

SIMPLIFYING THE REGULATION OF THE LEGAL FIREARMS MARKET THROUGH AN UPDATE OF THE TECHNICAL ELEMENTS OF THE NATIONAL FIREARMS AGREEMENT

Submission from:



IN BRIEF

The report of the Senate Legal and Constitutional References Committee's inquiry into gun-related violence has confirmed that there is not comprehensive, accurate, verifiable and transparent data on which to base policies and decisions related to firearms and firearms ownership.

This submission is a reminder of the temptation to base decisions and policy related to firearms and firearms ownership on instinct, intuition, prejudice and ideology rather than facts and data.

Statements by decision makers such as that by then Prime Minister John Howard that he 'hated guns' and that the only people who should own guns are the police, the military and security guards reinforce the belief that much of the decision-making concerning firearms and firearms ownership has not been and is not based on facts and data.

It is important that this Review resist that temptation. For example a link between the firearms of law-abiding gun owners and terrorism must be proved and not asserted as must any link with community safety.

Succumbing to this temptation has been an occurrence since the National Firearms Agreement (NFA) was introduced. Conventional wisdom has it that the NFA and associated buyback caused a reduction in gun-related homicides and gun-related violence.

Studies are quoted selectively to reinforce this impression. Research that the evidence does not support this conclusion is never cited.

This issue is important since the basis of controls and restrictions on licensed shooters and registered firearms is that they reduce the level of gun-related homicides and gun-related violence.

New Zealand never has accepted this theory and has never registered the unmodified longarms used by recreational shooters and hunters.

Canada, which followed a similar path to Australia in the mid-1990s with respect to the registration of longarms has concluded that it is an expensive exercise which has not caused a reduction in the level of gun-related homicides or gun-related violence and has ceased registering conventional longarms used by recreational shooters and hunters.

One way in which the Federal Government should honour its commitment to reducing red tape is by following the lead of Canada and New Zealand.

There is a need for an urgent upgrade of the IT systems of all states and territories to enable:

- full on-line management of license applications and license renewals by each state and territory,
- licensed firearm dealers to report firearm transactions in an automated and instant method, and
- the provision of on-line import applications and state-based business activities like applications for exemptions or permits to conduct trade fairs etc.

There should be consistency of identifiers by the Commonwealth and all states and territories that would allow the instant sharing of information through a National Firearms Interface.

Police licensing data bases should be up to date and available to all registered dealers in real time.

Once a firearm is authorised for possession for one lawful purpose it should be allowed to be used for any other lawful purpose.

All firearm licenses should be:

- of a uniform term nationally and renewals should not be treated as a new application if an applicant's circumstances have not changed, and
- should be recognized by all other states and territories in the same way that drivers' licenses are accepted by all state and territory governments.

Attendance requirements and calibre restrictions for 'Cat H' sporting shooters should be removed.

The current prohibition which discriminate against international shooters and hunters (such as limitations on competitive shooting competitions) should be removed and the events recognized for the purpose of granting licenses should be extended from Olympic and Commonwealth Games and World Championships to include other National and International events.

Background

The firearms industry and recreational shooting organisations believe that policies related to firearms ownership and usage must be based on data and facts rather than intuition, speculation, prejudice or ideology.

Facts and data

We also believe that there is not in Australia comprehensive, accurate, verifiable and transparent data on which to formulate firearms policy and that decisions related to firearms ownership and usage are as likely to be based on instincts, intuition, speculation or prejudice as they are to be based on facts and data.

The National Firearms Dealers Association put this view to the Senate Committee inquiry into gun-related violence and we note that even the recommendations of the Green and Labor senators accept this point.

It is important that this Review demonstrably be based on data and facts.

The Green and Labor senators also recommended that an ongoing, Australia-wide gun amnesty be implemented. In so doing, the Senators acknowledged that what is known as the 'grey market' is a major source of guns used in the commission of crime.

It follows that the same proposition applies to guns used by terrorists.

The Federal Government is drawing links between the guns of law-abiding citizens and terrorism. One example is the standard email from Government members in response to queries about a ban on the Adler 110 and the review of the National Firearms Agreement, which says that the *'Justice Minister has stressed this decision was not about targeting law-abiding gun owners. It is to ensure that the current laws are not outdated given changing gun technology and the terrorist threat'*.

