

Coalition for Gun Control Letter to the RCMP Public Complaints Commission on the situation in High River, AB

September 11, 2013

Mr. Ian McPhail, Q.C.
Interim Chair
Commission for Public Complaints Against the RCMP
National Intake Office
P.O. Box 88689
Surrey, BC V3W 0X1

Dear Interim Chair,

On behalf of the more than three hundred organizations that comprise the Coalition for Gun Control, I am writing in regards to the complaint and public interest investigation, announced on July 5, 2013, into the conduct of those RCMP members involved in entering private residences and seizing firearms following flooding in High River, Alberta in June and July 2013.

According to [your announcement of July 5th](#), you will specifically be investigating:

1. whether the RCMP members or other persons appointed or employed under the authority of the RCMP Act involved in entering private residences in High River complied with all appropriate training, policies, procedures, guidelines and statutory requirements;
2. whether the RCMP members or other persons appointed or employed under the authority of the RCMP Act involved in seizing firearms from private residences in High River complied with all appropriate training, policies, procedures, guidelines and statutory requirements; and,
3. whether the RCMP national, divisional and detachment-level policies, procedures and guidelines relating to such incidents are adequate.

In order to investigate the foregoing, and in particular the applicable "statutory requirements," it will be critical for you to also consider those statutes and regulations setting forth the obligations of firearms owners to secure their firearms in their residences, and otherwise. In order to investigate RCMP members' conduct, it is necessary to determine the very laws that the RCMP were seeking to enforce.

Unattended and unsecured firearms pose a risk to public safety and to RCMP members. As such, the safe storage of firearms has been a requirement under firearms regulations since 1991. The contravention of these safe-storage regulations under the Firearms Act triggers penalties under the Criminal Code.

Specifically, [SOR/98-209 on the Storage, Display, Transportation and Handling of Firearms by Individuals Regulations](#) states:

5. (1) An individual may store a non-restricted firearm only if
 - (a) it is unloaded;
 - (b) it is
 - (i) rendered inoperable by means of a secure locking device,
 - (ii) rendered inoperable by the removal of the bolt or bolt-carrier, or

(iii) stored in a container, receptacle or room that is kept securely locked and that is constructed so that it cannot readily be broken open or into; and

(c) it is not readily accessible to ammunition, unless the ammunition is stored, together with or separately from the firearm, in a container or receptacle that is kept securely locked and that is constructed so that it cannot readily be broken open or into.

[Section 86 of the Criminal Code](#) sets forth the penalties for careless and improper storage of firearms:

Careless use of firearm, etc.

86. (1) Every person commits an offence who, without lawful excuse, uses, carries, handles, ships, transports or stores a firearm, a prohibited weapon, a restricted weapon, a prohibited device or any ammunition or prohibited ammunition in a careless manner or without reasonable precautions for the safety of other persons.

Contravention of storage regulations, etc.

(2) Every person commits an offence who contravenes a regulation made under paragraph 117(h) of the *Firearms Act* respecting the storage, handling, transportation, shipping, display, advertising and mail-order sales of firearms and restricted weapons.

Punishment

(3) Every person who commits an offence under subsection (1) or (2)

(a) is guilty of an indictable offence and liable to imprisonment

(i) in the case of a first offence, for a term not exceeding two years, and

(ii) in the case of a second or subsequent offence, for a term not exceeding five years; or

(b) is guilty of an offence punishable on summary conviction.

Safe storage laws save lives. They have long been a key component in firearms safety in Canada. Public health and security experts maintain that they have contributed to the significant reduction in firearm deaths in Canada, with nearly 400 fewer firearms deaths per year in 2009 (730) compared to 1991 (1,444), when these particular safe storage laws came into effect. Moreover, the majority of police officers killed with firearms have been shot and killed with rifles and shotguns in smaller communities. Safe storage of firearms has implications for officer safety as well as community safety.

Furthermore, safe storage is key to deterring gun thefts. The vast majority of Canadian-sourced firearms that reach the hands of criminals in Canada come from the over 3000 guns that are stolen in the country every year.

There exists significant confusion amongst firearm owners as to what obligations remain in place, since the elimination of the long-gun registry in 2012, and the many other changes to firearms laws over the past year. This concern has even been raised by the Public Safety Minister's Firearms Advisory Committee, a group consisting almost exclusively of gun owners advocating for reduced regulations.

Accordingly, we feel that it is extremely important that you carefully consider the obligations of firearms owners under Canada's Firearms Act, the rights of RCMP members, the importance of ensuring public safety and the legal requirements of safe storage. Otherwise, there is a risk of further contributing to confusion on the obligations of guns owners thereby jeopardizing public safety.

In addition to addressing the current laws and practices governing the safe storage of firearms, we would also encourage your investigation to consider the application of firearms storage in the context of emergency situations, such as the High River floods.

Given the media attention this issue has received to date, it is likely that your ruling will receive significant coverage. Furthermore, your ruling will not only be a judgement on this case, but will

affect how other police forces address unsecured firearms during future emergency situations. Your ruling will impact whether police act in a forthright manner, in the name of public safety, during an emergency situation, or instead deviate from interests of public safety, unsure of what actions are allowed or fearing the consequences of political or public complaint.

Finally, in your statement of July 5th, you reference the actions of the Prime Minister's Office (PMO) regarding RCMP conduct: "The Prime Minister's Office equally and publicly expressed concern in respect of the seizures." This raises particular concerns for us on whether it is actually appropriate for the Executive, and PMO in particular, under any circumstances, to direct, criticize or intimidate RCMP members, let alone during an emergency situation. Political independence of police is one of the cornerstones of our democracy.

As the former Chief Justice of Ontario has put it, "government has the authority to establish policing policy, but not to direct police operations."^[1] The actions of the PMO may have violated this principle, and certainly call into question the independence of the RCMP. The perception that the politically motivated concerns expressed by a PMO spokesperson precipitated your investigation is also cause for concern due to its potential chilling effect on future investigations. The Commission for Public Complaints Against the RCMP ought to be seen as politically neutral.

For more than 20 years, the Coalition for Gun Control's supporters, including the Canadian Public Health Association, the Canadian Association of Emergency Physicians, the YWCA Canada, the Canadian Labour Congress, and victims of gun violence, have worked to promote strong and effective gun control.

We thank you for your consideration and look forward to seeing your ruling. If possible, we would appreciate being kept informed on your investigation and in contributing our expertise. Please don't hesitate to contact our office at (416) 604-0209 if you would like to discuss this request further.

Yours truly,

(Original Signed)

Wendy Cukier
President, Coalition for Gun Control

^[1] Hon. Sidney B. Linden, Commissioner. *Report of the Ipperwash Inquiry*. (Ontario: Queen's Printer, 2007) at 676.