particularly with controls on rifles and shotguns, in 1977, 1991 and 1995. Data from Statistics Canada is contained in Appendix 3, 4, 5 and 6.

- In 1995, 1125 Canadians were killed with guns (3.8 per 100,000); in 2005 (the last year for which there is data) the number was 818 (2.45 per 100,000). This was driven by a significant reduction in

suicides with firearms. In 1995, 911 Canadians committed suicide with firearms (rate of 3.1 per 100,000); in 2005 it was 593 (rate of 1.77 per 100,000). Overall, firearm-related suicides have decreased by 47% since the introduction of stricter gun laws in 1991, and by 35% since the introduction of the *Firearms Act*.²⁰ Studies have correlated the introduction of Canada's gun law with a significant reduction in the firearms-related suicide rate (-43%) without evidence of displacement.²¹ All major suicide prevention groups in the country support the existing law, particularly because it is a preventative tool which has had a significant impact.

- Murders with rifles and shotguns have decreased dramatically, from 61 (0.21 per 100,000) in 1995 to 34 (0.1 per 100,000) in 2008, while murders with handguns have remained relatively constant.²²
- The impact on murders of women, most often killed with rifles and shotguns, has been most significant. In 1995, the rate of women murdered with firearms was 0.14 per 100,000. By 2005, the rate had fallen to 0.09 per 100,000, a reduction of 32%. In contrast rates of murders of women without firearms declined only slightly during the same period from 1.4 to 1.23 per 100,000, a decline of 12%.²³
- Robberies with firearms declined from 6,692 in 1995 (22 per 100,000) to 4,536 in 2008 (14 per 100,000).²⁴

5. Dismantling the registration of rifles and shotguns will save about \$4 million a year and increasing the costs of police investigations and gun death and injury

The old system (Bill C-17) cost \$50 million annually and was deeply flawed. While setting up the current system cost more than expected, the money spent on the registry is a sunk cost. Going forward, the principal costs are for screening and licensing gun owners, not registering guns something the proponent of Bill C-391 says should be maintained or even strengthened. The RCMP estimates that if the registration of rifles and shotguns were discontinued, it would save only \$4.1 million per year.²⁵ It will increase the cost of police investigations because essential information in the trail will be lost. Police will be less likely to trace guns to their source and this will compromise their investigations. In addition, it will reduce their ability to take preventative action.

In 2006, the Geneva based Small Arms Survey singled out Canada's gun law for its significant impact on reducing gun death and injury in Canada, and estimated the decrease in gun injuries and gun deaths since 1995 equals to savings up to \$1.4 billion Canadian dollars a year.²⁶ In an article published in the Canadian Medical Association Journal, it was estimated that the cost of death and injury in Canada in the mid nineties was \$6.6 billion per year.²⁷ It was reported that the Conservative government's decision to waive licensing and registration fees cost more than \$15 million in 2009 alone.²⁸

6. Internationally, it is the norm to license gun owners and register all firearms.

Canada's gun control law has helped reduce the diversion of legal guns into illegal markets and is seen, by many, to be part of our obligation under specific International agreements as well as international human rights law. The illegal gun trade is fuelled by inadequate regulation of firearms. The United Nations Commission on Crime Prevention and Criminal Justice maintained that strong controls on firearms were needed to protect women from violence and in 1997 explicitly recognized the need to strengthen regulations on firearms in order to address violence against women.²⁹ The resolution outlined the key elements of effective legislation, including licensing, registration and safe storage. In 2001, the United Nations adopted the Program of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects. Many recognize that regulation of civilian possession of firearms (including licensing and registration) is essential to meeting these obligations. As well our firearm control laws are consistent with international norms. Most countries license gun owners and register firearms, as they do in, for instance, the European Union through Directive 2008/51/EC.

The United Nations Special Rapporteur on Human Rights and Small Arms has affirmed that there is no international right to own guns, and that countries which fail to implement appropriate firearms laws to protect their citizens may be failing to meet their obligations under international human rights law.³⁰ Canada's international position has recently been eroded by our failure to honour other international commitments, such as the Regulations requiring the marking of imported firearms³¹ that has been postponed to 2010.

