
**Peace and
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**Ordre et
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Protection against
violent crime

Protection contre
la violence criminelle

REVISED AND UPDATED
QUESTIONS AND
ANSWERS ON GUN CONTROL

August 30, 1976

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Department
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Solicitor General
Canada

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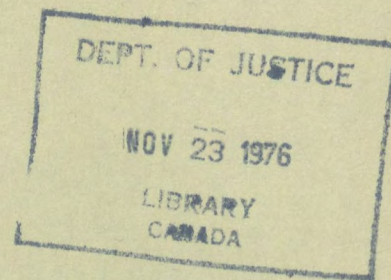
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INTRODUCTION

Bill C-83 of the Government's Peace and Security Program is aimed at providing for the better protection of Canadian society against crime, including violent crime. Its provisions deal with gun control, dangerous offenders, the custody and release of inmates and electronic surveillance.

This Bill was put before Parliament in February and has been carefully studied and discussed both in the House of Commons and by the Standing Committee on Justice and Legal Affairs.

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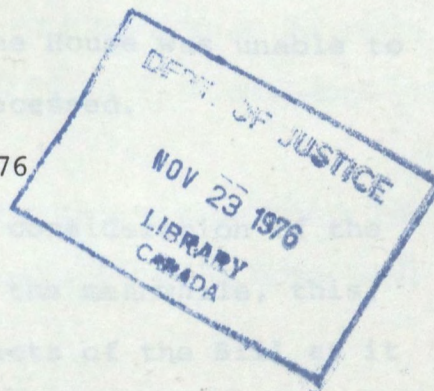
ANSWERS ON GUN CONTROL

During this process, many questions were made to the Bill. Some were the result of the Government's continuing research, some were based on the study of proposals made by the witnesses who appeared before the Standing Committee or presented briefs, and others were proposed by Committee members themselves.

The amended Bill was reported back to the House of Commons for Third Reading on June 18th, but the House was unable to deal with the legislation before it recessed.

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INTRODUCTION

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What do statistics show about the use of guns in Canada?

Little in-depth research has been carried out in the past on the use of guns in this country. Thus, one of the important elements of the gun control policy is to conduct a serious examination of the Canadian situation. For the present, the facts we do have show the following:

In 1974:

- There were an estimated 10.2 million firearms in Canada-- one gun for every two people. That total is increasing at an estimated annual rate of 260,000.
- There were 1500 gun-related deaths.
- There were 1025 gun-related suicides, almost a one-third increase over 1970. That represented one-third of all suicides in the country and 70 per cent of all deaths by firearms.
- 135 teenagers committed suicide with firearms, representing over half of all teenage suicides that year.
- There were 275 murders, by firearms and the number of murder victims rose by over 53 per cent from 1970. The number of victims of all other types of murder rose by only 6.7 per cent in the same period.

- Shooting was by far the commonest form of murder, representing almost 50 per cent of all murders that year; as recently as 1970 that figure was 41 per cent.
- Over two-thirds of murders involving firearms were committed with rifles and shotguns.
- Handguns, which are strictly controlled, account for 25 per cent of firearms murders in Canada, compared to 75 per cent in the United States.
- There were 125 accidental deaths involving firearms. Well over half of these involved victims in their teens or early twenties.

In the period from 1961 to 1974:

- Almost 14,500 Canadians, enough to populate a city the size of Yorkton, Saskatchewan, died in firearms incidents.
- In 70 per cent of all firearms murders, the victim and the murderer were either related or had some previous association with each other.

Does the gun control program mean the Government wants to take all guns away from people?

No. The Government and indeed many Canadians, are concerned about the rising number of firearms incidents which result in injury and death. To a large extent, this situation is created by the easy availability of guns coupled with the absence of safeguards ensuring that people who wish to own guns are neither irresponsible nor unfit to do so.

