

"Quis custodiet ipsos custodes?"
("Who will watch the watchers?")
-- Juvenal
[Decimus Junius Juvenalis] (c.55-c.128 AD)

Maintaining Information on Law-abiding Citizens on CPIC
Serves No Legitimate Purpose

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Executive Summary

In order to improve public safety, Canadian Firearms Registry Online (CFRO) information should be withdrawn from routine perusal on the Canadian Police Information Centre (CPIC). As is done with other information on law-abiding citizens, information on firearm-licensees should be restricted to investigational purposes that require a warrant.

Currently the RCMP treats licensed law-abiding Canadians as criminals by systematically misusing licensing information and by encouraging police officers to consult this information prior to attending a call. This practice ignores strong evidence.

The CFRO is available on CPIC virtually without restriction to policing agencies. By providing information on law-abiding citizens through CPIC, the RCMP encourages police officers to treat licensed firearms owners the same way they would treat dangerous criminals. This practice violates basic principles of policing as well as good sense. Not only does it systematically subject law-abiding citizens to police heavy-handedness (thereby jeopardizing public cooperation), it dangerously misleads police officers by confusing law-abiding citizens with dangerous offenders. Encouraging police officers to consult CFRO before attending a call endangers police officers by creating the false belief that almost all firearms and their owners, including violent criminals, are in CFRO. This is false.

The inclusion of firearms licences on CPIC has been justified on the grounds of public safety. Such a decision is supportable only if the mere possession of a firearm by a law-abiding citizen posed a serious threat to public safety. This paper shows that the facts do not support such a claim.

Introduction

In scrapping the long-gun registry, Prime Minister Harper announced that, “Firearm owners will no longer be treated as criminals, simply for owning a long-gun.”¹ Unfortunately, the demise of the long-gun registry did not achieve the Prime Minister’s stated goal. Ignoring available evidence, the RCMP persists in treating licensed law-abiding Canadians as criminals by making Canadian Firearms Registry Online (CFRO) information readily available virtually without restriction through Canadian Police Information Centre (CPIC) to policing agencies. This amounts to systematically misusing licensing information.

Currently, the CFRO is a supplementary database on CPIC that the RCMP has made available to policing agencies virtually without restriction. The CFRO only includes information on law-abiding citizens. The vast majority (93%) of homicides involving firearms are committed with illegally possessed firearms.² By making information on law-abiding citizens readily available on CPIC, the RCMP encourages police officers to treat licensed firearms owners the same way they would treat dangerous criminals. Such a practice violates basic principles of policing as well as good sense. Not only does it systematically subject law-abiding citizens to police heavy handedness, it also misleads police officers by confusing law-abiding citizens with dangerous offenders. Arguably, at least two police officers have lost their lives because they trusted CPIC to identify residences with firearms.

The police rely upon blatantly misleading statistics to justify their misuse of licensing data. It is disingenuous to claim that CFRO information is useful merely because it is consulted by police a large number of times (14,000 times a day in some claims). As the former Auditor General Sheila Fraser has testified, the number of “hits” merely indicates activity and not effectiveness.³ Almost all of the “inquiries” are routinely generated by traffic stops or firearm sales and are not specifically requested by police officers. Serving police officers have testified to Parliament that they do not find CFRO information useful when attending a call.

In this paper I will present evidence that the CFRO should be withdrawn from routine perusal on CPIC. As is done with other information on law-abiding citizens, information on firearm-licensees should be restricted to investigational purposes that require a warrant.

CPIC and CFRO

The stated goal of CPIC is to provide important “tactical information about crimes and criminals.” It is logically inconsistent to include law-abiding citizens on CPIC since they are not criminals. The official justification for including the CFRO on CPIC is that firearms are potentially dangerous, even in the hands of citizens with no criminal records. (Of course, knives and propane canisters also have homicidal potential). Current policy is misguided in encouraging police officers to consult this information prior to attending a

call. Far from “contributing to officer and community safety” by “providing valuable information on firearms ownership,” as is claimed, this is a dangerous misuse of information that actually threatens public safety and the lives of police officers. It is difficult to know how many firearms and firearms owners are not included in CFRO, but this does not justify the RCMP’s assumption that the CFRO includes almost all individuals who own firearms. The government’s own estimates when the Canadian Firearms Centre was established was there were that as many as 3.8 million firearms owners and 11 million firearms.⁴ Import/export estimates place the number of firearms in Canada even higher.⁵

The police justify including firearms licensees on CPIC on the grounds of public safety. Such a decision is supportable only if the mere possession of a firearm by a law-abiding citizen posed a serious threat to public safety. The facts do not support such a claim.

Including the CFRO on CPIC is unjustified

The CFRO only contains information on law-abiding firearms owners. This violates elementary principles of policing that view law-abiding citizens as allies rather than potential criminals. The systematic mistreatment of law-abiding citizens undermines the vital link between the police and the public that is necessary for maintaining public safety that Sir Robert Peel emphasized at the dawn of professional policing.⁶ To be effective, police need community support. Cooperation is required not just for public relations but in order to uphold public safety. To maintain public support the RCMP should not operate as if it were an occupying military force.