7. Experts and Canadians Support Canada's Firearms Legislation

There has been a considerable amount of misinformation about the firearms registry, including the misuse of rifles and shotguns, the role of the registration of these firearms and the costs associated with the registration of these firearms. In spite of this, Canadians continue to express their strong support for the firearms legislation. According to the latest Leger Marketing poll on the issue, twice as many Canadians (59%) say the registration of rifles and shotguns should be maintained compared to those who say it should be scrapped (27%). In every province but Manitoba and Saskatchewan more people support the registry than oppose it. The poll also shows that women support the gun registry (66%) compared to men (51%). More people living with gun owners (47%) support the registry than oppose it (36%) and a substantial proportion of gun owners (36%) actually support the registry (versus 59% opposed).³²

Over 100 public safety organizations and experts have raised their concerns about Bill C-391 including the Canadian Association of Chief of Police, the Canadian Police Association, the Canadian Association of Police Boards, Canadian Association of Emergency Physicians, Canada Association for Adolescent Health, Canadian Paediatric Society, Canadian Auto Workers, Canadian Labour Congress, Public Safety Alliance of Canada, women's groups, victims, etc.

Discussion of the Proposed Amendments

Provisions on Purpose of the *Firearms Act*

- Amendments to the *Firearms Act* section 4(a)(i) (Purpose of the *Firearms Act*)

	<i>Firearms Act</i> (as of December 2, 2009)	Bill C-391 (1st reading version)
Purpose	<p>4. The purpose of this Act is</p> <p>(a) to provide, notably by sections 5 to 16 and 54 to 73, for the issuance of</p> <p>(i) licences, registration certificates and authorizations under which persons may possess firearms in circumstances that would otherwise constitute an offence under subsection 91(1), 92(1), 93(1) or 95(1) of the <i>Criminal Code</i>,</p>	<p>6. Subparagraph 4(a)(i) of the <i>Firearms Act</i> is replaced by the following:</p> <p>(i) licences for firearms and authorizations and registration certificates for prohibited firearms or restricted firearms, under which persons may possess firearms in circumstances that would otherwise constitute an offence under subsection 91(1), 92(1), 93(1) or 95(1) of the <i>Criminal Code</i>,</p>

This Private Member's Bill proposes to modify the purpose of Canada's Firearms Act. In June 2000, the Supreme Court ruled unanimously that gun control was under Federal legislative authority.³³

"The Firearms Act constitutes a valid exercise of Parliament's jurisdiction over criminal law. The Act in "pith and substance" is directed to enhancing public safety by controlling access to firearms. Its purpose is to deter the misuse of firearms, control those given access to guns, and control specific types of weapons. It is aimed at a number of "mischiefs", including the illegal trade in guns, both within Canada and across the border with the United States, and the link between guns and violent crime, suicide, and accidental deaths. The purpose of the Firearms Act conforms with the historical public safety focus of all gun control laws. The changes introduced by the Act represent a limited expansion of the pre-existing gun control legislation. The effects of the Act also suggest that its essence is the promotion of public safety."

The 2000 Supreme Court decision also emphasized the importance of registering all firearms, stating that it cannot be severed from the rest of the *Firearms Act* as proposed in Bill C-391.

3. Provisions on the Repealing the Registration of Non-Restricted Firearms

- Amendments to Criminal Code 91(1), 91(4)(b)(ii), 91(5), 92(1), 92(4)(b)(ii), 92(5) and (6), 94(1), 94(1)(a)(i) and (ii), 94(5), 95(1), 117.03(1) and (2)
- Amendments to the *Firearms Act* 33(a)(ii), 34(a), 35.1(1)(b), 36(1), 38(1)(a)(ii), 44(a), 60, 66, 71(1)(a), 72(5), 83(1)(a) and (b), 105, 112, 114 and 115

These amendments propose to eliminate the need to register “non-restricted firearms” to their legitimate owners. For reasons explained in detail above, we believe this will jeopardize the safety of the public and the safety of police. Registration of firearms is critical to enforcing the licensing provisions of the law and we believe, as stated by the Supreme Court of Canada, that the measures cannot be severed.

