

Poly Remembers

Students and Graduates of
Polytechnique for Gun Control



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RECOMMENDED AMENDMENTS TO THE FIREARMS ACT

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1) Possession permits

The media continues to report cases where individuals who have exhibited behavior that is violent, suicidal or associated with mental illness can still legally possess firearms, and then use them against themselves or others. These tragedies are in most cases avoidable and reflect the serious shortcomings of a system that does not prioritize public safety.

There is a great deal of public education that needs to be done in order to teach family and friends how to recognize “red flags” and the need to report them to the police. There is also a need to provide better tools to prosecutors, police and judges in order to assess these risks as well as information regarding the importance of maintaining a precautionary approach to public safety, especially with regards to preventive interventions like the refusal or revocation of possession permits.

However, the Firearms Act remains the cornerstone of gun control, since both awareness and preventative action depends on the priorities and the criteria outlined in the law. It is therefore important to strengthen certain provisions in order to ensure that the cautionary approach is the norm and public safety is prioritized.

► Recommendation 1: Tighten eligibility criteria and strengthen the screening process for people wishing to acquire, renew or keep a Possession and Acquisition Licence (PAL):

- a) The six-month grace period for those who do not renew their licences should be eliminated. This is a critical period during which the accuracy of the information should be paramount. One has only to recall the murder of Officer Daniel Tessier of Laval during a raid on a Laval residence to demonstrate the importance for police to have access to updated data related to possession permits. According to the Occupational Health and Safety Commission¹, the murderer had not reported his change of address and the police, having consulted the system based on the residence’s address, were not able to be informed of the presence of firearms.

¹ “Décès du policier Daniel Tessier à Laval - Les policiers avaient mal évalué le risque, selon la CSST », *Le Devoir*, 23 oct. 2016.

<http://www.ledevoir.com/societe/justice/212098/deces-du-policier-daniel-tessier-a-laval-les-policiers-avaient-mal-evalue-le-risque-selon-la-csst>

- b) In the same spirit, all amnesties for non-compliance with major provisions of the law should cease.
- c) The Firearms Act uses very broad terms to define who is eligible to hold a firearms licence: one must decide if it is “desirable” that the person not possess a firearm (sec. 5 (1)), which leaves too much room for subjectivity. This provision should be strengthened.
- d) The time period on which a licence applicant’s eligibility evaluation is based should extend beyond five years. The act specifies that eligibility is based only on the five years preceding the application. Investigators could assess the application for a man who had committed no serious crimes in the previous five years, unaware that he had tried to kill his wife 9 years earlier. Investigators should also have access to criminal proceedings that were subject to a pardon.
- e) *Potential* grounds for denial or revocation of a licence should be extended to all mental illnesses, not just those characterized by violence. The act seeks to prevent people suffering from a mental illness characterized by violence from possessing firearms. However, most people with schizophrenia or Alzheimer’s disease are not violent, but in those cases they should probably still not own firearms.
- f) The law should make it clear that the courts should favor public safety in cases of reasonable doubt. The act lists several infractions that must be taken into account, but taken alone, are often insufficient to justify refusing or revoking a licence. It is usually necessary to demonstrate a history of problematic behavior to convince a judge that a refusal or revocation is justified. It should be easier for the police to demonstrate potential risks and the courts should give them greater weight.
- g) The act does not require an applicant to be physically present in order to obtain or renew a licence. Meeting an applicant in person provides an opportunity to better evaluate all the facts and should be mandatory.
- h) Eligibility for the possession of restricted weapons (eg being a member in good standing of a gun club) should be continuous, as it is in Quebec, rather than only the moment an application is made.

2) Training

Since June of 2015, attending safety training courses is mandatory. However, as this new approach came into effect, it appears that those who offer such courses began using methods that not only encourage participants to recruit others, but also encourage people to obtain a restricted licence, when the original intent may have been to obtain a non-restricted licence only. For example:

- 1) Both restricted and non-restricted courses are often offered at the same time (over one weekend for example);²

² “Part of the increase,” says Andrew Somerset, author of a 2015 book on Canadian and U.S. gun culture, “is related to the safety course would-be gun owners have to take. The first part qualifies someone to own most rifles and shotguns, and an optional second part qualifies them to

- 2) Organizers offer discounts for those taking both courses; and
- 3) Organizers often offer group discounts, including a free course for someone bringing a certain number of participants.

Here are some ads found on the internet (Kijiji):

If you have a group of 10 or more people who would like to get their Possession Acquisition Licence (non-restricted and/or restricted), we will come to you to deliver the course, or you can come to our facility. If you don't have a group of 10 or more, we do offer public courses every second weekend. If you organize a group for a course, you will receive a 50% discount on your registration fee if you sign up 10 people. If you sign up 20 people, you will be registered for free. If you already have your PAL licence and you organize a group, you will receive a monetary bonus.

Gift Certificates available!

Courses offered for both Canadian Firearms Non-restricted and Restricted Fees: \$150 per course. Register for both courses at a discount @ \$250.

We are now taking bookings at Canadian GunHub for the Non-restricted / Restricted Courses. May 13-14, 27-28 at Safety Buzz in Dunmore. 8 hours for Non-restricted on the first day and 4 hours on the second day for Restricted. Max of 12 seats. \$150 for Non-restricted, \$100 for Restricted or \$200 for both. Course must be paid for in advance to reserve your spot. Non-restricted is required before taking the restricted course. Minors between the age of 12-17 can take the non-restricted only. Photo ID required at the course. Come see us at the indoor range or call 403-487-5728.

Recommendation 2: Ban all marketing intended to bolster multiple registrations for safety training courses, including those that encourage concomitant training for restricted weapons as well as the recruitment of more participants through rebates or other incentives.