Another is a media release issued recently by Mr. Keenan which says that *'the Government is consulting broadly to ensure the review of the National Firearms Agreement strikes an appropriate balance between the rights of licensed firearm users and community safety'*.

The linking of the firearms of licensed shooters with terrorism and community safety must be proved, not asserted and the facts and data relied on to draw these links must be revealed.

1996

Since the Port Arthur massacre restrictions on the ownership and use of firearms by law-abiding shooters have been justified on the basis that they would reduce the level of gun-related crime and the number of gun-related homicides.

Now it seems that this theory is being extended to include terrorism.

Yet the effect of the 1996 gun buyback demonstrates that, from the beginning, facts gave way to desired outcomes when it came to assessing the impact of the buyback.

Popular opinion has it that the buyback was an unqualified success in achieving their objective and this belief has laid the foundation for those who argue that the ownership and use of firearms ought to be restricted further.

In the mid-2000s several researchers studied the impact of the buyback. The study invariably quoted is that by Christine Neill and Andrew Leigh which concluded that since the National Firearms Agreement (NFA) there had been a significant fall in the number of farm suicides and a substantial fall in firearm homicides.

A study undertaken by Simon Chapman, Philip Alpers and others also concluded that declines in firearm-related deaths before the law reforms, accelerated after the reforms for total firearm deaths, firearm suicides and firearm homicides.

However, studies undertaken by Jeanine Baker and Samara McPhedran and Peter Reuter and Jenny Mouzos concluded that the NFA had little impact on the number of gun homicides or suicides.

Subsequently, Wang-Sheng Lee and Sandy Suardi re-analysed *'the same data on firearm deaths used in previous research, using tests for unknown structural breaks as a means to identifying impacts of the NFA. The results of these tests suggest that the NFA did not have any large effects on reducing firearm homicide or suicide rates.'*¹

In 2005, Simon Chapman criticized Dr. Don Weatherburn, the director of the NSW Bureau of Crime Statistics for saying that falls in armed robberies and abductions in NSW in the previous few years had more to do with the heroin drought and good policing than firearms legislation.

Dr. Weatherburn said: *'I would need to see more convincing evidence than there is to be able to say that gun laws have had any effect. The best that could be said for the tougher laws is there has been no other mass killing using firearms [since Port Arthur].*

'There has been a drop in firearm-related crime, particularly in homicide, but it began long before the new laws and has continued on afterwards. I don't think anyone really understands why. A lot of people assume that the tougher laws did it, but I would need more specific, convincing evidence ...

'The decline (in handguns) appears to have more to do with the arrest of those responsible than the new laws. As soon as the heroin shortage hit, the armed robbery rate came down. I don't think it was anything to do with the tougher firearm laws.'ⁱⁱ

In response to Professor Chapman's criticism, Dr. Weatherburn wrote that *'like him, I too strongly supported the introduction of tougher gun laws after the Port Arthur massacre.*

'The fact is, however, that the introduction of those laws did not result in any acceleration of the downward trend in gun homicide. They may have reduced the risk of mass shootings but we cannot be sure because no one has done the rigorous statistical work required to verify this possibility.

'It is always unpleasant to acknowledge facts that are inconsistent with your own point of view. But I thought that was what distinguished science from popular prejudice.'¹

Not enough people, whether they be commentators, decision makers or policy advisers have taken the lead from Dr. Weatherburn by insisting that policy related to firearms be based on facts and data rather than intuition, instinct, prejudice or ideology.

The then Prime Minister John Howard is an example. In 2002 he said *'I hate guns. I don't think people should have guns unless they're police or in the military or in the security industry.'*¹

Clearly Mr. Howard believes that Australians competing in international shooting competitions such as the Olympic and Commonwealth Games should not own firearms. The logic of his position is that farmers should not either. Even if farmers should, left to Mr. Howard, recreational shooters who assist farmers and state governments with game and pest management programs would not own firearms either.