To deal with this situation, the Government is introducing a program featuring, among other things, the voluntary disposal of unwanted guns, responsible ownership provisions, a licensing scheme based on an individual's fitness to own firearms and increased penalties for the criminal use of guns.

What are the objectives of the Government's gun control policy?

The Government's gun control policy and the measures proposed in Bill C-83 are directed at reducing firearms misuse, thus alleviating public concern by:

1. controlling the general availability of firearms;
2. preventing the potentially dangerous user from gaining access to them as much as possible;
3. encouraging responsible gun ownership, including higher standards of handling, storage and use; and
4. discouraging the criminal use of firearms by increasing penalties.

The Government believes that these objectives can be achieved without unduly restricting legitimate recreational pursuits by responsible gun owners.

Doesn't the Government's gun control program infringe on the right of Canadians to bear arms?

The so-called "right to bear arms" is an American concept set out in the constitution of that country. Many Canadians falsely assume that it is also a basic right in this country. This is not so. In Canada, the bearing of weapons and all other activities related to them, is a privilege granted and controlled by the representatives of the people assembled in Parliament.

Will the gun control program ensure that criminals will no longer be able to obtain guns?

The establishment of a gun control system which would effectively make it impossible for determined criminals to obtain firearms would require that virtually no one but the police could possess guns in Canada. It is felt that this would unfairly infringe on the rights of legitimate gun owners and users. Nevertheless, the program's objective is to discourage the criminal use of firearms. The licensing system, the police seizure provisions, the prohibition of certain weapons (particularly "Saturday Night Specials") and the new standards for registering handguns are all provisions which will make it harder for criminals to obtain firearms.

Furthermore, legal sanctions are proposed to act as deterrents for criminals. For example, Bill C-83 increases the maximum penalties for illegal possession and use of firearms, in many cases doubling them. Thus, a 10 year maximum sentence is proposed for anyone who owns or carries a weapon, real or imitation, for a purpose which would endanger the public peace or in order to commit an offence.

A new offence will be added to the Criminal Code under which a person using a firearm in committing an indictable offence will be liable to imprisonment for a minimum of one year up to a maximum of 14 years for a first offence, with the

sentence being served consecutively to any other sentence. A minimum three year sentence must be imposed for a second offence. This relatively unusual application of a minimum sentence is an indication of the seriousness with which firearms crime is viewed.

Furthermore, persons convicted under Section 98 of the Criminal Code (use of an offensive weapon in the commission of an indictable offence) are subject to a mandatory order prohibiting them from possessing a firearm for a minimum of two years for a first offence and five years for a second.

Why are some aspects of the gun control program being covered by regulations?

Certain technical aspects of the gun control program can really only be dealt with by regulations. Thus the present Criminal Code provides several regulation-making sections with respect to firearms. For example, there is a section that provides for the designation of areas where persons can hunt for food to contribute to the sustenance of themselves and their families, a section that provides for additions to the classes of restricted and prohibited weapons, and provision for the R.C.M.P. Commissioner to specify forms, records, what information is needed for a registry and who may issue permits. These existing regulatory provisions will remain in the Code and are not new powers.

Those new regulatory powers provided in Bill C-83 by-and-large do not create offences or result in penalties. They define classes of persons who may act as guarantors, conditions of fitness, persons who can be licensing officers, and fees. No penalty is provided in any of the regulations dealing with these matters.

There are some new regulation sections that deal with businesses. For example, they set out conditions for the transportation of firearms, dealer suitability, mail order sales, handling, storage

and display of firearms, and conditions of record-keeping. These regulations could provide for offences or violations, but they apply to businesses, not individuals.

It should be noted that in response to concern that the regulations undergo Parliamentary scrutiny, the Government has undertaken to submit to the Standing Committee on Justice and Legal Affairs, the original draft of the licensing regulations so that it may study them. It has further stated that it will not proclaim the licensing system before the Committee has reported back to the House of Commons on the results of its study. This will not preclude the Government from consulting with other interested groups and the provinces on the regulations, however.