3) Gun sales and transfers

When Bill C-19 amended the Firearms Act in the spring of 2012, it also eliminated the requirement for a seller to verify the validity of the licence held by a potential buyer in the case of a long gun. The 1995 law required the vendor ("transferor") to inform the Registrar of an imminent transfer of a non-restricted weapon, and the Registrar, after validating the buyer's licence and other relevant information, authorized the transfer.³ However, Bill C-19 amended the Firearms Act⁴ to say that the vendor may ask the RCMP to verify a licence. In fact, the vendor only needs to believe that the purchaser has a licence. According to constitutional and police experts,⁵ as well as the Quebec Bar Association,⁶ this renders the legal transfer of a firearm conditional on the good faith of the vendor, relies on a subjective evaluation, and makes it nearly impossible for the police to prove that the vendor did not believe the buyer had a valid licence.

own handguns and restricted rifles. Many people come in to do the first part and are upsold to do both parts. When you have a firearms safety course and a restricted firearms safety course, and there's a possibility to do them as a one-shot deal or over a weekend, a lot of people say 'Hey, why not do it all in one shot?'" "After the 2015 federal election, Canadian handgun sales broke records". *Global News*, "After the 2015 federal election, Canadian handgun sales broke records", 6 April 2017. <http://globalnews.ca/news/3356614/after-the-2015-federal-election-canadian-handgun-sales-broke-records/>

³ *Firearms Act*, version in force between 12 December 2005 and 4 April 2012. <https://www.canlii.org/en/ca/laws/stat/sc-1995-c-39/32509-sc-1995-c-39.html>

⁴ *Firearms Act*, version in force since 31 October 2016. <https://www.canlii.org/en/ca/laws/stat/sc-1995-c-39/latest/sc-1995-c-39.html>

⁵ Expert witnesses discussing eliminating verification of licences in C-19, 2012. http://polysesouvient.ca/Documents/MINU_12_03_29_Testimony_Licences.pdf

⁶ Private communication with Nicole Dufour, Attorney and Secretary of the Committee on Criminal Law, *Barreau du Québec*, 2012. http://polysesouvient.ca/Documents/MEMO_12_03_29_Senat_BarreauQuebec_AvisC19_ANNOTE.pdf

The RCMP itself referred to this loophole:

*Before April 2012, all firearm sales and transfers required processing and approval by the RCMP Canadian Firearms Program (CFP). If the buyer's licence had been revoked, the transaction would fail and not be approved. Since April 2012, long gun sales and transfers no longer require CFP approval, so a person who has had their licence revoked may be able to deceive a seller by presenting an invalid licence card.*⁷

When a parliamentary committee was studying Quebec's Bill 64 (which will register non-restricted weapons in the province), the provincial minister of Public Safety, Martin Coiteux, repeated that the federal Public Safety Minister, Ralph Goodale, committed to close the loophole in the federal law concerning the verification of a licence's validity⁸, and that it would happen "in this mandate, not a later one."⁹

When mandatory licence verification is restored, it is also important to rectify other elements relevant to public safety.

For example, Bill C-19 also forbade the Registrar (of the Canadian Firearms Centre, managed by the RCMP) to retain any records of requests for verification (section 23.1(2)). The RCMP thus does not have a right to document the fact that a licence verification request was made, including any information about the weapon, the seller, or the potential purchaser, and to report this to the provinces or the police.

Authorization to transfer non-restricted firearms

23 A person may transfer a non-restricted firearm if, at the time of the transfer,

- **(a)** the transferee holds a licence authorizing the transferee to acquire and possess that kind of firearm; and
- **(b)** the transferor has no reason to believe that the transferee is not authorized to acquire and possess that kind of firearm.

Voluntary request to Registrar

- **23.1 (1)** A transferor referred to in section 23 may request that the Registrar inform the transferor as to whether the transferee, at the time of the transfer, holds and is still eligible to hold the licence referred to in paragraph 23(a), and if such a request is made, the Registrar or his or her delegate, or any other person that the federal Minister may designate, shall so inform the transferor.
- **No record of request**

(2) Despite sections 12 and 13 of the *Library and Archives of Canada Act* and subsections 6(1) and (3) of the *Privacy Act*, neither the Registrar or his or her delegate nor a designated person shall retain any record of a request made under subsection (1).

⁷ Royal Canadian Mounted Police, *Firearms Licence Card Seizures: Special Bulletin for Police No. 87 – Amendment* 12 February 2013.
<http://www.rcmp-grc.gc.ca/cfp-pcaf/bulletins/police/20130212-pol87-eng.htm>

⁸ PolySeSouvient, *L'heure juste sur les permis de possession*, 2016.
http://polysesousvient.ca/Documents/DOCU_16_03_09_HeureJuste_PermisDePossession.pdf

⁹ Martin Coiteux, *ministre de la Sécurité publique*, Journal des débats de la Commission des institutions, 25 May 2016.
<http://www.assnat.qc.ca/fr/travaux-parlementaires/commissions/ci-41-1/journal-debats/CI-160525.html>

This limitation is totally nonsensical from a public safety perspective. If someone without a licence or a revoked licence (for public safety reasons, for example) tries to buy a gun, it's in the public's interest for the police to know this. As well, once verification is made mandatory, the system should document verifications in order to be allow police to check whether or not the last person who sold a firearm fulfilled their duty and verified the validity of the new owner's licence (for instance when a gun is found that is not legally owned).

Recommendation 3 - Strengthen measures related to the sale and transfer of firearms,:

- a) require buyers to present their possession licence when purchasing a firearm;
- b) require sellers to verify with the RCMP the validity of a potential buyer's licence before concluding any sale or transfer;
- c) maintain records of the all the verifications, including relevant information such as the vendor's business licence number, the purchaser's possession licence number, the date of the verification, a general description of the firearm and a reference number for the verification;
- d) require the RCMP to notify provincial firearms officers where the potential purchaser's licence has expired, has been revoked or does not exist.

4) Chief Provincial Firearms Officers' discretion and RCMP's interpretation of the law

Bill C-42 downgraded the RCMP's authority with respect to interpreting and applying the law regarding firearms classification, by granting the final decision to politicians (but only to overturn classification decisions in one direction: making guns subject to weaker controls). It is easy to see which interests would be taken into account by a government vulnerable to the political pressures of the gun lobby. Indeed, soon after C-42 was passed, Public Safety Minister Steve Blaney overturned the "prohibited" classification of the "Swiss arms" and CZ858 families in order to make them legal, either "restricted" or "non-restricted" depending on characteristics such as the length of the barrel.

Similarly, Bill C-42 weakened the ability of provincial Firearms Officers to attach specific safety conditions to licences and various authorisations, by subjecting this ability to eventual regulations. This was most likely meant to undermine their ability to establish specific conditions, rules or standards in relation to the granting of licences, according to circumstances as well as provincial public safety priorities, for individuals (eg certification of a psychologist or psychiatrist confirming that an individual's mental illness has been successfully treated), businesses and gun shows, and of authorizations to transport.

