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Submission to the Standing Senate Committee on Legal and Constitutional Affairs

Firearms Information Regulations (Non- Restricted Firearms)

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The Office of the Federal Ombudsman for Victims of Crime

The Office of the Federal Ombudsman for Victims of Crime (OFOVC) is an independent resource for victims in Canada. The Office was created in 2007 to ensure the federal government meets its responsibilities to victims of crime.

Our mandate relates exclusively to matters of federal jurisdiction and enables the Office:

- to promote access by victims to existing federal programs and services for victims;
- to address complaints of victims about compliance with the provisions of the *Corrections and Conditional Release Act* that apply to victims of crimes committed by offenders under federal jurisdiction;
- to promote awareness of the needs and concerns of victims and the applicable laws that benefit victims of crime, including to promote the principles set out in the *Canadian Statement of Basic Principles of Justice for Victims of Crime* with respect to matters of federal jurisdiction, among criminal justice personnel and policy makers;
- to identify and review emerging and systemic issues, including those issues related to programs and services provided or administered by the Department of Justice or the Department of Public Safety and Emergency Preparedness, that impact negatively on victims of crime; and
- to facilitate access by victims to existing federal programs and services by providing them with information and referrals.

Position

The Office has discussed the keeping of records of sale for non-restricted firearms with numerous victims and/or victim-serving agencies across the country. During these conversations, it became evident that the collection and retention of records at the point of sale for non-restricted firearms is an essential component in the prevention and investigation of crimes committed with non-restricted firearms.

In light of these views and our own information and research, my Office does not support the proposed *Firearms Information Regulations* specific to non-restricted firearms, and encourages the Standing Senate Committee on Legal and Constitutional Affairs to reject the regulations as proposed.

Rationale

A tool to prevent victimization

Records of gun sales are an essential tool that assists in keeping our streets and communities safe.

Keeping records at point of sale allows for gun stores to be audited, ensuring that they are complying with the law by selling non-restricted firearms only to persons who are licensed. This is especially important when one considers the protection that these records provide against the trafficking of large numbers of weapons to unlicensed individuals or to those engaged in criminal activity. These records will allow for an auditing function that will assist in ensuring that long guns do not end up in the wrong hands.

The collection and maintenance of records related to the transfer of non-restricted firearms has been viewed as a necessary component of gun regulation in Canada since 1977. When the *Firearms Act* passed in 1995, this information was included as part of the Long Gun Registry. Now that the Registry has been eliminated, changes to the proposed *Firearms Information Regulations* eliminates the need to collect or record this information, thus taking us back nearly thirty years in gun regulation and losing an effective way for police to prevent gun crime.

Access to justice for victims through effective investigation

Record-keeping at point of sale provides police with a valuable tool through which law enforcement can investigate long gun crimes by tracing the source of a gun, and potentially linking a gun to an owner. From a victims' perspective, both of these benefits associated with the collection and maintenance of records of sale are significant, as they contribute to the effective prevention of victimization as a result of long gun crime and effective investigation when such a crime occurs.

Without the ability to trace a gun, the effectiveness of police investigations may be compromised, which could diminish the likelihood that a suspect would be arrested and charged. This may have a direct impact on a victim's access to justice.

The maintenance of records of sale has been identified as a significant tool by law enforcement for the purposes of investigation. In their presentation before the Standing Committee on Legal and Constitutional Affairs in relation to C-19, the Canadian Association of Chiefs of Police clearly stated that the retention of vendor records must be re-instated. In this presentation, Chief Mario Harel identified three

main concerns, one of which was “ensuring the re-instatement of record-keeping by firearm vendors which existed prior to the implementation of the Long Gun Registry.”¹

The need for the maintenance of vendor records was considered to be necessary by the Government of Canada in previous iterations of legislative proposals to end the Long Gun Registry both in 2006 and 2007. In 2007, C-24 was introduced, and the backgrounder issued by Public Safety Canada stated, “in addition, as was the case prior to the imposition of the long-gun registry, a requirement for businesses to maintain records of all transactions involving the sale, purchase or disposal of non-restricted firearms will be introduced. This is another measure that will assist police investigators in locating owners of stolen firearms of those used in the commission of a crime.”²

Victims want to hold offenders accountable for the crimes they have committed. The proposed *Firearms Information Regulations* take away a very important investigative tool for police, thereby limiting victims’ access to justice.

No identified negative consequences

From most victims’ perspectives there are no consequences that would outweigh the benefits to public safety by collecting and retaining records related to the sales of non-restricted firearms. To elaborate:

- there are no costs associated with the maintenance of these records for Canadians;
- the records do not ‘criminalize’ law-abiding gun owners, as there is no centralized or searchable database;
- and maintenance of records was previously mandatory and did not prove to be overly onerous for gun vendors; and
- the maintenance of records of sale non-restricted firearms is essential to meet Canada’s obligations under numerous international agreements. These agreements include, but are not limited to the *United Nations Firearms Protocol* and the *Inter-American Convention against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosive and Other Related Materials (CIFTA)*. Both require Canada to keep records of firearms transactions.

From the point of view of victims of crime, there seems to be little justification for ensuring that gun vendors are no longer required to keep records of sale of non-

¹ https://www.cacp.ca/media/news/download/1271/Bill_C-19_LGR_Presentation_March_28_2012_Final.pdf

² <http://www.publicsafety.gc.ca/media/nr/2007/nr20071116-1-eng.aspx>

restricted firearms. In fact, when one assesses the potential consequences to public safety that may occur as a result it becomes clear that record-keeping of this nature is indeed necessary and desirable.

Conclusion

The devastation and trauma suffered as a result of losing a loved one to violent crime is overwhelming. Victims who are forced to endure this burden can suffer on a variety of levels, including emotionally, mentally, physically and financially. While the process of coping with tragedy is different for every victim, victims my Office has spoken with will tell you this: they do not want what has happened to them to happen to anyone else.

Requiring that information be collected and maintained at the point of sale for non-restricted firearms is an important tool that can assist law enforcement in preventing further victimization, and effectively investigating victimization that has occurred. For victims, this investigative tool is essential in providing them with access to justice. For these reasons, my Office urges the Committee to reject the proposed *Firearms Information Regulations* relating to the transfer of non-restricted firearms.