Holders of firearm licences differ radically from criminals because they do not have criminal records. They are important, responsible members of their community. By definition, they are law-abiding citizens. Despite the heavy-handed treatment by the RCMP, a licence *ipso facto* identifies individuals who specifically do not require scrutiny. To get a firearms licence one must have, after all, a clean criminal record. Including firearm licence information for routine perusal on CPIC not only violates the natural rights of firearm owners, but, by confusing licences with firearms, it unnecessarily endangers the lives of serving police officers.⁷

The approximately two million firearms licence holders who are enrolled with the Canadian Firearms Centre are law-abiding citizens. In order to obtain a firearms licence, either a Possession and Acquisition Licence (PAL) or a Possession Only Licence (POL), a person must have a clean police record. Firearms purchasers have been screened for criminal records since 1979, and it has been illegal since 1992 for people with a violent criminal record to own a firearm.⁸ Licence holders are screened nightly for outstanding warrants or court orders (“continuous eligibility screening”). The term “law-abiding” is not being used loosely.

In addition to the legal status of licensed firearms owners, two other arguments undermine the justifiability of including firearm licence information for routine perusal on CPIC.

First, Statistics Canada data suggest that licensed firearm owners are less likely to be involved in criminal violence than Canadians without a firearm licence. Second, serving police officers have testified to Parliament that they find licensing and registration information useless and irrelevant. The testimony of front-line police differs strikingly from the opinions of the Canadian Chiefs of Police and the staff at the Ministry of Public Safety.

Firearms murders are committed with illegally held firearms

Despite lurid media accounts of murders involving firearms, law-abiding gun owners (e.g., those with valid licences) are not a threat to public safety. Canadians who have a firearms licence are less than one-third as likely to commit murder as other Canadians. Statistics Canada data show that licensed gun owners have a homicide rate of 0.60 per 100,000 licensed gun owners between 1997 and 2010.⁹ Over the same period, the national homicide rate averaged 1.85 per 100,000.

Virtually all murders committed with firearms involve illegal firearms in the hands of people who do not have a firearms licence. During the sixteen years from 1997 to 2012, there were 9,315 homicides; 2,835 of those involved firearms. Statistics Canada reports that in only 128 cases – that is only 4.5 percent of all firearm homicides – did the accused have lawful possession of the firearm used in the crime.¹⁰ It must be remembered that in Canada murders with knives are as frequent as murders with guns. The potential instruments for murder lie immediately at hand in every single household.

Police officer safety

Law-abiding firearms owners do not pose a threat to police officers. Even though firearms were used in 90% of the cases of murdered police officers,¹¹ just one of these killers was in lawful possession of the firearm involved.¹²

It is sometimes said that inaccurate data is better than no data at all. This is false.

It is a dangerous error for police to rely upon the CFRO to identify residences with firearms. The CFRO has no information on unlicensed owners or illegally held firearms. Many firearms owners are unlicensed. Serving police officers have testified to Parliament that the CFRO is useless for protecting police officers. Instead, they urge police always to assume a firearm could be present when attending a call. Officers who rely upon the CFRO to check for firearms prior to attending a call are risking their lives unnecessarily.

Testimony to parliament by serving police officers in 2012 on Bill C-19 (the bill to scrap the long-gun registry) emphasized the danger of trusting the CFRO. Calgary Chief Rick Hanson testified that information about firearm licence holders is irrelevant to assessing the dangerousness of an officer's approach on a call. Further, he testified that holders of firearm licences are honest law-abiding people for the most part.¹³ Saskatoon Police

Sergeant Murray Grismer testified that checking it to see if guns are at a residence is dangerously misleading.¹⁴

All too often, young and inexperienced police officers naively trust the CFRO.¹⁵ Two cases, for example, Laval police officer Daniel Tessier¹⁶ and police officer Valérie Gignac,¹⁷ are illustrative. The brutal deaths of those two officers have been blamed on a reliance on CFRO data that was inaccurate and misused by the police. Going further, Solomon Friedman testified to Parliament that when an officer is provided with a false sense of security because a gun registry check on a residence comes up clean, the system is actually putting the lives of police officers at risk.¹⁸

Conclusions and Recommendation

In order to enhance public safety, access to CFRO information should be withdrawn from routine perusal on CPIC. As is done with other information on law-abiding citizens, firearm-licensing information should be restricted to investigational purposes that require a warrant.

The RCMP is ignoring evidence-based policy in their eagerness to treat law-abiding Canadians who own firearms as criminals. Could this policy be driven by politics rather than evidence?¹⁹ Whatever the reason, the RCMP firearms policy is not consistent with what has been articulated by Prime Minister Harper.

The problem was created by making simple possession of a firearm a criminal act (Sections 91 and 92 of the Criminal Code) by the Liberals in 1995. A legislative solution would be to repeal sections 91/92. In contrast, the solution proposed in this paper does not require legislation and would be consistent with the powers of the Public Safety Minister. Despite being incomplete, the proposed solution would go a long way toward mitigating the problems with police mistreatment of law-abiding firearms owners.

