



**Written Submission to the Standing Committee on Public Safety and National Security
Regarding Bill C-71: An Act to Amend Certain Other Acts and Regulations in Relation to
Firearms**

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Executive Summary

The National Association of Women and the Law (NAWL) is an incorporated not-for-profit feminist organization that promotes the equality rights of women in Canada through legal education, research, and law reform advocacy.

In this submission we echo the voices of other women's organizations in supporting the government's step towards protecting public safety through Bill C-71, but we also echo the calls to strengthen this bill in order to better protect women and children.

We applaud the government for removing the reference to the five-year period, set out in the *Firearms Act*¹ that applies to the mandatory consideration of certain eligibility criteria for holding a licence. NAWL agrees that a person's entire life history should be considered before they are eligible to obtain a firearms licence.

NAWL also supports the government making the currently voluntary requirement to verify the validity of the firearms licence of the recipient of a non-restricted firearm sale with the Canadian Firearms Program (CFP). NAWL does not support that information about that sale will not be recorded or provided to the CFP.

NAWL also supports the government's repeal of the provision allowing the Governor in Council to downgrade the classification of a firearm despite meeting higher criteria prescribed in the *Criminal Code*. As well as the reinstatement of the prohibited classification of two groups of firearms degraded in 2015, CZ-858 rifles and the Swiss Arms family of rifles, that were downgraded in 2015 by the Conservative government.

While we want this Bill to become law, we ask the Standing Committee on Public Safety and National Security to strengthen the Bill by adding the following:

¹ *Firearms Act*, SC 1995, c 39, s 5(2).

1. Provide a mechanism for police to be able to access the records businesses will be mandated to keep without the need to apply for a warrant;
2. When sales of firearms are reported to the Canadian Firearms Program (CFP), the CFP must be able to keep a record of that sale;
3. The requirement to verify the validity of the firearms license of the recipient of a non-restricted firearm sale with the CFP must be extended to private sales, and private sellers must be required to keep records of the sale of all firearms and their purchasers; and
4. Include more thorough screening for licenses, with respect to domestic violence and mental health.

These recommendations are needed to strengthen the Bill in order to make it more responsive to women and children's safety concerns. Put simply, "[f]or every woman who loses her life at the hands of a troubled spouse with a firearm, there are thousands more who live in fear."² The time is now to strengthen Canada's gun control laws, and to make Canada safer for women and their children caught in domestic violence situations.

Introduction

The National Association of Women and the Law (NAWL) is an incorporated not-for-profit feminist organization that promotes the equality rights of women in Canada through legal education, research, and law reform advocacy.

In this submission we echo the voices of other women's organizations in supporting the government's step towards protecting public safety through Bill C-71, but we also echo the calls to strengthen this bill in order to better protect women and children. NAWL specifically endorses the recommendations of the Coalition for Gun Control (Coalition). The Coalition is an organization that was founded in the wake of the Montreal massacre, and is the only national non-profit organization working to reduce gun injury, death and crime in Canada.

Firearms disproportionately affect women. Colette Prevost, Director of Advocacy for the YWCA Canada, has stated:

[f]irearms figure prominently in the cycle of violence against women and the evidence is clear – when firearms are present, women and their children are more likely to die. Controls over firearms are associated with a precipitous fall in murders of women with guns, without evidence of substitution effects. A gender lens is critical in advancing

² Coalition For Gun Control, Press Release, "The Case For Gun Control: Reducing Domestic Homicide," (2015), online: <http://guncontrol.ca/wp-content/uploads/2015/03/domestic_hom.pdf> ["The Case For Gun Control"].

progressive firearms legislation in this country – for every woman killed or injured with a firearm, thousands more live with the daily threat of such violence.³

Canadians are in favour of stricter gun control. A recent poll found that 81% of Canadians agree that “private ownership of semi-automatic assault weapons for recreational purposes should not be legal in Canada,” with identical support in urban and rural areas.⁴ Another recent poll showed 85% in support of “banning personal possession of military assault weapons and sniper rifles by civilians.”⁵

The time is now to strengthen Canada’s gun control laws, and to make Canada safer for women and their children caught in domestic violence situations.

