

**A REPORT ON**

**THE ILLEGAL MOVEMENT**

**OF FIREARMS IN BRITISH COLUMBIA**

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## EXECUTIVE SUMMARY

The report provides an overview of the current situation regarding the illegal movement and indiscriminate use of firearms in the province. It examines the firearms industry in the province, the regulatory framework for firearms control, the agencies involved in enforcement and regulation, the actions of these agencies and the issues associated with the control of firearms. The report sets out a series of recommended actions to provide the basis for a provincial strategy to address the illegal movement and use of firearms.

The report is based on extensive interviews with police and officials of other agencies involved in regulating and enforcing firearms and a review of relevant statistics, reports, legislation and regulations.

Police report a very dramatic increase in the number of firearms and firearms related violence in recent years. This new form of gun violence is disturbing for several reasons: it is largely carried out by organized criminal gangs who are increasingly prone to settling disputes with guns; more shootings are occurring in public places, such as streets, bars and restaurants where the public are at greater risk; and shootings are often wild and indiscriminate. The escalation of gun violence is generally attributed to the struggle for control of B.C.'s lucrative illicit drug trade and the ready availability of illegal firearms.

Interviews with police and other agencies indicated a strong concern with the increased indiscriminate use of firearms and the implications for public safety. There is an evident need for a more concerted effort to deal with the illegal movement of firearms and for the development of a provincial strategy. While there are some actions that can be taken to improve regulation and enforcement activities, a successful provincial strategy will require an infusion of provincial resources; changes to the structure and operation of programs; education and training; closer cooperation between municipal, provincial and federal agencies; changes to practices; and amendments to federal legislation and regulations.

The report identifies a number of recommendations and recommended actions associated with nine principal areas that form the basis for a provincial strategy respecting the illegal use and movement of firearms.

1. Firearms Focus: The Province take leadership by committing to a comprehensive strategy.
2. Firearms Regulation: The Province assume responsibility for administration of the firearms program in B.C.

3. Enforcement: The police and other agencies adopt a strong commitment to tracing of firearms and an aggressive approach to investigation and enforcement.
4. Provincial Weapons Enforcement Team: The Province establish a weapons enforcement unit similar to those existing in Ontario and Quebec.
5. Prosecution and the Courts: The Province implement a policy that in possession of firearms offences, all matters, absent exceptional circumstances, proceed by way of indictment. In addition, the Province establish specialized Crown counsel positions to deal with firearms matters.
6. Training and Education: Agencies designate, educate and train select Crown counsel and police to focus on firearms matters and provide assistance to colleagues.
7. Coordination of Effort: Review current structures in the province to ensure coordination of efforts and sharing of information. Federal and provincial agencies work towards the development of joint strategies.
8. Data Collection: The Province work with other levels of government to improve the collection of data.
9. Legislative and Regulatory Changes: The Province request the federal government to make changes and enact legislation and regulations to improve the control over the illegal movement of firearms.

## INTRODUCTION

The Ministry of Public Safety and Solicitor General commissioned this report because of concerns with the proliferation of illegal firearms and the dramatic increase in firearms related violence, particularly with respect to organized criminal gangs who are more frequently settling disputes with guns. More such shootings are occurring in public places, including streets, bars and restaurants where innocent people are at greater risk. At times they involve automatic firearms where the resulting gunfire is wild and indiscriminate.

This escalated gun violence is generally attributed to the struggles for control of British Columbia's lucrative drug trade and the ready availability of illegal firearms. There are two principal illegal sources for the guns being used by these gangs. These are the firearms which are being domestically sourced, that is, a firearm has a legal history and is subsequently diverted to the criminal community or it has originated from outside of the country, primarily from the U.S., and more particularly from Washington State.

It is considered important to develop a comprehensive picture of the present circumstances with respect to the illegal movement of firearms within and into the province in order to determine what actions can be taken to reduce the illegal movement of firearms.

This report provides information on the current situation regarding the regulatory framework for firearms control; the illegal movements of firearms; the use of illegal firearms to support criminal activity; the agencies involved in regulation and enforcement and their current activities; and makes recommendations regarding changes to impact the illegal movement of firearms.

The degree of cooperation from police and officials of agencies associated with regulation of and enforcement involving firearms has been exceptional. They have all been enthusiastic and extremely helpful and cooperative in providing their time, information and advice. There is a strong consensus among those interviewed that stemming the flow of illegal firearms to the criminal element is a critical issue requiring greater focus and that additional actions need to be taken to be able to improve the current situation.

## **METHODOLOGY**

The report is based on extensive interviews with police and agencies involved in regulation and enforcement controlling the movement of firearms and on a review of relevant statistics, reports, legislation and regulations (see appendix A). In particular it includes:

Interviews and meetings with members of the police forces and agency representatives who have responsibilities which may impact the illegal movement of firearms and the use of firearms by gangs;

Gathering information to enlighten the current situation with regard to gangs and the illegal use and movement of firearms;

Determining current operations of the Office of the Chief Firearms Officer and others agencies involved in the regulation and enforcement of firearms;

Interviewing representatives of firearms businesses;

Obtaining and reviewing current materials which provide information on the agencies and their activities;

Reviewing relevant legislation and regulations; and

Obtaining and analyzing statistics and reports relating to the illegal movement and use of firearms.

## **CRIMINAL USE AND MOVEMENT OF FIREARMS**

Recent years have witnessed a dramatic increase in firearms related violence in British Columbia. While there were 30 gun homicides in the province during 2007, it is currently projected there will be 50 or more in 2008. Most of these homicides will be gang related as a result of their increasing proclivity to settle disputes with guns.

More of these shootings are happening in public places including streets, bars and restaurants where innocent people are at greater risk. In addition, many of the shootings are wild and indiscriminate – a recent incident in the Lower Mainland saw 140 shots being fired. The escalation in gun violence is generally attributed to the struggle for control of B.C.'s lucrative illicit drug trade and to the ready availability of illegal handguns and automatic firearms.

### **Seizures and criminal discharge of firearms**

Police and other agencies interviewed note that the number of firearms seized by the police has dramatically increased in the last ten years. Officers who are aware of what occurs at the street level consistently state that, while ten years ago finding an illegal firearm was a relatively rare event for a regular member, now it is a relatively common occurrence.

Unfortunately, statistics on firearms and the number of seizures by police have not been gathered in a consistent fashion, making it hard to verify any year to year trend. However, one report by the Criminal Intelligence Service, British Columbia/Yukon (CISBC/YT) notes that in 2006 there were 2,309 firearms recovered in 15 Lower Mainland communities. These included 388 registered and 331 unregistered handguns (Appendix L). An Integrated Gang Task Force report on firearms involved in incidents in the Lower Mainland during 2007, noted that 357, or 54% of known gun types, were handguns.

Police also report that there is an alarming increase in the discharge of firearms in public places such as restaurants, bars, neighbourhoods and on the streets. In 2007, there were 247 gang-related shootings in the Lower Mainland. In one incident in a public park, over 115 shell casings were recovered and bullets were found in nearby cars and townhouses. A number of high profile shooting incidents resulting in deaths have occurred in recent years (Appendix J):

- Six individuals were shot and killed in a Surrey apartment in 2007, four of whom were gang members while two were innocent victims.
- Two gang associates were killed in the Fortune Restaurant and six others wounded in the attack during which many other innocent people were in the restaurant.



- One innocent victim was shot and killed while driving a truck similar to that of a gang member in Richmond in 2007.
- Two gang associates were shot and killed on Granville Street in Vancouver when their car was boxed in by two SUVs and their car sprayed with bullets.
- One gang associate was shot and killed in a Chilliwack restaurant in 2008.
- An individual was ambushed and killed in his vehicle in North Vancouver in 2008 where 45 rounds were fired, some apparently from the victim.
- In October 2008, a gang associate was ambushed and killed in daylight in the parking garage of a major Vancouver shopping centre.

The Integrated Gang Task Force reported that in the Lower Mainland for the first four and one half months of 2008, there were 16 fatal firearms incidents resulting in 17 homicide victims and 15 incidents of attempted murder with 34 victims. In addition to these incidents involving victims, the police indicate that the incidents of shots fired on the street continue to escalate. This increase has been reported by police in most areas in the Lower Mainland and also in other areas such as Prince George, Kelowna and Nanaimo. As a result, police are beginning to track the number of shots fired to verify their observations and to determine what areas require their attention.

A 2007 report by CISBC/YT, notes 258 incidents of shots fired in 15 Lower Mainland communities in 2006, with the number of shots fired ranging from one in 69 incidents, to 40 shots in one incident (Appendix M). It was noted that 79% of the incidences occurred in public places. Police believe that most of these incidents are connected to gang members who are either trying to intimidate or retaliate against members of other gangs. Based on activities to date, it is projected there will be 140 homicides in B.C. in 2008 and that 50 of these will be related to organized crime.

## **Gangs**

According to the Integrated Gang Task Force, there are 129 organized crime groups in the province including the Bacon Brothers, UN, Red Scorpions, and Jamaican Posse, all with varying number of members and associates. These gangs are seen as willing to resort to the indiscriminate discharge of firearms in public places and to the use of violence in meeting their ends. Police note gang members often wear protective vests, sometimes have night vision goggles and some have armoured cars. They indicate that many seem to be carrying handguns, in part, for protection and, in part, as a statement of their status.

Police believe that the increase of firearms in the gang culture is closely related to the very profitable illegal sale of drugs in the province. An article in MacLean's of May 19, 2008, estimated that the marijuana industry alone generates revenues of from \$5 billion to \$7 billion a year. The same article refers to CBSA estimates that they have seized more than \$1 billion worth of cocaine at borders in the Pacific Region in the last few years. B.C.-based Asian gangs are reputed to be the largest suppliers of ecstasy to Canada and the U.S.

Studies in Canada, United Kingdom and United States of America support this observed association between drugs and firearms, noting that gang members involved in drugs are more likely to have firearms or be involved in firearms violence. The number of homicides in the first four months of 2008 in the Lower Mainland was nearly three times that of Toronto.

These gangs have proven to be difficult to infiltrate as they are usually loose associations of individuals who have known each other for some time and who are careful in accepting new associates. It also has been difficult to recruit informants because gang members are very focused on eliminating those who may have provided information to the police.

### **Illegal movement of firearms**

The increase in the numbers of shooting incidents, firearms being seized by the police and the incidents of gang members in possession of firearms is not just the result of a greater propensity to use firearms, but according to most sources interviewed seems to be the result of greater accessibility and availability.

Illegal firearms become available through two principal sources. A gun may be domestically sourced, that is, it had a legal history in Canada and was subsequently diverted to the criminal community by sale or theft. An illegal firearm may also originate from outside of the country and be smuggled into Canada.

In 2007, the Tactical Analysis Unit (TAU) of the Canadian Firearms Program conducted an analysis of 2,863 crime guns from seizures made by the Toronto Police Service and firearms submitted for tracing (not all crime guns in the country) and were able to determine the source of 710 guns. Of the 710 firearms, 324 were sourced domestically and 386 were illegally in Canada (Appendix L). The source of the other firearms was not able to be determined due to factors such as the age of the firearm, obliteration of serial numbers and poor record-keeping by businesses. Washington State was the source in 16% of the cases.

In the first six months of 2008, the Tactical Analysis Unit recorded a total of 2,537 firearms seizures in Canada, 477 of which were prohibited firearms and 45% were handguns. Of the total firearms seized 1,393 (55%) were crime guns (a firearm which is illegally possessed, used, or suspected to have been used in a crime or has an obliterated serial number). For the less than

half that can be traced, the sources of crime guns has remained consistent; a large portion of the crime guns recovered in Canada can be traced to dealers in the U.S. (327 U.S. to 79 Canadian dealers). Of this U.S. total, Washington State has 45 dealers linked to a handgun, more than double that of any other state.

The Tactical Analysis Unit collects and collates information from across Canada on firearms seizures and trace statistics. While the reporting of this information is complete and consistent from a number of the integrated gun and gang units across the country, in many instances data collection remains insufficient and cannot be considered representative of all seizures within Canada.

### **Domestic sources**

Domestically sourced firearms can occur through theft, carelessness or neglect, modification of deactivated firearms and illegal sale or transfer by individuals or businesses.

The Canadian Border Services Agency (CBSA) and some police agencies have raised concerns that some businesses in the recent past have been the source of illegal firearms, including replicas which are prohibited devices. The agencies are especially concerned with businesses that are given prop master privileges under the *Firearms Act*, which allow them to bring restricted and prohibited firearms into B.C. for the purpose of supplying the movie industry. It is important to note that importation of restricted and prohibited classes of firearms is not limited to businesses licensed to provide theatrical business services. There are many business activities available under the *Firearms Act* that permit such importations.

In a 2007 CBSA case, charges were laid against four individuals and 800 replica firearms were seized that had been brought in over the previous two years to supply the movie industry, but were diverted to other clients (Appendix F). The replicas included handguns, assault rifles and machine guns and were being sold for between \$40 and \$1,600.

A gang-related shooting in Regina in 2005, led to the seizure of a semi-automatic handgun that was traced to a firearms business in Burnaby. The ensuing investigation led to a series of seizures including 136, from a total shipment of 300, legally imported CZ semi-automatic pistols from the Czech Republic. All 136 of the seized CZ pistols had their serial numbers removed in a manner indicating a high degree of technical skill. Four other seized handguns that had been reported by the business to have been deactivated showed no signs of any such modification and were fully functioning semi-automatic handguns.

In addition to those seized from the shipment of 300 firearms other firearms were also seized from the business. A total of 539 firearms were seized. A comparison of the records of the Canadian Firearms Centre (CFP) and business records indicates there remain 1,913 firearms

unaccounted for, 1,255 of which are handguns. This brings the total number of firearms believed to have been illegally distributed in this case to 2,079. In this situation, the businesses imported the firearms, but failed to record all of the firearms on their inventory and reported others as deactivated that subsequently showed up as fully functioning firearms.

In both of these cases, the businesses had special licences, often referred to as “prop masters”, under section 11(2) of the *Firearms Act* permitting them to possess purchase, import and retain inventories to supply prohibited firearms and weapons for use in respect of motion picture, television, video or theatrical productions (Appendix C).

Police believe there are too many businesses that hold “prop master” licences, far beyond what the movie industry might require. According to major businesses holding such a licence, the movie industry and those engaged in the business are very conscious of their reputation and except for some less scrupulous individuals are careful of how they handle the firearms for the production because of liability, reputation and the need to stay in business. One major business owner who supplies firearms to the movie industry stated that there were too many “prop master” licences across Canada and that the number of firms who need to have inventories should be limited as other businesses could rent the firearms. He suggested that more rigorous regulation is necessary for those entering this type of business.

There are currently 63 firearms businesses in the province with “prop master” licences. Twenty three of the 63 businesses actually maintain an inventory of firearms:

- 9 businesses have inventories of less than 10 firearms;
- 3 businesses have inventories of less than 100 firearms;
- 7 businesses have inventories of between 100 and 900 firearms; and
- 4 businesses have inventories of between 1,000 and 1,400 firearms.

Businesses without a standing inventory to meet the needs of a current contract will purchase or rent items they need from those companies with large inventories, returning the firearms to the original business on completion.

In the last year, a number of firearms businesses have been robbed during business hours and several have had break and enters or attempted break and enters at their premises. In February 2008, Italian Sporting Goods was robbed by an individual carrying an AK47 who held staff at gun point and took 15 handguns; in June, 2008 Lever Arms was robbed at gun point and firearms were taken; and in August 2008 the owner of Lock Stock and Barrel was beaten and a number of handguns were taken.

The business owners interviewed for this report stated that the business community was concerned about their vulnerability to armed and/or violent robberies. They felt that a meeting with Canadian Firearms Program officials and the police to discuss concerns and possible solutions would be worthwhile. As well, they believe that consideration should be given to allowing them to carry firearms in their stores for personal safety reasons and have made that request to the Chief Firearms Officer. One owner felt that the occasional police presence at their business might serve both parties.

### **International sources**

In addition to domestically sourced firearms, illegal firearms may originate from outside of the country and be smuggled into Canada. While some of these firearms may come in from countries outside of North America, based on current statistics the vast majority come from the United States and more particularly, from Washington State. In the U.S., only seven states have banned the sale of assault weapons; only four states require background checks for the sale of handguns at gun shows; and only 24 states require businesses to keep records of sales. Guns may be acquired legally from businesses in the U.S.; from secondary markets such as gun shows, private sales or flea markets, thefts, “straw purchasers” (where an individual acquires a firearm legally on behalf of the actual buyer in order to hide the latter’s identity) and by purchasing firearms using false identification.

Firearms are smuggled into B.C. through designated border crossings using private or commercial vehicles, boats or aircraft. On the unmanned portions of the border, they may be brought over in backpacks, ATVs or boats. While there have been instances involving very large volumes of smuggled firearms, the nature of the market is such that it is more normally the case that firearms, particularly handguns, are being brought into the country by individuals bringing in a small number of firearms on a number of different occasions.

Some believe the firearms are smuggled in by gang affiliates, while others believe they are being smuggled in solely for economic gain. Unfortunately, not enough information has been collected or shared on the individuals associated with the firearm to draw a definitive conclusion. What is clear is that firearms are easily accessible in Washington State and are being brought across the border illegally.

Between 2004 and 2007, the Canadian Border Services Agency intercepted 2,289 firearms, 30% in the Pacific Region. The CBSA reported 662 firearms seized (75% were handguns and 95% of all firearms originated in the US) at the border in 2007, with most of these belonging to legitimate individuals who neglected to declare their personal firearms (Appendix L).