- **Recommendation 4: Restore the full discretion of Provincial Firearms Officers (ie: not subject to regulations) as well as the full authority of the RCMP (no political overruling) with respect to the imposition of specific safety conditions for various licences and the classification of firearms, respectively.**

5) Commercial and private sales

Many Provincial Firearms Officers and chiefs of police opposed the elimination of their ability to require gun businesses to keep sales records following the adoption of Bill C-19, predicting that *“the elimination of the ledgers will result in more firearms being sold by businesses to criminals and unlicensed persons”*.¹⁰

Sales ledgers (which began in 1977) were also used to monitor gun dealers’ inventories. According to the Chief Firearms Officer in Saskatchewan, *“A firearm business inspection involves a 100 per cent manual count of all firearms on site. As part of the inspection, the firearms business ledgers — which are a business tool and the property of the business — are consulted on site and compared to the results of the manual count. If the numbers from the manual count and business ledgers do not match, a follow-up investigation may be conducted to determine why the numbers are different and to determine the whereabouts of the business firearms.”*¹¹

Integrating firearms inventories with sales ledgers would not only help monitor gun sales (to make sure they are only sold to licensed individuals), but would also reduce the diversion of guns to the illegal marketplace, a well-known practice.¹² Of most importance is also the fact that looking at a firearm found at a crime scene is an obvious start to any subsequent police investigation.

In the case of an illegal weapon or a gun found on the scene of a crime, the most relevant information is the most recent transaction associated with the firearm, that is, the last legal owner who sold the gun, whether private or commercial. Therefore, private transfers must also be included in sales controls. This is all the more important knowing that a third of all transfers of unrestricted firearms, at least in Quebec, are private sales — this according to the Sûreté du Québec.¹³

Firearms are not perishable goods. They can change hands every ten years and remain fully operational. If police want to trace the most recent transaction involving a firearm, they must be able to do *no matter when* that last transfer took place. Even in the U.S. gun dealers are required to maintain records of all transactions indefinitely, and when a business is terminated, all sales records must be turned over to the government.¹⁴

In the United States there is no centralized system, which greatly complicates the work of ATF agents in tracing gun sales. One agent called it a “f.... nightmare.”¹⁵ In Canada, forcing police go to every firearms dealer in the vicinity of the scene of a gun crime, as they had to do to identify the buyer of the rifle

¹⁰ Superintendent Chris Wyatt, Chief Firearms Officer, Ontario Provincial Police, quote from PolySeSouvient, *Relevant Testimony Regarding Sales Records*, 2012. http://polysesouvient.ca/Documents/MINU_12_06_20_Testimony_Ledgers.pdf

¹¹ PolySeSouvient, *Relevant Testimony Regarding Sales Records*, 2012. http://polysesouvient.ca/Documents/MINU_12_06_20_Testimony_Ledgers.pdf

¹² CBC, “3 men charged with unlawful sale of firearms near Miramichi”, 2014. <http://www.cbc.ca/news/canada/new-brunswick/3-men-charged-with-unlawful-sale-of-firearms-near-miramichi-1.2718448>

¹³ Sûreté du Québec, data on transfers by type of purchaser, 2016. http://polysesouvient.ca/Documents/STAT_16_04_07_Cessions_Entreprises_Particuliers_SQ.pdf

¹⁴ “Licensed firearms dealers are required to maintain records of the acquisition and sale of firearms indefinitely.” <http://smartgunlaws.org/gun-laws/policy-areas/gun-dealer-sales/maintaining-records-on-gun-sales/#federal>

¹⁵ “This is a fucking nightmare.” Records “are kept at the store that sold the gun; only when the retailer goes out of business do the gun records come here to the tracing center.” <http://www.gq.com/story/inside-federal-bureau-of-way-too-many-guns>

used during the Polytechnique massacre, is impractical, unrealistic and costly, and counter to the stated goals of facilitating police work. There are about 2,000 gun dealers in Canada!¹⁶

► **Recommendation 5: Reinstate controls on the sale of unrestricted weapons:**

- a) require gun stores to keep regulated inventories;
- b) reinstate sales ledgers for all commercial gun stores;
- c) require private sales and transfers to be reported to authorities;
- d) ensure that all records of sale/transfers be kept indefinitely;
- e) allow police quick and access to these records.

6) Transportation of restricted firearms

Authorizations to transport restricted weapons existed in Canada since 1913¹⁷; under Bill C-68 and its regulations, an authorization for the transportation of handguns and other restricted or prohibited weapons was required to move restricted guns between an owner's home and his gun club, for example. By integrating the authorization to transport into the possession licences, Bill C-42 allows restricted firearms to be transported at any time and without a specific pre-authorized destination, to a list of pre-determined places including many that have no connection with the owner of the weapon in question (eg: a shooting club at the other end of the province of which the owner is not a member).

As of December 31, 2015, there were 4,522 firearms businesses in Canada¹⁸, in addition to several hundred shooting clubs or ranges. When we add all the police stations¹⁹ and border crossings, we are talking about several thousand "authorized places" across a province like Quebec. Provided that an individual (in possession of a restricted weapon) is found to be between his residence and one of these places, he or she "complies" with the law. It is difficult to imagine a place that is not covered by this "authorization". Thus, although technically there still exists an authorization to transport, the law is written in such a way as to allow, for all practical purposes, the transport of a restricted weapon anywhere within a province.

► **Recommandation 6: Reinstate transportation permits for restricted weapons so they include the specific locations in which a weapon can be present.**

¹⁶ "As of December 31, 2015, there were 4,522 firearms businesses in Canada licenced under the *Firearms Act*, not including carriers and museums. Of these, 2,117 were licenced to sell only ammunition." <http://www.rcmp-grc.gc.ca/en/2015-commissioner-firearms-report>

¹⁷ RCMP, *History of Firearms Control in Canada: Up to and Including the Firearms Act*, 2016. <http://www.rcmp-grc.gc.ca/cfp-pcaf/pol-leg/hist/con-eng.htm>

¹⁸ RCMP, *2015 Commissioner of Firearms report*, 2016. <http://www.rcmp-grc.gc.ca/en/2015-commissioner-firearms-report>

¹⁹ **Ministère de la Sécurité publique**, « Données statistiques sur la desserte policière 2015 », <https://www.securitepublique.gouv.qc.ca/police/publications-et-statistiques/statistiques/desserte-policiere/2015/en-ligne.html>

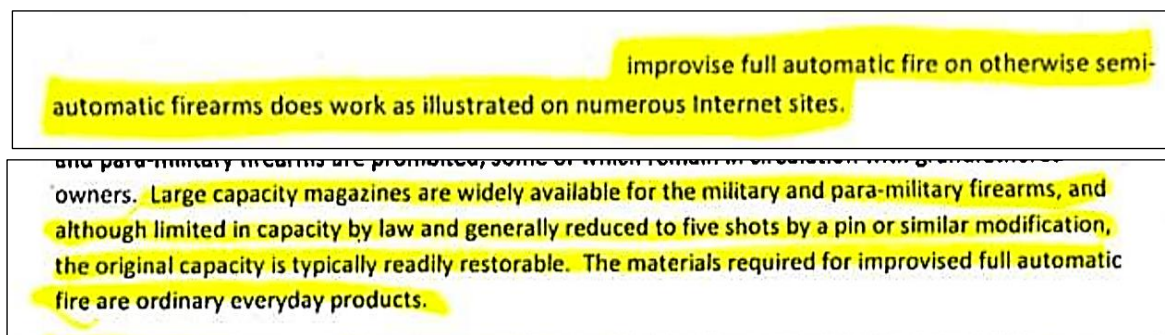
7) Assault weapons

Canadian law defines the categories of "restricted" and "prohibited" weapons according to certain criteria.²⁰ It does not define the term "assault weapons".