5. Records of Sale

- Amendments to section 23(1)(b) (c) to (f) of the *Firearms Act*

In 1977, the Criminal Law Amendment Act required businesses to keep records of firearm sales in order to help police trace firearms back to their original owners. This requirement allowed, for example, police to trace the perpetrator of the Montreal massacre in 1989. The requirement for businesses to keep records was repealed in 1995 because those records were now kept in the centralized registry.

Amending section 23 of the Act would remove the requirement for the government to issue a registration certificate for non-restricted firearms, which also creates a record in the registry for that firearm. All the gun store would be required to do is have no reason to think the person shouldn't have firearms, verify the validity of the licence of that person, and keep a reference number for the inquiry about the licence. Since there would be no requirement of registering the firearm, there would also be nothing to indicate what firearms were sold to whom or how many.

	Firearms Act (as of December 2, 2009)	Bill C-391 (1st reading version)
Authorization to transfer firearms	<p>23. (1) A person may transfer a firearm if, at the time of the transfer,</p> <p>(a) the transferee holds a licence authorizing the transferee to acquire and possess that kind of firearm;</p> <p>(b) the person has no reason to believe that the transferee is not authorized to acquire and possess that kind of firearm;</p> <p>(c) the person informs the Registrar of the transfer;</p> <p>(d) if the person is an individual and the firearm is a prohibited firearm or a restricted firearm, the individual informs a chief firearms officer of the transfer and obtains the authorization of the chief firearms officer for the transfer;</p> <p>(e) a new registration certificate for the firearm is issued in accordance with this Act; and</p> <p>(f) the prescribed conditions are complied with.</p>	<p>7. (1) Paragraph 23(1)(b) of the English version of the Act is replaced by the following:</p> <p>(b) the <u>transferor</u> has no reason to believe that the transferee is not authorized to acquire and possess that kind of firearm;</p> <p>(2) Paragraphs 23(1)(c) to (f) of the Act are replaced by the following:</p> <p>(c) <u>in the case of a transfer to an individual, the transferor verifies the validity of the transferee's Firearms Licence with the Canada Firearms Centre, and obtains a reference number for the inquiry;</u></p> <p>(d) <u>in the case of a prohibited firearm or a restricted firearm, the transferor informs the Registrar of the transfer and a new registration certificate is issued in accordance with this Act; and</u></p> <p>(e) the prescribed conditions are <u>met</u>.</p>

Bill C-21, C-24, S-5 and C-301 had provisions for business records regulations to be developed to require businesses to keep records of non-restricted firearms transfers, much like the system that was in place prior to the adoption of the *Firearms Act*. For example, Bill C-301 included:

31. (1) Section 117 of the Act is amended by adding the following after paragraph (m):
- (m.1) regulating the keeping and destruction of records by businesses in relation to firearms that are neither prohibited firearms nor restricted firearms;

The failure to include business record keeping provisions in Bill C-391 will make non-restricted firearms entirely untraceable as neither manufacturer nor dealers are required to keep records. It is inconceivable that Canada would opt to go back thirty years and remove the tool that allows police to find out where crime guns come from.

6. Destruction of Current Registry Data

Unlike Bill S-5, there is nothing explicit in Bill C-391 about destroying the registrations of long guns that are already in the system. Bill S-5 had clearly stated:

117. The Governor in Council may make regulations: (...)
- (m.1) regulating the keeping and destruction of records by businesses in relation to firearms that are neither prohibited firearms nor restricted firearms;

However, section 84 and 117 (w) of the *Firearms Act* would allow for a regulation to destroy the current records.

Destruction of records - 84. The Registrar may destroy records kept in the Canadian Firearms Registry at such times and in such circumstances as may be prescribed.

Regulations - 117. The Governor in Council may make regulations (w) prescribing anything that by any provision of this Act is to be prescribed by regulation.

It is also unclear whether the *Privacy Act* and the *Personal Information and Protection of Electronic Documents Act (PIPEDA)* would allow the RCMP to keep information that they no longer have legislative authority to collect. If these legislations require the destruction of the current data, no non-restricted firearm would have any record from which to track it except in those cases where businesses have voluntarily kept records and agree to share those records with police or for which a warrant is obtained. Once again, this change would take us back prior to 1977.