Canada has a lengthy land and water border with the United States which has a significantly higher availability of guns. The U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

and police agencies confirm the ease with which anyone may purchase guns in Washington State at weekly gun shows, flea markets or private sales.

## **Replicas**

While not firearms, there is also a concern regarding replicas as these are items meant to look exactly like a firearm. Replica firearms raise concerns for police in several contexts, including situations where officers must make an instant decision whether an individual is holding a replica or a real firearm. For example, in Burnaby in October, 2006, the police killed an individual after a stolen car chase where the suspect jumping from the car brandishing a replica gun.

Under section 84(1) of the *Criminal Code*, a “replica firearm” means any device that is designed or intended to exactly resemble a firearm, but that is not itself a firearm, but does not include devices intended to resemble an antique firearm (Appendix F). A replica firearm is included in the definition of a prohibited device. Replica firearms, as a type of prohibited device, can be acquired by businesses with any number of prescribed activities, not solely for use as theatrical business. When used to commit a crime, replica firearms are included in the broader definition of imitation firearms and there is a mandatory one year penalty if an imitation firearm is used in committing certain serious offences. At various times, police forces in Canada have lobbied to have tighter restrictions on replica firearms.

Replica firearms may also be reactivated. Earlier this year, a man in England was convicted of converting replica firearms, MAC-10 submachine guns, into functioning guns. He had originally purchased 90 of the replica guns, which only fired blanks, purportedly for use in a movie. Weapons from his operation were connected with 51 of the 58 MAC-10 shootings since 2004 and were linked to eight murders.

Under *Canada’s Storage, Display, Transportation and Handling of Firearms by Individuals Regulations*, replica firearms must be locked in the trunk or similar lockable compartment of a vehicle and must be out of sight. *Canada’s Storage, Display, Transportation and Handling of Firearms and Other Weapons by Business Regulations* covers other transportation regulations.

## LEGISLATION, AGENCIES AND OTHER PROVINCES

### Legislation

While B.C. has a firearms act, its scope and authority are limited to allowing certain individuals such as conservation officers and armoured guards to carry firearms, authorized individuals to seize firearms and the establishment of indoor ranges. However, constitutionally firearms regulation, except for limited circumstances, falls within the federal realm (Appendix N).

The federal government provides for firearms control principally through the federal *Firearms Act* and Part III of the *Criminal Code*. Part III creates firearms related offences regarding use, possession, trafficking and importing/exporting. The principal firearms definitions are contained in the *Criminal Code* including “firearm”, “handgun”, “imitation firearm”, “prohibited firearm”, “replica firearm” and “restricted firearm” (Appendix B).

The *Firearms Act* has 17 different regulations respecting licensing, firearms registration, and importation/exportation, authorizations to transport, gun shows and storage. A licence is issued under the Act to authorize an individual to possess and register a firearm and to obtain ammunition. The standard licence is the Possession and Acquisition Licence (PAL) and it is renewable every five years. A background check is part of the application process and, as a general rule; an applicant must have passed the Canadian Firearms Safety Course. A business requires a valid firearms business licence to possess, manufacture or sell firearms and it is only valid for the activities specified on the licence. A business may only possess prohibited firearms for a specified purpose as set out in section 22 of the Firearms Licences Regulations as, for example, prop masters. All employees of a business who handle firearms require a valid Possession and Acquisition Licence.

All firearms must have a valid registration certificate and to be able to register a firearm an individual must first have a valid firearms licence allowing them to possess the particular class of firearm. A business must register all firearms in their inventory and all firearms must be verified by an approved verifier, an individual who is trained to examine the firearm to ensure the information recorded on the Registration Application is accurate, and then compare this information with the data recorded in the Firearms Reference Table in order to complete the verification.

In 2007, the federal government introduced Bill C-24 which would have repealed the requirement for individuals and businesses to register non-restricted long guns, although retailers would be required to record all sales transactions of non-restricted firearms. This legislation died on the order paper (Appendix D).

## **Participating agencies**

A number of agencies are involved directly or indirectly in a variety of ways with the movement of firearms, including the licensing of individuals and businesses, the imports and exports of firearms, tracing and ballistics testing and the many facets of enforcing the provisions of the *Firearms Act* and Part III of the *Criminal Code*.

### Canadian Firearms Program (Appendix H)

The Canadian Firearms Program (CFP) oversees the administration of the *Firearms Act* and its Regulations; licensing individuals and businesses and registering firearms. Responsibility for the CFP rests with the RCMP. Included within the Program is the Support Services Directorate consisting of:

National Weapons Enforcement Support Team (NWEST), a joint forces operation, which works in a support role with local law enforcement to assist in gathering evidence to successfully prosecute persons involved in the illegal movement and criminal use of firearms.

Canadian National Firearms Tracing Centre which assists law enforcement agencies to determine the origin of crime guns and trace those firearms as they move from owner to owner.

Tactical Analysis Unit which provides intelligence support to front line enforcement units with regard to firearms investigations.

Firearms Reference Table (FRT) is a comprehensive, single source, firearms reference database available to all police and regulatory agencies in Canada. INTERPOL is currently integrating the FRT into their international tracing system.

### Royal Canadian Mounted Police

The RCMP has a primary role as Canada's national police force and is responsible for enforcement of the *Criminal Code*, including firearms offences. In addition to conducting smuggling investigations, it also enforces the Customs Act along the border between official points of entry.

### Canada Border Services Agency (CBSA)

The Canada Border Services Agency (CBSA) is responsible for providing integrated border services that support national security and public safety priorities while facilitating the free flow of goods and services. The CBSA is responsible for assessing and confirming non-resident firearm declarations and collecting the applicable fees under the *Firearms Act* and other



relevant legislation. This involves determining the classification of the firearms, assessing the eligibility of the importer and ensuring that all the firearms are being transported safely.

#### Foreign Affairs and International Trade Canada (DFAIT)

The Canadian Firearms Program works with Foreign Affairs Canada to ensure that Canada's international commitments regarding firearms reflect domestic Canadian priorities and with International Trade Canada to ensure that importers are aware of their obligations under the *Firearms Act*.

#### Criminal Intelligence Service Canada (CISC)

CISC is comprised of nearly 400 members including police agencies from all levels of government as well as various law enforcement, intelligence and regulatory agencies. It is responsible for developing an integrated and intelligence-led approach to tackling organized crime. Its fundamental purpose is to facilitate the timely production and exchange of criminal intelligence within the Canadian law enforcement community.

#### Canada- U.S. Integrated Border Enforcement Teams (IBET)

This is a joint Canada/U.S. initiative combining the intelligence and law enforcement expertise of various agencies and using a coordinated approach to identifying and stopping the high-risk movement of people and goods between the two countries. The CBSA and RCMP jointly operate IBET, sharing the responsibility for collecting critical information to develop criminal intelligence to assist in investigations relating to national security or organized crime. The RCMP and CBSA work with U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement and U.S. Coast Guard.

#### Canada-U.S. Consultative Group on Firearms Trafficking

This group was formed in 2003 to implement law enforcement initiatives that would help prevent and combat firearms trafficking. This is one of eight working groups of the Cross Border Crime Forum and is co-chaired by the Royal Canadian Mounted Police, Canada Firearms Centre and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.

#### U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

The ATF, which is a Department of Justice agency, is responsible for regulating foreign commerce in the firearms and explosives industries. It utilizes forensic laboratories, firearms and bullets tracing capabilities, intelligence, training and web-based informational assets made available to its law enforcement counterparts during investigations.

#### U.S. Customs and Border Protection – Office of Field Operations

US Customs and Border Protection consists of all personnel that work at the 310 points of entry into the U.S. and make determinations about the admissibility of people and goods, including firearms, into the country.

#### U.S. Immigration and Customs Enforcement (ICE)

Created in 2003, ICE is the largest investigative agency within the U.S. Department of Homeland Security. ICE is responsible for investigating a range of issues that may threaten national security and fulfills its mission by identifying and investigating criminal activities and eliminating vulnerabilities that pose a threat to U.S. borders.

### **Other Provinces**

The violence and firearms use by gangs and the illegal movements of firearms are also of significant concern in the province of Ontario, particularly in the Toronto area where there have been numerous incidents involving the indiscriminate discharge of firearms in public places.

As a result of these incidents and general concern about firearms use and accessibility, Ontario has been actively focused on activities to reduce the illegal use and movement of firearms for some years and has more recently increased funding in this area (Appendix G). Initiatives have included:

- Operation of the Canadian Firearms Program by Ontario staff.
- Expansion of the Guns and Gangs Task Force adding more police officers, Crown Counsel, victims services staff and probation officers. There are currently 72 Crown working with police to investigate and prosecute gun violence.
- Education and training of police and Crown on the relevant provisions of the *Criminal Code* and *Firearms Act*.
- The Provincial Weapons Enforcement Unit (PWEU) is a joint force unit with 100 officers under the direction of the Ontario Provincial Police (OPP). It includes member forces from most of the large police services in the province as well as the RCMP and Canada Border Services Agency. PWEU is a support unit to assist all law enforcement in combating illegal weapons. Its mandate is to identify persons involved in the illegal movement of firearms and to take enforcement action.
- Establishment of state-of-the-art Operations Centre that allows for highly coordinated investigations and prosecutions of gun and gang related offences. The Centre houses the Guns and Gangs Task Force, a team of specialized Crown, probation officers and a victims unit.

- Establishment of two major crime courts to handle large scale gun and gang related prosecutions and equipped with high levels of security.
- Ontario Crown is instructed not to withdraw or plea bargain firearms related offences unless there are exceptional circumstances. The Crown must also seek appropriate sentences that will act as a deterrent and, in appropriate cases, consider seeking sentences higher than the mandatory minimum.
- In 2007, Ontario established a 33 member Provincial Organized Crime Enforcement Team (POCET) designed to provide a provincial strategic response to investigations into border related illegal activity in Ontario, such as the smuggling of firearms.
- Close coordination and collocation of agencies to ensure sharing of information and operational activities.
- Ontario has been lobbying the federal government seeking tougher gun laws, including a ban on handguns; more funding for police; increased anti-gun smuggling security at the Canada-U.S. border; and maintaining the Firearms Registry in its present form.

Quebec has chosen, along with several other provinces, to administer the regulation of firearms in its province. As well, Quebec has recently launched a provincial weapons enforcement unit similar to Ontario, but on a smaller scale.

Ontario has provincial legislation, the *Imitation Firearms Regulation Act 2000*, which prohibits the sale, purchase or transfer of convertible starter pistols that could be converted to live ammunition. It also restricts the sale, purchase or transfer of deactivated firearms to individuals 18 years or older; nor shall a business sell an imitation firearm to a person unless the person is 18 years or older.

On September 1, 2008, Quebec enacted an Act to Protect Persons with regard to activities involving Firearms and amending the Act Respecting Safety in Sports. The Act prohibits the possession of firearms in the buildings and on the grounds of childcare facilities and educational institutions and in public and school transportation. The legislation also regulates target shooting with restricted and prohibited firearms in shooting clubs and ranges. It further requires the personnel of educational institutions, public and school bus drivers and persons responsible for shooting clubs to report to police any behaviour indicating that an individual may be endangering individual or public safety by use of a firearm.

## **ACTIVITIES DIRECTED AT THE ILLEGAL MOVEMENT OF FIREARMS**

A number of agencies are involved in regulating, enforcing and prosecuting illegal activities related to the movement of firearms. The complexities associated with conducting effective actions and operations to control illegal activities are reflected in the various integrated units and initiatives that take place within Canada and with U.S. partners.

### **Regulation**

#### **Licensing**

The Canadian Firearms Program (CFP) regulates the possession of firearms by individuals and businesses through licensing and registration (Appendix H). The CFP regulates an individual's possession of firearms in a number of ways, including licensing through eligibility checks, safety training, storage requirements, approval of sales, control over usage and movement, requirements for registration and oversight of shooting ranges.

All holders of a firearms licence are recorded in the Canadian Firearms Information System (CFIS), that every day is automatically run against the Canadian Police Information Centre (CPIC) to determine whether a licence-holder has been the subject of an incident report on CPIC. The CFO automatically receives information on all police incidents that are relevant under the *Firearms Act*, including CPIC PERSONS records, CPIC Criminal Name Index records and CPIC Document records. The CFO can access the information on these records directly through their access to CPIC. The Firearms Interest Police (FIP) records are pointer to local police indices or records management systems (PROS, PIRS, PRIME, etc); normally indicating there may be relevant police incidents where charges have not been laid and/or where there is no fingerprint identification number. In all other jurisdictions CFO offices can then access at least summary information of the incident from the local police index or record management system in order to determine if a request needs to be made for the full record. In British Columbia given the fact that the office of the CFO does not yet have PRIME access, they must request all records in order to determine if they are relevant under the *Firearms Act* or if they have been erroneously coded.

In licensing business, the CFP conducts police checks on owners, people handling guns in the business and people in positions of influence with the business. There is also an inspection of the business premises. The business is licensed for specific purposes such as manufacturing, repair, sale, import, and export. The licence sets out the conditions under which the business may operate and the reporting requirements for the business.

The CFP is also responsible for inspecting and approving the licences of shooting clubs and ranges to ensure they comply with the Shooting Clubs and Shooting Ranges Regulations.

As of September 30 2008, there were 212,316 licensed firearms owners in British Columbia and 874,496 registered firearms. These included 764,509 non-restricted, 81,133 restricted and 28,854 prohibited firearms. As of August 2008, there were 534 businesses with 204 selling only ammunition. Of these 63 businesses have special purpose licences allowing them to possess prohibited firearms for the movie and theatre industries, with 49 of these licences being for theatre only.

The *Firearms Act* came into force in December 1, 1998 and has involved much controversy over the last ten years, especially concerning the registration of long guns and the costs associated with the implementation of the program. However, the program is now operational and most individuals appear to be licensed and most firearms registered.

While the RCMP has operational oversight for the firearms program, policy direction rests with the Department of Public Safety and *Criminal Code* amendments are the responsibility of the Department of Justice.

B.C. also has legislation called the *Firearms Act* which provides for supervision of range, carrying of firearms by armoured car personnel, and the ability for seizure of firearms by conservation or police officers.

## **Registration**

The Registrar of Firearms is responsible for ensuring the registration of all firearms (non-restricted, restricted and prohibited) by licensed firearm owners, for the deactivation guidelines for firearms (see appendix F) and for providing assistance in the classification and description of firearms. The Registrar also maintains the Canadian Firearms Registry (CFR) data ensuring its quality and availability to law enforcement agencies.

All firearms must have a valid registration certificate, although there is currently an amnesty for certain non-restricted firearms. To register a firearm, an individual must possess a valid firearms licence to possess the particular class of firearm. The registration of restricted and prohibited weapons requires a physical verification to be conducted by persons authorized to verify firearms. All firearms in the inventory of a business must be registered and a business must have an approved verifier on staff to verify inventory.

Prior to the current Act, all restricted and prohibited firearms were registered and recorded in the Restricted Weapons Registration System which goes back to 1934. All individuals who had previously registered under the old legislation were required to reregister these firearms under

the new Act. Many did not do so and some concern remains that these firearms were not reregistered, making their ownership and location suspect. However, this data base is still available for tracing purposes.

Given recent concerns about “deactivated” firearms being found by police as crime guns, deactivation is an important issue (Appendix E). A deactivated firearm is one that has been rendered permanently inoperable so that it can no longer fire a projectile and cause bodily harm to an individual and is therefore no longer a firearm and subject to regulation under the Act. The Registrar currently has guidelines for deactivation that require confirmation by a gunsmith that the firearm has been deactivated. The completed form, with the confirmation, is submitted to the Registrar who removes the firearm from the registry. There is criticism of the fact that no physical inspection is required to confirm the deactivation took place, although the data can be subsequently accessed if the firearm shows up at a crime scene.

The current process for deactivation is not considered sufficiently rigorous to ensure that a firearm has been rendered to be “permanently inoperable” as no inspection is conducted. It has been demonstrated in several Canadian cases, that some “deactivated” firearms can be reactivated in anywhere from 10 minutes to a few hours by a qualified person. In 2005, two individuals in the UK were convicted of selling 4,000 deactivated guns with “reactivation kits”, many of which surfaced as crime guns.

The second principal issue alluded to above is the appearance of firearms at crime scenes that had been reported as deactivated, but show absolutely no evidence of having being modified in any way. In response to this issue, the CFO for B.C. will be requiring that she be notified of all guns deactivated by a business and can then follow up and inspect the deactivated firearm as necessary.

### **Importation and Exportation**

Individuals cannot import prohibited firearms, but may bring in restricted and non-restricted firearms with certain conditions. A business possessing a special purpose licence may import prohibited firearms for the movie industry. In order to import prohibited and certain restricted firearms into the Canada, a business must apply to the Department of Foreign Affairs and International Trade (DFAIT) for a permit under the Export and Import Permits Act. DFAIT provides an international import certificate to be used by the exporter to obtain an export permit in the country of origin and DFAIT also provides an import permit to allow the firearms entry into Canada. A shipment will then arrive at the border with the required authorization to import, a permit and the bill of lading. If approved by the CBSA, the shipment of firearms will then proceed to the business which will, in due course, register the firearms.

Currently there is no formal notification of the CFO that the shipment has arrived in the province, until that CFO is notified by the Registrar, when the firearms are registered. Unproclaimed provisions of the *Firearms Act* would require notification of the Registrar by the CBSA. This reliance on registration of the firearm by the business, as the process for notification of their arrival in Canada is a potentially serious flaw in the current process. It can result in unreported prohibited firearms being brought into the country without notification to the CFO.