The gun lobby claims that assault weapons are already banned, since it defines them as weapons that can fire in an "automatic" mode²¹, which are indeed prohibited by law. However, governments around the world define "assault weapons" otherwise. Many base the definition of an assault weapon on a combination of specific criteria. For example:

- According to the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), certain characteristics distinguish "military configuration" rifles from traditional sporting rifles. These physical features (other than the ability to accept a detachable magazine) include: folding/telescoping stocks, separate pistol grips (to keep a long gun stable during rapid fire), ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights.²²
- More recently, the U.S. Court of Appeal maintained the prohibition on assault rifles enacted by the state of Maryland, which apply to "all center-fired semiautomatic rifles that can accept detachable magazines and have two or more features like a flash suppressor or a pistol grip."²³

Thus, even though certain mechanisms and accessories are prohibited in Canada, the fact that a firearm can accommodate or incorporate these functions or items is in itself a "military configuration" that increases the risk to public safety. Indeed, the RCMP found that it was both fairly easy to get around the restrictions on magazines and accessories.²⁴



²⁰ Royal Canadian Mounted Police, *Classes of firearms*, 2016 <http://www.rcmp-grc.gc.ca/cfp-pcaf/fs-fd/clas-eng.htm>

²¹ Skeeter Abell-Smith with Greg Booth, Taylor Buckner, Eric Cartman, Wayne Chapeskie, Jean Hogue, Ian Jefferson, Gary Mauser, Karen Selick, Carmel Stalteri, Dave Tomlinson, "What about 'military-style assault weapons'?" <http://stason.org/TULARC/society/guns-canadian/5-What-about-military-style-assault-weapons.html>

²² Department of the Treasury, "Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles", 1998, page 1. <https://www.atf.gov/resource-center/docs/guide/departement-treasury-study-sporting-suitability-modified-semiautomatic/download>

²³ *The Trace*, "Assault Weapons Are Not Protected By the Second Amendment, Appeals Court Rules", 2017. <https://www.thetrace.org/2017/02/assault-weapons-not-protected-second-amendment-maryland/>

²⁴ Royal Canadian Mounted Police, *Feasibility and Practicality of Improvised Full Automatic Fire*, 2014. http://polysesouvient.ca/Documents/RAPP_14_11_28 RCMP AutomaticFire.pdf; CBC, *Rifles converted to automatic fire an increasing risk, RCMP internal report warns*, 2016. <http://www.cbc.ca/beta/news/politics/rcmp-rifle-upgrades-semi-automatic-1.3400423>

Shortcomings in the current system — arbitrary criteria

The main problem with the current system is that the criteria do not reflect the risks to public safety in a systematic or coherent way. In fact, on this point we agree with the pro-gun groups: classification based on physical characteristics such as length of the weapon or the barrel often appears arbitrary.

According to the [Criminal Code](#), a restricted firearm is²⁵:

- *a handgun that is not a prohibited firearm,*
- *a firearm that is not a prohibited firearm, has a barrel less than 470 mm in length, and is capable of discharging centre-fire ammunition in a semi-automatic manner,*
- *a firearm that is designed or adapted to be fired when reduced to a length of less than 660 mm by folding, telescoping or otherwise, or*
- *a firearm of any other kind that is prescribed to be a restricted firearm*

Consider the Beretta CX4 Storm, the weapon used in the Dawson College shooting. At the time, it was a restricted weapon. A few years after the school massacre, in late 2013, the manufacturer introduced a new model, one that had been slightly modified to avoid being classified as restricted. Because the new model has a barrel length of 18.5 inches, or slightly over 470 mm, it is a non-restricted weapon.

Restricted version²⁶ :



New, non-restricted version²⁷ :



That is a good example of the arbitrary nature of classification criteria, since the two weapons are almost identical other than the firing mechanism and a slight difference in the length of the barrel.

²⁵ Royal Canadian Mounted Police, Restricted Firearms, 2017. <http://www.rcmp-grc.gc.ca/cfp-pcaf/fs-fd/restr-eng.htm>

²⁶ Magnum Gun Outfitters, Beretta Cx4 Storm Carbine 9mm Rifle, consulted 2 June 2017. <http://www.magnumguns.ca/product/beretta-cx4-storm-carbine-9mm-rifle/>

²⁷ Wolverine Supplies, Beretta CX4 Storm, 9mm, 19" Barrel, Black, Non-Restricted, consulted 2 June 2017. https://www.wolverinesupplies.com/ProductDetail/BER361211222111C_Beretta-CX4-Storm-9mm-19-Barrel-Black-Non-Restricted

Shortcomings in the current system – outdated regulations

Regulations containing the lists of restricted and prohibited weapons were supposed to be updated on a regular basis.²⁸

The regulations list specific models of firearms (e.g., AK-47 rifle, Beretta, M16) known at the time, as restricted or prohibited, and include “variants and modified versions” of those named models (e.g., any version of the Beretta BM59 is prohibited). The term “variant” was employed as a means to capture future firearms that differed slightly (e.g., barrel length, cartridge size) from those specifically listed in the regulations, but were generally the same make and type.

the use of regulations allows for the classification regime to be regularly updated as the technical description of existing firearms and weapons changes as a result of further developments or as new models and devices appear.

Maintaining updated lists of restricted and prohibited weapons is particularly necessary given gun manufacturers practice of circumventing the intent of parliament through minor changes to formerly restricted or prohibited military-style weapons, in order for the new models to earn a less severe classification:

[Translation] Firearms and ballistics expert Alan Voth explained that gun manufacturers study the laws of each country and create adapted versions to suit the laws in each market, to increase sales opportunities.²⁹

The coroner who conducted the investigation into the tragedy at Dawson College rightly criticized the federal government for failing in its responsibility to properly classify the weapon that was used, saying that if the spirit of law had been applied, the CX4 Storm Beretta would have been prohibited.³⁰

[Translation] The legislator did not foresee the development and subsequent popularity of the “bullpup” design when it adopted the Regulations Prescribing Certain Firearms and other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited, Restricted or Non-Restricted. The spirit of the Firearms Act intended that the firearms, such as the CX4 Storm Beretta used by Mr. Gill, be prohibited rather than restricted.