7. Provisions on Import/Export of Firearms

- Amendments to sections 30 and 31 of chapter 8 of the Statutes of Canada, 2003

We have some concerns about the amendments proposed to the importation and exportation regulation. Bill C-391 proposes to modify amendments that were part of Bill C-10A assented on May 13, 2003 but that have not yet been brought into force - referred as sections of chapter 8 of the Statutes of Canada, 2003.

10. Paragraph 35.1(1)(b) of the Act, as enacted by section 27 of chapter 8 of the Statutes of Canada, 2003, is replaced by the following:

(b) the individual produces a licence authorizing him or her to acquire and possess that kind of firearm and, in the case of a restricted firearm, satisfies the customs officer that the individual holds a registration certificate for the firearm;

13. Paragraphs 40(1)(b) and (c) of the Act, as enacted by section 30 of chapter 8 of the Statutes of Canada, 2003, are replaced by the following:

(b) the individual produces a licence authorizing him or her to possess that kind of firearm;
 (c) in the case of a prohibited firearm or a restricted firearm, the individual holds an authorization to transport it and satisfies the customs officer that the individual holds a registration certificate for the firearm; and

14. Section 41 of the Act, as enacted by section 31 of chapter 8 of the Statutes of Canada, 2003, is replaced by the following:

41. An authorization that is confirmed in accordance with paragraph 40(2)(e) has the same effect as a registration certificate for a restricted firearm until a registration certificate is issued for it.

In the past, we have recognized the need for amendments on the importation and exportation of firearms as a way to bring Canada in line with various international agreements. In particular, marking and tracing of firearms as an essential tool to enforcement. It helps states in their efforts to trace weapons flows, preventing the diversion of legal guns to the illegal market and combating the illegal trade.³⁴ Under current international law, states may adopt different weapons marking systems, complicating the identification of the country-of-origin of a weapon. In spite of the gaps in its firearm legislation, the United States supports the marking and tracing standard. Since the 1968 Gun Control Act, it already requires manufacturers to maintain records, which is why they are capable of tracing US firearms used in crime internationally. Implementing a common international system for the marking and tracing of weapons would ensure the ability to track weapons to their sources. On November 27, 2009 the Canadian government postponed -for the second time- the implementation of a simple firearms marking requirement which is required under our international obligations.³⁵

8. Other issues: penalties for failure to register

In 1995, when Canada's gun control law was debated in the House of Commons and the Senate, a variety of options for dealing with non-compliance were considered. The Firearms Act currently contains a summary conviction (as per Criminal Code, Section 91 (3b) and Firearms Act section 115) and an indictable conviction is more serious and may result from the result of:

- A) possession of a firearm without proper license and registration (section 91 (1)) or unauthorized possession of prohibited weapon or restricted weapon (section 91 (2)). In this case the conviction may result in the imprisonment for a period up to 5 years. (Section 91 (3a)).
- B) knowingly possessing a firearm without proper license and registration (Section 92 (1)) or for the possession of prohibited weapon, device or ammunition knowing its possession is unauthorized (section 92 (2)). In this case the conviction may result in imprisonment for a period up to 10 years (section 92 (3)).