### **Movement, safety and storage**

In order to obtain a licence, an applicant must either have passed the Canadian Firearms Safety Course or been certified by a Firearms Officer that they have the required competencies. A licence-holder has thereby been made aware of their responsibilities for the safe handling, transport and storage of firearms as required in the Storage, Display, Transportation and Handling of Firearms by Individuals Regulations. A separate set of regulations applies to businesses. Moving restricted or prohibited firearms requires an Authorization to Transport that is issued by the Chief Firearms Officer.

### **Issues with respect to regulation**

A number of concerns have been raised by various individuals and agencies on the regulation of firearms:

The inadequate staffing level of B.C.'s CFO office has resulted in a backlog on a number of matters including FIP investigations and business inspections. The latter is of particular concern with respect to the inventory of firearms, deactivations and prohibited firearms being imported by "prop masters".

The number of "prop master" licences (63 in B.C. compared to only 16 in Ontario) is considered to be high given the nature of the movie industry and the number of available prohibited weapons with the incumbent need for adequate oversight and inspections.

There are gaps in the transfer of information between the Department of International Affairs and Foreign Trade Canada, the Canada Border Services Agency and the CFP with respect to the importation of firearms, due in large part to the non-disclosure provisions of the Customs Act and the failure to bring into force certain provisions of the *Firearms Act* and the Exportation and Importation of Firearms Regulations. The result is that some months may pass before the CFO may become aware, if at all, of the receipt of a major shipment of firearms by a local business.

There are concerns with regard to the lack of clear guidelines on what constitutes a proper deactivation of a firearm and the process which requires no official verification of the deactivation by a firearms or police officer.

The fact that business are not required to report consignment firearms, or lost or stolen firearms to the Registrar represents an additional potential opportunity for gun trafficking.

There are concerns with the definition of a firearm which allows the sale of parts which with a little milling can be made into firearms.

## **Enforcement**

### **Investigation**

Local police departments are involved in day to day activities where they encounter firearms used in the commission of an offence or firearms which have been identified as lost, stolen or turned over for destruction. These officers generally focus on the firearm as an exhibit for court. In some, but not all cases, they pursue tracing of the firearm, but do not necessarily conduct follow-up investigations to prevent trafficking (Appendix K).

The province has established a number of integrated units to focus on gangs, investigation of homicides and investigation of drug trafficking. All of these units have expressed concerns with the trafficking and increased use of firearms in the commission of offences, especially by gang members. These units will focus on the tracing of the firearm and in some cases will devote resources to follow up on the investigation of firearms used in the commission of an offence resulting in information regarding trafficking in firearms.

The Canadian Border Services Agency has a number of mandates, but includes the prevention of smuggling of firearms as a top four priority. The CBSA has an inspection rate of 2% to 3% on all containers and vehicles. Determination to examine is based on intelligence reports and the instinct of officers. Firearms identification and seizure is one of the top priorities which also include narcotics, illegal aliens and *Criminal Code* warrants. Some firearms are subjected to tracing and all are turned over to the RCMP lab in Regina for destruction.

The CBSA operates a customs investigation program that, among other things, helps to deal with firearms smuggling. In August 2008, the CBSA's Criminal Investigations Division concluded a two year investigation that involved the illegal importation and sale of 800 replica firearms and resulted in the laying of 78 charges. In addition, the CBSA works with the RCMP to jointly operate Integrated Border Enforcement Teams (IBETs) with their U.S. partners: U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement and U.S. Coast Guard. The



Canadian agencies share the responsibility for collecting information to develop criminal intelligence to assist in investigations relating to national security and criminal activities.

However, stopping smuggling at the border is not easy given the small number of firearms that may be involved, the ease with which they can be hidden, the necessarily low inspection rate at manned crossings and the great lengths of unpatrolled borders. Generally, actions result from instances when the CBSA is provided with some intelligence regarding a possible smuggling attempt.

### **Support**

Police and other law enforcement agencies in B.C. are supported by the National Weapons Enforcement Support Team (NWEST). It provides direct investigative support to front line policing, assistance with the development and execution of search warrants, crime gun analysis and firearms tracing. The Canadian National Firearms Tracing Centre is also a part of NWEST. It assists law enforcement agencies to determine the origins of crime guns and trace their owners. The Centre works closely with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives to trace illegal firearms that come into Canada (Appendix H).

NWEST has approval for 23 positions in its western region, including an increase of 5 positions for B.C., meaning a staff of 12 for the province. In addition, the agency is considering the deployment of portable vans for firearms functionality, CIBIN testing and for destruction. A van is being tested in the Maritimes in 2008 and if successful, an additional two would be made available in the west. Given the geography of the country this may provide some help, but will not meet all of the needs. In addition, NWEST has been seeking funding for firearms project teams for the last six years, one of which could be stationed in B.C., to follow up on firearms trafficking.

### **Issues with respect to enforcement**

- Suspects in firearms-related investigations are not always pursued utilizing tracing to identify sources and information that may be available regarding the origins and history of seized firearms.
- Projects involving trafficking of firearms can be labour intensive if the police are interested in tracking the operation.
- Enforcement personnel are not sufficiently familiar with Part III of the *Criminal Code* or the *Firearms Act* and how their provisions may assist in the successful prosecution of gang members.

- Firearms offences are not being effectively dealt with by the police, Crown or courts on a consistent basis to serve as a deterrent to persons possessing illegal firearms.

## **Prosecution**

*Criminal Code* offences are prosecuted by the Province and firearms offences under the *Firearms Act* are prosecuted by the Federal government. Under the *Criminal Code*, firearms offences or offences in which a firearm is used have mandatory minimum sentences.

### **British Columbia: Criminal Justice Branch advice to Crown Counsel**

With respect to the ten serious offences listed below, Crown counsel in British Columbia have been advised that whenever the charge assessment standard is met for one of the offences, unless exceptional circumstances exist that offence should be charged and Crown counsel should not accept a guilty plea to a lesser offence so that the accused can avoid the mandatory minimum jail term, Crown counsel should ensure that the charge alleges that a firearm was used in the commission of the offence, so that the mandatory minimum sentence of four years imprisonment will be imposed on convictions (Appendix O).

1. Criminal negligence causing death
2. Manslaughter
3. Attempted murder
4. Discharge of a firearm with intent
5. Sexual assault with a weapon
6. Aggravated Sexual assault
7. Kidnapping
8. Hostage taking
9. Robbery
10. Extortion.

The above offences are specifically excluded from section 85(1) of the *Criminal Code* which creates an offence using a firearm in the commission of an indictable offence and requires that the sentence for that offence be consecutive to any sentence imposed for another offence arising out of the same event or series of events. Unless exceptional circumstances exist, where there is substantial likelihood of conviction for an indictable offence not listed above as

well as for an offence under section 85, Crown counsel in B.C. are advised that both charges should be prosecuted and, where applicable, the notice of greater penalty should be given under section 85 (3) so that the mandatory consecutive jail term is imposed by the court on conviction for the section 85 offence, Where a stay of proceedings is directed on a section 85 charge, the reasons should be noted in the file. Any decision on exception circumstances must first be approved by Regional or Deputy Regional Crown Counsel.

On a charge of murder, Crown counsel in B.C. have been advised that they should particularize on the information and on the Indictment that a firearm was used in the commission of the offence of murder, If a conviction for manslaughter results, Crown counsel would then have recourse to the mandatory minimum sentence of four years under section 236.

### **Ontario: Practice directive to Crown**

In a practice directive dated January 23rd, 2006, Crown counsel in Ontario was given the following advice on firearms related offences.

Where either an imitation firearm or real firearm has been used, provided there is a reasonable prospect of conviction, Crown counsel must not reduce or withdraw a charge to avoid a mandatory minimum sentence, absent exceptional circumstances and then only with the approval of the Crown Attorney.

In those cases where the *Criminal Code* provides for a mandatory minimum four year jail sentence, provide there is a reasonable prospect of conviction, Crown counsel must not withdraw such a charge or Charges, to proceed on the alternative basis that the firearm was an imitation, absent exceptional circumstances and then only with the approval of the Crown Attorney.

Where an accused has been charge with an offence under any of sections 95(Possession of a prohibited firearms with ammunition), 96(possession of a weapon obtained by the commission of an offence) or 102(making an automatic firearm), Crown counsel shall elect to proceed by indictment, absent exceptional circumstances and then only with the approval of Crown Attorney.

### **Comparison between British Columbia and Ontario**

Both jurisdictions provide similar advice to Crown counsel regarding mandatory minimum sentences for firearms offences. The general rule is clear, Crown counsel are not to resolve cases in a manner that would enable an accused to avoid a mandatory minimum jail term, unless there are exceptional circumstances. If there are, Crown counsel is required to seek the approval of their management before contravening the general rule.

With respect to the offences under section 95, 96 and section 102, Ontario directs Crown counsel to proceed by indictment, absent exceptional circumstances and the only with the approval of the Crown Attorney. In B.C. a decision to proceed summarily on one of these specific offences would be made by Crown counsel applying established charge approval criteria, without any requirement for them to find exceptional circumstances or obtain management's approval.

### **Issues**

- Crown may be reluctant to proceed by way of indictment on charges such as carrying a loaded firearm because of the mandatory minimum three year jail sentence.
- Police and Crown indicate that in some cases, firearms charges are dealt off because of the mandatory minimum.
- Police and Crown are concerned that insufficient information on the impact of illegal use of firearms is provided for the prosecution and for the courts.
- Crown Counsel is not always versed in the intricacies of the firearms law and requirements which may impact *Criminal Code* charges.

## **RESEARCH AND BEST PRACTICES**

There has been some research into gun and gang activity which could help to direct any activities the province might pursue in its initiatives. As well, police have indicated that a number of recent programs instituted in various localities are effective.

### **Research literature**

A research report titled, "Strategies for Reducing Gun Violence: The Role of Gangs, Drugs and Firearm Accessibility," George Tita, 2007-3, provides an overview of research conducted into gun violence in the U.S., Canada, the United Kingdom and other countries on what may work to help reduce its impact.

Based on this report of the literature, the following information is provided:

- Increased firearms usage is usually related to drug trafficking or use.
- Availability of firearms is related to greater use of firearms in criminal activity.
- Increased violence is a phenomenon on the increase in large cities such as Toronto, Montreal and Vancouver.

- Effective programs to reduce violence involve the police, community and social agencies and must be sustained.
- Regulating the use and access of firearms as well as ammunition has been found to be effective.
- Although somewhat effective, enforcement alone will not reduce violence.
- Programs proven to reduce gun violence include injunctions moving gang members outside an area, notification meetings which make gang members aware of the efforts to suppress violence, holding all gang members accountable for actions of the gang and developing community working groups to develop strategies.

What appears to be clear from the research and from other similar initiatives is that any program put in place needs to include all agencies and all aspects in a concerted and sustained effort to be effective in the long run.

### **Banning of all handguns**

The United Kingdom, in an effort to reduce violence associated with firearms, introduced a ban on all handgun ownership by the public. Such a similar ban in Canada would possibly result in removing some sources of illegal firearms through straw purchases, theft or diversion of firearms to the criminal element. It would at the same time meet with much resistance from legitimate firearms owners who now act responsibly in the handling and storage of their firearms. It would not stem the flow of smuggled firearms from the U.S. and other countries, nor would it affect the desire of gang members to have firearms to support their illegal activity. Any such ban would require significant resources to implement which might be diverted away from initiatives which target gang members.

### **Promising practices**

The police and other agencies believe that a number of initiatives have been successful in dealing with firearms trafficking and smuggling. Integration and focused enforcement by police agents against gangs has helped to reduce violence in some public places and has resulted in the identification of some trafficking networks.

Increased cooperation and communication between municipal, provincial, federal and international agencies has also improved and agency representatives appear to be committed to continuing that cooperation and overcoming barriers that exist due to legislation and agency rivalry.

Several initiatives have been reported to be successful and include:

- The bar watch program has helped to keep gang members out of bars. Bar watch is a program where the police work closely with bar owners to identify gang members who are asked to leave the premises. Police provide a presence or assist in asking the individual to leave. The purpose is to prevent gangs from claiming the bars as part of their territory and allowing them to intimidate the public and conduct illegal activity. The ability of the police to act on behalf of a bar is currently under legal scrutiny to determine whether the program can continue under current legislation and policy. While most see this as successful, some believe that it only displaces the problem.
- Seizure of firearms and tracing of illegal firearms has helped to identify sources. With policy requiring tracing and with the assistance of NWEST, the police are conducting more traces. Recent improvements in allowing tracing of firearms electronically into the U.S. through E-Trace by ATF have improved the speed of tracing. More firearms are being subjected to tracing, resulting in positive outcomes in determining the source of firearms.
- Special units have been set up to increase cooperation and focus action on gang activity. The Integrated Gang Task Force, Combined Forces Special Enforcement Unit, the Uniformed Gang Task Force and others seem to be having some effect on gang activity. Unfortunately, both Nanaimo and Victoria report that some of the gang activity has increased in their area as the pressure is being increased in the Lower Mainland.
- Communication has improved through the establishment of coordination groups to share intelligence and operational issues. Informal communication links have helped to break down some of the institutional and legislative barriers to sharing information.

## **DISCUSSION**

Based on interviews with members of various police agencies and others, it is clear that there is a substantial concern with the indiscriminate use of firearms especially, but not entirely, by gang members, and its effect on public safety. The policing community provided many examples of incidents in which firearms were used to intimidate others or in which firearms resulted in injury and death in the last few years in a number of Lower Mainland communities. To this point, these guns have not been pointed at the police, but have frequently been discharged in public places putting the public at risk.

The degree of firearms violence and the number of firearms recovered by the police is a phenomenon that has been increasing over the last ten years. In the past, police reported that finding individuals with firearms on the street was a significant event, while now it has become

commonplace. In fact, police report that body armour, night vision goggles and armoured cars owned by gang members are appearing more frequently.

What the police report cannot always be verified by the current level of statistical information. Only recently have the police begun to track information, such as verified shots fired and firearms seized. The latter are described as either crime guns, recovered or surrendered firearms. The definitions of these categories may not be the same for each police force. While each agency currently does record information on the firearms it receives, it does not report the firearms received centrally, nor have a common description of the type of seizure. For example, what is a crime gun versus a found gun?

With the implementation of the Public Agents Regulations effective October 31, 2008, there will be more consistency of recording and the ability to collect aggregate data, at least on firearms, for the province (Appendix O). It will be important that this information being collected centrally by the Registrar is also made available to police forces in the province for their operational use and to provincial policy-makers to assist in their decision-making.

Gang violence and the indiscriminate use of firearms is an issue which has arisen in other major cities in Canada in the last number of years. Like B.C., other provinces are struggling with what needs to be done to cope with the rise in violent use of firearms by gangs. Ontario has put in place significant programs aimed at reducing the trafficking and the indiscriminate use of firearms through a significant infusion of resources across the justice system. It has chosen a path heavy with enforcement for trafficking and for offences involving the use of firearms combined with other social support programs.

### **Enforcement and support actions**

Given the concerns with the amount of firearms violence, the police and other agencies have turned more of their energies and concerns towards the trafficking of firearms by gangs, gang associates and others. Police agencies have in some limited cases conducted investigative projects to determine and eliminate the sources of illegal firearms, some successful, others not. However, many agencies do not have the resources to follow up on tracing information, let alone conduct major projects, which can be resource intensive.

In 2001, the federal government put in place the National Weapons Enforcement Support Team (NWEST) which provided support to police agencies in the investigation of firearms related offences. This team has helped to provide some focus to smuggling and trafficking of firearms through education and operational support. It has served as one of the few agencies focused on collating information on the illegal use of firearms. It has helped to provide some information on the sources of illegal firearms and the means used to move those firearms

illegally. However, NWEST did not provide many of those statistics for the purposes of this report making it difficult to provide a better picture of the current situation.

What needs to occur is an increase of resources dealing with the illegal movement of firearms as well as a new orientation, where every effort is made to reduce the firearms on the street. Removing firearms from the street at the earliest opportunity may not provide a trail of who or what might be involved in trafficking, but it would be less resource intensive and remove the firearm from falling into the wrong hands. Firearms are a tool of the trade used by the criminal element, a means of creating significant violence and a threat to public safety. Removing them from the street as early as possible may interrupt some of the violence.

## **Firearms regulation**

Among those interviewed, there seemed to be general support for the legislation regarding the licensing and registration of firearms. However, the lack of resources provided to regulation and the failure to enact certain provisions of the *Firearms Act*, such as the import and export provisions, has hampered effective control.

There appears to be no strong call for the ban of handguns as has been suggested by the Ontario government. While a ban on handguns might remove some of the available firearms from the criminal element, it would not remove the movement of firearms from United States. In addition, resources would need to be focused on removing firearms from legitimate gun owners.

There is support for B.C. resuming the administration of the Firearms Program. B.C. managed the Firearms Program until March 31, 2002, when it was turned over to the federal government. The Province expressed its concern at the time that it could not effectively administer the program with the reduced budget being offered by the federal government and ensure an adequate level of service and public safety.

Ontario, Quebec, Prince Edward Island, New Brunswick and Nova Scotia, called opt-in provinces, have retained provincial management of the program. Senior officials of the Canadian Firearms Program were not prepared to provide financial information regarding the funding levels for any of the provinces, but did provide statistical comparisons. They stated that the financial comparisons would be difficult as opt-out provinces were operational at the CFO level, receiving support services from the RCMP or other departments, while opt-in provinces are reimbursed for all costs including an administrative fee. They also pointed out that Ontario had funded additional range inspectors from its own budget and Quebec was responsible for other programs. Based on informal sources, for this fiscal year, the Ontario budget is slightly over \$6 million and the Nova Scotia budget is close to \$1 million.