Only the government knows why these lists have never (or rarely) been updated since their creation in 1995, but it is reasonable to believe that it is connected to the enormous pressure coming from the gun lobby, which favour greater availability of assault weapons.

Shortcomings in the current system – classification by third parties

²⁸ RCMP, “Classification of Firearms”, 2012. http://polysesouvient.ca/Documents/DOCU_12_00_00 RCMP_BriefingNote_AssaultWeapons.PDF

²⁹ *La Presse*, Tragédie de Dawson: l'arme du tueur plus accessible qu'il y a dix ans (The Dawson College Tragedy : killer's weapon easier to get than a decade ago), 2016. <http://www.lapresse.ca/actualites/justice-et-affaires-criminelles/faits-divers/201609/12/01-5019503-tragedie-de-dawson-larme-du-tueur-plus-accessible-quil-y-a-dix-ans.php> (translation)

³⁰ *Coroner's Office*, Fusillade au Collège Dawson : Conclusions et recommandations du Coroner, (Dawson College Shooting : Coroner's report and recommendations) 4 September 2008. <http://www.newswire.ca/fr/news-releases/fusillade-au-college-dawson---conclusions-et-recommandations-du-coroner-536574571.html>

Another problem with the current system is that it depends on the good faith of manufacturers or importers, two entities that have a financial interest in least severe classification for the weapons they produce or sell. Despite the conflict of interests — public safety *versus* more profits — the private entities who design or import these weapons are the same ones who propose their initial classification. In general, physical verification of each weapon by the RCMP is only done on rare occasions.³¹

In practice, the classification of firearms is interpreted by the CFP based upon physical inspections conducted by private sector verifiers.

In limited circumstances, the CFP will physically inspect a firearm at the request of law enforcement, a manufacturer or an importer.

According to the RCMP, this results in thousands of weapons being wrongly classified — based on "false statements made by importers and auditors".

The case of the Swiss Arms family and CZ-858s are but two examples that have attracted the attention of the media.³² Despite an initial classification by the importer as "non-restricted", subsequent investigations prompted the RCMP to revise this classification in 2014 to "prohibited", since these guns could "be converted into a fully automatic firearm."³³ With thousands of such weapons already in circulation, and given the abolition of the registry of non-restricted weapons (which prevents the RCMP from identifying their owners), the result is a huge public safety predicament — one that is extremely difficult, if not impossible to resolve.

STRATEGIC CONSIDERATION:

Since it is not possible to determine the total number Swiss Arms Classic Green and other PE90 model rifles currently in circulation, it would prove operationally difficult to identify and communicate with all affected owners should the classification opinion be changed. Consequently, certain owners may inadvertently be in possession of a prohibited firearm and subject to possible criminal liability.

Another lesser-known example is that of the unrestricted SKS rifle. In 2014, the RCMP issued a bulletin to businesses:³⁴

A non-restricted Russian SKS carbine has been found to discharge in a full automatic manner, raising public safety concerns. ... It fires in automatic mode only (there is no semi-automatic mode).

³¹ RCMP, "Classification of Firearms", 2012. http://polysesouvent.ca/Documents/DOCU_12_00_00_RCMP_BriefingNote_AssaultWeapons.PDF

³² CBC, Goodale rescinds Conservative directive that opened door to gun 'misclassification', 2016. <http://www.cbc.ca/news/politics/guns-firearms-rifles-laws-1.3753514>

³³ CZ-858 — at the same time and for the same reasons as Swiss Arms. Royal Canadian Mounted Police, Briefing Note to the Minister of Public Safety and Emergency Preparedness, 20 February 2014. http://polysesouvent.ca/Documents/DOCU_14_02_20_RCMP_BriefingNote_SwissArms_Prohibited.pdf

³⁴ Royal Canadian Mounted Police, The non-restricted SKS carbine — SAFETY ISSUE, 2014 <http://www.rcmp-grc.gc.ca/cfp-pcaf/bulletins/bus-ent/20141114-89-eng.htm>



Quebec's Chief Firearms Officer estimates that "tens of thousands" of them have been imported into Canada,³⁵ including more than 5,000 in Quebec.

But to date, no action on their classification as non-restricted weapons appears to have been taken. (The advertisement to the right is from 5 June 2017).

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Russian SKS M4 7.62x39 Rail + Grip

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 Quantity: 1
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PRODUCT DESCRIPTION

Russian SKS M4 NON RESTRICTED

Why no action? Once again, the only plausible reason for this is the political pressure from pro-gun groups.

Actions taken by the CFP since 2010 to amend incorrectly interpreted classifications have been met with some resistance from owners and with negative media coverage. In

³⁵ **Chief Firearms Officer**, Letter, 20 November 2014. <http://www.sq.gouv.qc.ca/services-en-ligne/armes-a-feu/documents-armes-a-feu-entreprises/lettre-sks-en.pdf>

Shortcomings in the current system – non-restricted assault weapons

Because of all these factors, there are thousands of assault weapons classified not only as legal but as non-restricted.

Take another example, that of the IWI Tavor Tar-21: this weapon is considered an assault weapon by its Israeli manufacturer and "developed in collaboration with the Israeli Defense Forces." This weapon it is not only legally accessible to ordinary citizens, but as an unrestricted firearm, it is not registered and therefore invisible to the authorities.



IWI Tavor Tar-21 – a non-restricted weapon Canada

Approval of new models

Despite the Public Safety Minister's mandate to "Take action to get ... assault weapons off our streets"³⁶, the RCMP continues to approve the sale of new models of assault rifles³⁷ (including two described as "submachine guns" by their manufacturers^{38,39} and one classified as a non-restricted weapon).

When questioned on this topic, the Minister's press secretary stated:

[Translation] ... *the government will not intervene in weapons classifications decisions made by police forces, because they are the experts in technical decisions.*⁴⁰

However, as clearly emphasized by the RCMP's reply to this statement, police forces must operate under the definitions contained in the Criminal Code — definitions that are established by the government — and those definitions currently allow the legal possession of assault weapons.