How does the program propose to control the general availability of guns?

In four main ways:

1. Through a voluntary gun disposal program;
2. Through the application of a "need" requirement to persons making an initial application for registration of a restricted weapon;
3. Through the prohibition of certain lethal firearms which have no legitimate sport or recreational use. These include sawed-off shotguns and rifles, "Saturday Night Specials" (cheap, unsafe handguns) and all fully automatic weapons except those registered with the R.C.M.P. by bona fide gun collectors on or before June 1st, 1976.
4. Through the licensing of dealers in firearms and ammunition.

What does the voluntary gun disposal program involve?

The program will be designed to encourage people who own guns which they no longer use, to surrender them. An advantage of giving up firearms under this program is that these people will not need to purchase a licence for the weapons. The details of this disposal program will be worked out with the provinces and police forces.

Discussions will also be held with gun clubs, as it is hoped that they would lend assistance in making this program a success.

A period of amnesty will be associated with the disposal program to allow people to surrender prohibited or unregistered restricted weapons without fear of prosecution under the firearms provisions of the Criminal Code.

Almost all the guns that are turned in will be destroyed. Some may be used in police ballistics laboratories and those which have antique or historic value may, with the owners permission be donated to a museum or historical society.

What are the conditions under which a person may register a handgun?

The only reasons for which a person may be permitted to register a handgun under the proposed legislation are:

- to protect life
- for use in his lawful profession or occupation
- for use in target practice
- because he is a bona fide collector
- because the weapon is an antique, curio or relic.

Would the provision for a need test prevent me from having a handgun for the protection of myself and my family?

Probably. The Government believes that responsibility for the protection of life is best left in the hands of specialists, namely the police, who are trained and experienced in this field. There may be some rare instances where a person's life is in danger and he requires a gun for self protection but such a requirement would be carefully screened by the local registrar of firearms.

It is of interest to examine the brochure "How Well Does the Handgun Protect You and Your Family?", issued by the United States Conference of Mayors. The brochure reflects extensive research in some of the most crime-filled cities in America. It concludes: "The handgun is rarely an effective instrument for protecting the home against an intruder." It goes on to say that statistics show that "a gun in the home is far more likely to lead to the death of a family member or friend than the death of an intruder."

Since automatics are lethal weapons which have no sporting use, why are the collectors specified in the Bill being permitted to retain them?

Representations made before the Standing Committee on Justice and Legal Affairs by collectors of modern weapons were studied by the Government and it was concluded that undue financial hardship might be inflicted on these people by demanding that they surrender their valuable collections on passage of Bill C-83. It was felt that a good compromise was achieved by allowing those bona fide collectors whose automatics were registered with the R.C.M.P. on or before June 1st, 1976 to retain them. However, no new automatic weapons may be added to these collections. Importation of them is prohibited and transactions limited only to registered weapons among these collectors.

What are the proposals for the licensing of dealers in
firearms and ammunition?

Dealers in firearms and ammunition will have to obtain permits to operate their businesses. To do so, they must show that they are suitable persons to carry on a firearms business and they would be subject to strict regulations concerning display, storage and safekeeping of all weapons and ammunition. The development of these regulations will involve consultation with the retail industry itself, as well as with the provinces.

Retailers will have to verify that a purchaser has a licence or, where appropriate, a permit, before a transaction can take place.

All dealers will also be required to keep records of sales of firearms and bulk transactions in ammunition.

What are the proposals to reduce the access of potentially dangerous users to firearms?

Four proposals are directed at this objective:

1. a licensing system for gun owners;
2. the setting of age qualifications for gun users;
3. the broadening of rights of seizure for police in potentially dangerous situations; and
4. the expansion of the courts' powers of prohibition for persons involved in gun-related offences.

How can a licensing system reduce the access that potentially dangerous misusers have to firearms?