Current cooperation between the office of the Chief Firearms Officer and other agencies is positive. Staff in the Chief Firearms Office has assisted the police in a number of projects and has been cooperative in sharing information.

## **Illegal movement of firearms**

Firearms seized by police and other agencies come from international as well as domestic sources. Stemming the flow internationally is based on good intelligence gathered through cooperation with international agencies and through actions such as the tracing of firearms. Agencies should increase their focus on firearms and develop cooperative strategic actions to reduce the movement of firearms. Current resources focused on the illegal movement of firearms need to be increased, cooperation should be strengthened and barriers to information sharing need to be removed.

Domestic sources of firearms occur through a number of means including thefts, straw purchases, and illegal sales to the criminal element. Stemming the flow domestically requires responsible firearms storage and control by individuals. It requires strong regulatory oversight to ensure that individuals and businesses are eligible and accountable for firearms in their possession. It also requires an enforcement focused on the removing the illegal firearm from the streets at the earliest opportunity and prosecution of offences that serves as a deterrent.

## **Considerations moving forward**

What is clear from the interviews conducted in completing this report is that all agencies are concerned by the proliferation and use of illegal firearms and recognize that additional actions need to be taken to stem the flow and to reduce the illegal use of firearms. There is agreement that a concerted effort is needed by all partners to reduce the risk to the public.

Police agencies, concerned with the current situation, will continue to dedicate limited resources to reduce the illegal movement of firearms and the indiscriminate use of firearms. While there appears to be a consensus on the need to take action, capacity is a major issue for all agencies involved in preventing the illegal movement of firearms. The office of the CFO does not have enough staff to sufficiently regulate businesses or check on problem clients. The police have many responsibilities and priorities and often do not have the additional resources needed to deal with trafficking in firearms. The Crown has similarly limited resources and has not been able to provide resources dedicated to firearms matters.

To be effective, actions must be taken on a number of fronts and must be sustained over a long period of time. Resources will be needed for some initiatives, some require changes in practice, others need knowledge, and others require legislative and regulatory change. Increasing

communication and the sharing of information is essential. There is also a need for the collection of information to confirm what is happening and to determine what is effective.

Whatever additional resources are considered, they should be coordinated with current organizations and command structures. However, any additional resources may need to be segregated to guard against them being absorbed into other initiatives. In addition, resources must be added across the spectrum. It does not help to just put police officers on the street without providing additional resources to Crown counsel to deal with the matters which will inevitably come before them.

## **MOVING FORWARD: RECOMMENDATIONS**

It is evident from the interviews and research conducted in preparing this report that there is a need for a more concerted effort to deal with the illegal movement of firearms and for the development of a provincial strategy. While there are some actions that can be taken to improve regulation and enforcement activities, a provincial strategy will require an infusion of provincial resources; changes to the structure and operation of programs; education and training, closer cooperation between municipal; provincial and federal agencies; changes to practices and amendments to legislation and regulations. The following actions are recommended to provide the basis for a provincial strategy respecting the illegal use and movement of firearms.

### **Firearms focus**

While police and other agencies express concern about the significant number of firearms being recovered and the indiscriminate use of firearms, there is no concerted strategy to deal with illegal firearms in the province.

Many agencies have taken some actions to reduce the movement of firearms, but none are specifically mandated to do so. Agencies involved in reducing the illegal movements of firearms need to develop a focused and coordinated strategy to guide their activities.

### **RECOMMENDATION:**

The Province take leadership with regard to reducing the illegal movement of firearms by committing to a comprehensive strategy. The strategy should include education for youth at risk, education and training for justice personnel, assumption of programs which directly impact the regulation of firearms, an enforcement program with dedicated resources for the justice system, a philosophical approach to remove firearms from the streets at the earliest opportunity, working with the federal government towards critical changes to firearms

regulation, and a commitment to effective sharing and gathering of firearms-related information.

## **Firearms regulation**

The regulation of licensing and registration is an important component in controlling the domestic sources of the illegal movement of firearms. The statistics that are available indicate that approximately half of the illegal movement of firearms is attributable to domestic sources originating from either individuals or businesses. Therefore, an effective regulatory strategy is necessary to control the movement of illegal firearms to the criminal element.

In the last few years, certain businesses and individuals have been able to take advantage of the current Act and the limited resource levels to traffic in firearms. A stricter application of the *Firearms Act* and its Regulations, greater scrutiny and some necessary changes to the Act may have helped to reduce or eliminate some of those sources of illegal firearms.

The federal government has not provided sufficient resources to B.C.'s firearms program, although some increase in resources is anticipated in 2009, to effectively carry out its mandate; checking licensed owners who may no longer be eligible to maintain a licence, conducting business inspections, checking deactivated firearms and working more closely with police to identify problem areas.

Regulation of firearms is the critical focal point for programs and agencies involved in the control of the illegal movement of firearms. If the Province had responsibility for the program it could link regulation more closely to other support and enforcement services. This would allow B.C. to focus on its particular issues and priorities, some of which are unique to this Province. The Province would need to negotiate an appropriate funding level with the Federal government and could provide additional resources to focus on its priorities.

### **RECOMMENDATION:**

The Province take responsibility for administration of the firearms program in B.C. This would ensure improved linkages and integration with provincial programs and provincial priorities. This measure would form the foundation for undertaking other firearms initiatives by the Province.

### **Regulation and inspection of businesses**

Currently, businesses apply for a licence to the CFO for a number of prescribed purposes including export, manufacture, sale, repair, testing, warehousing, training or display. They are subject to inspection at the time of licensing and all principals and those in positions of influence (prescribed relationships) are checked to ensure that they are not, or have not,

engaged in any activities which would make them ineligible to hold a licence. The business then receives a licence for three years and is not inspected again until the licence is renewed or an incident comes to the attention of the CFO that is of concern.

Inspecting businesses every three years on renewal, or when there is a suspected problem, is not sufficient given the product being handled by the business. Businesses need to be inspected on a more frequent basis using a risk management model.

Firearms businesses engaged in the sale of firearms can also handle consignment firearms, that is, they can sell firearms on behalf of other owners. However, they are not obliged to report those firearms as part of their inventory. Current legislation is not clear in relation to the obligation of Businesses to report lost or stolen firearms although it has been argued that it is an offence for an individual to fail to report a lost or stolen firearm under section 105(a) of the *Criminal Code* that this provision extends to organizations by way of section 2 definition of a person in the *Criminal Code*. These omissions and uncertainties within legislation are potentially serious sources for abuse.

Businesses need to be treated as clients subject to regulation and not as trusted agents who self regulate. Some additional requirements must be placed on businesses with regard to the tracking and reporting of firearms in their possession. Greater caution needs to be exercised in allowing businesses to be established, especially with regard to the location and physical plant.

### **RECOMMENDED ACTIONS**

1. The CFO inspect businesses on a more frequent basis using a risk management model for determining which businesses should receive more scrutiny.
2. Businesses are made aware of the requirements to report lost or stolen firearms and be required to report inventory of consignment firearms.

### **“Prop master” businesses**

Firearms of a restricted classification can be imported into Canada by virtue of any number of business license activities including a special purpose licence to supply firearms to the movie and/or theatre industry. This type of business is very specific and requires a good knowledge of the movie industry. The types of firearms used are often replica firearms or guns that can fire blanks with real firearms being used only for close ups.

The current numbers of prop master businesses and those holding firearms inventory are far beyond what is required to support the movie industry. B.C. has 63 such businesses, while Ontario has only 16.

Police are concerned about the privileges awarded to these types of businesses and have identified several cases where these privileges have been abused and resulted in the trafficking of firearms.

Restrictions need to be placed on the number of licences granted for this particular activity, a measure which can be taken under the current legislation. Ontario will not grant a licence to anyone in this category unless there is a clear demonstrated need.

The number of businesses who hold inventories of restricted and prohibited firearms should also be limited as arrangements can be made among business for the rental or lease of firearms. There is no reason for businesses to hold inventories with one to ten firearms as is currently the case.

The CFO in B.C. has recently decided to be more stringent in issuing a prop master licence, requiring there to be a relationship, or intent to enter into a relationship, with the movie industry to provide firearms. In addition, the CFO is developing procedures to restrict the number of prohibited firearms which a licensee is allowed to retain in their inventory. B.C.'s CFO is also introducing a new standard condition on a business licence requiring that within 30 days of the business importing any prohibited firearm into Canada, the business must provide the CFO with the CBSA package that shows the quantity and description of all imported goods.

### **RECOMMENDED ACTIONS**

1. The CFO review prop master businesses who possess this special purpose licence and restrict where possible the ability to carry an inventory, while allowing the business to rent and transport firearms for the purposes of working with the entertainment industry.
2. The CFO substantially limit the number of prop master businesses who have a firearms inventory and not allow a business to hold small amounts of inventory.
3. The CFO conduct more regular checks on prop master businesses and additional checks when notified of large shipments.
4. The Registrar notify the CFO immediately upon registration of restricted or prohibited firearms by prop master businesses.
5. The Canadian Firearms Program review the current legislation, regulation and policy to determine the most effective approach to regulating this industry.

## **Business Security**

Several of those interviewed have indicated that some businesses have been established as small entities operating out of homes. In one case the business was located next to a school, not an acceptable location for a firearms business.

Three robberies have occurred at Lower Mainland businesses resulting in the theft of handguns in 2008. Business owners have expressed concern regarding their vulnerability and are seeking authorizations to carry firearms and help from the police.

### **RECOMMENDED ACTIONS**

1. Review smaller businesses with regard to their location and the security of their facilities.
2. Police identify firearms businesses in their jurisdiction and communicate with those businesses to build a relationship, to be aware of business activities and discourage criminal activities by the business or others.

### **Eligibility to hold a licence**

All holders of a firearms licence are recorded in the Canadian Firearms Information System (CFIS), that every day is automatically run against the Canadian Police Information Centre (CPIC) to determine whether a licence-holder has been the subject of an incident report on CPIC. The CFO automatically receives information on all police incidents that are relevant under the *Firearms Act*, including CPIC PERSONS records, CPIC Criminal Name Index records and CPIC Document records. The CFO can access the information on these records directly through their access to CPIC. The Firearms Interest Police (FIP) records are pointer to local police indices or records management systems (PROS, PIRS, PRIME, etc); normally indicating there may be relevant police incidents where charges have not been laid and/or where there is no fingerprint identification number. In all other jurisdictions CFO offices can then access at least summary information of the incident from the local police index or record management system in order to determine if a request needs to be made for the full record. In British Columbia given the fact that the office of the CFO does not yet have PRIME access, they must request all records in order to determine if they are relevant under the *Firearms Act* or if they have been erroneously coded.

When a FIP is generated regarding these individuals, they are put into review status meaning they cannot transfer (sell or buy) firearms until the CFO reviews the material on file. On review of the material, the CFO may revoke the licence, which would result in the revocation of the registration certificates for firearms. This information would be referred to the police for

action. As of September 2008, there was a backlog of 3,000 files in B.C. requiring review by the CFO staff.

The CFO staff relies on information from police agencies to review these files which results in time delays in getting information. Currently, the CFO has no access to Police Records Information Management Environment (PRIME) and none is expected until 2010. The CFO has to request paper files from the police on reported incidents rather than accessing the files electronically. In the past in B.C., the CFO had access to all information through CPIC.

### **RECOMMENDED ACTIONS**

1. Add more staff to the office of the CFO to carry out these reviews and to more effectively risk-manage these files to ensure public safety.
2. Provide the CFO with access to PRIME to reduce the time spent by the CFO staff on checking police files.
3. The CFO increase efforts to review files and ensure individuals are eligible to continue to hold a licence.

### **Registration and classification of firearms**

Currently, a significant number of firearms owners have not renewed their possession or possession and acquisition licences. As these individuals are no longer licensed, their registration certificates have been revoked. These individuals are then in violation of the *Firearms Act* for not having a licence or a registration certificate for the firearm.

In April 2007, there were 32,108 firearms, which included 1,286 restricted and 679 prohibited firearms, not registered. On average, British Columbia has 597 revocations per month. Of these, 49 pertain to individuals who possess restricted firearms and 23 to those who possess prohibited firearms. Information on these non-registered firearms is sent to police departments who are risk-managing the files. Toronto police have asked for a separate sheet on restricted and prohibited firearms for possible follow up.

In the last ten years, no regulation has been put in place to classify newly manufactured firearms as prohibited. This has meant, for example, that some 50 calibre rifles are prohibited, while others are non-restricted firearms.

### **RECOMMENDED ACTIONS**

1. The Canadian Firearms Program should more diligently search for firearms owners to seek compliance in licensing.

2. Police take actions similar to those of Toronto police and request separate information on restricted and prohibited weapons which are those often used by gang members in shooting incidents.
3. Police follow up on these reports to determine what risks are associated with the possession of those firearms.
4. The federal government review the current classification of firearms to ensure that firearms of similar design are properly designated as prohibited or restricted.

## **Enforcement**

Police indicate that the number of firearms on the streets in the past ten years has increased significantly. While they and other agencies have made efforts to remove those firearms, they have not been successful at stemming the flow.

Firearms are a means by which criminals carry on their illegal behaviour. Removing this tool from their hands can be effective in reducing the risk to the public. The earlier the firearm is removed from their hands the better.

Police need to continue to increase their efforts to trace firearms, interrogate offenders and follow up on tracing information, to help remove firearms from the streets and reduce sources of illegal firearms.

### **RECOMMENDATION:**

The police and other agencies adopt a strong commitment to tracing of firearms and an aggressive approach to investigation and enforcement.

### **Tracing, firearms identification and ballistic testing**

Currently, not every crime gun is traced, nor every suspect interviewed with regard to the origins of the firearms. Interviewing the suspects will often provide additional information regarding the source of the firearm and help in the tracing process to determine the source. Policy has been put forward by the RCMP and some municipal departments regarding tracing and providing information on the services of NWEST and the labs.

If tracing and identification of firearms were to be increased then neither the resources for tracing nor those for identification and testing of firearms may be sufficient to handle the volume. The current capacity for testing suspicious firearms is approximately 100 firearms per month on a national basis.



NWEST has provided a valuable resource to police departments in the identification of firearms, explanation of firearms legislation and in the conduct of traces. The Canadian National Tracing Centre provides on-line web access to trace firearms, called E-trace, which provides access to U.S. Data bases.

Ballistic testing is done via the Canadian Integrated Ballistic Identification Network (CIBIN) using the Integrated Ballistic Identification System. This system is currently being linked to the U.S. with 100 checks as of October 2008 and with full access anticipated next year. This testing assists police officers in linking the bullets to the firearm and in identifying the firearm and in linking one crime to another. Currently, for example, there have been five drive-by shootings in Vancouver linked to the same gun which has yet to be recovered.

### **RECOMMENDED ACTIONS**

1. Review current lab and tracing capacity to ensure sufficient resources.
2. Police departments seek additional information from suspects to determine the source of the firearm.
3. Police departments provide all information on tracing to NWEST to allow them to establish patterns for follow up.

### **Provincial Weapons Enforcement Team**

Police in B.C. may recover firearms in the course of their day to day activities. Although they may conduct traces with the assistance of NWEST, they do not usually have the time to gather intelligence or follow up on the trace information once it is received.

B.C. has a number of integrated units, several of which are focused on reducing gang behaviour or violence involving firearms. These units have made some effort to determine the sources of illegal firearms and to stop the trafficking of firearms, but do not have the capacity required to effectively focus on and deal with firearms.

Whatever the source of illegal firearms, unless police are able to conduct focused investigative and enforcement activities, the number of firearms on the street and their origins will not be reduced. Without directed resources reducing and controlling firearms will remain a lower priority in police investigations.

Specific resources are required which not only provide support to police agencies on firearms matters, but can conduct operational actions in support of local police and integrated units to remove firearms and traffickers in firearms from the street.

## **RECOMMENDATION:**

B.C. establish a weapons enforcement unit similar to those existing in Ontario and Quebec. NWEST would be amalgamated with this unit under a unified command with other provincial police agencies focused on firearms and gangs. Resources would be provided through a joint venture with the federal government and be under Provincial control.

## **Prosecution and the Courts**

Through the interview process, there has been concern expressed that some firearms offences have not proceeded to court and have not resulted in the kind of sentence that would serve as a deterrent to criminals because of insufficient preparation by police or because the charges have been dealt by Crown counsel.

In a policy advisory the Assistant Deputy Minister of the B.C. Criminal Justice Branch advises Crown counsel not to set aside serious offences involving firearms where mandatory minimum sentences apply. However, in possession of firearms cases, the advisory suggests Crown counsel has the discretion to proceed by way of summary or indictment. In Ontario, Crown counsel has been issued a policy directive that, in possession offences, all matters should proceed by way of indictment, unless there are exceptional circumstances, to serve as a greater deterrent to offenders.

In developing a more aggressive approach to prosecution of gang-related matters, the Province established special police units as well as dedicated Crown counsel resources. This special Crown counsel unit, in cooperation with the police, has been effective in taking matters before the court.

A more aggressive stance with regard to firearms prosecutions by police and Crown counsel would require additional resources for all parts of the justice system as firearms offences can be complicated and may require more time to resolve. Crown counsel would need to develop greater expertise with firearms matters and work closely with police.

## **RECOMMENDATION:**

The Province implement a policy that in possession offences, all matters, absent exceptional circumstances, proceed by way of indictment.