None of the forgoing is meant to deny that police should have the power, as part of an investigation, to access CFRO data in order to inquire if a person has a firearms licence or to identify the owner of a particular restricted weapon. But such access should be restricted to cases requiring warrants in order to respect the privacy of law-abiding citizens and to direct police attention where it really needs to go.

Warrantless access to firearm licences deliberately mistreats law-abiding Canadians at the same time as it absorbs resources that can be ill afforded. As shown in this paper, there is no empirical evidence to justify making CFRO data available virtually without restriction. This practice is irresponsible. Not only does it treat law-abiding firearms owners as if they were criminals, but it also endangers the lives of police officers by encouraging them to consult licensing information prior to attending a call.

¹ See the statement given on the Conservative Party of Canada website.

http://www.conservative.ca/?page_id=1436

² Just 128 of 2,835 firearms involved in homicide between 1997 and 2012 were legally owned by the accused. Source: G. Mauser, Special Request, Canadian Centre for Justice Statistics, Homicide Survey, Statistics Canada, February 2014 extraction, Table 2.

³ The comments of Ms. Sheila Fraser, the Auditor General of the day, to the Standing Committee on Public Safety and National Security, 39th PARLIAMENT, 1st SESSION, Monday, June 12, 2006 at 11:57, Wednesday, May 31, 2006 – EVIDENCE
<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=2236517&Language=E&Mode=1&Parl=39&Ses=1>

⁴ A summary of these estimates is included in *Hubris in the North: The Canadian Firearms Registry*, Gary Mauser (June 2007). Public Policy Sources, The Fraser Institute, Vancouver BC. http://papers.ssrn.com/sol3/papers.cfm?abstract_id=998898

⁵ Garry Brietkreuz, MILLIONS MORE GUNS IN CANADA THAN THE GOVERNMENT WILL ADMIT, 13 December 2001.

<http://www.garrybreitkreuz.com/breitkreuzgpress/GunControl50.htm>

⁶ Sir Robert Peel, the father of policing, put it this way, “Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent upon every citizen.” http://en.wikipedia.org/wiki/Peelian_Principles

⁷ Police officers are not usually thought of as naive. But an Ontario Police College instructor, after requesting anonymity, told me that many young police officers do act as if they believe the CFRO includes all (or almost all) of the firearm owners – criminals as well -- in Canada. This is a dangerous misconception.

⁸ *Martin’s Annual Criminal Code, 1995*, Canada Law Book, 1994. S. 100, p. 140.

⁹ Gary Mauser, in testimony to the House of Commons, Standing Committee on Public Safety and National Security, 24 November 2011, reported that Statistics Canada data showed that 164 licensed gun owners were accused of committing murder over the 14-year period (1997-2010), for an average of 11.7 owners per year. With just under 2 million licensed owners, this gives a homicide rate of 0.60 per 100,000 licensed gun owners. Data source: Special Request, Statistics Canada, CCJS, Homicide Survey, November 2011 extraction. There were 2,501 shooting homicides and 8,174 homicides in total during this 14-year period. Source: Statistics Canada, CANSIM using CHASS, October 2011 extraction.

¹⁰ Op. cit, note #2.

¹¹ Dunn, Sara. Police officers murdered in the line of duty, 1961 to 2009. *Juristat*, Fall 2010, Vol. 30, no. 3

¹² Source: G. Mauser, Special Request, CCJS, Homicide Survey, Statistics Canada, November 2011 extraction, Table 1. Police officers killed by type of firearm and firearm registration status, Canada, 1961-2010.

¹³ Calgary Chief of Police, Rick Hanson, testimony to The Standing Senate Committee on Legal and Constitutional Affairs, 28 March 2012.

¹⁴ Sgt Murray Grismer, Saskatoon Police, testimony to The Standing Senate Committee on Legal and Constitutional Affairs, 28 March 2012).

¹⁵ Op. cit., note #5.

¹⁶ http://en.wikipedia.org/wiki/Basil_Parasiris

¹⁷ <http://www.radio-canada.ca/regions/Montreal/2011/03/21/004-valerie-gignac-coroner.shtml>

¹⁸ Solomon Friedman, lawyer, testimony to The Standing Senate Committee on Legal and Constitutional Affairs, 15 March 2012.

¹⁹ The current firearm legislation was driven by partisan politics. Then PM Jean Chretien decided to appeal to urban women and to anger rural firearms owners. In the face of Paul Martin's budget tightening, the Liberals needed to upstage Kim Campbell's 1991 gun legislation in order to retain their urban supporters. See Susan Delacourt's 2000 biography, *Shaughnessy: the passionate politics of Shaughnessy Cohen*, page 152 ff. For the view of an advisor to former PM Kim Campbell, see John Dixon, "The gang that couldn't shoot straight," *Globe and Mail*, Jan. 08 2003, <http://www.theglobeandmail.com/globe-debate/a-gang-that-couldnt-shoot-straight/article748138/>

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