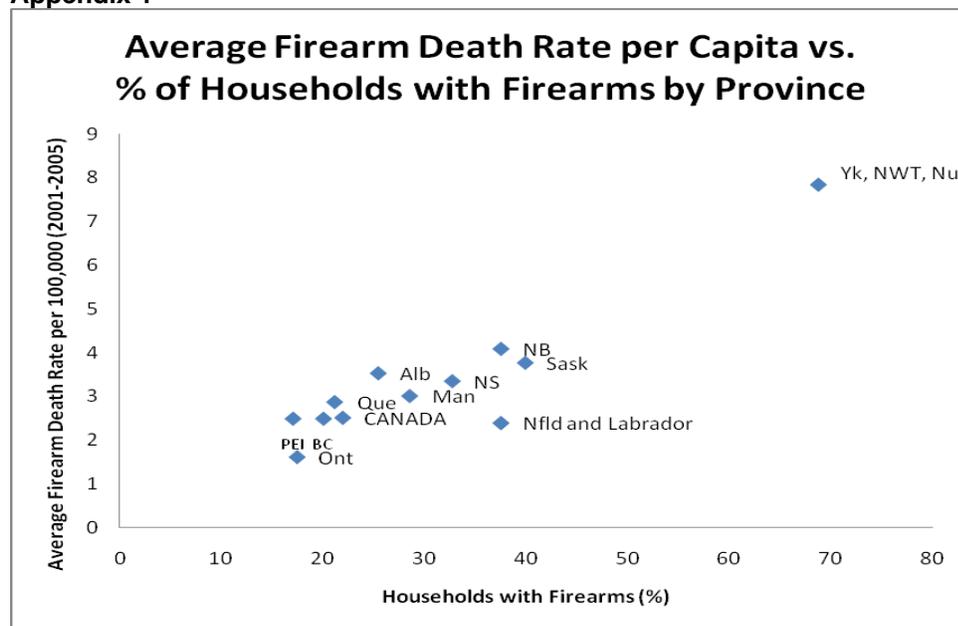
At the time, decriminalizing failure to register was a Conservative amendment but was opposed by the national policing associations as well as by the Coalition for Gun Control as it would make registration “optional”. We would be prepared to support the introduction of an additional non-criminal offence that would give police another option in specific circumstances, for example in cases involving a first time, inadvertent failure to register a single firearm.

Conclusion

We hope that you will give our comments and concerns due consideration in your deliberation. All major public safety groups in the country, including policing, public health, women’s groups, and victims of gun violence continue to support the gun registry. We hope you will endeavour to ensure that the concerns of public safety experts, victims, and others are given appropriate consideration.

Registering firearms is a small inconvenience in exchange for the privilege of owning a firearm. Given the serious impact that the proposed measures would have on public safety, we recommend that the Committee proposes to terminate Bill C-391.

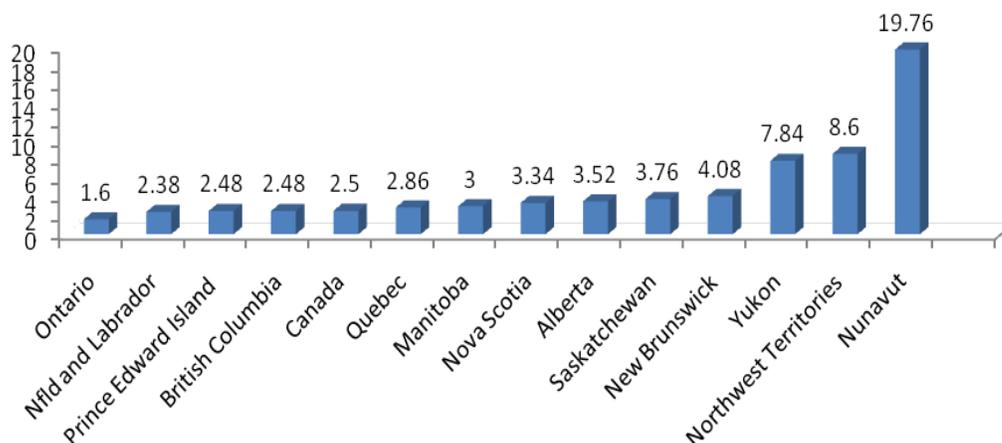
Appendix 1



Source: Updated from Miller, T. and Cohen, M. "Costs of Gunshot and Cut/Stab Wounds in the United States, with some Canadian Comparisons." *Accid Anal Prev* 1997; 29 (3): 329-41 with data from Statistics Canada, "Mortality, Summary List of Causes", 2001-2005; Canada Firearms Center, Facts and Figures, January 8, 2009.

Appendix 2

Average Firearm Death Rate per 100,000 (2001-2005)



Source: Statistics Canada, "Mortality, Summary List of Causes", 2001-2005.