The majority of firearms deaths in Canada do not occur as part of criminal activities but rather are accidents or suicides. The licensing system is designed, to the extent possible, to ensure that people are not unfit to own guns because of a previous record of criminal violence, a history of alcoholism, drug abuse, mental instability or any physical handicap which might prevent them from owning and using a gun safely.

A similar effect is obtained under present law through the registration of handguns. The local registrar determines whether a registrant has a criminal record, and to the extent possible, a history of unstable behaviour before he agrees to have a weapon registered. Statistics show that far fewer deaths result from handguns where owners are screened in this way than from long guns where no screening takes place. The Government is confident that the licensing of all gun owners will produce a similar beneficial result in terms of reducing the access that potentially dangerous users have to firearms.

How will people's fitness be determined?

A system of guarantors, similar to that which exists for the issuance of passports, is proposed. Two guarantors who have known the licence applicant for at least two years and who are members of one of a broad range of classes of people (e.g. presidents of gun and shooting clubs, doctors, school teachers, clergymen, chiefs of Indian band councils, wildlife officers, etc.) will be asked to attest that, to the best of their knowledge, the applicant is not unfit to own and use a gun. In addition, a criminal record check will be made in connection with every application.

Where an applicant has moved to a new community and cannot find guarantors, a special temporary permit may be issued by the local registrar of firearms.

Will the licensing system involve the registration of rifles and shotguns?

No. There is no provision anywhere in Bill C-83 for the registration of long guns. Indeed, licensing officers and local registrars are specifically precluded from asking for information on the make or serial number of rifles or shotguns. The licensing system is based on the same concept as that used in issuing driver's licences - it is the driver who is licensed. He may have as many cars as he can afford but he needs only one licence. Similarly a gun owner will need only one licence, no matter how many guns he owns. Naturally, a licensed owner will continue to have to obtain a registration certificate for each restricted weapon he possesses, as is presently the case.

How will licences be granted?

The licensing system will be as flexible and accessible to gun users as possible. Licensing officers will be located in as many communities as possible so that licensing will be handled by persons from the community in which the applicant lives. In remote areas, licensing officers will travel between communities to facilitate the acquisition of licences for people who live there.

The licensing officers and local registrars who make decisions on applications for licences will apply standards set out in the legislation and amplified in the regulations.

In the event that a licence is refused, the applicant will have the right to appeal that decision to a magistrate.

How much will a licence cost?

The precise cost of the licensing system is still being worked out. It will depend on a variety of factors, particularly on the results of negotiations with the provinces and on the determination of such considerations as speed of implementation, the methods of screening applicants, and even such details as the quality of paper stock to be used for the licences themselves.

Because all Canadians will benefit to some degree by the greater public safety which will result from the introduction of the licensing scheme, some part of the system will, in all likelihood, be financed out of public funds.

Although no final licence fee has been established, the Minister of Justice has stated that a five year licence will almost certainly cost less than \$25.00. The licence fee will go directly to the support of the licensing system. It is felt that persons who want the privilege of using guns would be prepared to make some direct financial contribution to the system which makes gun use safer in this country.

For some people, the use of a gun is a necessity. Must they also pay a licence fee?

The Government gave careful consideration to the rights of those people who live in certain designated areas where hunting is a way of life and who must hunt or trap in order to sustain themselves or their families. An amendment was put forward exempting these people from paying a fee, although they will still be subject to the fitness screening in order to obtain permits.

Will a competency test be attached to the licensing requirements?

Not under the present proposal. A number of provinces now have very good safety training courses and competency tests in connection with the issuance of hunting licences. Under provisions of Bill C-83, the Federal Government will be working, through federal - provincial consultation, to encourage their expansion and to co-ordinate them with the licensing and permit system.

In addition, the Government hopes that the training and safety programs of wildlife organizations and gun clubs continue to grow and expand their contribution to gun safety in Canada.

Why not rely solely on provincial hunting licences instead of a national licensing scheme?