³⁶ Justin Trudeau, Prime Minister of Canada, Minister of Public Safety and Emergency Preparedness Mandate Letter, 2015. <https://pm.gc.ca/eng/minister-public-safety-and-emergency-preparedness-mandate-letter>

³⁷ *Le Journal de Québec*, « D'autres fusils d'assaut en vente », 25 May 2017. <http://www.journaldequebec.com/2017/05/24/dautres-fusils-dassaut-en-vente>

³⁸ *Czub.cz*, Submachine Gun, consulted 5 June 2017. <http://www.czub.cz/en/produkty/samopaly.html>

³⁹ Sig Sauer, Sig MPX SBR, consulted 5 June 2017. <https://www.sigsauer.com/store/sig-mpx-sbr.html>

⁴⁰ *Le Journal de Québec*, « D'autres fusils d'assaut en vente », 25 mai 2017. <http://www.journaldequebec.com/2017/05/24/dautres-fusils-dassaut-en-vente>



Thus, the RCMP has very little room to maneuver from a public-safety point of view when making classification decisions. Their role is limited to interpreting the law and its criteria.

Recently the RCMP approved sales of at least three assault weapons, including one whose advertisement clearly presents it “military” purpose.

← Manufacturer’s advertising for a weapon recently approved by the RCMP for sale in Canada. It is clearly not intended as a sport or hunting rifle.

Models recently approved by the RCMP:

SIG SAUER MPX



CZ SCORPION EVO 3 S1



↩ Restricted weapons ↗

K&M Arms M17SC



KEL-TEC RDB



↩ Non-restricted weapons ↗

Threat to public safety

There is no rational reason to justify private ownership of firearms designed to kill humans.

This position was shared by a member of the Liberal cabinet, recognizing that there was no reason to allow the possession of semi-automatic weapons in Canada like the one used to shoot down 20 children in Connecticut (referring to the AR-15, another model of assault weapon that is legal in Canada) and that the goal should be "putting them out of circulation, not allowing them to be used."⁴¹

There are many examples of recent tragedies committed with *legal* assault weapons, not only in the U.S. but in Canada, including the murder of three RCMP officers in Moncton⁴², the PQ election night shooting⁴³, the Dawson College massacre⁴⁴ and, according to witnesses and some media reports, the tragedy at the Quebec City Mosque.⁴⁵

Moreover, the RCMP repeatedly alerted the federal Minister of Public Safety as to the risk posed by the availability of these weapons to public safety.⁴⁶

The absence of regularly updating the regulations has allowed firearms to enter the Canadian market as non-restricted firearms, but that would have been classified as either restricted or prohibited had they existed in 1995. This poses a risk to public safety by allowing firearms designed for military and para-military purposes to be easily available to the public.

Justin Bourque used a semi-automatic rifle (a Winchester 308 M305) to shoot three RCMP officers in Moncton in June 2014. This weapon is a Chinese semiautomatic version of the American military's M14, a favorite of military weapons collectors. Bourque legally possessed this weapon.⁴⁷

⁴¹ CBC, *Liberal Marc Garneau floats assault weapon ban*, 18 December 2012. <http://www.cbc.ca/news/politics/liberal-marc-garneau-floats-assault-weapon-ban-1.1228904>

⁴² Royal Canadian Mounted Police, *Independent Review - Moncton Shooting - June 4, 2014*, 2015. <http://www.rcmp-grc.gc.ca/en/independent-review-moncton-shooting-june-4-2014>

⁴³ *La Presse*, « Bain possédait légalement toutes ses armes » (Bain was in legal possession of all his weapons), 29 June 2016. <http://www.lapresse.ca/actualites/justice-et-affaires-criminelles/proces/201606/29/01-4996503-bain-possedait-legalement-toutes-ses-armes.php>

⁴⁴ Coroner's Office, *Fusillade au Collège Dawson : Conclusions et recommandations du Coroner*, (Dawson College Shooting : Coroner's report and recommendations) 4 September 2008. <http://www.newswire.ca/fr/news-releases/fusillade-au-college-dawson---conclusions-et-recommandations-du-coroner-536574571.html>

⁴⁵ *Le Journal de Québec*, « Attentat à Québec : l'arme du présumé meurtrier s'est enrayée », (Quebec City Attack : suspect's weapon jammed) 31 January 2017. <http://www.journaldequebec.com/2017/01/31/attentat-a-quebec-larme-du-presume-meurtrier-s'est-enrayee>

⁴⁶ RCMP, "Classification of Firearms", 2012. http://polysesouvient.ca/Documents/DOCU_12_00_00_RCMP_BriefingNote_AssaultWeapons.PDF

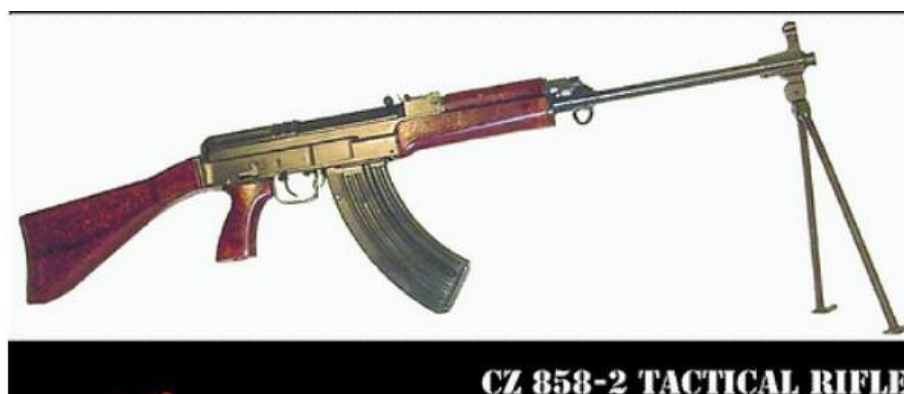
⁴⁷ RCMP, "Independent Review – Moncton Shooting – June 4, 2014", <http://www.rcmp-grc.gc.ca/en/independent-review-moncton-shooting-june-4-2014>: "Justin Bourque had five non-restricted firearms on June 4 *****. He carried an M305 semi-automatic .308 Winchester (7.62x51mm) rifle with one five round magazine and two prohibited twenty round magazines as well as a 12 gauge pump action shotgun throughout the incident. ... **The M305 rifle Bourque used is a Chinese made semi-automatic version of the American M14 service rifle** which was originally adopted in 1959. While there are several model names for the civilian market versions, many colloquially refer to them as "M14s." **It is a relatively large and heavy rifle that is popular primarily with target shooters and military firearms collectors. Bourque claims to have known a method of converting this rifle to automatic fire and reportedly attempted to do so, without success. ... One of his magazines was specifically manufactured to hold five cartridges and the other two were originally 20 round magazines (the standard size for this rifle) that had been pinned to hold no more than five cartridges, in keeping with Canadian law. It appears that the magazine modifications were removed by Bourque so that the magazines could hold 20 cartridges**; turning them into prohibited devices in Canada. Myriad American online sellers of 20 shot magazines offer these for about \$20." ; <http://www.cbc.ca/news/canada/new-brunswick/justin-bourque-latest-revelations-about-man-charged-in-moncton-shooting-1.2665900>



