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nawl National Association
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Femmes et Droit

RECOMMENDATIONS

Regulations and implementation protocols related to intimate violence enabling the effective implementation of Bill C-21

June 27, 2024

(Endorsed by: Canadian Council of Muslim Women; Canadian Doctors for Protection from Guns; Canadian Federation of University Women; Ending Violence Association of Canada; National Association of Women and the Law; Women's Shelters Canada; YWCA Canada; Alison Irons, advocate and mother of DV victim; Alliance des maisons d'hébergement de 2^e étape pour femmes et enfants victimes de violence conjugale; Angies' Angels ; Association des Étudiants de Polytechnique; Association féministe d'éducation et d'action sociale ; Association québécoise de prévention du suicide ; Association Québécoise plaidoyer-victimes; Centre des femmes de Plateau Mont-Royal ; Co-Savoir (CDÉACF); Danforth Families for Safe Communities; Fédération des femmes du Québec; Fédération des Maisons d'Hébergement pour Femmes au Québec ; Femmes du monde à Côte-des-Neiges; L'R des centres de femmes du Québec; Maison Hina; Montreal Assault Prevention Centre, Network of Women with Disabilities; Ontario Association of Interval & Transition Houses; PolySeSouvient; Regroupement des maisons pour femmes victimes de violence conjugale ; Réseau des Tables régionales de groupes de femmes du Québec; Service d'Entraide Passerelle; White Ribbon; Women's Centre for Social Justice; Y des femmes de Montréal ; YWCA Toronto)

Overview:

- A- [Recommendations related to regulations relevant to Bill C-21](#)
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- C- [Recommendations related to directives for the RCMP and CFOs](#)
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A- Recommendations related to regulations relevant to Bill C-21:

- 1) **Without delay, create an order in council to make key provisions related to domestic violence come into force, namely:**
 - ➔ **subsection 6.1** which renders an individual not eligible to hold a licence if they are subject to protection order or have been convicted of an offence involving violence,
 - ➔ **subsection 70.1** which obliges a CFO who has reasonable grounds to suspect that a licensee may have engaged in domestic violence or stalking to revoke the licence within 24 hours
 - ➔ and **subsection 70.2** which automatically revokes the licence of an individual that becomes subject to a protection order and requires them to deliver their guns to a peace officer within 24 hours.

- 2) Introduce new regulations as soon as possible in order to **assign to “protection order” in subsection 2(1) the meaning that is spelled out in Bill C-21** but is not yet in force. At committee, MPs decided to define “protection order” in the bill, at section 15. However, the section calls for “protection order” to be defined by regulation, as a way to make sure no protection order was forgotten. Sections 15 and 16 are not yet in force and should come into force as quickly as possible by order of the Governor in Council. Regulations should reproduce the definition found in Bill C-21, plus any additional expansion of the definition, if relevant.
- 3) **Amend the Firearms Licences Regulations referred to in subsection 70.3 (not yet in force) that allows a CFO to issue a licence “in the prescribed circumstances”** and subject to the conditions that the chief firearms officer considers appropriate to an individual referred to in section 6.1 (prohibited to own), 70.1 or 70.2 if they establishes to the satisfaction of the CFO that they need a firearm to hunt or trap in order to sustain themselves or their family. The “prescribed circumstances” should:
- a. limit the exemption to First Nations and Inuit people who hunt for sustenance and to non-indigenous individual who can demonstrate that hunting is their exclusive or primary means of feeding themselves and their family;
 - b. exclude any individuals that has threatened to kill an intimate partner or ex-partner within the past five years or that has breached a current or past protection order;
 - c. limit the conditional licence to six months, at which point the individual can reapply;
 - d. require that the firearm be stored at a police station, or, if that’s not possible, in a place that is not the license holder’s home, as well as not a home and not owned or managed by the license holder or a person who is immediate family or close friend;
 - e. include specific conditions for both the hunter and the storage place that amongst other things require that any retrieval of the firearm must be done through an in-person transaction (with the police or the owner/manager), that the storage place keeps a record of the transaction, and that the retrieval is limited to the day or days of a hunting expedition.
- 4) **In the event that the appropriate regulatory powers exists, regulations should be adopted (or amended) to limit the ability of a judge to return a firearm to a gun owner under 72(7) under the safety conditions referred to under 72(8) after a CFO refuses or revokes a licence and the decision contested and then confirmed** (as the judge “may ... order the return of the firearm to the applicant for or holder of the licence, in order for (them) to lawfully dispose of it” under specified conditions). An individual whose licence has been revoked for safety reasons should never be able to retrieve their firearms “for lawful disposal” or any other reason. If it is not possible to achieve this through regulations, the legislation should be changed (for example through an omnibus bill) to correct this inconsistency, as everywhere else members of SECU removed the possibility for “lawful disposal” of the firearm.
- 5) **Firearms Records Regulations should be amended to ensure RCMP and provincial/territorial CFOs maintain and report records and statistics related to all intimate violence/abuse/threats FIP incident reports**, so that the RCMP can make sure all regions are effectively creating FIP entries for all reports or complaints of domestic violence or stalking even when there is no conviction. In addition, since the threshold for revocation has been lowered, we should see an increase in cases of revocation due to domestic violence. Stagnant or decreasing numbers would suggest problems with respect to C-21’s implementation.