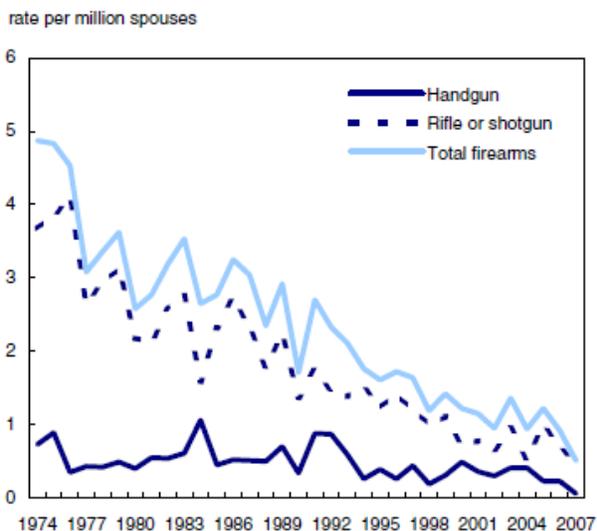
Appendix 3

Year	1991	1995	Latest Data	Change since 1995 (Firearms Act)
Total Firearms Death			2005	
Number	1444	1125	818	-27%
Rate per 100,000	5.2	3.8	2.45	-35%
Total Homicide			2008	
Number	756	586	611	+4%
Rate per 100,000	2.7	2.01	1.83	-9%
Homicide with firearms			2008	
Number	271	176	200	+14%
Rate per 100,000	0.97	0.6	0.59	-1%
Homicide with rifles and shotguns			2008	
Number	103	61	34	-44%
Rate per 100,000	0.37	0.21	0.1	-52%
Homicide with handguns			2008	
Number	135	95	121	+27%
Rate per 100,000	0.48	0.32	0.36	+12%
Homicide without firearms			2008	
Number	485	410	411	--
Rate per 100,000	1.73	1.4	1.23	-12%
Homicide of women with firearms			2005	
Number	85	43	32	-26%
Rate per 100,000	0.3	0.14	0.09	-36%
Homicide of women without firearms			2005	
Number	185	152	115	-24%
Rate per 100,000	0.6	0.5	0.34	-32%
Total Robbery			2008	
Number	33,225	30,332	32,281	+6%
Rate per 100,000	119	104	97	-7%
Robbery with firearm			2008	
Number	8995	6692	4,536	-32%
Rate per 100,000	32	23	14	-39%

Kwing Hung, "Firearms Statistics Updated Tables," January 2006; Sarah Beatty, "Homicide in Canada, 2008," Statistics Canada Juristat Vol. 29, no.4, October 2009; Statistics Canada, *Summary List Cause (2005)*. Ottawa (ON): Cat no 84F0209XIE.

Appendix 4

Spousal Homicide with Firearms 1974-2007

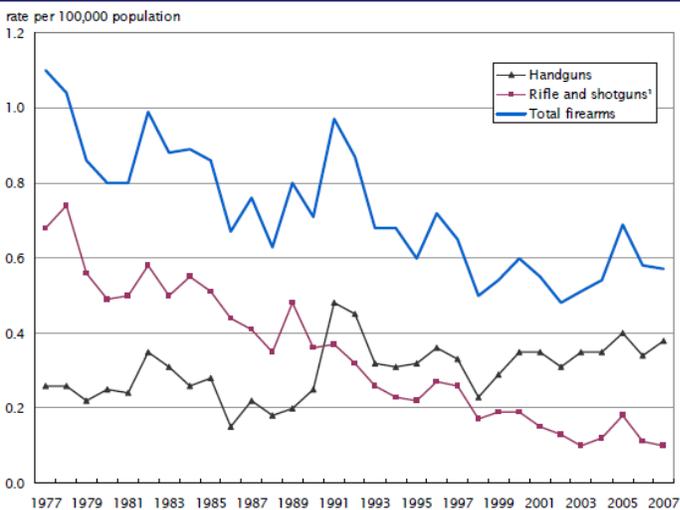


Source: Statistics Canada, Canadian Centre for Justice Statistics, Homicide Survey.