The Province establish specialized Crown counsel positions to deal with firearms matters.

## **Matters brought before the Court**

The *Criminal Code* allows for seizure of firearms when there is a threat to public safety. The *Criminal Code* also allows for prohibition and subsequent seizure of firearms with regard to violent criminal activity. Some interviewed believe that the police do not always take advantage of these provisions or that the provisions are not adequately applied by the courts.

Concern has also been raised that the sentences imposed by the courts are not sufficient to deter the illegal possession, use and movement of firearms.

### **RECOMMENDED ACTIONS**

1. Police prepare detailed victim impact statements and sufficient information to inform and convince Crown counsel and the Courts of the seriousness of the firearms offence.
2. Police have face to face meetings with Crown counsel to make them aware of what they consider to be serious firearms violations.
3. Police provide information in cooperation with Crown counsel to the Courts on issues surrounding the return of firearms when criminal charges have been laid or a public safety warrant has been issued.
4. Prepare guidelines and fact sheets for use by victim services, police and Crown counsel.

### **Training and Education**

Concern has been expressed regarding police and Crown counsel familiarity with the *Firearms Act* and firearms-related provisions of the *Criminal Code*. Examples of lack of knowledge include: cases in which the police, Crown counsel and courts are not aware of the requirements with regard to returning firearms to an accused individual; public safety warrants under sections 111 and 117 of the *Criminal Code*; and classes of firearms, whether non-restricted, restricted or prohibited.

Some of this may be due to the split of responsibility between the provincial and federal governments over the regulation of firearms. Prior to the enactment of the new *Firearms Act* in 1998 the police had been much more involved in firearms regulation as they inspected deactivated firearms, were responsible for approving acquisition certificates and were involved in reference hearings. With the federal government assuming responsibility for the firearms regulation, police lost some of their expertise as well as valuable information on the firearms industry.

The *Criminal Code* and *Firearms Act* have a number of special provisions which can be challenging in their interpretation and application, especially if these matters are not being handled on a regular basis. Therefore, it would be helpful to have some designated police and

Crown counsel with a specific focus on this area, to develop expertise and be able to provide advice and assistance to colleagues. Other police and Crown counsel could receive more basic education and training in this area, enhancing their current understanding, providing them with written support material and making them aware of where they may obtain expert advice.

NWEST has provided a yearly conference alternately between East and West and does provide some roll call training. In addition, NWEST is prepared to provide training to Crown counsel. NWEST has seconded the services of an Ontario Crown counsel, who is an expert on firearms matters and has made him available to provide training to other provinces. This training has currently being provided to Ontario, Nova Scotia, Quebec, Manitoba and Alberta. B.C. could benefit from his expertise and should consider a training program which will address both the needs of Crown counsel and the police.

Ontario has designated specific police officers and Crown counsel to focus on firearms matters. These individuals are tasked with dealing with firearms files as well as providing assistance to colleagues in resolving files and in providing training.

In addition, police and Crown counsel could be provided with operational aids to perform their duties. The Canadian Firearms Program previously produced a two page information bulletin that could be taken in police vehicles for easy reference. This material could also include information on who can be contacted to assist in firearms matters so that the correct actions are taken in tracing, charging and statistical reporting.

#### **RECOMMENDATION:**

Agencies designate, educate and train select Crown counsel and police personnel to focus on firearms matters and provide assistance to colleagues.

Develop training and education programs to provide ongoing training for designated personnel to ensure a sound knowledge of firearms, the provisions of the *Firearms Act* and Part III of the *Criminal Code* and provincial strategies.

#### **RECOMMENDED ACTIONS**

1. Review basic and advanced training for police officers to determine the desired extent and nature of training.
2. Provide basic materials to all police officers on the firearms provisions of the *Criminal Code* and on the *Firearms Act* to serve as a reference when they encounter firearms issues.

3. Accept NWEST's offer to provide training on firearms matters through a train the trainer program for both police and Crown counsel in B.C.
4. Prepare material for Crown counsel which clarifies *Criminal Code* matters with regard to firearms including the current practice guide and relevant case law.
5. Coordinate education and training for Crown counsel and police so as to be complementary in their application.

### **Youth Education**

Youth are tempted to enter the gang culture for a number of reasons including the lure of the life style and the amount of money involved, sometimes without understanding all of the personal consequences.

B.C. has an extensive program on deterring young people from gang involvement, but no specific program which focuses on the consequences associated with the firearms culture and the possible consequences.

### **RECOMMENDED ACTIONS**

1. Review provincial programs and make changes as required focusing on youth at risk to deter them from entering the gang lifestyle and to make them aware of the dangers and consequences associated with the illegal use of firearms.

### **Coordination of effort**

A number of different federal, provincial and U.S. agencies are involved in activities which effect the illegal movement of firearms. Various coordinating bodies have been established allowing for the sharing of information and combined operational activities to stem the flow of illegal firearms.

The International Border Intelligence Team includes membership from the RCMP, CBSA, U.S. Drug Enforcement Administration, U.S. Immigration and Customs and Border Patrol. Members share information on cross border activities. The Integrated Homicide Team, Integrated Gang Task Force and Uniformed Gang Task Force communicate on a frequent basis to share intelligence and help set operational priorities. The Canada-U.S. Consultative Group on Firearms Trafficking was developed to implement law enforcement initiatives that would help prevent and combat firearms trafficking.

In light of the inter-relatedness of issues involving guns, gangs and drug trafficking, it is important there be an ongoing coordination of efforts able to successfully focus on these areas.

In Ontario, the government has co-located all provincial agencies involved with gangs and firearms, such as probation, police and Crown, to ensure focused and coordinated efforts.

Stemming the flow of firearms coming into the country from international sources, especially the U.S., will require ongoing cooperation between American and Canadian agencies. It will require good intelligence and a willingness to conduct joint operations. More resources may help to detect sources of firearms.

### **RECOMMENDATION:**

Review current structures in the province to ensure coordination of efforts and sharing of information.

Federal and provincial agencies review their strategies with regard to the illegal movement of firearms and work towards joint strategies.

### **Policy Coordination**

The B.C. Association of Chiefs of Police has a firearms committee to provide policy and program advice on firearms matters. This committee could be requested to revitalize its efforts to provide advice to the Chiefs of police. The committee could focus on mechanisms to ensure the most effective coordination of resources between these various agencies and initiatives. The committee could also examine ongoing changes required with respect to legislation, policy, support services and operations.

### **RECOMMENDED ACTIONS**

1. The Chiefs of Police augment the Firearms committee, making it a priority, and mandating it to develop strategies and make recommendations to reduce the illegal movement of firearms.

### **Data Collection**

The statistics currently available on firearms related matters are incomplete and inconsistent, making it very difficult to make comparisons between regions, examine trends over time or to gain anything but a fragmented understanding of the complete picture.

Definitions are also inconsistent, such as the definitions for seized firearms recorded as crime guns, homicide guns or recovered firearms. It is important for operational purposes and for policy makers that information collected is consistent, comparable, reliable and credible.

A 2008 report by the CFP's Tactical Analysis Unit identifies the importance of seeking more information regarding the persons associated with a particular firearm which would assist in

tracking individuals, identifying associations with organized crime and possible gun traffickers. Agreement is necessary on what information will be tracked, the definition of what is being recorded and the agency responsible for aggregating and reporting on that material. The Public Agents Regulations proclaimed October 31, 2008, will assist in gathering firearms information, but that information needs to be accessible to local and provincial police to conduct operational activities focused on the illegal movement of firearms and to provincial policy-makers.

### **RECOMMENDATION:**

The Province work with other levels of government to improve data collection.

The Province obtain effective access from the Registrar to information submitted by the police under the Public Agents Regulations for police and policy makers.

### **RECOMMENDED ACTIONS**

1. Establish an agreed-upon set of consistent definitions and data requirements that are used by all participants, from the municipal to the federal level, in collecting firearms-related data.
2. Ensure the collection of accurate, complete and consistent data from all jurisdictions on information regarding the number and type of firearms seized, tracing results, number and type of shooting incidents, locale, shots fired, relevant information on individuals and businesses and gang related data.
3. Identify an agency to be responsible for maintaining centralized data collection.
4. The provincial and federal governments need to support more research to determine what strategies should be used and which strategies are effective in reducing the illegal movement of firearms, the indiscriminate use of firearms and the actions taken to stem gang behaviour.

## **Legislative and Regulatory Changes**

The federal government has the authority to legislate and regulate firearms and enacted the *Firearms Act* in December 1998. This Act provides the authority for the regulation of licensing and registration for individuals and business. It provides provisions which impact the control and movement of firearms.

Certain portions of the *Firearms Act* and its regulations have not been proclaimed, such as the import and export regulations. In addition, certain areas such as deactivation have not been addressed in legislation.

## **RECOMMENDATION:**

The Province request the federal government to make changes and enact legislation and regulations to improve the control over the illegal movement of firearms.

### **Import and export of firearms**

Although there are gaps in information sharing on importations for all classes of firearms (non-restricted, restricted and prohibited) there are serious shortcomings in the current oversight of firearms being imported by businesses into Canada as it relates to importations of prohibited firearms by any businesses. The present system depends on the business to register the firearms before the CFO can be made aware of the imported firearms.

Currently, the Registrar and CFO know that firearms have been imported only when the firearms are registered by the business, despite the fact that two other federal agencies, DFAIT and CBSA, are aware of the importation of those firearms. Section 107 of the Customs Act prohibits disclosure of the information.

Sections of the *Firearms Act* and the Importation and Exportation of Firearms Regulations that would require an “authorization to import” from the Registrar as well as notification requirements have not been brought into force. It is not acceptable that restricted and prohibited firearms may enter the country without either the CFO or the Registrar aware of their presence.

Efforts need to be made immediately to put in place a formal agreement to share information among agencies until the federal government enacts the needed regulations and unproclaimed legislation.

Individuals must have a possession and acquisition licence to import either restricted or non-restricted firearms and obtain an Authorization to Transport from the CFO for restricted firearms. No import permit is required as current legislation has not been enacted. For large volumes of imported firearms the Registrar instituted a new policy in 2008, that if an individual registers ten or more firearms as imported, the Registrar will notify the CFO, who then has the option to investigate further. This may be worth investigating, for example, if the same individual is importing a high volume of the same make of gun.

Canada is a party to the UN Firearms Protocol designed to reduce trafficking of firearms. This agreement calls for import markings on all firearms to indicate when firearms entered the country. For example, if a firearm entered Canada in October, the firearm would be marked with CA10/08. While the sponsor for this item, Canada has not put this requirement in place due to the gun lobby. Since 1969, the U.S. has had a requirement that the firearm must be



marked with an identification mark that shows it was imported to the U.S. and the year it was imported.

### **RECOMMENDED ACTIONS**

1. Agencies find administrative, legally sanctioned ways to share information until the current legislative barriers are overcome.
2. The federal government bring into force the unproclaimed provisions of the *Firearms Act* and the Importation and Exportation of Firearms Regulations (Businesses) as soon as possible.
3. The federal government enact provisions for immediate notification of the CFO when firearms being imported by a business arrive at a border crossing.
4. The CFO staff review high volume transfers of firearms by individuals as part of its ongoing practice to determine if there are concerns.
5. The federal government require businesses to notify the CFO upon the arrival of the shipment at customs and register the firearms within 48 hours once obtained from bond.
6. The federal government put in place the requirements for import marking.

### **Deactivation**

The Registrar provides deactivation guidelines which explain the modifications required to a firearm, which will render the firearm a non-firearm and allow it to be removed from the Registry. The existing deactivation standards are only guidelines and as such are not recognized by the courts.

Currently, deactivation is determined by the individual or business that deactivates the firearms with the completion of a form, certified by a gunsmith, sent to the Registrar. The Registrar informs the CFO of deactivations on a monthly basis to allow the CFO to decide if any action should be taken. There may or may not be a follow up inspection by the CFO staff, depending on perceived problems with the individual or business which deactivates the firearm.

In several cases over the last few years, businesses have reported deactivated firearms which have subsequently shown up as crime scene guns. In one case, the owner claimed the firearms must have been reactivated.

## **RECOMMENDED ACTIONS**

1. Set deactivation standards in Regulation.
2. Put requirements in place to have the CFO staff verify that the firearms have been deactivated.

## **Legislation**

Several legislative and regulatory changes have been identified in other sections of this report, namely notification provisions with regard to importation, consignment and lost or stolen firearms, deactivation guidelines and registration of imported firearms. In addition, several others changes are recommended which could improve the regulation of firearms and increase public safety.

Currently, there is a concern regarding the definition of a firearm as set out in the *Criminal Code* as it does not include definitions which would deal with kit guns. These are parts that with little change can be milled into fully functioning firearms. In addition, there continue to be concerns about replica firearms which do not fire, but are meant to look exactly like firearms and can result in significant confusion and tragedy on the streets.

When an individual's licence has been revoked and they apply for a reference hearing, the firearms seized are returned to that individual until the hearing is completed. This is a public safety concern and some provision is necessary, where considered appropriate, for authorities to hold the firearm until the matter is resolved.

## **RECOMMENDED ACTIONS**

1. The federal government amend the definition of a firearm or other provisions to deal with replica firearms and kit guns.
2. The federal government amend provisions to allow authorities, where considered appropriate, to hold firearms until a reference hearing is complete.
3. The federal government add a provision to enable the obtaining of a warrant to seize information when an individual refuses to provide information to the CFO.

## APPENDICES

### Appendix A: List of persons interviewed

Name	Organization
Al Macintyre Assistant Commissioner	Criminal Operations "E" Division RCMP
John Gillies, Director General	B.C. Region, Canadian Security Intelligence Service (CSIS)
Blake Delgaty, Regional Director General	Pacific Region , Canada Border Services Agency (CBSA) Vancouver
Neil Galbraith	CBSA
Superintendent Doug Kiloh, Chief Officer	Combined Forces Special Enforcement Unit, British Columbia
Robert Prior, Director, Federal Prosecution Service	B.C. Region, Department of Justice, Canada
Dean Robinson, Inspector	Vancouver Police Department
John Robin, Superintendent	Royal Canadian Mounted Police – Integrate Homicide Investigation Team
Robert W.G. Gillen, QC, Assistant Deputy Attorney General	Criminal Justice Branch
Gillian Parsons, Crown Counsel	Criminal Justice Branch
Terry Schutes, Regional Crown Counsel	Criminal Justice Branch
Melissa Gillepsie, Regional Crown Counsel	Criminal Justice Branch
Georgia Peters	Criminal Justice Branch

Charge approval Crown	
Doug Kiloh, Superintendent	Combined Forces Special Enforcement Unit
Bob Rich, President	B.C. Association of Municipal Chiefs of Police (BCAMCP) and Chief of Abbotsford Police
Sergeant Kevin Wright	Abbotsford Police
Constable Mike Christensen	Abbotsford Police
Acting Chief Bill Naughton	Victoria Police
Allan Castle, Officer In Charge	Criminal Analysis Section – RCMP “E” Div
Dennis Fiordio, Inspector (Bureau Manager)	Criminal Intelligence Service B.C. and Yukon CISBC
Terry F. Alverson, Assistant Country Attaché	Department of Justice, Bureau of Alcohol, Tobacco, Firearms (ATF) and Explosives
Jim Cuningham, Inspector	OIC National Weapons Enforcement Team (NWEST – Western )
Dick Bent, Chief Superintendent	Deputy Criminal Operations Officer, Community, Contract and Aboriginal Policing Services, "E" Division
Terry Hamilton, Chief Firearms Officer, British Columbia & Yukon	The Canadian Firearms Centre
Bill Van Horne, Corporal NCO i/c NWEST	National Weapons Enforcement Support Team— Vancouver Island
Jeff Lott, Superintendent	Nanaimo RCMP Detachment and Chair Firearms committee” E-Division RCMP
Corporal Sorab Rupa	Nanaimo RCMP Detachment, Serious Crime Unit
Constable Ross Notley	Nanaimo RCMP, Criminal Intelligence Division
Dave Maedel, Executive	Executive Director, Sheriff Services,

Director	Ministry of Attorney General
Sergeant George Moldovanos	Court Services
Jeremy Kerr	Court Services
Wayne Willows, Director	Ministry of Attorney General – Court Services Branch
Kerry May, Inspector	Richmond RCMP Detachment
Superintendent Axel Hovbrender. Director ho	Police Academy, Justice Institute
Chief Derek Egan	Saanich Police
Deputy Chief Mike Chadwick	Saanich Police and Chair BCACP
Bill Naughton, Acting Chief Constable	Victoria Police
Bill Carver	Deputy Director Security Programs, Ministry of Solicitor General—formerly NWEST.
Michael Thompson	Police Services Division, Ministry of Solicitor General
Bill Ard, Superintendent	OIC Border Integrity Program, Integrated Border Enforcement Teams (IBET)
Inspector Cal Christie	RCMP intelligence division
Staff Sergeant Trent Rolfe	Integrated Gang Task Force
Dan Durand, Inspector in charge of operations	South Coast B.C. Transportation Authority Police Service, Formerly GVTAPS
Superintendent Kevin Mole	Canadian Firearms Program
Murray Smith	Canadian Firearms Program
David Pimm	Department of Foreign Affairs and International Trade (DFAIT)
Joe Yoon	Department of Foreign Affairs and International Trade

	(DFAIT)—Export Controls
Vincent A. Paris, Assistant Crown Counsel	Ministry of Attorney General - Ontario
Sergeant Tom Girling	Provincial Weapons Enforcement Unit, Ontario
Tony Cooper, Deputy CFO	Ontario Firearms Program
Pam Goode, Legal Counsel to the CFO	Ontario Firearms Program
Chris Wyatt	Ontario Firearms Program
Suzing Hum, Senior Portfolio Advisor	Firearms and operational Policing Policy Division Policing Policy, Directorate Policing, Law Enforcement and interoperability Branch
Blair Hagen, President	National Firearms Association
Gary Mauser	Profession SFU
Victor Cameli, owner	Italian Sporting Goods, Vancouver
Shane Matheson, owner	Reliable Gun and Tackle Ltd, Vancouver
Tom Felcan, owner	Felcan Industries, North Vancouver
Martin Kraamers, CFO	Firearms Program, Nova Scotia

## Appendix B: Definitions

“**automatic firearm**” means a firearm that is capable of, or assembled or designed and manufactured with the capability of, discharging projectiles in rapid succession during one pressure of the trigger. *Criminal Code s. 84*

“**firearm**” means a barrelled weapon from which any shot, bullet or other projectile can be discharged and that is capable of causing bodily harm or death to a person, and includes any frame or receiver of such a barrelled weapon and anything that can be adapted to be for use as a firearm. *Criminal Code s. 2*

“**handgun**” means a firearm that is designed, altered or intended to be aimed and fired by the action of one hand, whether or not it has been redesigned or subsequently altered to be aimed and fired by the action of both hands. *Criminal Code s. 84*

“**imitation firearm**” means anything that imitates a firearm, and includes a replica firearm. *Criminal Code s.84*

“**prohibited firearm**” means

1. A handgun that
  - Has a barrel equal to less than 105 mm in length, or
  - Is designed to discharge a 25 or 32 calibre cartridge,

But does not include any such handgun that is prescribed, where the handgun is for use in international sporting competitions governed by the rules of the International Shooting Union.