- 6) **Take the necessary corrective regulatory measures to ensure compliance with the requirement introduced under Bill C-71 for sellers to verify the validity of the licence of a potential buyer.** There have been many instances where an individual with a revoked or expired licence managed to purchase a firearm which they then used against an intimate partner or ex-partner. This is why the verification of the validity of a licence was included in [Bill C-71](#) adopted in 2019. Indeed, this verification gives all its meaning to the entire licencing system.

Yet one of the takeaways from Tristan Peloquin’s November 2023 [groundbreaking series](#) in La Presse regarding the illegal online sale of non-restricted SKS firearms arise from the statistics provided at the end of the main article. The RCMP reports that 5850 licence verifications were conducted by private sellers for the sale of non-restricted firearms in Quebec between May 2022 to October 2023 (over 16 months). An average of 35,700 long guns were privately transferred each year in Quebec between 2010 and 2014, up until the long gun registry was dismantled in this province. The average was about 30,000 for 2012, 2013 and 2014 according to [detailed data](#) provided by the Sûreté du Québec. More recent data from the Quebec government includes an average of 24,500 private sales in both 2021 and 2022, but we believe, based on past trends, that this number is a testimony to the [low compliance rate](#).

Even if we grant a four-month “grace period” for the implementation of the licence verification requirement (which [came into force on May 18, 2022](#)) and generously consider the 5850 verifications to have been carried out in just one year, and if we use the lowest available figure for private firearms transfers (24,500 according to latest Quebec registry data), this means that **at best, only a quarter of private sales included the verification of the validity of the buyer’s licence** ($5850 / 24,500 = 23,9\%$). (For more information on the flaws of the licence verification regulation, see [this 2021 brief](#).)

At the very least, related regulations should be amended so that the period of the validity of the RCMP-issued reference number confirming that a verification has taken place between a specific seller and buyer remains valid and documented indefinitely instead of for only 90 days.

B- Recommendations related to further legislative changes:

- 7) **Consider additional legislation so that police officers, conservation officers, security guards and other people who use guns as part of their employment also lose access to firearms in cases of domestic violence - without exception.** Section 117.07 of the Criminal Code exempts “public officers” (defined inclusively of police officers in the regulations) from firearms-related offences under the Criminal Code and the Firearms Act, unless the person is subject to prohibition order and acts contrary to that order (117.1). Therefore, to avoid police officers and others continuing to use and carry guns despite a situation of domestic or family violence, the law would need to trigger prohibition orders in those situations. Amendments should be made:
- a. To the Firearms Act, to direct a CFO to apply for a prohibition order as soon as they become aware that a public officer has engaged in domestic violence or stalking or has become subject to a protection order;