Appendix 5

Homicide with firearms 1977-2007

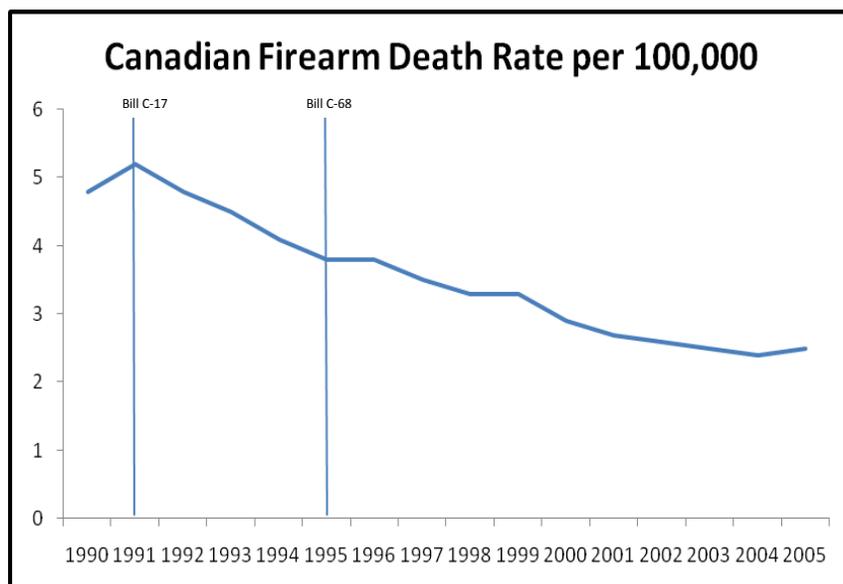
Chart 5 Use of rifles and shotguns continue to decline in 2007



1. Excludes sawed-off rifles/shotguns.

Source: Statistics Canada, Canadian Centre for Justice Statistics, Homicide Survey.

Appendix 6



Source: Kwong Hung, "Firearms Statistics Updated Tables," January 2006; Statistics Canada, "Mortality, Summary List of Causes", 2000-2005.

¹ Reference re *Firearms Act* (Can.), [2000] 1 S.C.R. 783

² Testimony of RCMP to SECU committee on Bill C-391, May 4 2010 as reported in Laura Stone, "Police rift emerges over long-gun registry," Canwest News Service, May 06, 2010.

³ "Tackling crime involves effective enforcement, sentencing and corrections, and also means intervening to prevent crime before it happens." <http://www.tacklingcrime.gc.ca/ocom/cr/index-eng.aspx>

⁴ "To prevent accidents that harm our children and youth, our Government will also work in partnership with non-governmental organizations to launch a national strategy on childhood injury prevention." Speech from the Throne, March 3, 2010. <http://www.speech.gc.ca/eng/media.asp?id=1388>

⁵ "The Government of Canada works to help Canadians maintain and improve their mental health, including preventing suicidal behaviour." In Health Canada. "It's your Health" March 2009. <http://www.hc-sc.gc.ca/hl-vs/iyh-vsv/diseases-maladies/suicide-eng.php#phac>

⁶ Text of remarks delivered by Prime Minister Stephen Harper in Regina on Saturday, July 4, 2009, at a memorial for former Saskatchewan MP Dave Batters, Toronto Star, Jul 4 2009. <http://www.thestar.com/News/Canada/article/661525>

⁷ Canada. Leading causes of death and hospitalization in Canada. Ottawa (ON): Public Health Agency; 2004.

⁸ Ontario Office of the Chief Coroner (2002), *The Toronto Star*, 1 April 2004, p. A8.

⁹ Statistics Canada, Canadian Centre for Justice Statistics, Homicide Survey, Policing Services Program.

¹⁰ Statistics Canada, *Summary List Cause (2000-2005)*. Ottawa (ON): Statistics Canada. Cat no 84F0209XIE.

¹¹ Richard Liebrecht, "Rural violence on rise More people resorting to guns when conflicts arise, says RCMP officer," Edmonton Sun, 29 March 2009.