2. A firearm that is adapted from a rifle or a shotgun, whether by sawing, cutting or any other alteration, and that as so adapted,
  - Is less than 660 mm in length, or
  - Is 660 mm in length and has a barrel less than 457 mm in length,
  - An automatic firearm, whether or not it has been altered to discharge only one projectile with one pressure of the trigger, or
  - Any firearm that is prescribed to be a prohibited firearm. *Criminal Code s. 84*

**“replica firearm”** means any device that is designed or intended to exactly resemble, or to resemble with near precision, a firearm, and that itself is not a firearm, but does not include any such device that is designed or intended to exactly resemble, or to resemble with near precision, an antique firearm. *Criminal Code s. 84*

**“restricted firearm”** means

1. A handgun that is not a prohibited firearm,
2. 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,
3. 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
4. A firearm of any other kind that is prescribed to be a restricted firearm.

*Criminal Code s. 84*



## Appendix C: Prop Masters

Under the *Firearms Act*, a firearms business may not possess prohibited firearms except as provided for a “prescribed purpose” under section 11(2) of the Act. These “prescribed purposes” are set out in section 22 of the Firearms Licences Regulations and include use in respect of motion pictures, television and theatrical productions and also the manufacture of replica firearms for these same purposes.

### *Firearms Act*

- (1) A business that is otherwise eligible to hold a licence is not eligible to hold a licence authorizing the business to possess prohibited firearms, prohibited weapons, prohibited devices or prohibited ammunition except as provided in this section.
- 11.(2) A business other than a carrier is eligible to hold a licence authorizing the business to possess prohibited firearms, prohibited weapons, prohibited devices or prohibited ammunition if the business needs to possess them for a prescribed purpose.

### Firearms Licences Regulations (SOR/98-1999)

- 22. The following purposes are prescribed for the purposes of subsection 11(2) of the Act:
  - (f) use in respect of motion picture, television, video or theatrical production or in publishing activities;
  - (g) the manufacture of replica firearms for use in respect of motion picture, television, video or theatrical production or in publishing activities;

Businesses possessing a licence for these purposes, often referred to as “prop masters”, are able to purchase, import and retain inventories of prohibited firearms that can then be rented to movie, television or theatrical productions. In order to obtain a new business licence for these purposes, the business must provide assurances of their intentions and abilities to be involved in the industry.

British Columbia’s Chief Firearms Officer is currently introducing a new procedure whereby conditions may be placed on the licence limiting the amount of inventory a business is permitted to retain.

A business may import bulk orders of prohibited firearms either as a special order for a movie production or to add to their own inventory. The business can import firearms if it obtains an import permit from DFAIT. Assuming it is arriving from outside of Canada, the shipment of

firearms, which must be accompanied by the authorization, is checked by the Canada Border Services and, if passed, proceeds directly to the business. Section 50 of the *Firearms Act* requires that “a customs officer shall inform the Registrar without delay” of the importation of the firearms. However, this provision is not currently in force.

#### Prop Master Businesses in British Columbia

- There are currently 63 businesses in the province permitted to possess prohibited firearms and devices for use in movies, television and theatre.
- Only eight businesses are licensed under section 22(g) relating to the manufacture of replica firearms, although each of these is also licensed under section 22(f).
- Of the 63 licences, 49 have a licence for only theatrical productions.
  - i. Only ten of these 49 businesses have a standing inventory.
- Only 23 of the 63 businesses maintain an inventory of firearms.
  - i. Nine businesses have inventories of less than 10 firearms
  - ii. Three businesses have inventories of less than 100 firearms
  - iii. Seven businesses have inventories of between 100 and 900 firearms
  - iv. Four businesses have inventories of between 1000 and 1400 firearms
- Businesses without a standing inventory to meet the needs of a current contract will purchase or rent items they need from those companies with large inventories, returning the firearms to the original business when the need is completed.

#### Incidents, news stories involving businesses with prop masters licenses

- Royal Sportsman (Burnaby) – Vancouver Sun, May 23, 2008
  - i. Business and five individuals charged in December 2006
  - ii. Distributing almost 2,000 guns; brought in legally under their business license which included a prop master license
- International Tactical Solutions (New Westminster), also known as Lock and Load Armoury – licensed to import weapons for theatrical productions - owned by John Lansdowne
  - i. Two of their guns found at shootout in Richmond January, 2007

- ii. New Westminster Police Sgt Paul Hyland:
  - Said that businesses can deactivate firearms, sending in the paperwork to CF Registry On-line
  - “Once that gun is deactivated, it no longer meets the definition of a firearm, so there is no tracking it anymore. The problem was, as we found it, that the process involved him sending a fax to the CFRO saying ‘the following guns have been deactivated’.”
  - “there was no follow-up from anybody, really, to see if the guns were deactivated”
  - Twelve weapons charges were laid against Lansdowne; he pled guilty to 2 charges, storage of a firearm contrary to regulations and possessing a firearm other than where authorized.
- RCMP intelligence report
  - i. Article in The Chronicle on RCMP intelligence report of November 2007, on trends in gun trafficking and smuggling
  - ii. Claims that dealers bringing in firearms for movie companies have exploited a loophole in the firearms legislation which specifies that firearms “must be registered as soon as practicable” – because there is no time frame, the dealers circumvent the registration process
- Canada Border Services, Richmond Review August 27, 2008
  - i. Two year investigation resulting in seizure of more than 800 replica guns and 78 charges against George Tickell and Matthew Walsh
  - ii. Tickell used a business firearms licence for Geo-Tech Concepts to import the guns as movie props
  - iii. Were sold for \$40 to \$1,600

## **Appendix D: Proposed Federal Legislation**

### BILL C-24: An Act to Amend the *Criminal Code* and the *Firearms Act*

- The principal result would be to repeal the requirement to obtain and hold a registration certificate for a non-restricted firearm (long guns, shotguns, hunting rifles).
- The Registrar would no longer issue or keep records of registration certificates for non-restricted firearms.
- The amendments would make provision for regulations requiring a firearms business to keep a record of all transactions involving the sale, purchase or disposal of non-restricted firearms.
- Bill C-24 received first reading November 16, 2007, and has since died on the Order Papers.

## Appendix E: Deactivated Firearms

- A deactivated firearm is one that has been rendered permanently inoperable, and since it no longer meets the definitional requirements of a firearm under section 2 of the *Criminal Code*, it is no longer subject to regulation under the *Firearms Act*
- The CFP provides “Deactivation Guidelines” indicating steps that must be taken to deactivate different types of firearms. These have been criticized as being too broad and being only “guidelines”, not legislated.
- There is a form to be completed by an individual or business and submitted to the Registrar of Firearms.
- To be considered deactivated by CFP, the firearm must be confirmed by a licensed gunsmith “that the firearm has been modified and is no longer considered a firearm as per the definition of a firearm in section 2 of the *Criminal Code*”.
- Lack of legislated guidelines:
  - An undercover policeman bought 4 deactivated handguns and the parts that could be used to reactivate them from a gun shop in Edmonton.
  - An RCMP gun expert took as little as 10 minutes to reactivate the guns.
  - The owner was found not guilty as it was found there was no legislation binding the owner as to how to deactivate the guns; the judge noted:
    - There is no evidence guidelines are circulated to gun shops or they are accepted by the gun industry.
    - There is also no course to teach deactivation.
    - There are no inspections for these guns.
- In January 2008, the UK Home Secretary announced there would be a ban on deactivated firearms by the end of the year. They may be classified as replica guns which are already banned.
  - The ban would apply to guns deactivated prior to 1995 when deactivation standards were less onerous.

## Appendix F: Replica and Imitation Firearms

“**replica firearm**” means any device that is designed or intended to exactly resemble, or to resemble with near precision, a firearm, and that itself is not a firearm, but does not include any such device that is designed or intended to exactly resemble, or to resemble with near precision, an antique firearm; 84(1) *Criminal Code*

- A replica firearm is a “prohibited device” under 84(1)
- An individual may possess a replica if it was owned by them on December 1, 1998. However, a person cannot acquire, make or import a replica firearm.
- A business may possess, acquire or import replica firearms only if it holds a valid Firearms Business Licence that allows it to possess a prohibited device for an approved purpose.
- When used to commit a crime, replica firearms are included in the broader *Criminal Code* definition of “imitation firearm”. There is a mandatory minimum penalty of one year in prison if an imitation firearm is used to commit one of several enumerated serious offences.
- Shipment of replica firearms must be sent by a carrier that is licensed to transport prohibited weapons.
- August 2008: a man in Britain was convicted of converting replica guns used in films into functioning machine guns that were used in gang killings.
  - The individual purchased 90 MAC-10 replicas from a registered gun dealer for \$100,000 claiming they would be used in a James Bond film.
  - Weapons from his gun factory were connected with 51 of 58 MAC-10 shootings since 2004 and linked to eight murders.
- One of the resolutions arising from the Annual Conference of the Canadian Association of Chiefs of Police in August 2000 was to urge the Minister of Justice “to ban the manufacture, sale, possession and importation of replica firearms” and amend the *Criminal Code* “to include replica firearms as prohibited weapons, thereby making it an offence to possess them”.

- Canada Post:
  - Will not mail replica or inert munitions.
  - Firearms cannot be shipped by air.
- Storage, Display, Transportation and Handling of Firearms by Individual Regulations
  - Under s. 13 an individual may transport a replica firearm only in a locked trunk or similar secured compartment; if the vehicle does not have such a secured compartment, the replica firearm must not be visible and the part of the vehicle containing the replica firearm is securely locked.
- Special Authority to Possess Regulations
  - s. 2(1) - An individual or business may, without a licence, manufacture a replica firearm in performance of a contract to supply the holder of a licence issued for any of the prescribed purposes listed in paragraph 22(f) of the Firearms Licences Regulations.
  - s. 3 - sets out the obligations of the manufacturer which include making records available to a chief firearms officer.
  - s. 8 - a manufacturer may transfer a replica firearm to a person, whether or not they are licensed to acquire replica firearms if acting in the course of their duties with a motion picture production s. 11 anticipates a transfer is only for a year, although it can be extended.
- Appeal to the Canadian International Trade Tribunal, decision and reasons issued July 29, 2008
  - Issue whether CBSA properly classified 2 paintball pistols as prohibited devices.
  - The 2 pistols were replicas of the Walther P99 pistol and were determined by the Tribunal to be replica firearms.
  - The appeal was dismissed.
- Ontario has seen increasing concern, particularly from police, regarding the increasing use of imitation and replica firearms.

- A Coroner's inquest in June 2006 was held into the shooting death of Michael Kolisnyk in a police stand-off in which he possessed a replica firearm.  
Key themes:
  - Need for better regulation of imitation and replica firearms.
  - Greater clarification of the distinction between imitation and replica firearms is needed.
  - More clarification is needed around the division of the provincial and federal governments' legislative responsibilities regarding imitation and replica firearms.
- There is a Federal/Provincial/Territorial Working Group on Imitation and Replica Firearms (last meeting October 2007)
  - Vincent Paris, Ontario Crown, indicated there were problems with flares, starter pistols (e.g. need for semi-automatic starter pistols), pellet guns (500 feet/second) and Airsoft rifles.
  - It was noted that a kit can convert some replica gears from plastic to metal that can increase firing speed from 33 fps to 500 fps.
  - Issues with Part III of *Criminal Code*
    - Proposing a lifetime weapons prohibition order for specified *Criminal Code* offences (formerly in Bill C-82) – supported by Ontario.
- Imitation firearms, replica firearms and beyond (prepared in conjunction with FPT meeting of October 2007 by Vincent Paris)
  - For pellet guns:
  - For possession offences (s. 84(3)), weapons that fire under 500fps are not considered to be firearms.
  - For use offences and non s. 84(3) listed possession offences, need to rely on the 3 part definition given in s. 2:
    - A barrelled weapon
    - From which any shot, bullet or other projectile can be discharged
    - And that is capable of causing serious bodily injury or death to a person.



- The RCMP laboratories and the Centre of Forensic Sciences in Ontario have come up with a new standard of 217 fps
- The goal is now to have a uniform standard for velocity.
- Proposal in Britain to amend firearms legislation to introduce tougher manufacturing standards to ensure that imitation firearms cannot be converted to live ammunition.

“**imitation firearm**” means anything that imitates a firearm, and includes a replica firearm ,  
s.84(1) *Criminal Code*

- There is no offence in the *Criminal Code* outlawing the possession of imitation firearms
- Imitation Firearms Regulation Act, 2000 (Ontario)
  - Restrict purchase, sale, receipt and transfer of deactivated firearms to individuals 18 years or older
  - Bans the purchase, sale, receipt and transfer of convertible starter pistols that could be converted to live ammunition
  - Restrict the sale and transfer of other imitation firearms
  - Does not deal with replica firearms
- Several municipalities in Ontario have introduced bylaws to restrict sale and display of imitation and replica firearms
- The UK has taken a number of measures to combat gun crime
  - Introduced a five year minimum sentence for people convicted of possessing an illegal firearm
  - Made it an offence to possess an air weapon or imitation firearm in public without legal authority or reasonable excuse (maximum sentence increased from 6 to 12 months)
  - Increased the age limit for possession of air rifles to 17
  - Prohibited certain air weapons that are easily converted to fire live ammunition

- The Violent Crime Reduction Act 2006
  - Targets imitation firearms by making it illegal to manufacture or sell imitation firearms that could be mistaken for real firearms, strengthening sentences for carrying and creating tougher manufacturing standards so imitations can't be converted to fire real ammunition.

## **Appendix G: Ontario Initiatives**

Ontario has been very aggressive in combating the illegal movement and indiscriminate use of firearms.

### Provincial Weapons Enforcement Unit (PWEU)

Mandate: to identify and take enforcement action against persons involved in the illegal movement of firearms, ammunition and explosives. This includes the offences of smuggling, trafficking and possession of crime guns.

PWEU defines a crime gun as any firearm:

- That is used, or has been used in a criminal offence;
- That is obtained, possessed or intended to be used to facilitate criminal activity;
- That has a removed or obliterated serial number

PWEU began in 1994 when the Ontario Provincial Police (OPP) received funding to create a dedicated unit. The PWEU is part of the newly formed OPP Organized Crime Enforcement Bureau. With the addition of 50 officers in 2008, the unit now has 130 full-time officers.

Strategic objectives:

- Enhance commitment to combating street gangs
- Enhance commitment to combating organized crime
- Education, training and certification
- Enhance the tracing program (Fate) through partnerships
- Enhance investigative strategies to combat domestic firearm trafficking
- Continued border enforcement strategies
- Strengthen and enhance existing partnerships
- Enhance the capabilities to investigate firearms through technology.

PWEU has partnerships with a number of agencies:

- Criminal Intelligence Services Ontario

- The PWEU and CISO are jointly responsible for Project FATE, the firearms tracing program.

#### Canadian Intelligence Service Canada

- Works with CISC and contributes to National Firearms Trafficking Strategy
- Participates in the CISC national Collection Plan and provides input to National Firearms Tracing strategies.

#### National Weapons Enforcement Support Team

- NWEST supports the National Firearms Tracing Program in conjunction with CISC.

#### Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE)

- PWEU described as having exceptional working relationship with BATFE
- The two organizations partner through training initiatives and professional development
- A BATFE Special Agent works out of the US Consulate and PWEU has assigned a full-time investigator to work in partnership with the BATFE Special Agent.

PWEU initiated the guns for observation category on CPIC to identify those individuals in Ontario and the U.S. who are responsible for supplying crime guns.

The Crime Gun Analysis Team (CGAT) is responsible for the Firearms Tracing and Enforcement program (FATE), Project Source (the database listing all firearms that come into police custody across the province) and the Removal of manufacturer Applied Number Common Eradication (Project ROMANCE serial number restoration program). Also responsible for training on firearms identification, tracing and gun analysis and characteristics of an armed person – in 2007 provided 109 training sessions to 4,000 attendees.