- b. To the Criminal Code, section 111(1), to enable an application for a prohibition order when a person has engaged in an act of domestic violence or family violence or stalking, or when a person is subject to a protection order;
 - c. To the Criminal Code, section 113(1), to remove the employment exemption.
- 8) Sections 72 (7) and (8) are inconsistent with the new measures introduced by Bill C-21 as they create a huge incentive for licensees to contest any licence revocation so they temporarily can gain access to their firearms as well as attempt to “dispose” of them in the manner of their choosing. Indeed, if a CFO refuses or revokes a licence and the decision contested and then confirmed, the judge “may ... order the return of the firearm to the applicant for or holder of the licence, in order for (them) to lawfully dispose of it” under specified conditions. This appears to be an error made by the SECU committee. Indeed, the committee sought to remove the ability to “lawfully dispose” of the firearm. The logic was that this gave the owner an opportunity to give the firearm to their friend, brother or roommate. It makes no sense that a judge can decide to return the firearm to the owner for lawful disposal once the decision to revoke the licence has been confirmed. As was highlighted during the consultations, this gives the owner a last chance to use it to commit irreparable violence, knowing that they won’t have the gun for long. Given that this seems to have been an oversight, **an amendment to the Firearms Act should be included in an upcoming omnibus bill (i.e. the fall economic statement) to remove the ability of a judge to return a gun to an ex-licensee whose licence was revoked in relation to domestic violence so they can dispose of them themselves.** (In the meantime, regulations should be adopted or amended to limit the ability of a judge to return a firearm under 72(7) and the safety conditions referred to under 72(8).)
- 9) Sections 72 (4) and 72 (5) related to the notices that CFOs must issue to a licensee whose licence is revoked states the notice must specify to the applicant or ex-licensee “may” deliver his guns to police, firearms officers or CFO “within 24 hours”. While we are told the “may” relates to the entities to which the firearms should be surrendered, the wording remains unclear as some can consider the “may” to apply to the words “within 24 hours”. **An amendment to the Firearms Act (in an upcoming omnibus bill, i.e. the fall economic statement) should clarify that “may” applies to the choice of recipients and not the timeline (“within 24 hours”).**

C- Recommendations related to directives for the RCMP and CFOs:

The federal Minister of Public Safety should instruct the RCMP and all provincial and territorial CFOs on the following items:

- 10) According to our sources, some CFOs who are made aware of a police complaint related to domestic violence currently await the end of the judicial process before revoking a licence. Under the new legislation, CFOs must revoke a licence if they have “reasonable grounds to suspect that an individual who holds a licence may have engaged in an act of domestic violence or stalking” [Firearms Act, section 70.1]. **CFOs should be instructed to adhere to the letter and the spirit of the new law, namely that a criminal complaint or an investigation satisfies the threshold of “reasonable grounds to suspect”.** They should be aware of the very low bar that has now been adopted in terms of risk assessment as well as the expanded definition of “domestic violence” in the Firearms Act (which will hopefully also be part of the Criminal Code, as proposed by [Bill 332](#), currently before the Seante).

11) On a related matter, RCMP and provincial CFO should be instructed to make it mandatory to enter domestic violence cases into the Firearms Incident Police (FIP) System even if there is no conviction.

Complaints and reports of domestic violence and stalking can serve to flag potentially dangerous individuals against whom a victim or potential victim deserves to be protected, namely by preventing such individuals to have access to firearms – at least until the matter is fully investigated and deemed not to be a risk for the complainant.

Uniform Crime Reporting (UCR) scoring by law enforcement that satisfy the provisions of section 5 of the Firearms Act automatically generate Firearms Interest Police (FIP) events within the Canadian Police Information Centre (CPIC) system. These “FIP events” are automatically transferred to the Canadian Firearms Information System (CFIS) to identify any potential matches to individuals with firearms licences, matches that are then reviewed by the appropriate CFO to determine the individual’s eligibility to hold a firearms licence.

However, Section 5 does not explicitly refer to “reasonable grounds to suspect that an individual ... may have engaged in an act of domestic violence or stalking” (as does the new section 70.1 (1)), but only refers to “has a history of (violent) behaviour” and “for any other reason, poses a risk of harm to any person.” As we understand it, entries for cases or potential cases of domestic violence are not mandatory. As a result, many police forces do not systematically enter such cases. For example, Quebec police issue four times as many per capita entries as British Columbia. In Quebec, as soon as they visit the premises following a domestic violence call, police are required to produce a police report, which is then fed into the system and which generates FIP event.

The minister has already instructed the RCMP Commissioner to “ensure the accurate and timely use of the Uniform Crime Reporting (UCR) scoring to support the Firearms Interest Police (FIP) system.” Ontario’s CFO has also urged police to properly use the FIP system, but this was clearly not enough as Ontario has one of the lowest FIP entries rate.