For three reasons:

First, provincial hunting licences generally call for a competency test in which determines whether a person is proficient in the use of guns. The national licensing system is designed to determine whether a person is fit to handle guns. A person competent in handling firearms may not be mentally and emotionally fit to do so. He might suffer from a mental disorder or have a violent personality under the influence of alcohol which could make him a serious menace as the owner of a gun. The fitness criteria attached to the licensing system are directed at screening out such potentially dangerous users of firearms.

Second, not all gun owners are hunters who would be subject to provincial testing. Some are collectors or target shooters, while others are simply casual owners.

Finally, the rules for issuing hunting licences differ from province to province. In some, hunter safety training courses and competence tests are obligatory; in others, voluntary. Standards vary from one province to another so that a person who might qualify for a hunting licence in one province may not be able to do so in another.

When and how will the new licensing system affect hunters?

Licensing provisions will be phased in over a three-year period to make it possible to deal effectively with the large number of gun owners in Canada. The phasing-in period would begin as soon as possible after the Bill becomes law, the Standing Committee on Justice and Legal Affairs has completed its study of the licensing regulations and extensive federal-provincial consultations have taken place. Subject to these considerations, the implementation schedule which is being considered at present would see licensing introduced in Ontario sometime in 1977, in Quebec and the Maritimes in 1978 and in the Western provinces in 1979.

Hunters will only need licences when the provisions become effective in their region or when they wish to hunt in a region where licences are needed.

It should be noted that hunters will still require provincial hunting licences when the national licensing program comes into effect.

What are the age restrictions for gun users?

A person 18 and under must obtain a permit to own or use a gun and that permit may have attached to it, appropriate conditions for supervision. The permit application requires the consent of a parent or guardian and the support of a guarantor. However, because proper training in the use of guns is of great importance, persons under 18 may use a gun without a permit if they are receiving instruction from a parent or guardian, or, in the case of those 12 and over, from a certified instructor.

Persons under the age of 12 may use guns under only two conditions:

- first, if they live in a designated area and must hunt for food to contribute to the support of their families, in which case they must obtain a permit, or
- second, if they are taking instruction under the supervision of a parent or guardian, where no permit is required.

Why is the Government allowing younger Canadians to use guns?

In the Bill as it was originally put forward, children under 14 were not permitted to use guns unless they lived in a designated area, hunted for food for family support and had a permit. The Standing Committee hearings however, produced representations both from Committee members and from witnesses to the effect that in parts of Canada, a tradition exists where parents teach their children to use guns properly and safely at an early age. This is particularly true in rural areas where guns are routinely used to deal with pests that endanger crops or farm animals, for example. The Government considered this argument and agreed that such a tradition and way of life must be respected. Thus, the decision was made to amend the Bill, allowing children under the age of 18 to take instruction under the supervision of a parent or guardian, and to do so without a permit.

In addition, it was brought to the attention of the Government that some cadet programs teach youngsters about the proper use of firearms at an earlier age than 14. In consideration of this fact, Bill C-83 was amended to allow people between the ages of 12 and 18 to receive instruction from a certified instructor, without being required to obtain a permit.

Will the law allow police to seize my guns arbitrarily?

No. The new seizure provisions are primarily directed at giving police the right to deal effectively with domestic quarrels. Such conflicts result in two-thirds of all murders in Canada and offer one of the greatest threats to the life and safety of police officers. Under the new legislation, an officer who is called in to a conflict situation would be empowered to seize any guns at the scene without a warrant if there are reasonable grounds for believing that it would be in the interests of the personal safety of someone to do so and if it was not practical to obtain a warrant because of the urgency of the situation. The officer must make a return to a court showing that the seizure was justified.

The court is empowered to decide whether it would be safe to return the gun to the owner or whether the owner is unfit to possess a firearm. In the latter case, it may order the gun to be disposed of in a manner considered to be fair in the interests of both the public and the gun owner.

In addition, the court may prohibit the person from whom the gun was seized from owning a firearm for an appropriate period of time, in the interests of his own safety and that of the public.