How Gun Control Effects Women

While guns and gangs are a threat to public safety, the discourse around firearm regulation needs to be broadened to include a gendered analysis. In order to make effective regulations, “...it is critical to understand why women are so vulnerable to firearms. It is not only the intense vulnerability created by victimization in their most intimate relationships and often in their own homes, but also the fact that women are almost always victims, but not owners of firearms.”⁶

The issues facing women cannot be lumped in with enforcement measures to stop illegal gun sales. It is not simply people obtaining illegal firearms; “[i]n Canada, the majority of the firearms used to kill women are not smuggled or illegally owned – they are legally owned rifles and shotguns. In cases reviewed by the Ontario Domestic Violence and Death Review Committee, most firearms were legally acquired.”⁷ In Ontario alone, from 2006 to 2010, all of

³ “Federal Government Takes Important First Step.”

⁴ Environics Research poll1, as referred to in PolySeSouvient, News Release “Victims group condemns bill that provides bare minimum and fails to put public safety first” (March 20, 2018) online: <http://polysesouvient.ca/Documents/PRSS_18_03_20_Reaction_Goodale_Bill.pdf> [“Victims group condemns bill”].

⁵ A poll published by Policy Options, as referred to in “Victims group condemns bill.”

⁶ Factum for the applicant, Barbara Schlifer Commemorative Clinic, (April 10, 2014) in the case of *Barbra Schlifer Commemorative Clinic v Canada*, 2014 ONSC 5140, 121 OR (3d) 733, at para 161, footnotes omitted [Barbara Schlifer Factum].

⁷ Barbara Schlifer Factum, at para 41, footnotes omitted.

the firearms used in domestic homicides were legally obtained.⁸ Whether guns are present in a house is the top risk factors in determining lethality in cases of domestic violence.⁹

This is an issue that could be solved, or at least mitigated, by more gun control. Therefore helping to provide more safe guards for legally purchased weapons is an incredibly meaningful way to help women, and their children.

To illustrate the issue, the following are the stories of some of the women and children who have been effect:

1. In April 2006, Francine Mailly and her three children Jessica, Brandon and Kevin were shot by her estranged husband with a .22-calibre rifle in Cumberland (ON). Police had been called to the family home repeatedly.
2. In October 2006, Mila Yoynova and her two daughters, Iva, 17, and Alice, 10, were killed by her husband with a legally owned handgun in Beaconsfield (QC).
3. In December 2006, Stefanie Stevenson was shot with a rifle by her estranged husband who had previously been convicted of uttering threats against her in Brockville (ON).
4. In December 2009, in Saguenay (QC), Marie-Josée Desmeules was fatally shot in head by her husband who committed suicide at the same time.¹⁰

The Government’s Obligations Under Section 15 of the Charter

The federal government has a responsibility to protect women. The *Canadian Charter of Rights and Freedoms*¹¹ section 15 calls for an equality rights analysis of public safety issues, such as gun control. Section 15(1) specifically states: “[e]very individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination...”¹² As detailed above, women are unequally affected by gun violence, and it is men not women who disproportionately own guns. The government should use a gendered lens when reviewing this legislation, in line with section 15, which “imposes a duty on government to ensure that the formulation of law and policy takes into account potentially differential impacts on different groups in society and to ensure that government actions do not exacerbate pre-existing disadvantage.”¹³

Bill C-71 Is A Good Start But Does Not Go Far Enough

⁸ Barbara Schlifer Factum, at para 41, footnotes omitted.

⁹ *Ibid.*, at para 32, footnotes omitted.

¹⁰ “The Case For Gun Control.”

¹¹ *The Constitution Act, 1982*, Schedule B to the Canada Act 1982 (UK), 1982, c 11 [*Charter*].

¹² The *Charter* at s 15(1).

¹³ Barbara Schlifer Factum at para 150, referring to *Eldridge v British Columbia (Attorney General)*, [1997] 3 SCR 624, 1997 CanLII 327 at para 64.

We applaud the government for removing the reference to the five-year period, set out in the *Firearms Act*¹⁴ that applies to the mandatory consideration of certain eligibility criteria for holding a licence. NAWL agrees that a person's entire life history should be considered before they are eligible to obtain a firearms licence.

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While we want this Bill to become law, we ask the Standing Committee on Public Safety and National Security to strengthen the Bill by adding the following:

1. Provide a mechanism for police to be able to access the records businesses will be mandated to keep without the need to apply for a warrant;
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3. The requirement to verify the validity of the firearms license of the recipient of a non-restricted firearm sale with the CFP must be extended to private sales, and private sellers must be required to keep records of the sale of all firearms and their purchasers; and
4. Include more thorough screening for licenses, with respect to domestic violence and mental health.