If it doesn’t yet exist, a specific UCR code (or series of codes) needs to be created for incidents and complaints of intimate violence, abuse, threats or stalking that do not involve a conviction. Combined with the spirit of Bill C-21 and the new measures related to domestic violence, the number of FIP incidents related to domestic violence (without conviction) should greatly increase. CFOs should be instructed to record and provide related data to the RCMP and the **RCMP should make sure the data from all provinces and territories reflect automatic FIP entries for all reports of domestic violence.**

For more information, see this letter from Alison Irons, former police officer and mother of a victim who was shot and killed by an individual with a criminal history who was nevertheless granted a firearms licence for a handgun:

https://polysesouvient.ca/Documents_2024/Letter_to_Minister_LeBlanc_FIPsystem_240626.pdf

12) As soon as it’s in force, RCMP and provincial CFOs should proceed with the implementation of subsection 6.1 which states that “an individual is not eligible to hold a licence if ... they ... have been convicted of an offence in the commission of which violence was used, threatened or attempted against their intimate partner or any member of their family.” As this is a retrospective measure (meaning that it applies to individuals who have been convicted of an offense before the coming into force of Bill C-21), provincial CFO will need to review all licensees in order to identify those convicted of domestic violence in the past. Ideally, this would be done in a timely manner as a stand-alone project. However, a long-term solution could involve a specific background check for such convictions whenever a licence is renewed (equivalent to a five-year implementation period). **The Minister should send a directive to all**

CFOs to make sure the requirement to check the background of all license holders is understood and satisfied.

13) RCMP and provincial CFOs should be instructed to adopt strict and clear protocols related to all domestic violence incidents, to ensure a thorough probe as to whether or not the perpetrator owns or has access to firearms followed by immediate steps to ensure access is no longer possible. In Quebec, [police are instructed to](#) create a report as soon as the investigate any incident of domestic violence, even if there is not criminal offense or even if the victim doesn't want to be involved in any further proceedings. This report will then automatically generate a FIP event. The 911 agent in touch with the victim sends two police officers to the place the incident took or is taking place, and while these are on their way asks if the suspect has access to firearms. Police systematically consults the national restricted firearms registry and the provincial long-gun registry, ask the victim about the presence of guns, ammunition and licences to own or acquire firearms (FAC), check the *Centre de renseignements policiers du Québec (CRPQ)* database for earlier incidents and seize all guns, ammunition and licences (without a warrant if they deem there is an immediate risk, with a warrant if there is not urgency). In addition, Montreal police (SPVM) systematically search the premises of the suspect they may possess illegal guns. Victims are systematically asked to fill out a form which includes a question about the suspect's access to firearms. Police will then follow-up within 30 days to ask the courts for an order to dispose of the seized objects, include in their report to the prosecutor whether or not guns have been seized, alert the CFO to prevent the suspect from acquiring new firearms, include in the conditional release a prohibition to possess guns, and consider asking the court for a prohibition order to possess guns (this last task will become automatic under C-21). **Together, these steps represent a solid and proactive approach to protecting victims and potential victims against gun violence or threats of gun violence. Similar protocols should be adopted by all police forces across Canada.**

14) As soon as it's in force, RCMP and provincial CFOs need to establish implementation protocols related to subsection 70.2 (1) which states that "if an individual becomes subject to a protection order, their licence is automatically revoked, and they must deliver to a peace officer any firearm that they possess within 24 hours or if that is not possible, within any extended period established by the (CFO)". Subsections 72 (4) and 72 (5) [Disposal of firearms, etc.] (both in force) only instruct the CFO to send a notice to the licensee specifying that they "may deliver" their guns to police, firearms officers of the CFO "within 24 hours". The law does not specify what steps police should take to make sure this is done, nor what happens if the ex-licensee fails to surrender his/her guns. **The same protocol should apply in relation to under subsection 70.1, where a CFO is obliged to revoke a licence within 24 hours if the CFO has reasonable grounds to suspect that a licensee may have engaged in domestic violence or stalking.**

Licence revocations should immediately be communicated to local police departments who would then be tasked with following-up to make sure all firearms are surrendered within 24 hours of its issuance.

Given the absence of records for non restricted firearms in other provinces and the territories, and given that any registry (be it the federal restricted weapons registry or the Quebec long-gun registry) is never 100% accurate, **RCMP and provincial CFOs should direct police forces to take additional steps to ensure all guns are surrendered, such as visiting the ex-licensee's home or contacting family members (especially victims) who are likely to have a good idea of how many guns an ex-licensee owns.** A recent intimate mass shooting in Sault St-Marie exposed the [failure of police](#) to verify if the perpetrator had access to guns (even though he was known to hunt with firearms) and to remove them.

15) The law states [section 89] that any competent authority that issues a protection order "shall have a chief firearms officer informed ... within 24 hours". The Minister should ensure that all court administrations are aware of this change and are able to systematically implement it.