How are the courts' powers of prohibition being expanded?

Under the present Criminal Code, a judge may, at his discretion, impose a maximum five year prohibition on possession and use of firearms for anyone convicted of a firearms offence. Bill C-83 would broaden that power in the following ways:

- It provides that the court may issue a prohibition order where a person is convicted of the new offence of careless handling, carriage and use.
- It allows for the issuance of a prohibition order for anyone who is convicted of being an accessory in a crime where guns were used, even if that person did not actually use the weapon himself.
- It provides that people convicted under Section 98 (use of an offensive weapon in the commission of an indictable offence) be subject to a mandatory order prohibiting them from possessing a firearm for a minimum of two years for a first offence and five years for a second.
- Finally, the maximum period of prohibition would be raised from the present five years to an indefinite period.

What steps are proposed to promote the responsible ownership of firearms?

Two approaches are being taken to promote responsible firearms ownership:

1. education
2. legal sanctions.

The education program will be developed in co-operation with the provinces and with wildlife and sporting gun clubs to emphasize and expand their gun safety training programs.

Bill C-83 proposes to create a new and important offence under the Criminal Code. Anyone who uses, carries, handles or stores any firearm or ammunition in a careless manner without taking reasonable precautions for the safety of others, may be subject to a maximum prison sentence of two years for a first offence and five years for a second. Originally, a five year maximum sentence was proposed for a first offence. However, in discussions during the Standing Committee hearings and after some reconsideration, it was felt that this might be too harsh a penalty for what is, after all, an act of carelessness.

How does the law define carelessness?

No hard and fast rules on what constitutes carelessness will be developed. Carelessness in storage and handling can have a different meaning in a large city than on a remote farm. It will be left to the courts to interpret this provision and the standards they employ are likely to be those that any responsible gun owner not only will be able to meet but should, in fact, be meeting now. They will be applied to the circumstances of each case so that they will be both appropriate and practical.

The courts are at present charged with interpreting the meaning of careless driving and are doing so very effectively. It is strongly believed that they will be as effective in interpreting carelessness under Bill C-83.

If someone steals my gun and uses it to commit a crime, could I be charged with that offence?

No. You might, however, be charged with careless handling or storage of a firearm if it could be shown that it was stolen because it was improperly stored, e.g. the gun was left loaded on the front porch.

What are the major gun control amendments made by the Government to the gun control portions of Bill C-83?

As Bill C-83 proceeded through the House of Commons, the Government proposed a number of amendments. Some of the major ones affecting gun control would:

- simplify the definitions of "ammunition" and "firearm" so as to limit control to only the critical elements;
- allow permits to be issued without fee to people in designated areas who hunt or trap as a way of life and who are required to do so for family support;
- allow persons under the age of 18 to receive instruction in firearms handling from a parent or guardian (or from a certified instructor for those between 12 and 18) without a permit;
- lower the minimum age for obtaining a firearms permit from 14 to 12, and require parental consent for all minors to obtain permits;
- restrict the right of the Governor General in Council to declare weapons as being prohibited;

- permit the designation of individuals, as well as classes of individuals as licensing officers, thereby lessening geographical inconveniences;
- establish a minimum 3 year sentence for a second conviction for using an offensive weapon in committing an indictable offence;
- reduce from five years to two years the maximum penalty for a first conviction for careless handling or storage of a firearm, and set five years as the maximum penalty for a subsequent offence;
- clarify the intention that the licensing system will not be used for the purposes of creating a sporting gun registry;
- allow bona fide collectors who have registered their fully automatic weapons with the R.C.M.P. as of June 1, 1976 to retain them in their collections. Further importation of such weapons would be prohibited, however, and transactions in them restricted. Collectors of fully automatic weapons would be subject to stringent controls in regard to storage; and

- allow for greater federal-provincial co-operation in
the co-ordination of laws and programs relating to hunter
safety training and competency testing.