308 Winchester M305

Non-restricted weapon used by Justin Bourque (Moncton, 2014)

Richard Bain had in his possession a CZ-858 and a (modified) 30-round magazine in the attack against Premier Pauline Marois in September 2012. If the weapon had not jammed while trying to shoot a police officer⁴⁸, things would have turned out much worse (one person was killed, stagehand Denis Blanchette). This weapon is made in the Czech Republic. According to an academic expert, the CZ-858 is similar to the AK-47, with only a few differences: the CZ is more powerful but known to experts as being less reliable.⁴⁹



CZ-858 – non-restricted weapon used by Richard Bain (Montreal, 2012)

As stated above, in 2014 the entire model family of this weapon was deemed prohibited by the RCMP because of its ability to "be converted into a fully automatic firearm".⁵⁰ However, the importer's original faulty classification as "non-restricted" or "restricted" (depending on barrel length) was

⁴⁸ **Radio-Canada** : « On a également appris que Richard Bain avait en sa possession, outre un fusil semi-automatique, un chargeur de 30 balles contenant 26 balles. ... Il avait aussi un pistolet qu'il aurait pointé en direction du sergent Stéphane Champagne. Cette arme s'est toutefois enrayée quand il a tenté de tirer sur l'agent, qui a alors pu l'arrêter. Lors d'une perquisition à son domicile dans les Laurentides, la police a saisi une vingtaine d'armes, toutes enregistrées à son nom, mais aussi une perceuse, qui a servi à modifier le chargeur de son fusil. » <http://ici.radio-canada.ca/regions/montreal/2014/11/28/003-richard-bain-attentat-metropolis-requete-remise-liberte.shtml>

⁴⁹ John Hipwell, owner of Wolverine Supplies in Manitoba, and Rémi Landry, associate professor at the Université de Sherbrooke, quoted in *The Gazette*, "Gun used in rampage is popular alternative to prohibited AK-47", 7 September 2012. <https://www.pressreader.com/canada/montreal-gazette/20120907/281625302487734>

⁵⁰ (At the same time as guns from the « Swiss Arms » family and for the same reasons) **RCMP**, 20 February 2014, http://polysesouvient.ca/Documents/DOCU_14_02_20_RCMP_BriefingNote_SwissArms_Prohibited.pdf

reinstated by the Harper government with the power it gave itself through Bill C-42, just weeks before the federal election in October 2015.⁵¹ In 2014, most of these weapons (7,061) were "non-restricted", while 412 were "restricted"⁵².

The legal availability of such weapons is a serious threat to public safety.

Canadians have been horrified by the succession of mass shootings south of the border in recent weeks and months. However, a closer look at the weapons that were used to destroy so many lives so quickly and efficiently reveals that most of the weapons that were used are *legal to own in Canada*:

- **Tehama, Californie, November 14, 2017**: 5 dead and 10 wounded in various locations, including a 5-minute shooting spree at a primary school building in which the killer, fortunately, was unable to enter. Kevin Neal was carrying four weapons; two handguns and two **AR-15** semi-automatic rifles (restricted weapons in Canada). The **AR-15** is said to be the weapon of choice for mass shooters in the United States (**Newtown, Connecticut**, 2012: 26 dead, including 20 children under 7; **Aurora, Colorado**, 2012: 12 dead; **San Bernardino, California**, 2015: 14 dead) and was also used in 1996 at **Port Arthur, Australia**, causing 35 deaths and leading to greater firearms control.



AR-15 : legal in Canada

- **Utherland Springs, Texas, November 5, 2017**: 26 dead and 20 wounded; all the victims, aged 5 to 72, were inside a Baptist church. Devin Patrick Kelley used a gun of the **AR-15 type**, a **Ruger AR-556** semi-automatic rifle (a restricted weapon in Canada⁵³);



AR-556 : légale au Canada

⁵¹ "Today, the Honourable Steven Blaney, Canada's Minister of Public Safety and Emergency Preparedness Canada, announced the Harper Government has amended the firearms classification regulations to prescribe Ceska Zbrojovka (CZ) 858 rifles and certain Swiss Arms family of firearms as "restricted" or "non-restricted" as they were treated prior to February 26, 2014", **Government of Canada**, regulation announced 31 July 2015, <http://news.gc.ca/web/article-en.do?nid=1014559>, http://polysouvent.ca/Documents/LOI_15_07_31_Reglement_CZ858_SwissArms_NonProhibees_ANNOTE.pdf; "Ottawa autorise des armes semi-automatiques prohibées par la GRC », **Radio-Canada**, 7 août 2015. <http://ici.radio-canada.ca/nouvelles/politique/2015/08/07/001-armes-prohibees-ottawa-grc-semi-automatiques-cz858.shtml>

⁵² **Global News**, "427 Quebecers own semi-automatic rifle linked to election-night shooting", Sept. 12, 2012. <https://globalnews.ca/news/284057/427-quebecers-own-semi-automatic-rifle-linked-to-election-night-shooting/>

⁵³ Internet advertising, seen Nov. 16 2017, <http://gonefishinshop.com/product/ruger-ar-556-5-56-nato-rifle-16-restricted/>

- **Las Vegas, October 1, 2017:** The most deadly mass shooting in the United States: 58 people killed and over 500 wounded when Stephen Paddock opened fire on a crowd at a country music festival. The killer had an arsenal of some 25 guns, including one handgun, four **DDM4** rifles (restricted firearms in Canada⁵⁴), three **FN-15** (restricted firearm in Canada⁵⁵), one **AR-15** (restricted firearm in Canada⁵⁶), one **AR-10** (restricted in Canada⁵⁷), one **AK - 47** (prohibited in Canada) and an **LMT** brand rifle (LMT is a manufacturer of military weapons that offers several limited models in Canada⁵⁸).



DDMA : legal in Canada



FN-15 : légale au Canada



AR-10 : légale au Canada

- The second largest mass shooting in the United States was the massacre at a dance club in **Orlando, Florida** on June 12, 2016, where 49 people were killed and 28 wounded. Omar Mateen was in possession of a **SIG Sauer MCX**, a weapon that is also legal in Canada as a restricted weapon⁵⁹.