D- Recommendations related to targeted and public education campaigns:

The federal government should:

- 16) Ensure that an upcoming education campaign for police, the courts, the public as well as women's shelters include updated information regarding the new standards for interventions to remove access to firearms as a result of section 70.1 (whose threshold is "reasonable grounds to suspect" that domestic violence occurred) as well as the expanded definition of "domestic violence" in the Firearms Act.
- 17) Ensure that an upcoming education campaign for judges instructs them on why it is important to remove guns from those who engage in domestic violence, even if they use firearms as part of their employment.
- 18) Ensure that an upcoming public education campaign aimed at commercial and especially private sellers makes them aware of their legal responsibility to verify the validity of the licence of a potential buyer by contacting the RCMP and obtaining a reference number.
- 19) Include in any public education campaign related to the new "ex-parte" red flag provision a component addressed to CFOs, firearms officers, police, judges and prosecutors to ensure that these new provisions do not result in any of the potential adverse effects raised by women's groups and others concerned about the safety of victims of domestic violence, abuse and stalking:
 - a. **The responsibility to protect victims and potential victims of domestic violence (and related accountability) must always remain 100% that of the police and the courts.** Public Safety, the RCMP and CFOs should all be alert to any manifestations of "victim blaming", which is a well-known phenomenon associated with similar measures. As the representative of Battered Women's Support Services [explained as she testified before SECU](#) with respect to the *ex-parte* provision: The red flag measure "*creates potential conditions that put an unreasonable burden on a victim or survivor to address their safety. ... When that happens and we create that kind of opening, where the survivor is somehow responsible for their safety, the system orients itself in that way and begins to question whether the victim has done everything she should have done, based on the interpretation.*" An [example of this was given](#) by the spokesperson of the Quebec's association of shelters for victims of domestic violence (Regroupement des maisons pour femmes victimes de violence conjugale) as regards the Criminal Code's section 810 that makes it possible for a victim to apply for a peace bond: "*Normally, when a person says they fear for their safety, the police should investigate and notify the prosecutor. However, there have been many instances where police officers have told victims to ask their lawyer to do so. Unfortunately, women have lost their lives in the meantime.*"
 - b. **An education campaign should highlight the fact that Canada's law provides wide latitude and authority to CFOs and police to refuse or revoke a licence to any person who is a threat to themselves or to any other person and to remove guns when immediate risks are identified.**

- c. **An education campaign should focus on ensuring that police and the courts take domestic violence complaints seriously and that they investigate whether an abuser or potential abuser has access to firearms (legal or not) in order to remove them as a precautionary measure.**
- d. Promoting the use of the *ex-parte* option by victims goes against modern understanding of the nuances of intimate abuse. **CFOs and police must be made to understand that it is unrealistic to expect victims to have the energy or the fortitude to go to court** while they face the simultaneous challenges of escaping abuse, caring for children and keeping their jobs.
- e. Promoting the *ex-parte* option goes against the hard-fought principle of removing any responsibility from a victim with respect to decisions to charge an abuser, as this can further endanger the victim. **Efforts must be made to ensure that there is no pressure or responsibility that is transferred to victims or potential victims in this regard.**
- f. **Police should never recommend to a victim or potential victim that they proceed with the *ex-parte* application** to protect themselves against an armed or potentially armed abuser: currently, removing guns and applying for a prohibition order is the job of the police and should remain so.
- g. **Courts and police must recognize that there is no true anonymity for a victim of intimate partner violence with respect to an *ex-parte* petition** to remove an abuser's firearms. Any "anonymous" application (not made by police) to remove an abuser's firearms would inevitably be linked to the victim as anyone would guess this is the person who "decided" to apply, and this could further endanger the victim.
- h. **A legitimate case where an *ex-parte* application would be relevant – as opposed to police taking steps to remove an abuser's firearms - is if the victim's abuser is a police officer** in a locality where there are a small number of police.
- i. **CFOs, police and the courts should monitor all *ex-parte* cases, and for each one investigate the reasons why police did not proceed themselves to remove an abuser's firearms or seek a prohibition order.** Data related to these cases should be sent to the RCMP and made public through the RCMP's Commissioner's yearly firearms reports.

Background information:

https://polysesouvient.ca/Documents_2024/DOCU_06_25_Recommendations_C21_DomesticViolence_BACKGROUND.pdf