1. Provide A Mechanism For Police To Be Able To Access The Records Businesses Will Be Mandated To Keep Without The Need To Apply For A Warrant

Prior to the long gun registry system police were able to access business records of their gun sales without the need to apply for a warrant. This system must be put back in place. In many situations, whether involving domestic violence or otherwise, police need to be able to access business records to determine who owns the gun used to commit the crime, or in order to alert a person of how many guns could be in the home in a domestic violence situation. For

¹⁴ *Firearms Act*, SC 1995, c 39, s 5(2).

instance, a woman who has had police come to her house because her partner has been threatening her with a gun needs to be sure that all of his guns are seized in order for her to feel safe. Police are only able to do that if they can access business records quickly and efficiently.

2. When Sales Of Firearms Are Reported To The Canadian Firearms Program (CFP), The CFP Must Be Able To Keep A Record Of That Sale

Registration creates accountability in how firearms owners handle their firearms, by attaching a name to a particular firearm.¹⁵ In an RCMP report from 2010, “it was explicitly recognized that ‘without registration there is a failure of accountability on behalf of the owner, and it is registration that drives that accountability.’”¹⁶ In the Alberta Court of Appeal’s *Reference re: Firearms Act* the Court “similarly highlighted the link between registration and accountability.”¹⁷ As stated by the Barbra Schlifer Commemorative Clinic’s factum in their fight to stop the government from repealing the long-gun registry:

This sense of accountability is what contributed to preventing unlawful transfer i.e. because a firearm can be traced back to an original owner and firearms owners conducted themselves with this in mind. Without the accountability of a name attached to a particular firearm, owners can transfer firearms without regard for legal requirements because the transfer is unlikely to be traced back to them. For women in situations of domestic violence, this means that men who should not possess firearms, either because they are unlicensed or for other public safety reasons, are more easily able to acquire firearms, putting the safety of women at greater risk.¹⁸

3. Private Sellers Must Keep Records and Verify Licenses

Private sellers are an important part of how guns in Canada are sold, In Quebec private sales represent almost a third of all gun sales.¹⁹ The purpose of the sales records is to enable police to systematically track a firearm used in the commission of a crime. The police will be unable to do so if they are restricted to only tracking guns purchase at a business. This will create a loophole for people who wish to commit a crime and not be traced. This loophole must be closed.

¹⁵ Barbara Schlifer Factum at para 67, footnotes omitted.

¹⁶ *Ibid.*

¹⁷ *Ibid.*, referring to *Reference re: Firearms Act (Can.)* [1998] AJ No 1028 (CA) at paras 188, 189, 197, 213.

¹⁸ Barbara Schlifer Factum at para 68, footnotes omitted.

¹⁹ “Victims group condemns bill.”

4. Include More Thorough Screening For Licenses, With Respect To Domestic Violence And Mental Health

When screening takes place it must include more means of catching people who have the potential to commit assault, to domestically their spouses and children, and to commit suicide. This can be done through strengthening screening requirements by having a spousal notification when a person is making an application to get a licence.

The current self-reporting system is fraught with problems, as some individuals don't realize they are threat to themselves or others. In Ontario, physicians must report to the Ministry of Transportation if someone has a medical condition that may make it unsafe for them to drive a car. A similar system should be put in place for physicians to provide this information to the government before a gun license is given or a purchase is made. Physicians, or family members should be able to report whether someone in their household has an active mental illness and should require more thorough assessment for consideration of obtaining a firearm, or removal of existing ones.

In general the government needs to pursue thorough study of the issue in order to create better tools to identify and assess people who wish to get a licence and purchase a gun.

Conclusion

The recommendations proposed in this brief would help to strengthen this Bill. They are sadly not the only work that still needs to be done in order to address the situation faced by countless women and children in Canada who are threatened, injured and even killed by guns.

NAWL calls on the federal government to do more than simply this bill. The federal government needs to undertake a comprehensive review of the guns listed as restricted or prohibited. The federal government must ban military assault weapons and sniper rifles. Both the AR-15, the gun used in repeated mass shootings in the United States, is available as a restricted weapon in Canada, and the Ruger Mini 14 is sold as an unrestricted firearm. This must be stopped. NAWL advocates for the government to consider innovative approaches, such as listing what is permitted rather than what is prohibited reducing the ability of manufacturers to circumvent the regulations.

Women cannot wait any longer while they are threatened and killed in their own homes. The time is now to strengthen Canada's gun control laws, and to make Canada safer for women and their children.

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