When the Canadian Minister for Public Safety and Emergency Services, Steven Blaney introduced legislation overhauling Canada's firearms registration system in 2014 he said that;

*'for too long, gun control in Canada has been about disarming all Canadians. It was about making hunting and sport shooting so onerous, so filled with time-consuming paperwork, that no one would be interested in pursuing these Canadian heritage activities.'*¹

Mr. Blaney's observations about the underlying motive for Canada's registration system bring back memories of Mr. Howard's comment.

The fact that the study undertaken by Dr. Leigh MP and Associate Professor Neill is virtually the only opinion about the effects of the 1996 gun laws which is cited and the assessment of Dr. Weatherburn and the research of Associate Professor Wang Sheng-Lee and professor Sandy Suardi ignored, provides a stark example of selective quoting and of, to paraphrase Dr. Weatherburn, putting popular prejudice before science.

This history makes it imperative for this review not only to be based on data and facts, but also demonstrate that it is transparent.

SIMPLIFYING THE REGULATION OF THE LEGAL FIREARMS MARKET

Excessive, unproductive red tape

Australia has one of, if not the, most stringent regimes for regulating legal shooters and legally-owned firearms in the world.

It is a system which is highly bureaucratic and in which the red tape flows freely.

While the system is stringent, it also is expensive.

The question is whether Australia's regulatory regime is effective and whether law-abiding shooters and the taxpayer receive a good return for their money.

As stated earlier the rationale for the National Firearms Agreement and the regulatory regimes it spawned is that it would lead to a reduction in the number of gun-related homicides and gun-related crime.

How many gun-related homicides and how many gun-related crimes are prevented every year because of Australia's highly expensive system of registering firearms?

Other countries such as New Zealand never have believed that spending a great deal of money registering air rifles and .22 rimfire rifles would lead to a reduction in the levels of gun-related homicides or gun-related crime and have not introduced this impost on law-abiding shooters and taxpayers.

Canada in the mid-1990s followed a similar path to Australia with respect to the registration of firearms but, as a result of asking these sorts of questions, has reviewed its system of registration and discontinued the registration of longarms. The cost of administering the registration and licensing regime originally was estimated at C\$2 million. A few years later the Canadian Auditor General estimated that the cost by 2005 would be C\$1 billion. By 2012 the estimated cost of this regime from its inception was C\$2.7 billion.

The evidence demonstrated that the registration regime was having a minimal impact on the fight against gun-related crime and gun-related homicides. The cost of maintaining the system could not be justified. Consequently, Canada overhauled its system of licensing shooters and registering firearms, and last year, after a debate carried on over several years and strenuous resistance by the police, the new system came into force.

Today, to own a firearm in Canada a person must be licensed. To obtain a license a person must have completed successfully a firearms safety training course.

Handguns, rifles or shotguns which have been sawn, cut or subjected to any other alteration, automatic firearms and firearms with barrels less than 470mm in length capable of discharging centre-fire ammunition in a semi-automatic manner remain prohibited or restricted.

Ordinary sport shooting and hunting rifles which have not been modified do not have to be registered.

Mr. Blaney described the Canadian registration system as '*a good example of red tape without any added value.*'¹ The same observation applies to the current system of firearms registration in Australia.

He also said that the Canadian Government wants;

*'to make sure that the illegal weapons that are on our streets and used for criminal purposes are taken out of circulation....We are tackling the criminal use of firearms instead of focusing on those who practise traditional activities and obey the law.'*¹

Firearms policy in Australia should be similarly focused rather than spending of the bulk of its resources on recording and monitoring licensed shooters and their firearms.

Australia should overhaul its system of registering firearms in a similar manner to Canada which now has a system which focuses on reducing gun-related homicides and gun-related crime.

One of the consequences of the lack of transparency in Australia is that the cost of maintaining firearms registries in Australia is not known.

Estimates vary from \$27 million to \$100 million annually. Whatever the cost is, a significant sum of money and tens of thousands of policing man hours are spent in Australia unnecessarily registering long arms and collecting irrelevant data. This money should be re-directed to initiatives which are more likely to reduce the levels of gun-related crime and violence.

Reducing duplication

The multiple recordings of information related to firearms not only is a waste of resources but also a significant source of inaccurate data caused by human error when entering data.