#### 2007 statistics:

- 852 firearms seized
- 345 persons charged
- 1,671 *Criminal Code* charges laid
- 705 firearms traced
- 421 occurrences opened
- 247,251 (running total) firearms entered into the Project SOURCE database

## **Appendix H: Canadian Firearms Program**

### History

- The first official registration requirement was for handguns and was established in 1934.
- A centralized handgun registry was established in 1951 which also required the registration of automatic firearms.
- The categories of restricted and prohibited weapons were added in 1969 and included a requirement that every restricted weapon must have a separate registration certificate.
- Firearms licensing legislation was introduced in 1977 resulting in the first screening process for prospective firearms owners. These measures were strengthened through legislative changes in 1991.
- The current universal licensing and registration system was announced in 1993, followed by Bill C-68: An Act Respecting Firearms and Other Weapons which was tabled in early 1995, received Royal Assent in December 1995 and came into force October 1998.
- The gradual implementation of the Act required individuals to be licensed by January 1, 2001 and firearms to be registered by January 1, 2003.
- British Columbia agreed to implement and administer this federal program to ensure the provision of an acceptable level of service to firearms owners and businesses in the province.
- In December 2001, B.C. advised the federal government it was not prepared to administer the Firearms Program for the funding being provided as it could not enable the Province to meet service requirements while placing a priority on public safety.
- The administration of the Firearms Program was turned over to the federal Department of Justice effective March 31, 2002. Five provincial governments – Nova Scotia, Prince Edward Island, New Brunswick, Quebec and Ontario – continue to administer the program in those provinces.
- The firearms program was transferred to the RCMP in 2006.

### Organization

In addition to licensing and registration, the CFP has the Firearms Support Services Directorate (FSSD) consisting of:

- The National Weapons Enforcement Support Team
- The Canadian National Firearms Tracing Centre
- The Tactical Analysis Unit
- The Firearms Reference Table.

The Canadian Firearms Information System (CFIS) provides administrative and enforcement support to all partners involved in licensing of firearm owner/users, registration of all firearms, and the issuance of authorizations related to restricted firearms.

The Canadian Firearm Registration On-line (CFRO) consists of a subset of the information on CFIS. It is designed to provide a service to police agencies that have access to CPIC. The information is available as read only or query only. The number of queries by law enforcement has increased significantly. The daily average for 2008 is 9,213 compared to 6,973 in 2007.

Chief Firearms Office—British Columbia:

- The staffing level for this office is one Chief Firearms Officer, two Operations Coordinators, 13 Firearms Officers, 14 Program Assistants and one Integrated Support Clerk. These are supported by RCMP and other federal department administrative services. (Current staffing levels are well below projected requirements however the CFO has indicated 3 additional Firearms Officers and 2 additional Program Assistant positions are pending creation which according to that office will bring their staffing levels up to projected requirements.)
- This may be compared to the Alberta office which is staffed by one Chief Firearms Officer, one Operations Coordinator, 13 Firearms Officers, 10 Program Assistants and two Integrated Support Clerks.

### General

Firearms are primarily regulated by the *Firearms Act* and Part III of the *Criminal Code* and their respective regulations.

To possess and register a firearm, an individual requires a Possession and Acquisition Licence (PAL) that involves a background check by the CFP, normally requires completion of the Canadian Firearms Safety Course, and is renewable every 5 years.

A Firearms Business Licence will permit a business to carry on those firearm-related activities specified on the licence.

In order to register a firearm, an applicant must have a valid firearms licence allowing them to possess that class of firearm. There are three classes of firearms:

- **Non-restricted** firearms are ordinary rifles and shotguns other than those identified as restricted or prohibited;
- **Restricted** firearms include:
  - Handguns that are not prohibited;
  - Semi-automatic, centre-fire rifles and shotguns with a barrel shorter than 470 mm;
  - Rifles and shotguns that can be fired when their overall length has been reduced by folding, telescoping or other means to less than 660 mm; and
  - Firearms restricted by *Criminal Code* regulations.
- **Prohibited** firearms include:
  - Handguns with a barrel length of 105 mm or less and handguns that discharge .25 or .32 calibre ammunition, except for a few specific ones used in International Shooting Union competitions;
  - Rifles and shotguns that have been altered by sawing or other means so the barrel length is less than 457 mm or their overall length is less than 660 mm;
  - Full automatics;
  - Converted automatics, namely full automatics that have been altered so that they fire only one projectile when the trigger is squeezed; and
  - Firearms prohibited by *Criminal Code* regulations.
- An individual may possess a prohibited firearm if they had one registered to them when it became prohibited and continuously held a valid registration certificate for that type of prohibited firearm from December 1998 onward (“grandfathered”).
- If grandfathered, may acquire additional prohibited firearms in the same categories as the ones currently registered to the individual.

### Statistics

As of June 2008:

- There have been 1,866,737 firearms licences issued to individuals.
- 1,553,365 individual licence holders have at least one firearm registration certificate.
- There are 4,997 business licences (2,576 for ammunition only).
- 7,235,861 firearms are registered, 95% of them with individuals.
- 22,631 firearms licences have been refused or revoked
- 7,586 applications refused
- 15,045 licences have been revoked.

Since 1998:

- Firearms exported: 1,315,938
- Destroyed: 29,438
- Deactivated: 3,329
- All holders of a firearms licence are recorded in the Canadian Firearms Information System (CFIS), that every day is automatically run against the Canadian Police Information Centre (CPIC) to determine whether a licence-holder has been the subject of an incident report on CPIC. The CFO automatically receives information on all police incidents that are relevant under the *Firearms Act*, including CPIC PERSONS records, CPIC Criminal Name Index records and CPIC Document records. The CFO can access the information on these records directly through their access to CPIC. The Firearms Interest Police (FIP) records are pointer to local police indices or records management systems (PROS, PIRS, PRIME, etc); normally indicating there may be relevant police incidents where charges have not been laid and/or where there is no fingerprint identification number. In all other jurisdictions CFO offices can then access at least summary information of the incident from the local police index or record management system in order to determine if a request needs to be made for the full record. In British Columbia given the fact that the office of the CFO does not yet have PRIME access, they must request all records in order to determine if they are relevant under the *Firearms Act* or if they have been erroneously coded.

In 2007, there were 11,426 FIP reports in B.C.



## **Appendix I: Participating Agencies**

### Royal Canadian Mounted Police

- Canada's national police service is unique in that it is a federal, provincial and municipal policing body; providing all federal policing services to Canada, under contract to eight provinces and three territories and over 190 municipalities.
- The RCMP is responsible for enforcement of the *Criminal Code*, including firearms offences; also for conducting smuggling investigations and enforcing the Customs Act along the border between official ports of entry.
- The force has over 26,000 employees; approximately 8,500 of whom are public servants and civilians.
- The National Police Services component of the force includes the Canadian Firearms Centre, Criminal Intelligence Service Canada, Forensic Science and Identification Services and Information and Identification Services.
- The RCMP participates with a number of other agencies in intelligence, investigation and enforcement activities related to the control of illegal firearms.

### Criminal Intelligence Service Canada (CISC)

- The Criminal Intelligence Service Canada, falls within the organizational structure of the RCMP.
- The CISC is comprised of nearly 400 members, including police agencies from all levels of government, various law enforcement, intelligence and regulatory agencies and is responsible for developing an integrated and intelligence-led approach to tackling organized crime. Its fundamental purpose is to facilitate the timely production and exchange of criminal intelligence within the Canadian law enforcement community.
- There are ten CISC provincial bureaus that operate independently while maintaining national service delivery standards.
- The CISC is one of the participating agencies on the Canada-U.S. Consultative Group on Firearms Trafficking.

### Canada Border Services Agency (CBSA)

The CBSA is responsible for providing integrated border services that support national security and public safety priorities while facilitating the free flow of goods and services.

The CBSA is responsible for assessing and confirming non-resident firearms declarations and collecting the applicable fees under the *Firearms Act*. This involves determining the classification of the firearms, establishing the destination and purpose for importing the firearms, assessing the eligibility of the importer and ensuring that all firearms are being transported safely.

The CBSA and the RCMP jointly operate Integrated Border Enforcement Teams (IBETs), identifying, investigating and interdicting persons and organizations that pose a threat to national security or are engaged in other organized criminal activity.

#### Department of Foreign Affairs and International Trade Canada (DFAIT)

The Canadian Firearms Program works with Foreign Affairs Canada to ensure that Canada's international commitments regarding firearms reflect domestic Canadian priorities and with International Trade to ensure that importers and exporters are aware of their obligations under the *Firearms Act*. International Trade Canada issues permits required to import and export firearms under the Export and Import Permits Act.

#### B.C. Integrated Gang Task Force (BCIGTF)

- The B.C. Integrated Gang Task Force was established in 2004 to address growing gang violence in the province, particularly in the Lower Mainland.
- Mandated to target, investigate, prosecute, disrupt and dismantle crime groups that pose a high risk to public safety due to gang violence.
- Involves resources from Vancouver Police, RCMP, Abbotsford Police, Delta Police, New Westminster Police, Port Moody Police and West Vancouver Police.

#### Uniform Gang Task Force

- Began operations in November 2007 focused in the Lower Mainland as an aggressive deterrent to gangs.
- The unit comprised of 60 investigators and analysts from across the Lower Mainland whose job is to identify, investigate and prosecute gangs involved in chronic, violent criminal activity.
- Combined Forces Special Enforcement Unit
- Mandated to facilitate the exposure, investigation, prosecution, disruption and suppression of organized crime.

### Canada-U.S. Integrated Border Enforcement Team (IBET)

This is a joint Canada/U.S. initiative combining the intelligence and law enforcement expertise of various agencies and using a coordinated approach to identifying and stopping the high risk movement of people and goods between the two countries.

The CBSA and RCMP jointly operate IBET, sharing the responsibility for collecting critical information to develop criminal intelligence to assist in investigations relating to national security or organized crime.

Core agencies involved in IBET include the CBSA, RCMP, U.S. Customs and Border Protection, U.S. Immigration and Customs Enforcement and U.S. Coast Guard.

### Canada-U.S. Consultative Group on Firearms Trafficking

This group was formed in 2003 to implement law enforcement initiatives that would help prevent and combat firearms trafficking. This is one of eight groups of the Cross Border Forum and is co-chaired by the RCMP, Canada Firearms Centre and the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives.

Other participating agencies include the Criminal Intelligence Service Canada, National Weapons Enforcement Team and the Provincial Weapons Enforcement Unit.

A Joint Action Plan was developed that focused on awareness of respective laws, appropriate information-sharing, and recognition of differences in firearms laws that can be exploited by traffickers, and ongoing training for law enforcement officials.

### Investments to Combat the Criminal Use of Firearms Initiative (ICCUF)

The ICCUF is a \$50 million, five year program within the Ministry of Public Safety and includes the RCMP (Firearms Support Directorate, Criminal Intelligence Directorate and Criminal Intelligence Service Canada) and the CBSA.

Its overall aim is to improve the national collection, analysis and sharing of firearms-related intelligence and information. It is intended to enhance the criminal intelligence capacity of the RCMP, CISC and CBSA and to increase knowledge of the extent and patterns of smuggling and trafficking of firearms used in crime so that a national enforcement strategy can be developed.

### U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

The ATF, which is a Department of Justice agency, is responsible for regulating foreign commerce in the firearms and explosives industries. It utilizes forensic laboratories, firearms

and bullets tracing capabilities, intelligence, training and web-based informational assets made available to its law enforcement counterparts during investigations.

#### U.S. Customs and Border Protection, Office of Field Operations

- Consists of all personnel that work at the 310 points of entry into the United States and make determinations about the admissibility of people and goods, including firearms, into the country.

#### U.S. Immigration and Customs Enforcement (ICE)

Created in 2003, ICE is the largest investigative agency within the U.S. Department of Homeland Security. ICE is responsible for investigating a range of issues that may threaten the national security and fulfills its mission by identifying and investigating criminal activities and eliminating vulnerabilities that pose a threat to U.S. borders.

## Appendix J: Gang Related Firearms Incidents

A number of shooting incidents have occurred in the lower mainland over the last number of years in which innocent people and gang members have been killed or injured by firearms. Often these incidents have occurred in public places putting the general public in danger. Some of those incidents include the following.

### 2007 Incidents

- **Surrey:** Six individuals shot and killed in at the Balmoral apartment, two of whom were innocent victims and four of whom were identified by the press as gang associates.
- **Vancouver:** At the Quattro restaurant a shooting resulted in two injured. Other injuries could have occurred as many more people were in the restaurant and on the street. The assailants fired indiscriminately at the intended victim through the plate glass front window of the restaurant striking him with the female believed to be an unintended consequence.
- **Vancouver:** Two individuals identified by the press as being associated with gangs were killed in the Fortune restaurant. Six others were wounded in the attack and fortunate not to have been killed, the remainder of the restaurant was occupied by many others also in jeopardy. A number of other people were at the restaurant at that time.
- **Vancouver:** Two press identified gang associates were killed at the corner of 70th and Granville.
- **Richmond:** An innocent victim was killed in his truck which was similar to one driven by a police identified gang associate. Just previous to this event there had been a shoot-out on the street near Dover Park in Richmond with 150 shots fired from an assortment of weapons including high powered assault rifles.
- **North Vancouver:** An ambush of a vehicle that had in excess of 45 rounds fired from weapons, some believed to be automatic. It is believed that there was also gunfire in defence from within the victim vehicle.
- **Abbotsford:** Report of shots fired in vicinity. Premise is a four-plex residence, with one of these suites being reported by the police as being occupied by a known drug dealer. Drive-by with all bullets hitting vehicle and occupied victims suite (different suite). Bullets penetrate windows, walls, and shattering a table. Extreme risk to innocent occupants. Thirty rounds fired.

- **Surrey:** Male observed standing outside and shoots at house and flees. Two or three rounds penetrate window of victim's house where a child was sleeping.
- **Surrey:** Attempted murder. Rolling gun battle between two moving vehicles. Extreme risk to public safety.
- **Surrey:** Numerous calls received of multiple shots fired and the sound of a vehicle leaving the scene. Victims' house sustained 6 rounds through the front window, with 3-5 additional rounds striking the adjoining houses on either side.
- **Surrey:** Report of shots fired. Suspect fires rifle from within apartment, penetrating next two adjoining apartments.
- **West Vancouver:** Attempted murder. Shots fired. Damage to adjacent house. Near miss-collateral injury; sleeping youth.
- **Richmond:** Two males kick in door. Multiple shots fired. Nobody injured. Two females and two children inside residence. Bullets and shells recovered at scene.
- **North Vancouver:** Shots fired in residence. Victim struck. Rounds passed through floor, narrowly missing two females in lower suite.
- **Richmond:** Road rage between driver and pedestrian. Cyclist intervenes. Driver drives about 40 feet, stops, and exits car and fires one shot in direction of cyclist, then leaves.
- **Surrey:** Shots fired at victim's house. Casings located on driveway. Sixteen rounds were fired. Five adults and two children at home at time of incident. Rounds penetrated master bedroom and en-suite.
- **Burnaby:** Shots fired report. One round through victims sliding glass door, travels through dining room chair and lodges in wall. Family home at time of incident. Trajectory indicates that it came from area of Lougheed Mall or WalMart, approximately 300 metres away. Victim probably not intended as target.
- **Burnaby:** Attempted murder. Robbery of jewellery store. Clerk from store chases suspect, and is shot in leg. Occurred in shopping mall parking lot during business hours with high risk to public.
- **Vancouver:** Report of shots fired. Ten rounds fired in residence, seven of which penetrate, narrowly missing seven and 16 year old children sleeping in a bedroom, and another party in another bedroom. Another round strikes parked car.

## 2008 Incidents

- **Vancouver:** At Gotham restaurant, police reported two gang associates were killed in a vehicle with multiple shots fired. There were two others in the vehicle that could have been injured along with many citizens in line to enter the restaurant. In addition, there was a high volume of vehicular traffic in the immediate area placing individuals in those vehicles in jeopardy.
- **Vancouver:** At the Cecil hotel one individual was killed in a fight which started in the bar and moved outside where a firearm was produced, many individuals were in the immediate area during the gunfire.
- **Vancouver:** One young individual was killed in a targeted hit on his vehicle on Kingsway. Second occupant in a car behind deceased was injured in by gunfire as she drove behind him, a clear attempt on her life as well.
- **Vancouver:** A male recently released from jail was shot several times as he sat in a vehicle in the down town East Side in Vancouver.
- **Vancouver:** One young male was shot just outside a home in South Vancouver.
- **Vancouver:** One young male killed in laneway in East Vancouver as he pulled into his parking area.
- **Vancouver:** One individual with gang associations was killed outside a night club after a birthday party. Rounds were fired into the Cab on Commercial Drive with a high powered rifle as the cab driver was preparing to drive off leaving him in complete jeopardy and lucky not to have been injured or killed. Many pedestrians were in the immediate area that is full of restaurant goers at the hour of the attack.
- **Coquitlam:** A running gun battle between several vehicles occurred in Coquitlam that started in broad daylight very near a Toy's R US on the Lougheed Highway, fortunately no one was injured.
- **Abbotsford:** An SUV drove onto a gas station lot with a young male mortally wounded from gunfire.
- **Surrey:** A young male is shot and killed late in the night at the golf course parking lot at Coyote Creek golf course.
- A young male is shot and killed as he arrived in a vehicle outside of what police have reported as a well known gang criminal's address.