¹² 1990-2002. Alberta Justice, "2002 Annual Review, Office of the Chief Medical Officer," 2003.

¹³ Doherty, D. & Hornosty, J, "Exploring the Links: Firearms, Family Violence and Animal Abuse in Rural Communities," Fredericton, NB: University of New Brunswick Family Violence on the Farm and in Rural Communities Project, 2007.

¹⁴ Alberta Council of Women's Shelters. *Factum*. Alberta Court of Appeal, July (1997).

¹⁵ Alberta Center for Injury Control and Research, letter to Wendy Cukier, March 12, 2010.

¹⁶ Canadian Firearms Program. Facts and Figures (January - March, 2010) on-line at: <http://www.rcmp-grc.gc.ca/cfp-pcaf/facts-faits/index-eng.htm>

¹⁷ Ontario Attorney General Chris Bentley, "Canada's long-gun registry protects public safety, don't pass private member's bill," Hill Times, December 14, 2009.

¹⁸ Paul Cherry, "On trail of tax fraud Millions were hidden, court papers charge, The Gazette, April 10, 2009.

¹⁹ Joint Police Association Declaration, April 2010.

²⁰ Kwong Hung, "Firearms Statistics Updated Tables," January 2006; Statistics Canada, "Mortality, Summary List of Causes, 2005", April 2009.

²¹ See for example Gagné, Marie-Pier, "L'effet des législations canadiennes entourant le contrôle des armes à feu sur les homicides et les suicides," Mémoire présenté à la Faculté des études supérieures. August 2008.

²² Kwong Hung, "Firearms Statistics Updated Tables," January 2006; Sarah Beatty, "Homicide in Canada, 2008," Statistics Canada Juristat Vol. 29, no.4, october 2009.

²³ Ibid.; Statistics Canada, "Family violence in Canada, a statistical profile," 2009.

²⁴ Kwong Hung, "Firearms Statistics Updated Tables," January 2006; Marnie Wallace "Police-reported crime statistics in Canada, 2008" Statistics Canada, Juristat Vol. 29, no. 3, July 2009.

²⁵ Testimony of RCMP to SECU committee on Bill C-391, May 4 2010 as reported in Laura Stone, "Police rift emerges over long-gun registry," Canwest News Service, May 06, 2010.

²⁶ Graduate Institute for International Studies Geneva. Small Arms Survey 2006. Oxford University Press, USA (August 3, 2006).

²⁷ Miller, T.R. and Cohen MA Costs of gunshot and cut/stab wounds in the United States with some Canadian Comparisons, *Accede. Anal. Prev.* 1997, 29: 329-41.cited in Editorial "Reasonable control: gun registration in Canada" *Canadian Medical Association Journal (CMAJ)* February 18, 2003.

²⁸ Alison Crawford, "Ottawa giving up millions in gun registry fees," *CBC News, October 5, 2009*

<http://www.cbc.ca/canada/story/2009/10/05/gun-registry-fees-government.html?ref=rss>

²⁹ United Nations Commission on Crime Prevention and Criminal Justice (Sixth Session), *Criminal Justice Reform and Strengthening of Legal Institutions Measures to Regulate Firearms*, Resolution L.19 E/CN.15/1997/L.19/Rev.1, 1997.

³⁰ Barbara Frey, *The Question of the Trade, Carrying and Use of Small Arms and Light Weapons in the Context of Human Rights and Humanitarian Norms*, Working Paper submitted in accordance with Sub-Commission decisions 2001/120, 2002.

³¹ Canadian Association of Chiefs of Police, Canadian Police Association and Canadian Association of Police Boards, Letter to Minister Stockwell Day, November 23, 2007.

³² CGC Leger Marketing OMNIBUS Survey, Dec. 2009.

³³ Reference re *Firearms Act* (Can.), [2000] 1 S.C.R. 783

³⁴ International Action Network on Small Arms. "Marking and Tracing of Small Arms," available on-line at:

http://www.iansa.org/issues/markings_tracing.htm

³⁵ Canadian Association of Chiefs of Police, Canadian Police Association and Canadian Association of Police Boards, Letter to Minister Stockwell Day, November 23, 2007.