This weakness in the firearms registration process could be diminished substantially if there were consistency of identifiers by the Commonwealth and all states and territories that would allow the instant sharing of information through a National Firearms Interface.

Technology

More effective use should be made of current technology to improve efficiency, reduce cost and improve security.

Resources must be made available to enable the replacement of paper-based or partially paper-based licensing and registration systems with fully automated systems.

National licensing system

Some States have a partially 'on-line' and partially 'paper' based licensing systems.

This results in significant Police resources being allocated to the manual handling of paperwork for new license applications and license renewals.

If the system were automated significant police resources could be re-allocated to addressing the illicit market.

Resources should be provided to enable full on-line management of license applications and license renewals by each state and territory. The systems should allow instant 'real-time' sharing of information through the National Firearm Interface.

Automated dealer portal

Many state licensing systems currently require significant manual paper work handling by licensed dealers with significant time delays in the transfer and auditing of the data.

Much of the detailed data is hand written and mailed to various registries.

Customs and Border Protection agents are also involved in a very manual process of entering large volumes of data on behalf of industry at time of importation.

This includes a 100 per cent inspection regime for all firearms at the point of entry, including sending Customs officers to either bond stores or in the case of large scale importers to their premises to unpack and manually inspect and record the details of each firearm to record presumably in some sort of Customs database effectively duplicating the records also kept by the state and territory registries.

Every state and territory needs an IT system which enables licensed firearm dealers to report firearm transactions in an automated and instant method.

The system should ensure consistency of descriptors by all states and territories that would allow the instant sharing of information through a National Firearms Interface. Details of make, calibre and serial number ought to be sufficient.

The system should also provide on-line import applications and state-based business activities like applications for exemptions or permits to conduct trade fairs etc.

Police licensing databases

Police licensing data bases should be up to date and available to all registered dealers in 'real time'.

Multiple licenses:

In many jurisdictions one individual is required to have multiple firearms licenses to accommodate a range of activities. In many cases firearms owned under one license cannot be used for other lawful purposes provided for on another license for the same licensee.

Once a firearm is authorised for possession for one lawful purpose it should be allowed to be used for any other lawful purpose. This should be applied to all categories of firearms.

Firearm licenses:

All firearm licenses should be of a uniform term nationally and renewals should not be treated as a new application if an applicant's circumstances have not changed.

Firearm licenses issued by a state or territory should be recognized by the other states and territories in the same way that drivers' licenses are accepted by all state and territory governments.

Registration of pre-1900 obsolete handguns

In area of waste of resources is the anachronistic requirement introduced in 2003 requiring the licensing and registration of certain types of pre-1900 manufactured handguns. In particular, multi-shot percussion and obsolete cartridge types. This is clearly a waste of police resources as firearms of this type and age are solely of interest to antique collectors. It is suggested that this requirement be dropped completely as it serves no use in the tracking and control of handguns that might be used by criminals in the 21st century.

'Cat H' competition

The maintenance of attendance registers around the nation for 'Cat H' shooters ties up thousands of policing man hours for no apparent benefit. The attendance register system is relatively new (approximately 2003) in terms of the use of handguns in Australian shooting competitions.

There was no identified need for the introduction of the system at the time of introduction and no demonstrated benefit since. For the bulk of the last 100 years Australian pistol shooters have operated without the need of an attendance register and there have been no identified issues with this system.

Calibre restrictions are also irrelevant. The type of competition dictates the available caliber for sporting shooters and is therefore a self-regulating system.

Not having access to some calibers, prevents our Australian competitive shooters from training and also prevents Australia from hosting certain international events.

Attendance requirements and calibre restrictions for 'Cat H' sporting shooters should be removed.

Shooting competitions

The current prohibition which discriminates against international shooters and hunters (such as limitations on competitive shooting competitions) should be removed;

and the events recognized for the purpose of granting licenses should be extended from Olympic and Commonwealth Games and World Championships to include other National and International events.

Endnotes

ⁱ 'The Australian Firearms Buyback and its Effect on Gun Deaths', *Contemporary Economic Policy*, Issue 28, volume 1, pp. 65-79

ⁱⁱ 'Gun laws fall short in war on crime', Robert Wainwright, *Sydney Morning Herald*, 29th October, 2005