- **Burnaby:** Shots Fired. Bullet strikes window of open business. Vehicle heard speeding off. No known motive.
- **Langley:** Suspect vehicle and vehicle occupied by victims stopped at light. Suspect vehicle does not move on green light. Victim honks horn and displays middle digit. Suspect exits vehicle and points handgun at victim. Victim accelerates away, and hears report of one to two rounds being fired. No damage. No rounds or casings located.
- **Vancouver:** Evident "turf" dispute between pimps leads to suspect male firing multiple rounds down street. No known injuries. Damage to window of one premise.
- **Surrey:** Shots fired at party from outside residence. Due to multiple rounds and no one hearing the shots, thought to be a firearm equipped with silencer. Incident preceded by assault on an attendee of the party regarding being in the wrong "hood".
- **Surrey:** Report of shots fired. Vehicles stopped in traffic and two suspects exit suspect vehicle. One suspect attempts to break window of victim vehicle with wood. Other suspect produces handgun and fires one round at vehicle. Both vehicles leave scene.
- **Surrey:** Victim stopped in vehicle at light. Suspect vehicle pulls up alongside. Victim rolls down window and asks if they need directions, as female occupant of suspect vehicle kept looking at him. Suspect produces pistol and fires four rounds at victims' vehicle.
- **Surrey:** Report of shots fired. Random shooting along the block the length of ten houses. Penetration of two houses and one unoccupied car. Casings recovered.
- **Abbotsford:** Report of shots fired. Multiple penetrations to exterior and interior of residence. Possibly wrong house and house adjacent was target premise.
- **Burnaby:** Suspect begins arguing and pushing victim at MetroTown Mall. Two friends of victim begin to chase suspect. Suspect produces a gun and fires several shots in the air and escapes on foot.



## **Appendix K: Tracing and Ballistics**

The Canadian National Firearms Tracing Centre is administratively within NWEST and assists law enforcement agencies to determine the origins of crime guns and to trace those firearms from owner to owner. The Centre provides assistance to all law enforcement agencies in Canada, the U.S. and other countries in tracing the history of firearms seized by law enforcement agencies during criminal investigations. The Centre works with the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives to trace illegal firearms that come into Canada.

The Firearms Reference Table (FRT) is a comprehensive, single source, firearms reference database that establishes a standard method of describing firearms and is available to all police and regulatory agencies in Canada. The FRT is a database containing a complete catalogue of firearms and provides a visual reference by associating digital images to corresponding firearms records. Firearms details include make, model and specifications such as calibre and barrel length. A glossary also includes firearm definitions and terms; acronyms and manufacturer codes; current Canadian orders/legal authorities; and company histories and firearm markings. Thousands of new and updated firearms records and images are available in the FRT. The FRT is used by law enforcement agencies in verifying firearms for accurate import/export controls, in facilitating detection of stolen firearms (tracing) and determining the classification of a firearm. INTERPOL is currently integrating the FRT into their international tracing system.

Both Canada and the U.S. collect images of bullets and cartridge cases recovered from crime scenes and from test fires of firearms associated with criminal activity. The information is stored using similar technology in the Integrated Ballistic Identification System (IBIS). The IBIS assists analysts in a preliminary analysis of images by detecting and extracting minute details that are compared against an inventory of ballistic reference data. A firearms examiner then manually verifies a potential match using a comparison microscope. The Canadian Integrated Ballistic Identification Network is a national network that collects information from IBIS terminals located in six centres across Canada.

Found firearms not immediately linked to a criminal occurrence are referred to the Suspicious Firearms Index. Law enforcement officers may come into possession of firearms suspected of being associated with criminal activity, but which are not the subject of an active investigation. These typically include found and seized firearms where no charges are pending. Such firearms are unlikely to be sent to the forensic laboratory as part of a specific case and will not, therefore, be test fired and entered into the CIBIN database. However, investigators can send suspicious firearms to the lab specifically for CIBIN testing as part of the Suspicious Firearm Index program.

The current approach taken by the labs is to deal with those firearms with occurrences less than two years old which, at the time, do not support any criminal charges. This applies where the firearms are restricted or prohibited, criminally altered firearms or non-restricted firearms with a known or suspected criminal association. If firearms are slated for disposal following an unsolved case check in CIBIN, arrangements can be made to dispose of the firearms. The present capacity of the Suspicious Firearms Index is approximately 100 firearms per month on a national basis. There is currently some capacity for additional submissions; however, capacity fluctuates depending on the number of firearms submitted.

## **Appendix L: Statistics**

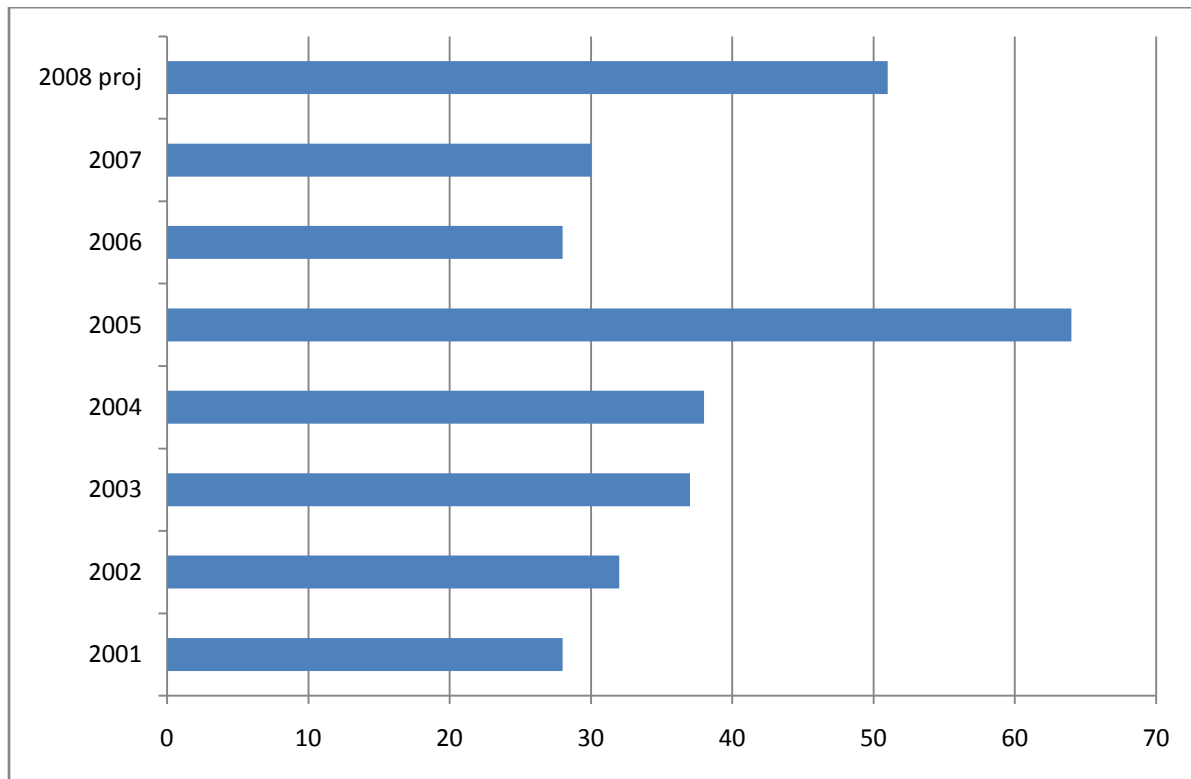
As has been noted in the report, data regarding the illegal movement of firearms and their use by gangs is incomplete and inconsistent making it very difficult to identify trends or compare different regions. However, there are good statistics produced by individual departments and units such as the Integrated Gang Task Force. A few examples of some of the data available are presented below.

### Tactical Analysis Unit, Annual Report 2007

The Tactical Analysis Unit (TAU) is a part of the Firearms Support Services Directorate of the Canadian Firearms Program. It is acknowledged in their report that the data collected for the report is inconsistent and incomplete. It is not known what proportion of the total for the country is reflected in their numbers. Some insight can be gained from an internal comparison of the relative numbers.

- In 2007, TAU reported 5,616 seized firearms; 2,863 (51%) were crime guns
- 1,629 (57%) of crime guns were handguns
- 1,011 (35%) of crime guns were prohibited firearms; 837 (30%) were restricted firearms
- Of the 710 crime guns where the source was known, 324 were domestic and 386 were smuggled
- The U.S. dealer sources were identified for 629 crime guns: Washington State sourced 103 of these firearms, the next closest state was Florida with 50.

Criminal Analysis Section & Major Crime Section, RCMP E Division



Gun homicides in British Columbia 2001-2008 (projected)

Additional findings from homicide report:

- Organized crime homicides are increasing and represent more than one third of all B.C. homicides
- With projections for 2008, organized crime homicides will have doubled since 1997 (25 to 50)
- Generally, over 80% of organized crime homicides occur in the Lower Mainland.

Provincial Weapons Enforcement Unit (Ontario) Annual Report 2007

- The primary mandate of the PWEU is to reduce the flow of illegal weapons available to criminals.
- PWEU defines a crime gun as any firearm

- That is used, or has been used in a criminal offence;
  - That is obtained, possessed or intended to be used to facilitate criminal activity;  
or
  - That has removed or obliterated serial numbers.
- The Firearms Tracing and Enforcement Program (FATE) was established in 1994 in response to a requirement that all Ontario Police services would be required to trace seize firearms not registered in Canada:
    - In 2007, FATE traced 705 crime guns, 90% of which were prohibited (399) and restricted (237)
    - In 590 traces involving accused persons, 84 involved identified gang members
    - Gang members found in possession of crime guns belonged to 46 different gangs
    - Sources of traced crime guns:
      - 490 (69%) traced to U.S.
      - 74 (10.5%) traced to Canadian dealer
      - 78 were too old to trace and 60 could not be traced due to lack of information.
  - In 2007 there were 208 thefts involving 590 firearms
  - PWEU statistical data 2007:
    - 852 firearms seized
    - 345 persons charged
    - 1,671 *Criminal Code* charges laid
    - 421 occurrences opened.

## Integrated Gang Task Force, Summary Firearms Report

The report compares figures for 2006 and 2007, noting that reporting procedures were improved for 2007.

<b>Type of incident</b>	<b>2006</b>	<b>2007</b>
Murder	20	20
Attempt murder/wounding	82	74
Shots fired, confirmed discharge	268	247
Firearm seen during commission of offence	432	236

In 2006, 357 (55%) of firearms involved were handguns (the proportion may be higher as 21% of the firearms were of an unknown type).

### Criminal Intelligence Service, 2007

- The information in this report was compiled from 15 municipalities in the Lower Mainland representing approximately 53% of the province's total population.
- In 2006, there were 258 reported incidents of shots fired with 56% of these incidents occurring in Vancouver and Surrey; 79% of occurrences took place in public locations.
- Handguns were used in two thirds of all occurrences.
- There were 2,309 firearms recovered in 2006, 34% of which were unregistered and 42% were handguns.

### Statistics Canada

- The number of homicides in Canada has not changed dramatically from 1990 to 2004 (538 – 756) nor has the percentage of homicides which are caused by firearms (27% - 36%) Statistics Canada, 2006.
- Homicide in Canada, 2007; Statistics Canada:
  - 594 homicides in Canada (a decline of 12 from 2006), 88 in B.C.

- 188 (31.6%) of homicides were shootings.
- 126 (67%) of shooting homicides were by handguns.
- While there was a slight decline in homicides overall, gang-related homicides continued to increase and accounted for about 20% of all homicides.
- In 1997, 4.8% of homicides were gang-related; in 2007 it was 19.7%.
- There were 117 gang-related homicides in Canada, 23 in B.C.

## **Appendix M: Public Agents Firearms Regulations**

Effective October 31 2008, the new Public Agents Firearms Regulations will require all police and government agencies in Canada to report firearms in their possession to the Registrar of Firearms within one year.

- The regulation applies to any police force, police academy or agency of a federal, provincial or municipal government.
- All firearms acquired after October 31, 2008, must be reported as they come into an agency's possession.
- Agencies must report their own "agency firearms", those for use by an agency's employees, and "protected firearms", which include all other firearms that are in the agency's possession having been found or seized or which the agency is holding for other reasons.
- The regulations will also place new restrictions on the selling, giving, lending and destroying of firearms in an agency's possession.
- It is suggested the regulations will:
  - Assist police intelligence analysts to identify patterns of illegal trafficking by identifying what types of firearms are being seized, where they are being seized and from where they are coming.
  - Support multi-jurisdictional investigations within Canada and internationally.
  - Assist agencies in allowing them to track all of their reported firearms.



## **Appendix N: British Columbia's *Firearms Act***

- Under B.C.'s *Firearms Act*, a "firearm" includes any gun using, as a propellant, compressed air, explosives or gas.
- Section 2 of the Act provides for the issuance of permits by the provincial chief firearms officer authorizing a person to establish and maintain an indoor shooting range.
- Under section 4, a conservation officer or a peace officer may, without a warrant, search a person suspected of possessing a firearm in contravention of this Act; search a conveyance where it is suspected a firearm is being carried in contravention of the Act; and may seize the firearm and destroy it under the Act.
- A firearm seized under the Act may be taken before a justice who may order the firearm confiscated and order its sale, destruction or other disposition.
- Section 9 creates an offence for carrying a firearm in a vehicle with the firearm containing live ammunition in its breech or magazine.
- The Firearm (Authorization) Regulation allows peace officers, conservation officers and armoured car personnel to carry a firearm with live ammunition in its breech or magazine.

## **Appendix O: Advice to Crown counsel regarding firearms and mandatory minimum sentences (B.C. and Ontario)**

### Criminal Justice Branch (B.C.) advice to Crown counsel

With respect to the ten serious offences listed below, Crown counsel in British Columbia have been advised that whenever the charge assessment standard is met for one of the offences, unless exceptional circumstances exist, that offence should be charged and Crown counsel should not accept a guilty plea to a lesser offence so that the accused can avoid the mandatory minimum jail term. Crown counsel should ensure that the charge alleges that a firearm was used in the commission of the offence, so that the mandatory minimum sentence of four years imprisonment will be imposed on conviction.

- Criminal negligence causing death (section 220)
- Manslaughter (section 236)
- Attempted murder (section 239)
- Discharging a firearm with intent (section 244)
- Sexual assault with a weapon (section 272)
- Aggravated sexual assault (section 273)
- Kidnapping (section 279)
- Hostage taking (section 279.1)
- Robbery (section 344)
- Extortion (section 346 (1.1))

The above offences are specifically excluded from section 85(1) of the *Criminal Code* which creates an offence of using a firearm in the commission of an indictable offence and requires that the sentence for that offence be consecutive to any sentence imposed for another offence arising out of the same event or series of events. Unless exceptional circumstances exist, where there is a substantial likelihood of conviction for an indictable offence not listed above as well as for an offence under section 85, Crown counsel in B.C. are advised that both charges should be prosecuted and, where applicable, the notice of greater penalty should be given under section 85(3) so that the mandatory jail term is imposed by the court on conviction for the section 85 offence. Where a stay of proceedings is directed on a section 85 charge, the reasons should be noted in the prosecution file.

Any decision based on exceptional circumstances must first be approved by regional or Deputy Regional Crown counsel. On a charge of murder, Crown counsel in British Columbia have been advised that they should particularize on the Information and on the Indictment that a firearm was used in the commission of the offence of murder. If a conviction for manslaughter results, Crown counsel would then have recourse to the mandatory minimum sentence of four years under section 236.

#### Criminal Law Division (Ontario) advice to Crown counsel

In a Practice Memorandum of July 23, 2006, Crown counsel in Ontario was given the following advice regarding the resolution of all firearms-related offences.

Where either an imitation firearm or real firearm has been used, provided there is a reasonable prospect of conviction, Crown counsel must not withdraw such a charge to avoid a mandatory minimum sentence, absent exceptional circumstances and then only with the approval of the Crown Attorney.

For greater certainty, in those cases where the *Criminal Code* provides for a mandatory minimum 4 year jail sentence, provided there is reasonable prospect of conviction, Crown counsel must not withdraw such a charge, or charges, to proceed on the alternative basis that the firearm was an imitation firearm, absent exceptional circumstances and then only with the approval of the Crown Attorney.

Where an accused has been charged with an offence under any of sections 95, 96 or 102, Crown counsel shall elect to proceed by indictment, absent exceptional circumstances and approval of the Crown Attorney.

#### Comparison between British Columbia and Ontario

Both jurisdictions provide similar advice to Crown counsel regarding mandatory minimum sentences for firearms offences except with regard to charges under sections 95, 96 and 102 of the *Criminal Code*.

The general rule is clear for both provinces; Crown counsel is not to resolve cases in a manner that would enable an accused to avoid a mandatory minimum jail term, unless there are exceptional circumstances. If there are exceptional circumstances, Crown counsel are required to seek the approval of their management before contravening the general rule. In British Columbia, that approval must be given by either Regional Crown Counsel or Deputy Regional Crown Counsel. In Ontario, the approval must be given by the Crown Attorney, a position analogous to a Deputy Regional Crown Counsel in B.C.

With respect to the specific offences under section 95 (possession of a prohibited or restricted firearm with ammunition), section 96 (possession of a weapon obtained by the commission of an offence) and section 102 (making an automatic firearm), the Ontario Practice Memorandum directs Crown counsel to proceed by indictment, absent exceptional circumstances and then only with approval of the Crown Attorney. In British Columbia, a decision to proceed summarily on one of these specific offences would be made by Crown counsel applying established charge approval criteria, without any requirement for them to find exceptional circumstances and to obtain management approval.