Sig Sauer MCX :
legal in Canada

► **Recommendation 7: Ensure that assault weapons, or military-style semi-automatic weapons designed to kill humans, are prohibited once and for all:**

- (a) introduce a new classification system, based on a new set of criteria that relates to the destructive capability of weapons, including its ability to accept military type accessories (even if they are prohibited);
- (b) incorporate in the classification process the mandatory physical verification of each new model by the RCMP, including guns identified by manufacturers or importers as unrestricted, BEFORE classification is determined and before the guns is allowed on the Canadian market.

⁵⁴ Internet advertising, seen Nov. 16 2017, <https://www.gotenda.com/shop/firearms/restricted-rifles/daniel-defense-m4-v7-pro-5-56-nato-18-s2w-barrel/>

⁵⁵ Internet advertising, seen Nov. 16 2017, <https://gun-shop.ca/product/fn-america-fn-15-dmr-ii-w-timney-trigger-5-56mm/>

⁵⁶ Internet advertising, seen Nov.16 2017, <http://frontierfirearms.ca/armalite-m-15-defensive-carbine/>

⁵⁷ Internet advertising, seen Nov.16 2017, <https://www.wolverinesupplies.com/ProductDetail/AMLAR103GN18-Armalite-AR-10-3-Gun-Rifle-7-62x51mm-308-18-Competition-Rifle->

⁵⁸ Internet advertising, seen Nov.16 2017, <https://shopquestar.com/shopping65/shopexd.asp?id=2369&bc=no>

⁵⁹ <https://www.thestar.com/news/world/2016/06/15/semi-automatic-rifle-used-in-florida-mass-shooting-is-restricted-in-canada.html>

Shortcomings in the current system – large-capacity magazines

The 1991 law (Bill C-17) imposed a limit of 5 cartridges for long guns and 10 cartridges handguns. This was universally accepted and repeated by many official sources, including the firearms safety manual.

Under the previous Conservative government, the RCMP introduced a new interpretation of these restrictions, one that goes against the intent of the 1991 law as reported by the Senior Political Adviser to Kim Campbell, Minister of Justice at the time, who had worked on drafting the bill in question.⁶⁰

In March 2011, the RCMP issued a special bulletin saying the limits only affect magazines inserted in firearms for which that magazine is designed, not other models that happen to accommodate them:

*The maximum permitted capacity of a magazine is determined by the kind of firearm it is designed or manufactured for use in and not the kind of firearm it might actually be used in. As a consequence, the maximum permitted capacity remains the same regardless of which firearm it might be used in. Example: The Marlin model 45 (Camp Carbine) rifle chambered for 45 Auto caliber uses magazines designed and manufactured for the Colt 1911 handgun, therefore the seven round and eight round capacities are permitted.*⁶¹

In other words, semi-automatic long gun X can be equipped with a magazine with more than five cartridges, provided that the magazine was not designed for this specific weapon, for example if it was designed for gun Y, even if gun Y is prohibited in Canada, and even though the magazine contains 10 rounds or more!

Thus, it would be legal to use a magazine filled with 15 cartridges (5.56 caliber) designed for a "Beowulf" rifle (50 caliber), a prohibited weapon in Canada, in a semi-automatic rifle as long as that rifle is not a Beowulf, as confirmed the RCMP in response to a reporter's question.⁶² Such a configuration is illegal in at least six U.S. states.

This interpretation is incredibly absurd and totally irresponsible.

⁶⁰ John Dixon, Senior policy adviser to Kim Campbell, "I think it's nuts, and I'm shocked to hear it," said Dixon, who helped craft these laws 20-plus years ago. "What the hell is Parliament doing?", "Packing heat: How gun law loopholes tripled Canada's rifle magazine limits", **Global News**, June 11 2013. <http://globalnews.ca/news/619165/packing-heat-how-gun-law-loopholes-tripled-canadas-rifle-magazine-limits/>; "That's news to John Dixon, senior policy adviser on gun control in then-Justice Minister Kim Campbell's office when the laws were being designed. "None of us dreamt of such a loophole. Period," he says. "Nobody was thinking about anything like this." "RCMP says magazine loophole was intended; law's author disagrees", **Global News**, 28 January 2014. <http://globalnews.ca/news/1043355/rcmp-wrong-on-rifle-magazine-loopholes-back-story-campbell-advisor-argues/>

⁶¹ Royal Canadian Mounted Police, Maximum Permitted Magazine Capacity — Special Bulletin for Businesses No. 72, 2011. <http://www.rcmp-grc.gc.ca/cfp-pcaf/bulletins/bus-ent/20110323-72-eng.htm>

⁶² "As for the second question, a spokesperson for the federal Justice Department confirmed to Global News that using a Beowulf magazine as a higher-capacity magazine for a lighter-calibre semi-automatic rifle is legal.", **Global News**, June 11 2013. <http://globalnews.ca/news/619165/packing-heat-how-gun-law-loopholes-tripled-canadas-rifle-magazine-limits/>;



Your question:

For greater clarity: a five-round magazine designed for Beowulf .50 cartridges will also hold 15 rounds of 5.56. Bearing in mind the language of Special Bulletin for Businesses No. 72:

“The maximum permitted capacity of a magazine is determined by the kind of firearm it is designed or manufactured for use in and not the kind of firearm it might actually be used in. As a consequence, the maximum permitted capacity remains the same regardless of which firearm it might be used in.”

Is it legal to use a Beowulf magazine in a rifle chambered in 5.56 as a 15-round magazine?

Response:

Yes. The maximum permitted capacity for a magazine is determined by the kind cartridge that the magazine was designed to contain. Using a magazine cartridge for a semi-automatic rifle as an example, if a magazine is designed to contain 5 rounds of a larger cartridge, but will unintentionally also hold more than the maximum permitted capacity of a smaller cartridge, the magazine would not fall within the definition of a “prohibited device” set out in Part 4 of the *Regulations Prescribing Certain Firearms and Other Weapons, Components and Parts of Weapons, Accessories, Cartridge Magazines, Ammunition and Projectiles as Prohibited or Restricted*. If, however, a magazine is originally designed to contain more than the maximum permitted capacity of a smaller calibre cartridge, but will also hold 5 rounds or fewer of a larger calibre cartridge, the magazine would be a prohibited device.

- Recommendation 8: Revise the measures banning large-capacity magazines in order to eliminate an important loophole and impose a real limit of 5 rounds for non-restricted weapons and 10 for restricted weapons